



852262

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2023	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Davis) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (7) of section 794.011, Florida
Statutes, is amended to read:

794.011 Sexual battery.—

(7) (a) A person who is convicted of committing a sexual
battery on or after October 1, 1992, is not eligible for basic
gain-time under s. 944.275.



852262

11 (b) Notwithstanding paragraph (a), for sentences imposed
12 for offenses committed on or after July 1, 2023, a person who is
13 convicted of committing or attempting, soliciting, or conspiring
14 to commit a sexual battery in violation of this section is not
15 eligible for basic gain-time under s. 944.275.

16 (c) This subsection may be cited as the "Junny Rios-
17 Martinez, Jr. Act of 1992."

18 Section 2. Paragraph (e) of subsection (4) of section
19 944.275, Florida Statutes, is amended, and paragraph (b) of that
20 subsection is republished, to read:

21 944.275 Gain-time.—

22 (4)

23 (b) For each month in which an inmate works diligently,
24 participates in training, uses time constructively, or otherwise
25 engages in positive activities, the department may grant
26 incentive gain-time in accordance with this paragraph. The rate
27 of incentive gain-time in effect on the date the inmate
28 committed the offense which resulted in his or her incarceration
29 shall be the inmate's rate of eligibility to earn incentive
30 gain-time throughout the period of incarceration and shall not
31 be altered by a subsequent change in the severity level of the
32 offense for which the inmate was sentenced.

33 1. For sentences imposed for offenses committed prior to
34 January 1, 1994, up to 20 days of incentive gain-time may be
35 granted. If granted, such gain-time shall be credited and
36 applied monthly.

37 2. For sentences imposed for offenses committed on or after
38 January 1, 1994, and before October 1, 1995:

39 a. For offenses ranked in offense severity levels 1 through



852262

40 7, under former s. 921.0012 or former s. 921.0013, up to 25 days
41 of incentive gain-time may be granted. If granted, such gain-
42 time shall be credited and applied monthly.

43 b. For offenses ranked in offense severity levels 8, 9, and
44 10, under former s. 921.0012 or former s. 921.0013, up to 20
45 days of incentive gain-time may be granted. If granted, such
46 gain-time shall be credited and applied monthly.

47 3. For sentences imposed for offenses committed on or after
48 October 1, 1995, the department may grant up to 10 days per
49 month of incentive gain-time.

50 (e) 1. Notwithstanding subparagraph (b)3., for sentences
51 imposed for offenses committed on or after October 1, 2014, and
52 before July 1, 2023, the department may not grant incentive
53 gain-time if the offense is a violation of s. 782.04(1)(a)2.c.;
54 s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,
55 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.
56 847.0135(5).

57 2. Notwithstanding subparagraph (b)3., for sentences
58 imposed for offenses committed on or after July 1, 2023, the
59 department may not grant incentive gain-time if the offense is
60 for committing or attempting, soliciting, or conspiring to
61 commit a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or
62 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s.
63 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

64 Section 3. Paragraph (e) of subsection (2) of section
65 948.05, Florida Statutes, is amended, and paragraph (f) is added
66 to that subsection, to read:

67 948.05 Court to admonish or commend probationer or offender
68 in community control; graduated incentives.-



852262

69 (2) The department shall implement a system of graduated
70 incentives to promote compliance with the terms of supervision,
71 encourage educational achievement and stable employment, and
72 prioritize the highest levels of supervision for probationers or
73 offenders presenting the greatest risk of recidivism.

74 (e) A probationer or offender in community control who
75 commits a subsequent violation of probation may forfeit any
76 previously earned probation incentive, as determined appropriate
77 by his or her probation officer.

78 (f) A probationer or offender in community control who is
79 placed under supervision for committing or attempting,
80 soliciting, or conspiring to commit a violation of any felony
81 offense described in s. 775.21(4) (a)1.a. or b. or s.
82 943.0435(1) (h)1.a., or who qualifies as a violent felony
83 offender of special concern under s. 948.06(8) (b) is not
84 eligible for any reduction of his or her term of supervision
85 under this section.

86 Section 4. Section 948.30, Florida Statutes, is amended to
87 read:

88 948.30 Additional terms and conditions of probation or
89 community control for certain sex offenses.—Conditions imposed
90 pursuant to this section do not require oral pronouncement at
91 the time of sentencing and shall be considered standard
92 conditions of probation or community control for offenders
93 specified in this section.

94 (1) Effective for probationers or community controllees
95 whose crime was committed on or after October 1, 1995, and who
96 are placed under supervision for a violation of chapter 794, s.
97 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose



852262

98 crime was committed on or after July 1, 2021, and who are placed
99 under supervision for a violation of s. 787.06(3)(b), (d), (f),
100 or (g), or whose crime was committed on or after July 1, 2023,
101 and who are placed under supervision for attempting, soliciting,
102 or conspiring to commit a violation of s. 787.06(3)(b), (d),
103 (f), or (g); chapter 794; s. 800.04; s. 827.071; s. 847.0135(5);
104 or s. 847.0145, the court must impose the following conditions
105 in addition to all other standard and special conditions
106 imposed:

107 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may
108 designate another 8-hour period if the offender's employment
109 precludes the above specified time, and the alternative is
110 recommended by the Department of Corrections. If the court
111 determines that imposing a curfew would endanger the victim, the
112 court may consider alternative sanctions.

113 (b) If the victim was under the age of 18, a prohibition on
114 living within 1,000 feet of a school, child care facility, park,
115 playground, or other place where children regularly congregate,
116 as prescribed by the court. The 1,000-foot distance shall be
117 measured in a straight line from the offender's place of
118 residence to the nearest boundary line of the school, child care
119 facility, park, playground, or other place where children
120 congregate. The distance may not be measured by a pedestrian
121 route or automobile route. A probationer or community controllee
122 who is subject to this paragraph may not be forced to relocate
123 and does not violate his or her probation or community control
124 if he or she is living in a residence that meets the
125 requirements of this paragraph and a school, child care
126 facility, park, playground, or other place where children



852262

127 regularly congregate is subsequently established within 1,000
128 feet of his or her residence.

129 (c) Active participation in and successful completion of a
130 sex offender treatment program with qualified practitioners
131 specifically trained to treat sex offenders, at the
132 probationer's or community controllee's own expense. If a
133 qualified practitioner is not available within a 50-mile radius
134 of the probationer's or community controllee's residence, the
135 offender shall participate in other appropriate therapy.

136 (d) A prohibition on any contact with the victim, directly
137 or indirectly, including through a third person, unless approved
138 by the victim, a qualified practitioner in the sexual offender
139 treatment program, and the sentencing court.

140 (e) If the victim was under the age of 18, a prohibition on
141 contact with a child under the age of 18 except as provided in
142 this paragraph. The court may approve supervised contact with a
143 child under the age of 18 if the approval is based upon a
144 recommendation for contact issued by a qualified practitioner
145 who is basing the recommendation on a risk assessment. Further,
146 the sex offender must be currently enrolled in or have
147 successfully completed a sex offender therapy program. The court
148 may not grant supervised contact with a child if the contact is
149 not recommended by a qualified practitioner and may deny
150 supervised contact with a child at any time. When considering
151 whether to approve supervised contact with a child, the court
152 must review and consider the following:

153 1. A risk assessment completed by a qualified practitioner.
154 The qualified practitioner must prepare a written report that
155 must include the findings of the assessment and address each of



852262

156 the following components:

157 a. The sex offender's current legal status;

158 b. The sex offender's history of adult charges with
159 apparent sexual motivation;

160 c. The sex offender's history of adult charges without
161 apparent sexual motivation;

162 d. The sex offender's history of juvenile charges, whenever
163 available;

164 e. The sex offender's offender treatment history, including
165 consultations with the sex offender's treating, or most recent
166 treating, therapist;

167 f. The sex offender's current mental status;

168 g. The sex offender's mental health and substance abuse
169 treatment history as provided by the Department of Corrections;

170 h. The sex offender's personal, social, educational, and
171 work history;

172 i. The results of current psychological testing of the sex
173 offender if determined necessary by the qualified practitioner;

174 j. A description of the proposed contact, including the
175 location, frequency, duration, and supervisory arrangement;

176 k. The child's preference and relative comfort level with
177 the proposed contact, when age appropriate;

178 l. The parent's or legal guardian's preference regarding
179 the proposed contact; and

180 m. The qualified practitioner's opinion, along with the
181 basis for that opinion, as to whether the proposed contact would
182 likely pose significant risk of emotional or physical harm to
183 the child.

184



852262

185 The written report of the assessment must be given to the court;

186 2. A recommendation made as a part of the risk assessment
187 report as to whether supervised contact with the child should be
188 approved;

189 3. A written consent signed by the child's parent or legal
190 guardian, if the parent or legal guardian is not the sex
191 offender, agreeing to the sex offender having supervised contact
192 with the child after receiving full disclosure of the sex
193 offender's present legal status, past criminal history, and the
194 results of the risk assessment. The court may not approve
195 contact with the child if the parent or legal guardian refuses
196 to give written consent for supervised contact;

197 4. A safety plan prepared by the qualified practitioner,
198 who provides treatment to the offender, in collaboration with
199 the sex offender, the child's parent or legal guardian, if the
200 parent or legal guardian is not the sex offender, and the child,
201 when age appropriate, which details the acceptable conditions of
202 contact between the sex offender and the child. The safety plan
203 must be reviewed and approved by the court; and

204 5. Evidence that the child's parent or legal guardian
205 understands the need for and agrees to the safety plan and has
206 agreed to provide, or to designate another adult to provide,
207 constant supervision any time the child is in contact with the
208 offender.

209
210 The court may not appoint a person to conduct a risk assessment
211 and may not accept a risk assessment from a person who has not
212 demonstrated to the court that he or she has met the
213 requirements of a qualified practitioner as defined in this



852262

214 section.

215 (f) If the victim was under age 18, a prohibition on
216 working for pay or as a volunteer at any place where children
217 regularly congregate, including, but not limited to, schools,
218 child care facilities, parks, playgrounds, pet stores,
219 libraries, zoos, theme parks, and malls.

220 (g) Unless otherwise indicated in the treatment plan
221 provided by a qualified practitioner in the sexual offender
222 treatment program, a prohibition on viewing, accessing, owning,
223 or possessing any obscene, pornographic, or sexually stimulating
224 visual or auditory material, including telephone, electronic
225 media, computer programs, or computer services that are relevant
226 to the offender's deviant behavior pattern.

227 (h) Effective for probationers and community controllees
228 whose crime is committed on or after July 1, 2005, a prohibition
229 on accessing the Internet or other computer services until a
230 qualified practitioner in the offender's sex offender treatment
231 program, after a risk assessment is completed, approves and
232 implements a safety plan for the offender's accessing or using
233 the Internet or other computer services.

234 (i) A requirement that the probationer or community
235 controllee must submit a specimen of blood or other approved
236 biological specimen to the Department of Law Enforcement to be
237 registered with the DNA data bank.

238 (j) A requirement that the probationer or community
239 controllee make restitution to the victim, as ordered by the
240 court under s. 775.089, for all necessary medical and related
241 professional services relating to physical, psychiatric, and
242 psychological care.



852262

243 (k) Submission to a warrantless search by the community
244 control or probation officer of the probationer's or community
245 controllee's person, residence, or vehicle.

246 (2) Effective for a probationer or community controllee
247 whose crime was committed on or after October 1, 1997, and who
248 is placed on community control or sex offender probation for a
249 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),
250 or s. 847.0145, or whose crime was committed on or after July 1,
251 2021, and who is placed on community control or sex offender
252 probation for a violation of s. 787.06(3)(b), (d), (f), or (g),
253 or whose crime was committed on or after July 1, 2023, and who
254 is placed on community control or sex offender probation for
255 attempting, soliciting, or conspiring to commit a violation of
256 s. 787.06(3)(b), (d), (f), or (g); chapter 794; s. 800.04; s.
257 827.071; s. 847.0135(5); or s. 847.0145, in addition to any
258 other provision of this section, the court must impose the
259 following conditions of probation or community control:

260 (a) As part of a treatment program, participation at least
261 annually in polygraph examinations to obtain information
262 necessary for risk management and treatment and to reduce the
263 sex offender's denial mechanisms. A polygraph examination must
264 be conducted by a polygrapher who is a member of a national or
265 state polygraph association and who is certified as a
266 postconviction sex offender polygrapher, where available, and
267 shall be paid for by the probationer or community controllee.
268 The results of the polygraph examination shall be provided to
269 the probationer's or community controllee's probation officer
270 and qualified practitioner and shall not be used as evidence in
271 court to prove that a violation of community supervision has



852262

272 occurred.

273 (b) Maintenance of a driving log and a prohibition against
274 driving a motor vehicle alone without the prior approval of the
275 supervising officer.

276 (c) A prohibition against obtaining or using a post office
277 box without the prior approval of the supervising officer.

278 (d) If there was sexual contact, a submission to, at the
279 probationer's or community controllee's expense, an HIV test
280 with the results to be released to the victim or the victim's
281 parent or guardian.

282 (e) Electronic monitoring when deemed necessary by the
283 community control or probation officer and his or her
284 supervisor, and ordered by the court at the recommendation of
285 the Department of Corrections.

286 (3) Effective for a probationer or community controllee
287 whose crime was committed on or after September 1, 2005, and
288 who:

289 (a) Is placed on probation or community control for a
290 violation of chapter 794; s. 800.04(4), (5), or (6); s.
291 827.071; or s. 847.0145, or is placed on probation or community
292 control on or after July 1, 2023, for attempting, soliciting, or
293 conspiring to commit a violation of chapter 794; s. 800.04(4),
294 (5), or (6); s. 827.071; or s. 847.0145, and the unlawful sexual
295 activity involved a victim 15 years of age or younger and the
296 offender is 18 years of age or older;

297 (b) Is designated a sexual predator pursuant to s. 775.21;
298 or

299 (c) Has previously been convicted of a violation of chapter
300 794; s. 800.04(4), (5), or (6); s. 827.071; or s. 847.0145



852262

301 and the unlawful sexual activity involved a victim 15 years of
302 age or younger and the offender is 18 years of age or older,
303
304 the court must order, in addition to any other provision of this
305 section, mandatory electronic monitoring as a condition of the
306 probation or community control supervision.

307 (4) In addition to all other conditions imposed, for a
308 probationer or community controllee who is subject to
309 supervision for a crime that was committed on or after May 26,
310 2010, and who has been convicted at any time of committing, or
311 attempting, soliciting, or conspiring to commit, any of the
312 criminal offenses listed in s. 943.0435(1)(h)1.a.(I), or a
313 similar offense in another jurisdiction, against a victim who
314 was under the age of 18 at the time of the offense; if the
315 offender has not received a pardon for any felony or similar law
316 of another jurisdiction necessary for the operation of this
317 subsection, if a conviction of a felony or similar law of
318 another jurisdiction necessary for the operation of this
319 subsection has not been set aside in any postconviction
320 proceeding, or if the offender has not been removed from the
321 requirement to register as a sexual offender or sexual predator
322 pursuant to s. 943.04354, the court must impose the following
323 conditions:

324 (a) A prohibition on visiting schools, child care
325 facilities, parks, and playgrounds, without prior approval from
326 the offender's supervising officer. The court may also designate
327 additional locations to protect a victim. The prohibition
328 ordered under this paragraph does not prohibit the offender from
329 visiting a school, child care facility, park, or playground for



852262

330 the sole purpose of attending a religious service as defined in
331 s. 775.0861 or picking up or dropping off the offender's
332 children or grandchildren at a child care facility or school.

333 (b) A prohibition on distributing candy or other items to
334 children on Halloween; wearing a Santa Claus costume, or other
335 costume to appeal to children, on or preceding Christmas;
336 wearing an Easter Bunny costume, or other costume to appeal to
337 children, on or preceding Easter; entertaining at children's
338 parties; or wearing a clown costume; without prior approval from
339 the court.

340 (5) Effective for a probationer or community controllee
341 whose crime was committed on or after October 1, 2014, and who
342 is placed on probation or community control for a violation of
343 chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
344 847.0145, or whose crime was committed on or after July 1, 2023,
345 and who is placed on probation or community control for
346 attempting, soliciting, or conspiring to commit a violation of
347 chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
348 847.0145, in addition to all other conditions imposed, the court
349 must impose a condition prohibiting the probationer or community
350 controllee from viewing, accessing, owning, or possessing any
351 obscene, pornographic, or sexually stimulating visual or
352 auditory material unless otherwise indicated in the treatment
353 plan provided by a qualified practitioner in the sexual offender
354 treatment program. Visual or auditory material includes, but is
355 not limited to, telephone, electronic media, computer programs,
356 and computer services.

357 Section 5. This act shall take effect July 1, 2023.
358



852262

359 ===== T I T L E A M E N D M E N T =====

360 And the title is amended as follows:

361 Delete everything before the enacting clause

362 and insert:

363 A bill to be entitled

364 An act relating to custody and supervision of
365 specified offenders; amending s. 794.011, F.S.;
366 excluding certain offenders from eligibility to
367 receive basic gain-time; amending s. 944.275, F.S.;
368 excluding certain offenders from eligibility to
369 receive incentive gain-time; amending s. 948.05, F.S.;
370 excluding certain offenders from eligibility for
371 specified reductions to a term of supervision;
372 amending s. 948.30, F.S.; requiring a court to impose
373 additional conditions of supervision on specified
374 offenders; providing an effective date.