

CHAPTER 2010-64

Council Substitute for Committee Substitute for House Bill No. 1005

An act relating to corrections; amending s. 384.34, F.S.; revising criminal penalties pertaining to sexually transmissible diseases; amending s. 775.0877, F.S.; removing a provision authorizing a court to require an offender convicted of criminal transmission of HIV to serve a term of criminal quarantine community control; amending s. 796.08, F.S., relating to criminal transmission of HIV; conforming a cross-reference; creating s. 800.09, F.S.; defining terms; providing that a person who is detained in a state or private correctional facility may not commit lewd or lascivious exhibition in the presence of an employee who the detainee knows or reasonably should know is an employee; providing criminal penalties; amending s. 921.187, F.S.; removing a reference to criminal quarantine community control to conform to changes made by the act; amending s. 940.061, F.S.; requiring that the Department of Corrections send to the Parole Commission by electronic means a monthly list of the names of inmates released from incarceration and offenders terminated from supervision who may be eligible for restoration of civil rights; repealing s. 944.293, F.S., relating to initiation of the restoration of an inmate's civil rights; amending s. 944.35, F.S.; including employees of private correctional facilities within a statute prohibiting employees from committing certain sexual misconduct with inmates; providing criminal penalties;; amending s. 944.605, F.S.; authorizing the Department of Corrections to electronically submit certain information to the sheriff of the county in which the inmate plans to reside and to the chief of police of the municipality where the inmate plans to reside; amending ss. 944.804 and 944.8041, F.S.; requiring the department to establish and operate certain geriatric facilities or dorms at prison institutions; removing provisions requiring the operation of a specified facility; amending s. 945.41, F.S.; deleting a prohibition against the placement of youthful offenders at certain institutions for mental health treatment; amending s. 945.42, F.S.; deleting references to an inmate's refusal of voluntary placement for purposes of determining the inmate's need for care and treatment; amending s. 945.43, F.S.; clarifying that an inmate is placed in, rather than admitted to, a mental health treatment facility; requiring that a petition for placement be filed in the county in which an inmate is located; authorizing the department to transport the inmate to the location of the hearing on such a placement under certain circumstances; amending s. 945.46, F.S.; providing procedures for the transport of inmates who are mentally ill and who are scheduled to be released from confinement; creating s. 946.42, F.S.; authorizing the department to use inmate labor on private property under certain circumstances; defining terms; repealing s. 948.001(3), F.S., relating to the definition of the term "criminal quarantine community control," to conform to changes made by the act; amending s. 948.03, F.S.; providing additional conditions of probation to be applied to a

defendant; deleting certain requirements for possession of a weapon other than a firearm; requiring that a digitized photograph of an offender be part of the offender's record; authorizing the department to display such photographs on its website for a specified period; providing exceptions; amending s. 948.09, F.S.; conforming a cross-reference; amending ss. 948.101 and 948.11, F.S.; deleting provisions related to criminal quarantine community control; amending s. 951.26, F.S.; authorizing each local public safety coordinating council to develop a comprehensive local reentry plan for offenders reentering the community; providing plan requirements; providing an effective date.

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

Section 1. Subsection (5) of section 384.34, Florida Statutes, is amended to read:

384.34 Penalties.—

(5) Any person who violates ~~the provisions of s. 384.24(2)~~ commits a felony of the third degree, punishable as provided in ~~s. 775.082, s. 775.083, or s. 775.084~~ ss. 775.082, 775.083, 775.084, and 775.0877(7). Any person who commits multiple violations of ~~the provisions of s. 384.24(2)~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 ~~ss. 775.082, 775.083, 775.084, and 775.0877(7)~~.

Section 2. Section 775.0877, Florida Statutes, is amended to read:

775.0877 Criminal transmission of HIV; procedures; penalties.—

(1) In any case in which a person has been convicted of or has pled nolo contendere or guilty to, regardless of whether adjudication is withheld, any of the following offenses, or the attempt thereof, which offense or attempted offense involves the transmission of body fluids from one person to another:

- (a) Section 794.011, relating to sexual battery;_;
- (b) Section 826.04, relating to incest;_;
- (c) Section 800.04(1), (2), and (3), relating to lewd, lascivious, or indecent assault or act upon any person less than 16 years of age;_;
- (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d), relating to assault;_;
- (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b), relating to aggravated assault;_;
- (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c), relating to battery;_;
- (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a), relating to aggravated battery;_;

- (h) Section 827.03(1), relating to child abuse;;
- (i) Section 827.03(2), relating to aggravated child abuse;;
- (j) Section 825.102(1), relating to abuse of an elderly person or disabled adult;;
- (k) Section 825.102(2), relating to aggravated abuse of an elderly person or disabled adult;;
- (l) Section 827.071, relating to sexual performance by person less than 18 years of age;;
- (m) Sections 796.03, 796.07, and 796.08, relating to prostitution; or
- (n) Section 381.0041(11)(b), relating to donation of blood, plasma, organs, skin, or other human tissue,

the court shall order the offender to undergo HIV testing, to be performed under the direction of the Department of Health in accordance with s. 381.004, unless the offender has undergone HIV testing voluntarily or pursuant to procedures established in s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or rule providing for HIV testing of criminal offenders or inmates, subsequent to her or his arrest for an offense enumerated in paragraphs (a)-(n) for which she or he was convicted or to which she or he pled nolo contendere or guilty. The results of an HIV test performed on an offender pursuant to this subsection are not admissible in any criminal proceeding arising out of the alleged offense.

(2) The results of the HIV test must be disclosed under the direction of the Department of Health, to the offender who has been convicted of or pled nolo contendere or guilty to an offense specified in subsection (1), the public health agency of the county in which the conviction occurred and, if different, the county of residence of the offender, and, upon request pursuant to s. 960.003, to the victim or the victim’s legal guardian, or the parent or legal guardian of the victim if the victim is a minor.

(3) An offender who has undergone HIV testing pursuant to subsection (1), and to whom positive test results have been disclosed pursuant to subsection (2), who commits a second or subsequent offense enumerated in paragraphs (1)(a)-(n), commits criminal transmission of HIV, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 ~~subsection (7)~~. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime enumerated in paragraphs (1)(a)-(n).

(4) An offender may challenge the positive results of an HIV test performed pursuant to this section and may introduce results of a backup test performed at her or his own expense.

(5) Nothing in this section requires that an HIV infection have occurred in order for an offender to have committed criminal transmission of HIV.

(6) For an alleged violation of any offense enumerated in paragraphs (1)(a)-(n) for which the consent of the victim may be raised as a defense in a criminal prosecution, it is an affirmative defense to a charge of violating this section that the person exposed knew that the offender was infected with HIV, knew that the action being taken could result in transmission of the HIV infection, and consented to the action voluntarily with that knowledge.

~~(7) In addition to any other penalty provided by law for an offense enumerated in paragraphs (1)(a)-(n), the court may require an offender convicted of criminal transmission of HIV to serve a term of criminal quarantine community control, as described in s. 948.001.~~

Section 3. Subsection (5) of section 796.08, Florida Statutes, is amended to read:

796.08 Screening for HIV and sexually transmissible diseases; providing penalties.—

(5) A person who:

(a) Commits or offers to commit prostitution; or

(b) Procures another for prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus,

and who, prior to the commission of such crime, had tested positive for human immunodeficiency virus and knew or had been informed that he or she had tested positive for human immunodeficiency virus and could possibly communicate such disease to another person through sexual activity commits criminal transmission of HIV, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, ~~or s. 775.0877(7)~~. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution or procurement of prostitution.

Section 4. Section 800.09, Florida Statutes, is created to read:

800.09 Lewd or lascivious exhibition in the presence of an employee.—

(1) As used in this section, the term:

(a) “Employee” means any person employed by or performing contractual services for a public or private entity operating a facility or any person employed by or performing contractual services for the corporation operating the prison industry enhancement programs or the correctional work programs under part II of chapter 946. The term also includes any person who is a parole examiner with the Parole Commission.

(b) "Facility" means a state correctional institution as defined in s. 944.02 or a private correctional facility as defined in s. 944.710.

(2)(a) A person who is detained in a facility may not:

1. Intentionally masturbate;

2. Intentionally expose the genitals in a lewd or lascivious manner; or

3. Intentionally commit any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity,

in the presence of a person he or she knows or reasonably should know is an employee.

(b) A person who violates paragraph (a) commits lewd or lascivious exhibition in the presence of an employee, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Subsections (2) and (3) of section 921.187, Florida Statutes, are amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

~~(2) In addition to any other penalty provided by law for an offense enumerated in s. 775.0877(1)(a)-(n), if the offender is convicted of criminal transmission of HIV pursuant to s. 775.0877, the court may sentence the offender to criminal quarantine community control as described in s. 948.001.~~

~~(2)(3) The court shall require an offender to make restitution under s. 775.089, unless the court finds clear and compelling reasons not to order such restitution. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. 775.089, the court shall state the reasons on the record in detail. An order requiring an offender to make restitution to a victim under s. 775.089 does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund under chapter 960.~~

Section 6. Section 940.061, Florida Statutes, is amended to read:

940.061 Informing persons about executive clemency and restoration of civil rights.—The Department of Corrections shall inform and educate inmates and offenders on community supervision about the restoration of civil rights. Each month the Department of Corrections shall send to the Parole Commission by electronic means a list of the names of inmates who have been released from incarceration and offenders who have been terminated from supervision who may be eligible and assist eligible inmates

~~and offenders on community supervision with the completion of the application for the restoration of civil rights.~~

Section 7. Section 944.293, Florida Statutes, is repealed.

Section 8. Paragraph (b) of subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)

(b)1. As used in this paragraph, the term “sexual misconduct” means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee’s duty.

2. Any employee of the department or a private correctional facility as defined in s. 944.710 who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The consent of the inmate or offender supervised by the department in the community to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.

4. This paragraph does not apply to any employee of the department or any employee of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee who has no knowledge, and would have no reason to believe, that the person with whom the employee has engaged in sexual misconduct is an inmate or an offender under community supervision of the department.

Section 9. Subsection (3) of section 944.605, Florida Statutes, is amended to read:

944.605 Inmate release; notification.—

(3)(a) If an inmate is to be released after having served one or more sentences for a conviction of robbery, sexual battery, home-invasion robbery, or carjacking, or an inmate to be released has a prior conviction for robbery, sexual battery, home-invasion robbery, or carjacking or similar offense, in this state or in another jurisdiction, and if such prior conviction information is contained in department records, the department shall release to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that

municipality, the following information, which must include, but need not be limited to:

- 1.(a) Name;
- 2.(b) Social security number;
- 3.(c) Date of birth;
- 4.(d) Race;
- 5.(e) Sex;
- 6.(f) Height;
- 7.(g) Weight;
- 8.(h) Hair and eye color;
- 9.(i) Tattoos or other identifying marks;
- 10.(j) Fingerprints; and
- 11.(k) A digitized photograph as provided in subsection (2).

The department shall release the information specified in this paragraph subsection within 6 months prior to the discharge of the inmate from the custody of the department.

(b) The department may electronically submit the information listed in paragraph (a) to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that municipality.

Section 10. Section 944.804, Florida Statutes, is amended to read:

944.804 Elderly offenders correctional facilities program of 2000.—

(1) The Legislature finds that the number and percentage of elderly offenders in the Florida prison system are is increasing and will continue to increase for the foreseeable future. The current cost to incarcerate elderly offenders is approximately three times the cost of incarceration of younger inmates. Alternatives to the current approaches to housing, programming, and treating the medical needs of elderly offenders, which may reduce the overall costs associated with this segment of the prison population, must be explored and implemented.

(2) The department shall establish and operate a geriatric facilities or geriatric dorms within a facility at the site known as River Junction Correctional Institution, which shall be an institution specifically for generally healthy elderly offenders who can perform general work appropriate for their physical and mental condition. Prior to reopening the facility,

~~the department shall make modifications to the facility which will ensure its compliance with the Americans with Disabilities Act and decrease the likelihood of falls, accidental injury, and other conditions known to be particularly hazardous to the elderly.~~

(a) In order to decrease long-term medical costs to the state, a preventive fitness/wellness program and diet specifically designed to maintain the mental and physical health of elderly offenders shall be developed and implemented. In developing the program, the department shall give consideration to preventive medical care for the elderly which shall include, but not be limited to, maintenance of bone density, all aspects of cardiovascular health, lung capacity, mental alertness, and orientation. Existing policies and procedures shall be reexamined and altered to encourage offenders to adopt a more healthy lifestyle and maximize their level of functioning. The program components shall be modified as data and experience are received ~~that~~ which measure the relative success of the program components previously implemented.

(b) Consideration must be given to redirecting resources as a method of offsetting increased medical costs. Elderly offenders are not likely to reenter society as a part of the workforce, and programming resources would be better spent in activities to keep the elderly offenders healthy, alert, and oriented. Limited or restricted programming or activities for elderly offenders will increase the daily cost of institutional and health care, and programming opportunities adequate to reduce the cost of care will be provided. Programming shall include, but not be limited to, recreation, education, and counseling ~~that~~ which is needs-specific to elderly offenders. Institutional staff shall be specifically trained to effectively supervise elderly offenders and to detect physical or mental changes ~~that~~ which warrant medical attention before more serious problems develop.

(3) The department shall adopt rules that specify which elderly offenders shall be eligible to be housed at the geriatric correctional facilities or dorms River Junction Correctional Institution.

(4) While developing the criteria for eligibility, the department shall use the information in existing offender databases to determine the number of offenders who would be eligible. The Legislature directs the department to consider a broad range of elderly offenders for the department's geriatric facilities or dorms River Junction Correctional Institution who have good disciplinary records and a medical grade that will permit them to perform meaningful work activities, including participation in an appropriate correctional work program (PRIDE) facility, if available.

(5) The department shall also submit a study based on existing offenders ~~that~~ which projects the number of existing offenders who will qualify under the rules. An appendix to the study shall identify the specific offenders who qualify.

Section 11. Section 944.8041, Florida Statutes, is amended to read:

944.8041 Elderly offenders; annual review.—For the purpose of providing information to the Legislature on elderly offenders within the correctional system, the department and the Correctional Medical Authority shall each submit annually a report on the status and treatment of elderly offenders in the state-administered and private state correctional systems ~~and, as well as such information on the department's geriatric facilities and dorms River Junction Correctional Institution.~~ In order to adequately prepare the reports, the department and the Department of Management Services shall grant access to the Correctional Medical Authority ~~that~~ which includes access to the facilities, offenders, and any information the agencies require to complete their reports. The review shall also include an examination of promising geriatric policies, practices, and programs currently implemented in other correctional systems within the United States. The reports, with specific findings and recommendations for implementation, shall be submitted to the President of the Senate and the Speaker of the House of Representatives on or before December 31 of each year.

Section 12. Subsections (4) and (5) of section 945.41, Florida Statutes, are amended to read:

945.41 Legislative intent of ss. 945.40-945.49.—It is the intent of the Legislature that mentally ill inmates in the custody of the Department of Corrections receive evaluation and appropriate treatment for their mental illness through a continuum of services. It is further the intent of the Legislature that:

(4) Any inmate sentenced as a youthful offender, or designated as a youthful offender by the department ~~under pursuant to chapter 958,~~ who is transferred pursuant to this act to a mental health treatment facility be separated from other inmates, if necessary, as determined by the warden of the treatment facility. ~~In no case shall any youthful offender be placed at the Florida State Prison or the Union Correctional Institution for mental health treatment.~~

(5) The department may designate a mental health treatment ~~facilities~~ facility for adult, youthful, and female offenders or may contract with other appropriate entities, persons, or agencies for such services.

Section 13. Subsections (5) and (6) of section 945.42, Florida Statutes, are amended to read:

945.42 Definitions; ss. 945.40-945.49.—As used in ss. 945.40-945.49, the following terms shall have the meanings ascribed to them, unless the context shall clearly indicate otherwise:

(5) “In immediate need of care and treatment” means that an inmate is apparently mentally ill and is not able to be appropriately cared for in the institution where he or she is confined and that, but for being isolated in a more restrictive and secure housing environment, because of the apparent mental illness:

(a)1. The inmate is demonstrating a refusal to care for himself or herself and without immediate treatment intervention is likely to continue to refuse to care for himself or herself, and such refusal poses an immediate, real, and present threat of substantial harm to his or her well-being; or

2. There is an immediate, real, and present threat that the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior involving causing, attempting, or threatening such harm;

~~(b)1. The inmate has refused voluntary placement for treatment at a mental health treatment facility after sufficient and conscientious explanation and disclosure of the purpose of placement; or~~

2. The inmate is unable to determine for himself or herself whether placement is necessary; and

(c) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.

(6) "In need of care and treatment" means that an inmate has a mental illness for which inpatient services in a mental health treatment facility are necessary and that, but for being isolated in a more restrictive and secure housing environment, because of the mental illness:

(a)1. The inmate is demonstrating a refusal to care for himself or herself and without treatment is likely to continue to refuse to care for himself or herself, and such refusal poses a real and present threat of substantial harm to his or her well-being; or

2. There is a substantial likelihood that in the near future the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm;

~~(b)1. The inmate has refused voluntary placement for treatment at a mental health treatment facility after sufficient and conscientious explanation and disclosure of the purpose of placement; or~~

2. The inmate is unable to determine for himself or herself whether placement is necessary; and

(c) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.

Section 14. Section 945.43, Florida Statutes, is amended to read:

945.43 Placement Admission of inmate in a mental health treatment facility.—

(1) CRITERIA.—An inmate may be placed in ~~admitted to~~ a mental health treatment facility if he or she is mentally ill and is in need of care and treatment, as defined in s. 945.42.

(2) PROCEDURE FOR PLACEMENT IN A MENTAL HEALTH TREATMENT FACILITY.—

(a) An inmate may be placed in ~~admitted to~~ a mental health treatment facility after notice and hearing, upon the recommendation of the warden of the facility where the inmate is confined. The recommendation shall be entered on a petition and must be supported by the expert opinion of a psychiatrist and the second opinion of a psychiatrist or psychological professional. The petition shall be filed with the court in the county where the inmate is located.

(b) A copy of the petition shall be served on the inmate, accompanied by a written notice that the inmate may apply immediately to the court to have an attorney appointed if the inmate cannot afford one.

(c) The petition for placement shall ~~may~~ be filed in the county in which the inmate is located. The hearing shall be held in the same county, and one of the inmate's physicians at the facility where the inmate is located shall appear as a witness at the hearing.

(d) An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health records, that ~~which~~ are relevant to the representation of the inmate.

(e) If the court finds that the inmate is mentally ill and in need of care and treatment, as defined in s. 945.42, the court shall order that he or she be placed in a mental health treatment facility or, if the inmate is at a mental health treatment facility, that he or she be retained there. The court shall authorize the mental health treatment facility to retain the inmate for up to 6 months. If, at the end of that time, continued placement is necessary, the warden shall apply to the Division of Administrative Hearings in accordance with s. 945.45 for an order authorizing continued placement.

(3) PROCEDURE FOR HEARING ON PLACEMENT OF AN INMATE IN A MENTAL HEALTH TREATMENT FACILITY.—

(a) The court shall serve notice on the warden of the facility where the inmate is confined and the allegedly mentally ill inmate. The notice must specify the date, time, and place of the hearing; the basis for the allegation of mental illness; and the names of the examining experts. The hearing shall be held within 5 days, and the court may appoint a general or special magistrate to preside. The court may waive the presence of the inmate at the hearing if the ~~such~~ waiver is consistent with the best interests of the inmate and the inmate's counsel does not object. The department may transport the inmate to the location of the hearing if the hearing is not conducted at the facility or by electronic means. The hearing may be as informal as is consistent with

orderly procedure. One of the experts whose opinion supported the petition for placement shall be present at the hearing for information purposes.

(b) If, at the hearing, the court finds that the inmate is mentally ill and in need of care and treatment, as defined in s. 945.42, the court shall order that he or she be placed in a mental health treatment facility. The court shall provide a copy of its order authorizing placement and all supporting documentation relating to the inmate's condition to the warden of the treatment facility. If the court finds that the inmate is not mentally ill, it shall dismiss the petition for placement.

(4) REFUSAL OF PLACEMENT.—The warden of an institution in which a mental health treatment facility is located may refuse to place any inmate in that treatment facility who is not accompanied by adequate court orders and documentation, as required in ss. 945.40-945.49.

Section 15. Section 945.46, Florida Statutes, is amended to read:

945.46 Initiation of involuntary placement proceedings with respect to a mentally ill inmate scheduled for release.—

(1) If an inmate who is receiving mental health treatment in the department is scheduled for release through expiration of sentence or any other means, but continues to be mentally ill and in need of care and treatment, as defined in s. 945.42, the warden is authorized to initiate procedures for involuntary placement pursuant to s. 394.467, 60 days prior to such release.

(2) In addition, the warden may initiate procedures for involuntary examination pursuant to s. 394.463 for any inmate who has a mental illness and meets the criteria of s. 394.463(1).

(3) The department may transport an individual who is being released from its custody to a receiving or treatment facility for involuntary examination or placement. Such transport shall be made to a facility that is specified by the Department of Children and Family Services as able to meet the specific needs of the individual. If the Department of Children and Family Services does not specify a facility, transport may be made to the nearest receiving facility.

Section 16. Section 946.42, Florida Statutes, is created to read:

946.42 Use of inmates on private property.—

(1) The department may allow inmates who meet the criteria provided in s. 946.40 to enter onto private property to perform public works or for the following purposes:

(a) To accept and collect donations for the use and benefit of the department.

(b) To assist federal, state, local, and private agencies before, during, and after emergencies or disasters.

(2) As used in this section, the term:

(a) “Disaster” means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.

(b) “Donations” means gifts of tangible personal property and includes equipment, fixtures, construction materials, food items, and other tangible personal property of a consumable or nonconsumable nature.

(c) “Emergency” means any occurrence or threat of an occurrence, whether natural, technological, or manmade, in war or in peace, that results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Section 17. Subsection (3) of section 948.001, Florida Statutes, is repealed.

Section 18. Subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

- (a) Report to the probation and parole supervisors as directed.
- (b) Permit such supervisors to visit him or her at his or her home or elsewhere.
- (c) Work faithfully at suitable employment insofar as may be possible.
- (d) Remain within a specified place.

(e) Live without violating any law. A conviction in a court of law is not necessary for such a violation of law to constitute a violation of probation, community control, or any other form of court-ordered supervision.

(f)(e) Make reparation or restitution to the aggrieved party for the damage or loss caused by his or her offense in an amount to be determined by the court. The court shall make such reparation or restitution a condition of probation, unless it determines that clear and compelling reasons exist to the contrary. If the court does not order restitution, or orders restitution of only a

portion of the damages, as provided in s. 775.089, it shall state on the record in detail the reasons therefor.

(g)(f) Effective July 1, 1994, and applicable for offenses committed on or after that date, make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility. The court, in determining whether to order such repayment and the amount of ~~the such~~ repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the felony probationer, the present and potential future financial needs and earning ability of the probationer, and dependents, and other appropriate factors.

(h)(g) Support his or her legal dependents to the best of his or her ability.

(i)(h) Make payment of the debt due and owing to the state under s. 960.17, subject to modification based on change of circumstances.

(j)(i) Pay any application fee assessed under s. 27.52(1)(b) and attorney's fees and costs assessed under s. 938.29, subject to modification based on change of circumstances.

(k)(j) Not associate with persons engaged in criminal activities.

(l)(k)1. Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances.

2. If the offense was a controlled substance violation and the period of probation immediately follows a period of incarceration in the state correction system, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3).

(m)(l) Be prohibited from possessing, carrying, or owning any:

~~1. Firearm unless authorized by the court and consented to by the probation officer.~~

~~2. Weapon without first procuring the consent of the correctional probation officer.~~

(n)(m) Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician. The probationer or community controllee shall not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

(o)(n) Submit to the drawing of blood or other biological specimens as prescribed in ss. 943.325 and 948.014, and reimburse the appropriate agency for the costs of drawing and transmitting the blood or other biological specimens to the Department of Law Enforcement.

(p) Submit to the taking of a digitized photograph by the department as a part of the offender’s records. This photograph may be displayed on the department’s public website while the offender is under court-ordered supervision. However, the department may not display the photograph on the website if the offender is only on pretrial intervention supervision or if the offender’s identity is exempt from disclosure due to an exemption from the requirements of s. 119.07.

Section 19. Subsection (7) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(7) The department shall establish a payment plan for all costs ordered by the courts for collection by the department and a priority order for payments, except that victim restitution payments authorized under s. 948.03(1)(f)(e) take precedence over all other court-ordered payments. The department is not required to disburse cumulative amounts of less than \$10 to individual payees established on this payment plan.

Section 20. Section 948.101, Florida Statutes, is amended to read:

948.101 Terms and conditions of community control ~~and criminal quarantine community control.~~—

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control.

(a) The court shall require intensive supervision and surveillance for an offender placed into community control, which may include, but is not limited to:

(a)1. Specified contact with the parole and probation officer.

(b)2. Confinement to an agreed-upon residence during hours away from employment and public service activities.

(c)3. Mandatory public service.

(d)4. Supervision by the Department of Corrections by means of an electronic monitoring device or system.

(e)5. The standard conditions of probation set forth in s. 948.03.

(b) ~~For an offender placed on criminal quarantine community control, the court shall require:~~

- ~~1. Electronic monitoring 24 hours per day.~~
- ~~2. Confinement to a designated residence during designated hours.~~

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding thereto any other terms or conditions that the court considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in another state if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the offender in community control. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of community control, the period may not exceed 364 days, and incarceration shall be restricted to a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, a probation program drug punishment phase I secure residential treatment institution, or a community residential facility owned or operated by any entity providing such services.

~~(3) The court may place a defendant who is being sentenced for criminal transmission of HIV in violation of s. 775.0877 on criminal quarantine community control. The Department of Corrections shall develop and administer a criminal quarantine community control program emphasizing intensive supervision with 24-hour-per-day electronic monitoring. Criminal quarantine community control status must include surveillance and may include other measures normally associated with community control, except that specific conditions necessary to monitor this population may be ordered.~~

Section 21. Subsection (1) of section 948.11, Florida Statutes, is amended to read:

948.11 Electronic monitoring devices.—

(1)(a) The Department of Corrections may, at its discretion, electronically monitor an offender sentenced to community control.

~~(b) The Department of Corrections shall electronically monitor an offender sentenced to criminal quarantine community control 24 hours per day.~~

Section 22. Subsection (4) of section 951.26, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to that section to read:

951.26 Public safety coordinating councils.—

(4) The council may also develop a comprehensive local reentry plan that is designed to assist offenders released from incarceration to successfully reenter the community. The plan should cover at least a 5-year period. In developing the plan, the council shall coordinate with public safety officials and local community organizations who can provide offenders with reentry services, such as assistance with housing, health care, education, substance abuse treatment, and employment.

Section 23. This act shall take effect July 1, 2010.

Approved by the Governor May 11, 2010.

Filed in Office Secretary of State May 11, 2010.