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1 A bill to be entitled
2 An act relating to criminal sentencing; amending s.
3 921.0024, F.S.; prohibiting points from being assessed
4 for violations of community sanctions which are
5 resolved under an alternative sanctioning program for
6 purposes of calculations under the Criminal Punishment
7 Code; amending s. 948.06, F.S.; providing for the
8 resolution of low-risk violations of probation through
9 an alternative sanctioning program in certain
10 circumstances; requiring the court to give a
11 probationer or offender an opportunity to be fully
12 heard on his or her behalf in person or by counsel
13 within specified timeframes; requiring the court to
14 release the probationer or offender without bail under
15 certain conditions; authorizing the court to impose
16 nonmonetary conditions of release under certain
17 conditions; providing that an alternative sanction is
18 the required method for resolving certain low-risk
19 violations; requiring a court to impose the
20 recommended sanction for certain low-risk violations;
21 providing an exception; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (b) of subsection (1) of section
26 921.0024, Florida Statutes, is amended to read:

27 921.0024 Criminal Punishment Code; worksheet computations;
28 scoresheets.-

29 (1)

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(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:

a. Twelve (12) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:

I. The violation does not include a new felony conviction; and

II. The community sanction violation is not based solely on the probationer or offender's failure to pay costs or fines or make restitution payments.

b. Twenty-four (24) community sanction violation points are

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59 assessed for the violation and for each successive violation of
60 felony probation or community control where the violation
61 includes a new felony conviction.

62
63 Multiple counts of community sanction violations before the
64 sentencing court shall not be a basis for multiplying the
65 assessment of community sanction violation points.

66
67 If the community sanction violation is resolved through the
68 alternative sanctioning program under s. 948.06(9), no points
69 are assessed. If a community sanction violation not resolved
70 through the alternative sanctioning program is before the court,
71 no points are assessed for prior violations that were resolved
72 through the alternative sanctioning program.

73
74 Prior serious felony points: If the offender has a primary
75 offense or any additional offense ranked in level 8, level 9, or
76 level 10, and one or more prior serious felonies, a single
77 assessment of thirty (30) points shall be added. For purposes of
78 this section, a prior serious felony is an offense in the
79 offender's prior record that is ranked in level 8, level 9, or
80 level 10 under s. 921.0022 or s. 921.0023 and for which the
81 offender is serving a sentence of confinement, supervision, or
82 other sanction or for which the offender's date of release from
83 confinement, supervision, or other sanction, whichever is later,
84 is within 3 years before the date the primary offense or any
85 additional offense was committed.

86
87 Prior capital felony points: If the offender has one or more

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88 prior capital felonies in the offender's criminal record, points
89 shall be added to the subtotal sentence points of the offender
90 equal to twice the number of points the offender receives for
91 the primary offense and any additional offense. A prior capital
92 felony in the offender's criminal record is a previous capital
93 felony offense for which the offender has entered a plea of nolo
94 contendere or guilty or has been found guilty; or a felony in
95 another jurisdiction which is a capital felony in that
96 jurisdiction, or would be a capital felony if the offense were
97 committed in this state.

98
99 Possession of a firearm, semiautomatic firearm, or machine gun:
100 If the offender is convicted of committing or attempting to
101 commit any felony other than those enumerated in s. 775.087(2)
102 while having in his or her possession: a firearm as defined in
103 s. 790.001(6), an additional eighteen (18) sentence points are
104 assessed; or if the offender is convicted of committing or
105 attempting to commit any felony other than those enumerated in
106 s. 775.087(3) while having in his or her possession a
107 semiautomatic firearm as defined in s. 775.087(3) or a machine
108 gun as defined in s. 790.001(9), an additional twenty-five (25)
109 sentence points are assessed.

110
111 Sentencing multipliers:

112
113 Drug trafficking: If the primary offense is drug trafficking
114 under s. 893.135, the subtotal sentence points are multiplied,
115 at the discretion of the court, for a level 7 or level 8
116 offense, by 1.5. The state attorney may move the sentencing

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117 court to reduce or suspend the sentence of a person convicted of
118 a level 7 or level 8 offense, if the offender provides
119 substantial assistance as described in s. 893.135(4).

120

121 Law enforcement protection: If the primary offense is a
122 violation of the Law Enforcement Protection Act under s.
123 775.0823(2), (3), or (4), the subtotal sentence points are
124 multiplied by 2.5. If the primary offense is a violation of s.
125 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
126 are multiplied by 2.0. If the primary offense is a violation of
127 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
128 Protection Act under s. 775.0823(10) or (11), the subtotal
129 sentence points are multiplied by 1.5.

130

131 Grand theft of a motor vehicle: If the primary offense is grand
132 theft of the third degree involving a motor vehicle and in the
133 offender's prior record, there are three or more grand thefts of
134 the third degree involving a motor vehicle, the subtotal
135 sentence points are multiplied by 1.5.

136

137 Offense related to a criminal gang: If the offender is convicted
138 of the primary offense and committed that offense for the
139 purpose of benefiting, promoting, or furthering the interests of
140 a criminal gang as defined in s. 874.03, the subtotal sentence
141 points are multiplied by 1.5. If applying the multiplier results
142 in the lowest permissible sentence exceeding the statutory
143 maximum sentence for the primary offense under chapter 775, the
144 court may not apply the multiplier and must sentence the
145 defendant to the statutory maximum sentence.

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146
147 Domestic violence in the presence of a child: If the offender is
148 convicted of the primary offense and the primary offense is a
149 crime of domestic violence, as defined in s. 741.28, which was
150 committed in the presence of a child under 16 years of age who
151 is a family or household member as defined in s. 741.28(3) with
152 the victim or perpetrator, the subtotal sentence points are
153 multiplied by 1.5.

154
155 Adult-on-minor sex offense: If the offender was 18 years of age
156 or older and the victim was younger than 18 years of age at the
157 time the offender committed the primary offense, and if the
158 primary offense was an offense committed on or after October 1,
159 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
160 violation involved a victim who was a minor and, in the course
161 of committing that violation, the defendant committed a sexual
162 battery under chapter 794 or a lewd act under s. 800.04 or s.
163 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
164 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
165 800.04; or s. 847.0135(5), the subtotal sentence points are
166 multiplied by 2.0. If applying the multiplier results in the
167 lowest permissible sentence exceeding the statutory maximum
168 sentence for the primary offense under chapter 775, the court
169 may not apply the multiplier and must sentence the defendant to
170 the statutory maximum sentence.

171 Section 2. Paragraph (c) of subsection (1), subsection (4),
172 and paragraphs (e) and (i) of subsection (9) of section 948.06,
173 Florida Statutes, are amended to read:

174 948.06 Violation of probation or community control;

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175 revocation; modification; continuance; failure to pay
176 restitution or cost of supervision.—

177 (1)

178 (c) If a probationer or offender on community control
179 commits a technical violation, the probation officer shall
180 determine whether the probationer or offender on community
181 control is eligible for the alternative sanctioning program
182 under subsection (9). If the probation officer determines that
183 the probationer or offender on community control is eligible,
184 the probation officer may proceed with the alternative
185 sanctioning program in lieu of filing an affidavit of violation
186 with the court. If the probationer or offender on community
187 control is eligible for the alternative sanctioning program and
188 the violation is a low-risk violation as defined in paragraph
189 (9) (b), the probation officer must proceed with the alternative
190 sanctioning program in lieu of filing an affidavit of violation
191 with the court unless directed by the court to submit or file an
192 affidavit of violation pursuant to paragraph (9) (i). For
193 purposes of this section, the term "technical violation" means
194 an alleged violation of supervision that is not a new felony
195 offense, misdemeanor offense, or criminal traffic offense.

196 (4) Notwithstanding any other provision of this section, a
197 felony probationer or an offender in community control who is
198 arrested for violating his or her probation or community control
199 in a material respect may be taken before the court in the
200 county or circuit in which the probationer or offender was
201 arrested. That court shall advise him or her of the charge of a
202 violation and, if such charge is admitted, shall cause him or
203 her to be brought before the court that granted the probation or

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204 community control. If the violation is not admitted by the
205 probationer or offender, the court may commit him or her or
206 release him or her with or without bail to await further
207 hearing. However, if the probationer or offender is under
208 supervision for any criminal offense proscribed in chapter 794,
209 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a
210 registered sexual predator or a registered sexual offender, or
211 is under supervision for a criminal offense for which he or she
212 would meet the registration criteria in s. 775.21, s. 943.0435,
213 or s. 944.607 but for the effective date of those sections, the
214 court must make a finding that the probationer or offender is
215 not a danger to the public prior to release with or without
216 bail. In determining the danger posed by the offender's or
217 probationer's release, the court may consider the nature and
218 circumstances of the violation and any new offenses charged; the
219 offender's or probationer's past and present conduct, including
220 convictions of crimes; any record of arrests without conviction
221 for crimes involving violence or sexual crimes; any other
222 evidence of allegations of unlawful sexual conduct or the use of
223 violence by the offender or probationer; the offender's or
224 probationer's family ties, length of residence in the community,
225 employment history, and mental condition; his or her history and
226 conduct during the probation or community control supervision
227 from which the violation arises and any other previous
228 supervisions, including disciplinary records of previous
229 incarcerations; the likelihood that the offender or probationer
230 will engage again in a criminal course of conduct; the weight of
231 the evidence against the offender or probationer; and any other
232 facts the court considers relevant. The court, as soon as is

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233 practicable, shall give the probationer or offender an
234 opportunity to be fully heard on his or her behalf in person or
235 by counsel. If the alleged violation is a low-risk violation as
236 defined in paragraph (9)(b), the court must, within 30 days
237 after arrest or after counsel appears for the probationer or
238 offender, whichever occurs later, give the probationer or
239 offender an opportunity to be fully heard on his or her behalf
240 in person or by counsel. If no hearing is held within 30 days
241 after arrest or after counsel appears for the probationer or
242 offender, whichever occurs later, the court must release the
243 probationer or offender without bail unless the court finds that
244 a hearing was not held in the applicable timeframe due to
245 circumstances attributable to the probationer or offender. If
246 the probationer or offender is released, the court may impose
247 nonmonetary conditions of release. After the hearing, the court
248 shall make findings of fact and forward the findings to the
249 court that granted the probation or community control and to the
250 probationer or offender or his or her attorney. The findings of
251 fact by the hearing court are binding on the court that granted
252 the probation or community control. Upon the probationer or
253 offender being brought before it, the court that granted the
254 probation or community control may revoke, modify, or continue
255 the probation or community control or may place the probationer
256 into community control as provided in this section. However, the
257 probationer or offender shall not be released and shall not be
258 admitted to bail, but shall be brought before the court that
259 granted the probation or community control if any violation of
260 felony probation or community control other than a failure to
261 pay costs or fines or make restitution payments is alleged to

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262 have been committed by:

263 (a) A violent felony offender of special concern, as
264 defined in this section;

265 (b) A person who is on felony probation or community
266 control for any offense committed on or after the effective date
267 of this act and who is arrested for a qualifying offense as
268 defined in this section; or

269 (c) A person who is on felony probation or community
270 control and has previously been found by a court to be a
271 habitual violent felony offender as defined in s. 775.084(1)(b),
272 a three-time violent felony offender as defined in s.
273 775.084(1)(c), or a sexual predator under s. 775.21, and who is
274 arrested for committing a qualifying offense as defined in this
275 section on or after the effective date of this act.

276 (9)

277 (e) For a first or second low-risk violation, as defined in
278 paragraph (b), within the current term of supervision, a
279 probation officer shall ~~may~~ offer an eligible probationer one or
280 more of the following as an alternative sanction:

- 281 1. Up to 5 days in the county jail.
- 282 2. Up to 50 additional community service hours.
- 283 3. Counseling or treatment.
- 284 4. Support group attendance.
- 285 5. Drug testing.
- 286 6. Loss of travel or other privileges.
- 287 7. Curfew for up to 30 days.
- 288 8. House arrest for up to 30 days.
- 289 9.a. Any other sanction as determined by administrative
290 order of the chief judge of the circuit.

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291 b. However, in no circumstance shall participation in an
292 alternative sanctioning program convert a withheld adjudication
293 to an adjudication of guilt.

294 (i) If the violation is a low-risk violation under
295 paragraph (b), the court must impose the recommended sanction
296 unless it records a finding of specific, identified risk to
297 public safety, in which case it may direct the department to
298 submit a violation report, affidavit, and warrant to the court.
299 In all other cases, the court may impose the recommended
300 sanction or direct the department to submit a violation report,
301 affidavit, and warrant to the court.

302 Section 3. This act shall take effect October 1, 2023.