

By Senator Simon

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1                   A bill to be entitled  
2           An act relating to probation and community control  
3           violations; amending s. 921.0024, F.S.; revising the  
4           sentencing score sheet to reflect the absence of  
5           community sanction points assessed in certain  
6           circumstances; amending s. 948.06, F.S.; revising  
7           sanctions for probation violations; providing for  
8           hearings within a specified time period for low-risk  
9           probation or community control violations; providing  
10          for the release of offenders in certain circumstances  
11          if a hearing is not held; providing for nonmonetary  
12          conditions of release; making technical changes;  
13          providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Paragraph (b) of subsection (1) of section  
18           921.0024, Florida Statutes, is amended to read:

19           921.0024 Criminal Punishment Code; worksheet computations;  
20           scoresheets.—

21           (1)

22           (b) WORKSHEET KEY:

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

27  
28           Community sanction violation points are assessed when a  
29           community sanction violation is before the court for sentencing.

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30 Six (6) sentence points are assessed for each community sanction  
31 violation and each successive community sanction violation,  
32 unless any of the following apply:

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

38 2. If the community sanction violation is committed by a  
39 violent felony offender of special concern as defined in s.  
40 948.06:

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

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

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

49 b. Twenty-four (24) community sanction violation points are  
50 assessed for the violation and for each successive violation of  
51 felony probation or community control where the violation  
52 includes a new felony conviction. If the community sanction  
53 violation is resolved through the alternative sanctioning  
54 program under s. 948.06(9), no points are assessed. If a  
55 community sanction violation that has not been resolved through  
56 the alternative sanctioning program is before the court, no  
57 points are assessed for prior violations that were resolved  
58 through the alternative sanctioning program.

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60 ~~Multiple counts of community sanction violations before the~~  
61 ~~sentencing court shall not be a basis for multiplying the~~  
62 ~~assessment of community sanction violation points.~~

63

64 Prior serious felony points: If the offender has a primary  
65 offense or any additional offense ranked in level 8, level 9, or  
66 level 10, and one or more prior serious felonies, a single  
67 assessment of thirty (30) points shall be added. For purposes of  
68 this section, a prior serious felony is an offense in the  
69 offender's prior record that is ranked in level 8, level 9, or  
70 level 10 under s. 921.0022 or s. 921.0023 and for which the  
71 offender is serving a sentence of confinement, supervision, or  
72 other sanction or for which the offender's date of release from  
73 confinement, supervision, or other sanction, whichever is later,  
74 is within 3 years before the date the primary offense or any  
75 additional offense was committed.

76

77 Prior capital felony points: If the offender has one or more  
78 prior capital felonies in the offender's criminal record, points  
79 shall be added to the subtotal sentence points of the offender  
80 equal to twice the number of points the offender receives for  
81 the primary offense and any additional offense. A prior capital  
82 felony in the offender's criminal record is a previous capital  
83 felony offense for which the offender has entered a plea of nolo  
84 contendere or guilty or has been found guilty; or a felony in  
85 another jurisdiction which is a capital felony in that  
86 jurisdiction, or would be a capital felony if the offense were  
87 committed in this state.

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89 Possession of a firearm, semiautomatic firearm, or machine gun:  
90 If the offender is convicted of committing or attempting to  
91 commit any felony other than those enumerated in s. 775.087(2)  
92 while having in his or her possession: a firearm as defined in  
93 s. 790.001, an additional eighteen (18) sentence points are  
94 assessed; or if the offender is convicted of committing or  
95 attempting to commit any felony other than those enumerated in  
96 s. 775.087(3) while having in his or her possession a  
97 semiautomatic firearm as defined in s. 775.087(3) or a machine  
98 gun as defined in s. 790.001, an additional twenty-five (25)  
99 sentence points are assessed.

100

101 Sentencing multipliers:

102

103 Drug trafficking: If the primary offense is drug trafficking  
104 under s. 893.135, the subtotal sentence points are multiplied,  
105 at the discretion of the court, for a level 7 or level 8  
106 offense, by 1.5. The state attorney may move the sentencing  
107 court to reduce or suspend the sentence of a person convicted of  
108 a level 7 or level 8 offense, if the offender provides  
109 substantial assistance as described in s. 893.135(4).

110

111 Violent offenses committed against specified justice system  
112 personnel: If the primary offense is a violation of s.  
113 775.0823(2), (3), or (4), the subtotal sentence points are  
114 multiplied by 2.5. If the primary offense is a violation of s.  
115 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
116 are multiplied by 2.0. If the primary offense is a violation of

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117 s. 784.07(3) or s. 775.0875(1), or s. 775.0823(10) or (11), the  
118 subtotal sentence points are multiplied by 1.5.

119

120 Grand theft of a motor vehicle: If the primary offense is grand  
121 theft of the third degree involving a motor vehicle and in the  
122 offender's prior record, there are three or more grand thefts of  
123 the third degree involving a motor vehicle, the subtotal  
124 sentence points are multiplied by 1.5.

125

126 Offense related to a criminal gang: If the offender is convicted  
127 of the primary offense and committed that offense for the  
128 purpose of benefiting, promoting, or furthering the interests of  
129 a criminal gang as defined in s. 874.03, the subtotal sentence  
130 points are multiplied by 1.5. If applying the multiplier results  
131 in the lowest permissible sentence exceeding the statutory  
132 maximum sentence for the primary offense under chapter 775, the  
133 court may not apply the multiplier and must sentence the  
134 defendant to the statutory maximum sentence.

135

136 Domestic violence in the presence of a child: If the offender is  
137 convicted of the primary offense and the primary offense is a  
138 crime of domestic violence, as defined in s. 741.28, which was  
139 committed in the presence of a child under 16 years of age who  
140 is a family or household member as defined in s. 741.28(3) with  
141 the victim or perpetrator, the subtotal sentence points are  
142 multiplied by 1.5.

143

144 Adult-on-minor sex offense: If the offender was 18 years of age  
145 or older and the victim was younger than 18 years of age at the

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146 time the offender committed the primary offense, and if the  
147 primary offense was an offense committed on or after October 1,  
148 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
149 violation involved a victim who was a minor and, in the course  
150 of committing that violation, the defendant committed a sexual  
151 battery under chapter 794 or a lewd act under s. 800.04 or s.  
152 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
153 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
154 800.04; or s. 847.0135(5), the subtotal sentence points are  
155 multiplied by 2.0. If applying the multiplier results in the  
156 lowest permissible sentence exceeding the statutory maximum  
157 sentence for the primary offense under chapter 775, the court  
158 may not apply the multiplier and must sentence the defendant to  
159 the statutory maximum sentence.

160 Section 2. Paragraph (f) of subsection (2) and subsection  
161 (4) of section 948.06, Florida Statutes, are amended to read:

162 948.06 Violation of probation or community control;  
163 revocation; modification; continuance; failure to pay  
164 restitution or cost of supervision.—

165 (2)

166 (f)1. Except as provided in subparagraph 3. or upon waiver  
167 by the probationer, the court shall modify or continue a  
168 probationary term upon finding a probationer in violation when  
169 all of the following apply:

170 a. The term of supervision is probation.

171 b. The probationer does not qualify as a violent felony  
172 offender of special concern, as defined in paragraph (8)(b).

173 c. The violation is a low-risk technical violation, as  
174 defined in paragraph (9)(b).

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175 d. The court has not, on two or more separate occasions,  
176 previously found the probationer in violation of his or her  
177 probation pursuant to a filed violation of probation affidavit  
178 during the current term of supervision. A probationer who has  
179 successfully completed sanctions through the alternative  
180 sanctioning program is eligible for mandatory modification or  
181 continuation of his or her probation.

182 2. Upon modifying probation under subparagraph 1., the  
183 court may include in the sentence a maximum of 90 days in county  
184 jail as a special condition of probation. If the court has  
185 previously found the probationer in violation of his or her  
186 probation and modified probation with up to 90 days in county  
187 jail as a special condition of probation, it may, upon  
188 modification of probation under subparagraph 1., include in the  
189 sentence a maximum of 120 days in county jail as a special  
190 condition of probation.

191 ~~3.2.~~ Upon modifying probation under subparagraph 1., the  
192 court may include in the sentence a maximum of 90 days in county  
193 jail as a special condition of probation.

194 ~~4.3.~~ Notwithstanding s. 921.0024, if a probationer meets  
195 the criteria for mandatory modification in subparagraph 1. but  
196 has less time on supervision remaining than the number of days  
197 in jail authorized in subparagraph 2. ~~than 90 days of~~  
198 supervision remaining on his or her term of probation and meets  
199 the criteria for mandatory modification or continuation in  
200 subparagraph 1., the court may revoke probation and sentence the  
201 probationer to a maximum of 90 or 120 days in county jail as  
202 provided in subparagraph 2.

203 ~~5.4.~~ For purposes of imposing a jail sentence under this

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204 paragraph only, the court may grant credit only for time served  
205 in the county jail since the probationer's most recent arrest  
206 for the violation. However, the court may not order the  
207 probationer to a total term of incarceration greater than the  
208 maximum provided by s. 775.082.

209 (4) Notwithstanding any other provision of this section, a  
210 felony probationer or an offender in community control who is  
211 arrested for violating his or her probation or community control  
212 in a material respect may be taken before the court in the  
213 county or circuit in which the probationer or offender was  
214 arrested. That court shall advise him or her of the charge of a  
215 violation and, if such charge is admitted, shall cause him or  
216 her to be brought before the court that granted the probation or  
217 community control. If the violation is not admitted by the  
218 probationer or offender, the court may commit him or her or  
219 release him or her with or without bail to await further  
220 hearing. However, if the probationer or offender is under  
221 supervision for any criminal offense proscribed in chapter 794,  
222 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
223 registered sexual predator or a registered sexual offender, or  
224 is under supervision for a criminal offense for which he or she  
225 would meet the registration criteria in s. 775.21, s. 943.0435,  
226 or s. 944.607 but for the effective date of those sections, the  
227 court must make a finding that the probationer or offender is  
228 not a danger to the public prior to release with or without  
229 bail. In determining the danger posed by the offender's or  
230 probationer's release, the court may consider the nature and  
231 circumstances of the violation and any new offenses charged; the  
232 offender's or probationer's past and present conduct, including



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233 convictions of crimes; any record of arrests without conviction  
234 for crimes involving violence or sexual crimes; any other  
235 evidence of allegations of unlawful sexual conduct or the use of  
236 violence by the offender or probationer; the offender's or  
237 probationer's family ties, length of residence in the community,  
238 employment history, and mental condition; his or her history and  
239 conduct during the probation or community control supervision  
240 from which the violation arises and any other previous  
241 supervisions, including disciplinary records of previous  
242 incarcerations; the likelihood that the offender or probationer  
243 will engage again in a criminal course of conduct; the weight of  
244 the evidence against the offender or probationer; and any other  
245 facts the court considers relevant. The court, as soon as is  
246 practicable, shall give the probationer or offender an  
247 opportunity to be fully heard on his or her behalf in person or  
248 by counsel. If the alleged violation is a low-risk violation, as  
249 defined in paragraph (9) (b), the court must, within 30 days  
250 after arrest or after counsel appears for the probationer or  
251 offender, whichever occurs later, give the probationer or  
252 offender an opportunity to be fully heard on his or her behalf  
253 in person or by counsel. If a hearing is not held within 30 days  
254 after arrest or after counsel appears for the probationer or  
255 offender, whichever occurs later, the court must release the  
256 probationer or offender without bail unless the court finds that  
257 a hearing was not held in the applicable timeframe due to  
258 circumstances attributable to the probationer or offender. If  
259 the probationer or offender is released, the court may impose  
260 nonmonetary conditions of release. After the hearing, the court  
261 shall make findings of fact and forward the findings to the

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262 court that granted the probation or community control and to the  
263 probationer or offender or his or her attorney. The findings of  
264 fact by the hearing court are binding on the court that granted  
265 the probation or community control. Upon the probationer or  
266 offender being brought before it, the court that granted the  
267 probation or community control may revoke, modify, or continue  
268 the probation or community control or may place the probationer  
269 into community control as provided in this section. However, the  
270 probationer or offender shall not be released and shall not be  
271 admitted to bail, but shall be brought before the court that  
272 granted the probation or community control if any violation of  
273 felony probation or community control other than a failure to  
274 pay costs or fines or make restitution payments is alleged to  
275 have been committed by:

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

278 (b) A person who is on felony probation or community  
279 control for any offense committed on or after March 12, 2007,  
280 ~~the effective date of this act~~ and who is arrested for a  
281 qualifying offense as defined in this section; or

282 (c) A person who is on felony probation or community  
283 control and has previously been found by a court to be a  
284 habitual violent felony offender as defined in s. 775.084(1)(b),  
285 a three-time violent felony offender as defined in s.  
286 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
287 arrested for committing a qualifying offense as defined in this  
288 section on or after March 12, 2007 ~~the effective date of this~~  
289 ~~act.~~

290 Section 3. This act shall take effect July 1, 2024.