

CHAPTER 2011-38

Committee Substitute for Senate Bill No. 844

An act relating to violations of probation or community control; creating the “Officer Andrew Widman Act”; amending s. 948.06, F.S.; authorizing a judge, after making a certain finding, to issue a warrant for the arrest of a probationer or offender who has violated the terms of probation or community control; requiring that the court inform the probationer or offender of the violation; authorizing the court to order the person taken before the court that granted the probation or community control; authorizing the court to commit or release the probationer or offender under certain circumstances; authorizing the court, in determining whether to require or set the amount of bail, to consider the likelihood that the person will be imprisoned for the violation of probation or community control; providing an effective date.

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

Section 1. This act may be cited as the “Officer Andrew Widman Act.”

Section 2. Subsection (1) of section 948.06, Florida Statutes, is amended to read:

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

(1)(a) Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer or offender in community control has violated his or her probation or community control in a material respect, any law enforcement officer who is aware of the probationary or community control status of the probationer or offender in community control or any parole or probation supervisor may arrest or request any county or municipal law enforcement officer to arrest such probationer or offender without warrant wherever found and return him or her to the court granting such probation or community control.

(b) Any committing trial court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the probationer or offender, returnable forthwith before the court granting such probation or community control. In lieu of issuing a warrant for arrest, the committing trial court judge may issue a notice to appear if the probationer or offender in community control has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as defined in this section.

(c) If a judge finds reasonable grounds to believe that a probationer or an offender has violated his or her probation or community control in a material

respect by committing a new violation of law, the judge may issue a warrant for the arrest of the person.

(d)1. At a first appearance hearing for an offender who has been arrested for violating his or her probation or community control in a material respect by committing a new violation of law the court:

a. Shall inform the person of the violation.

b. May order the person to be taken before the court that granted the probation or community control if the person admits the violation.

2. If the probationer or offender does not admit the violation at the first appearance hearing, the court:

a. May commit the probationer or offender or may release the person with or without bail to await further hearing, notwithstanding s. 907.041, relating to pretrial detention and release; or

b. May order the probationer or offender to be brought before the court that granted the probation or community control.

3. In determining whether to require or set the amount of bail, and notwithstanding s. 907.041, relating to pretrial detention and release, the court may consider whether the probationer or offender is more likely than not to receive a prison sanction for the violation.

This paragraph does not apply to a probationer or offender on community control who is subject to the hearing requirements under subsection (4) or paragraph (8)(e).

(e)(e) Any parole or probation supervisor, any officer authorized to serve criminal process, or any peace officer of this state is authorized to serve and execute such warrant. Any parole or probation supervisor is authorized to serve such notice to appear.

(f)(d) Upon the filing of an affidavit alleging a violation of probation or community control and following issuance of a warrant under s. 901.02, a warrantless arrest under this section, or a notice to appear under this section, the probationary period is tolled until the court enters a ruling on the violation. Notwithstanding the tolling of probation, the court shall retain jurisdiction over the offender for any violation of the conditions of probation or community control that is alleged to have occurred during the tolling period. The probation officer is permitted to continue to supervise any offender who remains available to the officer for supervision until the supervision expires pursuant to the order of probation or community control or until the court revokes or terminates the probation or community control, whichever comes first.

(g)(e) The chief judge of each judicial circuit may direct the department to use a notification letter of a technical violation in appropriate cases in lieu of

a violation report, affidavit, and warrant when the alleged violation is not a new felony or misdemeanor offense. Such direction must be in writing and must specify the types of specific violations which are to be reported by a notification letter of a technical violation, any exceptions to those violations, and the required process for submission. At the direction of the chief judge, the department shall send the notification letter of a technical violation to the court.

(h)~~(f)~~ The court may allow the department to file an affidavit, notification letter, violation report, or other report under this section by facsimile or electronic submission.

Section 3. This act shall take effect October 1, 2011.

Approved by the Governor May 9, 2011.

Filed in Office Secretary of State May 9, 2011.