

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.

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

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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.

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28 | Community sanction violation points are assessed when a  
 29 | community sanction violation is before the court for sentencing.  
 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  
 47 | on the probationer or offender's failure to pay costs or fines  
 48 | or make restitution payments.

49 |           b. Twenty-four (24) community sanction violation points  
 50 | are assessed for the violation and for each successive violation

51 of felony probation or community control where the violation  
52 includes a new felony conviction.

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54 Multiple counts of community sanction violations before the  
55 sentencing court shall not be a basis for multiplying the  
56 assessment of community sanction violation points.

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58 If the community sanction violation is resolved through the  
59 alternative sanctioning program under s. 948.06(9), no points  
60 are assessed. If a community sanction violation not resolved  
61 through the alternative sanctioning program is before the court,  
62 no points are assessed for prior violations that were resolved  
63 through the alternative sanctioning program.

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

76 additional offense was committed.

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

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

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Sentencing multipliers:

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

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

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

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

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

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145 Adult-on-minor sex offense: If the offender was 18 years of age  
146 or older and the victim was younger than 18 years of age at the  
147 time the offender committed the primary offense, and if the  
148 primary offense was an offense committed on or after October 1,  
149 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
150 violation involved a victim who was a minor and, in the course

151 of committing that violation, the defendant committed a sexual  
152 battery under chapter 794 or a lewd act under s. 800.04 or s.  
153 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
154 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
155 800.04; or s. 847.0135(5), the subtotal sentence points are  
156 multiplied by 2.0. If applying the multiplier results in the  
157 lowest permissible sentence exceeding the statutory maximum  
158 sentence for the primary offense under chapter 775, the court  
159 may not apply the multiplier and must sentence the defendant to  
160 the statutory maximum sentence.

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

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

166 (2)

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

171 a. The term of supervision is probation.

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

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

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

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

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



201           4. For purposes of imposing a jail sentence under this  
202 paragraph only, the court may grant credit only for time served  
203 in the county jail since the probationer's most recent arrest  
204 for the violation. However, the court may not order the  
205 probationer to a total term of incarceration greater than the  
206 maximum provided by s. 775.082.

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

226 | not a danger to the public prior to release with or without  
227 | bail. In determining the danger posed by the offender's or  
228 | probationer's release, the court may consider the nature and  
229 | circumstances of the violation and any new offenses charged; the  
230 | offender's or probationer's past and present conduct, including  
231 | convictions of crimes; any record of arrests without conviction  
232 | for crimes involving violence or sexual crimes; any other  
233 | evidence of allegations of unlawful sexual conduct or the use of  
234 | violence by the offender or probationer; the offender's or  
235 | probationer's family ties, length of residence in the community,  
236 | employment history, and mental condition; his or her history and  
237 | conduct during the probation or community control supervision  
238 | from which the violation arises and any other previous  
239 | supervisions, including disciplinary records of previous  
240 | incarcerations; the likelihood that the offender or probationer  
241 | will engage again in a criminal course of conduct; the weight of  
242 | the evidence against the offender or probationer; and any other  
243 | facts the court considers relevant. The court, as soon as is  
244 | practicable, shall give the probationer or offender an  
245 | opportunity to be fully heard on his or her behalf in person or  
246 | by counsel. If the alleged violation is a low-risk violation, as  
247 | defined in paragraph (9)(b), the court shall, within 30 days  
248 | after the probationer's or offender's arrest, give the  
249 | probationer or offender an opportunity to be fully heard on his  
250 | or her behalf in person or by counsel. If a hearing is not held

251 within 30 days after such arrest, the court must release the  
252 probationer or offender without bail unless the court finds that  
253 a hearing was not held in the applicable timeframe due to  
254 circumstances attributable to the probationer or offender. If  
255 the probationer or offender is released, the court may impose  
256 nonmonetary conditions of release. After the hearing, the court  
257 shall make findings of fact and forward the findings to the  
258 court that granted the probation or community control and to the  
259 probationer or offender or his or her attorney. The findings of  
260 fact by the hearing court are binding on the court that granted  
261 the probation or community control. Upon the probationer or  
262 offender being brought before it, the court that granted the  
263 probation or community control may revoke, modify, or continue  
264 the probation or community control or may place the probationer  
265 into community control as provided in this section. However, the  
266 probationer or offender shall not be released and shall not be  
267 admitted to bail, but shall be brought before the court that  
268 granted the probation or community control if any violation of  
269 felony probation or community control other than a failure to  
270 pay costs or fines or make restitution payments is alleged to  
271 have been committed by:

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

274       (b) A person who is on felony probation or community  
275 control for any offense committed on or after March 12, 2007,

CS/HB 1241

2024

276 | ~~the effective date of this act~~ and who is arrested for a  
277 | qualifying offense as defined in this section; or  
278 |       (c) A person who is on felony probation or community  
279 | control and has previously been found by a court to be a  
280 | habitual violent felony offender as defined in s. 775.084(1) (b),  
281 | a three-time violent felony offender as defined in s.  
282 | 775.084(1) (c), or a sexual predator under s. 775.21, and who is  
283 | arrested for committing a qualifying offense as defined in this  
284 | section on or after March 12, 2007 ~~the effective date of this~~  
285 | ~~act~~.  
286 |       Section 3. This act shall take effect July 1, 2024.