

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Criminal Justice  
 2 Subcommittee

3 Representative Snyder offered the following:

4

5 **Amendment**

6 Remove lines 52-255 and insert:  
 7 includes a new felony conviction.

8

9 Multiple counts of community sanction violations before the  
 10 sentencing court shall not be a basis for multiplying the  
 11 assessment of community sanction violation points.

12

13 If the community sanction violation is resolved through the  
 14 alternative sanctioning program under s. 948.06(9), no points  
 15 are assessed. If a community sanction violation not resolved  
 16 through the alternative sanctioning program is before the court,

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17 no points are assessed for prior violations that were resolved  
18 through the alternative sanctioning program.

19  
20 Prior serious felony points: If the offender has a primary  
21 offense or any additional offense ranked in level 8, level 9, or  
22 level 10, and one or more prior serious felonies, a single  
23 assessment of thirty (30) points shall be added. For purposes of  
24 this section, a prior serious felony is an offense in the  
25 offender's prior record that is ranked in level 8, level 9, or  
26 level 10 under s. 921.0022 or s. 921.0023 and for which the  
27 offender is serving a sentence of confinement, supervision, or  
28 other sanction or for which the offender's date of release from  
29 confinement, supervision, or other sanction, whichever is later,  
30 is within 3 years before the date the primary offense or any  
31 additional offense was committed.

32  
33 Prior capital felony points: If the offender has one or more  
34 prior capital felonies in the offender's criminal record, points  
35 shall be added to the subtotal sentence points of the offender  
36 equal to twice the number of points the offender receives for  
37 the primary offense and any additional offense. A prior capital  
38 felony in the offender's criminal record is a previous capital  
39 felony offense for which the offender has entered a plea of nolo  
40 contendere or guilty or has been found guilty; or a felony in  
41 another jurisdiction which is a capital felony in that

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42 jurisdiction, or would be a capital felony if the offense were  
43 committed in this state.

44  
45 Possession of a firearm, semiautomatic firearm, or machine gun:  
46 If the offender is convicted of committing or attempting to  
47 commit any felony other than those enumerated in s. 775.087(2)  
48 while having in his or her possession: a firearm as defined in  
49 s. 790.001, an additional eighteen (18) sentence points are  
50 assessed; or if the offender is convicted of committing or  
51 attempting to commit any felony other than those enumerated in  
52 s. 775.087(3) while having in his or her possession a  
53 semiautomatic firearm as defined in s. 775.087(3) or a machine  
54 gun as defined in s. 790.001, an additional twenty-five (25)  
55 sentence points are assessed.

56  
57 Sentencing multipliers:

58  
59 Drug trafficking: If the primary offense is drug trafficking  
60 under s. 893.135, the subtotal sentence points are multiplied,  
61 at the discretion of the court, for a level 7 or level 8  
62 offense, by 1.5. The state attorney may move the sentencing  
63 court to reduce or suspend the sentence of a person convicted of  
64 a level 7 or level 8 offense, if the offender provides  
65 substantial assistance as described in s. 893.135(4).

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67 Violent offenses committed against specified justice system  
68 personnel: If the primary offense is a violation of s.  
69 775.0823(2), (3), or (4), the subtotal sentence points are  
70 multiplied by 2.5. If the primary offense is a violation of s.  
71 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
72 are multiplied by 2.0. If the primary offense is a violation of  
73 s. 784.07(3) or s. 775.0875(1), or s. 775.0823(10) or (11), the  
74 subtotal sentence points are multiplied by 1.5.

75

76 Grand theft of a motor vehicle: If the primary offense is grand  
77 theft of the third degree involving a motor vehicle and in the  
78 offender's prior record, there are three or more grand thefts of  
79 the third degree involving a motor vehicle, the subtotal  
80 sentence points are multiplied by 1.5.

81

82 Offense related to a criminal gang: If the offender is convicted  
83 of the primary offense and committed that offense for the  
84 purpose of benefiting, promoting, or furthering the interests of  
85 a criminal gang as defined in s. 874.03, the subtotal sentence  
86 points are multiplied by 1.5. If applying the multiplier results  
87 in the lowest permissible sentence exceeding the statutory  
88 maximum sentence for the primary offense under chapter 775, the  
89 court may not apply the multiplier and must sentence the  
90 defendant to the statutory maximum sentence.

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92 Domestic violence in the presence of a child: If the offender is  
93 convicted of the primary offense and the primary offense is a  
94 crime of domestic violence, as defined in s. 741.28, which was  
95 committed in the presence of a child under 16 years of age who  
96 is a family or household member as defined in s. 741.28(3) with  
97 the victim or perpetrator, the subtotal sentence points are  
98 multiplied by 1.5.

99  
100 Adult-on-minor sex offense: If the offender was 18 years of age  
101 or older and the victim was younger than 18 years of age at the  
102 time the offender committed the primary offense, and if the  
103 primary offense was an offense committed on or after October 1,  
104 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
105 violation involved a victim who was a minor and, in the course  
106 of committing that violation, the defendant committed a sexual  
107 battery under chapter 794 or a lewd act under s. 800.04 or s.  
108 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
109 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
110 800.04; or s. 847.0135(5), the subtotal sentence points are  
111 multiplied by 2.0. If applying the multiplier results in the  
112 lowest permissible sentence exceeding the statutory maximum  
113 sentence for the primary offense under chapter 775, the court  
114 may not apply the multiplier and must sentence the defendant to  
115 the statutory maximum sentence.

116 Section 2. Paragraph (f) of subsection (2) and subsection

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117 (4) of section 948.06, Florida Statutes, are amended to read:  
118 948.06 Violation of probation or community control;  
119 revocation; modification; continuance; failure to pay  
120 restitution or cost of supervision.—

121 (2)

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

126 a. The term of supervision is probation.

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

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

131 d. The court has not, on two or more separate occasions,  
132 previously found the probationer in violation of his or her  
133 probation pursuant to a filed violation of probation affidavit  
134 during the current term of supervision. A probationer who has  
135 successfully completed sanctions through the alternative  
136 sanctioning program is eligible for mandatory modification or  
137 continuation of his or her probation.

138 2. Upon modifying probation under subparagraph 1., the  
139 court may include in the sentence a maximum of 90 days in county  
140 jail as a special condition of probation. If the court has  
141 previously found the probationer in violation of his or her

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142 probation and modified probation with up to 90 days in county  
143 jail as a special condition of probation, it may, upon  
144 modification of probation under subparagraph 1., include in the  
145 sentence a maximum of 120 days in county jail as a special  
146 condition of probation.

147 3. Notwithstanding s. 921.0024, if a probationer meets the  
148 criteria for mandatory modification in subparagraph 1. but has  
149 less time on supervision remaining than the number of days in  
150 jail authorized in subparagraph 2. ~~than 90 days of supervision~~  
151 ~~remaining on his or her term of probation and meets the criteria~~  
152 ~~for mandatory modification or continuation in subparagraph 1.,~~  
153 the court may revoke probation and sentence the probationer to a  
154 maximum of 90 or 120 days in county jail as provided in  
155 subparagraph 2.

156 4. For purposes of imposing a jail sentence under this  
157 paragraph only, the court may grant credit only for time served  
158 in the county jail since the probationer's most recent arrest  
159 for the violation. However, the court may not order the  
160 probationer to a total term of incarceration greater than the  
161 maximum provided by s. 775.082.

162 (4) Notwithstanding any other provision of this section, a  
163 felony probationer or an offender in community control who is  
164 arrested for violating his or her probation or community control  
165 in a material respect may be taken before the court in the  
166 county or circuit in which the probationer or offender was

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167 arrested. That court shall advise him or her of the charge of a  
168 violation and, if such charge is admitted, shall cause him or  
169 her to be brought before the court that granted the probation or  
170 community control. If the violation is not admitted by the  
171 probationer or offender, the court may commit him or her or  
172 release him or her with or without bail to await further  
173 hearing. However, if the probationer or offender is under  
174 supervision for any criminal offense proscribed in chapter 794,  
175 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
176 registered sexual predator or a registered sexual offender, or  
177 is under supervision for a criminal offense for which he or she  
178 would meet the registration criteria in s. 775.21, s. 943.0435,  
179 or s. 944.607 but for the effective date of those sections, the  
180 court must make a finding that the probationer or offender is  
181 not a danger to the public prior to release with or without  
182 bail. In determining the danger posed by the offender's or  
183 probationer's release, the court may consider the nature and  
184 circumstances of the violation and any new offenses charged; the  
185 offender's or probationer's past and present conduct, including  
186 convictions of crimes; any record of arrests without conviction  
187 for crimes involving violence or sexual crimes; any other  
188 evidence of allegations of unlawful sexual conduct or the use of  
189 violence by the offender or probationer; the offender's or  
190 probationer's family ties, length of residence in the community,  
191 employment history, and mental condition; his or her history and

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192 conduct during the probation or community control supervision  
193 from which the violation arises and any other previous  
194 supervisions, including disciplinary records of previous  
195 incarcerations; the likelihood that the offender or probationer  
196 will engage again in a criminal course of conduct; the weight of  
197 the evidence against the offender or probationer; and any other  
198 facts the court considers relevant. The court, as soon as is  
199 practicable, shall give the probationer or offender an  
200 opportunity to be fully heard on his or her behalf in person or  
201 by counsel. If the alleged violation is a low-risk violation, as  
202 defined in paragraph (9)(b), the court shall, within 30 days  
203 after the probationer's or offender's arrest, give the  
204 probationer or offender an opportunity to be fully heard on his  
205 or her behalf in person or by counsel. If a hearing is not held  
206 within 30 days after such arrest, the court must release the