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CS/CS/HB 1241

2024 Legislature

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An act relating to probation and community control violations; amending s. 921.0024, F.S.; revising the sentencing score sheet to reflect the absence of community sanction points assessed in certain circumstances; amending s. 948.06, F.S.; revising sanctions for probation violations; providing for hearings within a specified time period for low-risk probation or community control violations; providing for the release of probationers in certain circumstances if a hearing is not held; providing for nonmonetary conditions of release; making technical changes; providing an effective date.

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

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

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(1)

(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

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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.
 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

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

53

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.

57

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.

64

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

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76 | additional offense was committed.

77 |

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.

89 |

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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 102 Sentencing multipliers:
 103
 104 Drug trafficking: If the primary offense is drug trafficking
 105 under s. 893.135, the subtotal sentence points are multiplied,
 106 at the discretion of the court, for a level 7 or level 8
 107 offense, by 1.5. The state attorney may move the sentencing
 108 court to reduce or suspend the sentence of a person convicted of
 109 a level 7 or level 8 offense, if the offender provides
 110 substantial assistance as described in s. 893.135(4).
 111
 112 Violent offenses committed against specified justice system
 113 personnel: If the primary offense is a violation of s.
 114 775.0823(2), (3), or (4), the subtotal sentence points are
 115 multiplied by 2.5. If the primary offense is a violation of s.
 116 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
 117 are multiplied by 2.0. If the primary offense is a violation of
 118 s. 784.07(3) or s. 775.0875(1), or s. 775.0823(10) or (11), the
 119 subtotal sentence points are multiplied by 1.5.
 120
 121 Grand theft of a motor vehicle: If the primary offense is grand
 122 theft of the third degree involving a motor vehicle and in the
 123 offender's prior record, there are three or more grand thefts of
 124 the third degree involving a motor vehicle, the subtotal
 125 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.

136
 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.

144
 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

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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).

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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.

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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) (a) Notwithstanding any other provision of this
208 section, a felony probationer or an offender in community
209 control who is arrested for violating his or her probation or
210 community control in a material respect may be taken before the
211 court in the county or circuit in which the probationer or
212 offender was arrested. That court shall advise him or her of the
213 charge of a violation and, if such charge is admitted, shall
214 cause him or her to be brought before the court that granted the
215 probation or community control. If the violation is not admitted
216 by the probationer or offender, the court may commit him or her
217 or 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

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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 a felony probationer is alleged to have committed
247 | a low-risk violation, as defined in paragraph (9)(b), the court
248 | shall, within 30 days after the probationer's arrest, give the
249 | probationer an opportunity to be fully heard on his or her
250 | behalf in person or by counsel. If a hearing is not held within

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251 30 days after such arrest, the court must release the
 252 probationer without bail unless the court finds that a hearing
 253 was not held in the applicable timeframe due to circumstances
 254 attributable to the probationer. If the probationer is released,
 255 the court may impose nonmonetary conditions of release.

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

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

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

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276 | ~~the effective date of this act~~ and who is arrested for a
277 | qualifying offense as defined in this section; or
278 | ~~3.(e)~~ 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.