

## CHAPTER 2017-115

### House Bill No. 7091

An act relating to probation and community control; amending s. 948.001, F.S.; redefining terms and deleting a definition; amending s. 948.01, F.S.; requiring the Department of Corrections to revise and make available to the courts, rather than develop and disseminate to the courts, uniform order of supervision forms; amending s. 948.012, F.S.; adding the addiction-recovery supervision program as an exception to the immediate commencement of the period of probation upon the release of the defendant; amending s. 948.013, F.S.; revising the list of offenses that make an offender ineligible for placement on administrative probation during specified time periods; amending s. 948.03, F.S.; authorizing the court to require a probationer or offender to report to, to permit visits by, to submit to random testing as directed by, probation officers, rather than probation and parole supervisors or correctional probation officers; removing the option of incarceration in specified locations if a court withholds adjudication of guilt or imposes incarceration as a condition of probation; amending s. 948.031, F.S.; replacing the term “public service” with the term “community service”; amending s. 948.035, F.S.; removing a probation program drug punishment treatment community facility from the list of residential treatment or incarceration facilities that an offender must be restricted to under certain circumstances; requiring a qualified practitioner to provide, rather than a court to obtain, an assessment and recommendation on the treatment needs of an offender entering a treatment facility; amending s. 948.037, F.S.; authorizing, rather than requiring, a court to require an offender to make a good faith effort toward completion of certain skills or a specific diploma as a condition of community control, probation, or probation following incarceration; amending s. 948.06, F.S.; replacing the term “parole or probation supervisor” with the term “probation officer”; specifying that the probationary period is tolled after the issuance of a violation of probation or community control warrant, rather than an arrest warrant; authorizing a chief judge to direct the department to use a notice to appear for technical violations; amending s. 948.09, F.S.; expanding the types of supervision under which an offender must pay for the cost of supervision; conforming provisions to changes made by the act; revising the factors under which the department may exempt an offender from payments; requiring the certification of student status to be supplied to the offender’s probation officer, rather than to the Secretary of Corrections; deleting duties of the secretary; deleting provisions authorizing the department to provide monthly payments to court-approved entities that provide supervision or rehabilitation for offenders under certain circumstances; deleting provisions relating to contract terms with, and a monthly report from, certain entities; amending s. 948.10, F.S.; requiring a community control program to focus on the provision of home confinement with limitations, rather than sanctions and consequences, commensurate with the crime

committed; specifying and revising who the target population is for the community control program; revising departmental requirements for the operation of the program and caseloads; making technical changes; specifying the types of facilities used for the community control program; deleting an annual reporting requirement of the department to the Governor and the Legislature which includes certain information; amending s. 948.101, F.S.; conforming provisions to changes made by the act; amending s. 948.11, F.S.; requiring, rather than authorizing, the department to electronically monitor offenders sentenced to community control under certain circumstances; conforming terminology to changes made by the act; amending s. 948.15, F.S.; revising the required terms of the contract for a private entity providing services for the supervision of misdemeanor probationers; repealing s. 948.50, F.S., relating to a short title; reenacting s. 921.187(1)(n), F.S., relating to disposition and sentencing, alternatives, and restitution, to incorporate the amendment made to s. 948.013, F.S., in a reference thereto; reenacting s. 947.1405(7)(b), F.S., relating to the conditional release program, to incorporate the amendment made to s. 948.09, F.S., in a reference thereto; reenacting ss. 947.1747 and 948.01(3), F.S., relating to community control as a special condition of parole and when a court may place a defendant on probation or into community control, respectively, to incorporate the amendment made to s. 948.10, F.S., in references thereto; providing effective dates.

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

Section 1. Subsection (1) and present subsections (4) and (9) of section 948.001, Florida Statutes, are amended, and present subsections (5) through (14) of that section are redesignated as subsections (4) through (13), respectively, to read:

948.001 Definitions.—As used in this chapter, the term:

(1) “Administrative probation” means a form of ~~no contact, nonreporting~~ nonecontact supervision in which an offender who presents a low risk of harm to the community may, upon satisfactory completion of half the term of probation, be transferred by the Department of Corrections to this type of reduced level of supervision, as provided in s. 948.013 ~~nonreporting status until expiration of the term of supervision.~~

(4) ~~“Community residential drug punishment center” means a residential drug punishment center designated by the Department of Corrections. The Department of Corrections shall adopt rules as necessary to define and operate such a center.~~

(8)(9) “Probation” means a form of community supervision requiring specified contacts with ~~parole and~~ probation officers and other terms and conditions as provided in s. 948.03.

Section 2. Paragraph (b) of subsection (1) of section 948.01, Florida Statutes, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(1) Any state court having original jurisdiction of criminal actions may at a time to be determined by the court, with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of a defendant in a criminal case, except for an offense punishable by death, who has been found guilty by the verdict of a jury, has entered a plea of guilty or a plea of nolo contendere, or has been found guilty by the court trying the case without a jury.

(b) The department, in consultation with the Office of the State Courts Administrator, shall revise and make available ~~develop and disseminate~~ to the courts uniform order of supervision forms by July 1 of each year or as necessary. The courts shall use the uniform order of supervision forms provided by the department for all persons placed on community supervision.

Section 3. Subsection (1) of section 948.012, Florida Statutes, is amended, and subsections (4), (5), and (6) of that section are republished, to read:

948.012 Split sentence of probation or community control and imprisonment.—

(1) If punishment by imprisonment for a misdemeanor or a felony, except for a capital felony, is prescribed, the court may, at the time of sentencing, impose a split sentence whereby the defendant is to be placed on probation or, with respect to any such felony, into community control upon completion of any specified period of such sentence which may include a term of years or less. In such case, the court shall stay and withhold the imposition of the remainder of sentence imposed upon the defendant and direct that the defendant be placed upon probation or into community control after serving such period as may be imposed by the court. Except as provided in s. 944.4731(2)(b) and subsection (6), the period of probation or community control shall commence immediately upon the release of the defendant from incarceration, whether by parole or gain-time allowances.

(4) Effective for offenses committed on or after September 1, 2005, the court must impose a split sentence pursuant to subsection (1) for any person who is convicted of a life felony for lewd and lascivious molestation pursuant to s. 800.04(5)(b) if the court imposes a term of years in accordance with s. 775.082(3)(a)4.a.(II) rather than life imprisonment. The probation or community control portion of the split sentence imposed by the court for a defendant must extend for the duration of the defendant's natural life and include a condition that he or she be electronically monitored.

(5)(a) Effective for offenses committed on or after October 1, 2014, if the court imposes a term of years in accordance with s. 775.082 which is less than the maximum sentence for the offense, the court must impose a split

sentence pursuant to subsection (1) for any person who is convicted of a violation of:

1. Section 782.04(1)(a)2.c.;
2. Section 787.01(3)(a)2. or 3.;
3. Section 787.02(3)(a)2. or 3.;
4. Section 794.011, excluding s. 794.011(10);
5. Section 800.04;
6. Section 825.1025; or
7. Section 847.0135(5).

(b) The probation or community control portion of the split sentence imposed by the court must extend for at least 2 years. However, if the term of years imposed by the court extends to within 2 years of the maximum sentence for the offense, the probation or community control portion of the split sentence must extend for the remainder of the maximum sentence.

(6) If a defendant who has been sentenced to a split sentence pursuant to subsection (1) is transferred to the custody of the Department of Children and Families pursuant to part V of chapter 394, the period of probation or community control is tolled until such person is no longer in the custody of the Department of Children and Families. This subsection applies to all sentences of probation or community control which begin on or after October 1, 2014, regardless of the date of the underlying offense.

Section 4. Effective October 1, 2017, subsection (2) of section 948.013, Florida Statutes, is amended to read:

948.013 Administrative probation.—

(2)(a) Effective for an offense committed on or after July 1, 1998, and before October 1, 2017, a person is ineligible for placement on administrative probation if the person is sentenced to or is serving a term of probation or community control, regardless of the conviction or adjudication, for committing, or attempting, conspiring, or soliciting to commit, any of the felony offenses described in s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent; s. 787.025; s. 787.06(3)(g); chapter 794; former s. 796.03; s. 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s. 847.0145.

(b) Effective for an offense committed on or after October 1, 2017, a person is ineligible for placement on administrative probation if the person is sentenced to or is serving a term of probation or community control, regardless of the conviction or adjudication, for committing, or attempting,

conspiring, or soliciting to commit, any of the felony offenses described in s. 775.21(4)(a)1.a. or (4)(a)1.b. or s. 943.0435(1)(h)1.a.

Section 5. Paragraphs (a), (b), (l), and (m) of subsection (1) and subsection (2) of section 948.03, Florida Statutes, are 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 officer and ~~parole supervisors~~ as directed.

(b) Permit the probation officer ~~such supervisors~~ to visit him or her at his or her home or elsewhere.

(l1). 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 must ~~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) Be prohibited from possessing, carrying, or owning any:

1. Firearm.

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

(2) The enumeration of specific kinds of terms and conditions does ~~shall~~ not prevent the court from adding thereto such other or others as it 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 probationer. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of probation, the period may ~~shall~~ not exceed 364 days, and incarceration shall be restricted to either a county facility, or 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.

Section 6. Section 948.031, Florida Statutes, is amended to read:

948.031 Condition of probation or community control; community public service.—

(1) Any person who is convicted of a felony or misdemeanor and who is placed on probation or into community control may be required as a condition of supervision to perform some type of community public service for a tax-supported or tax-exempt entity, with the consent of such entity. Such community public service shall be performed at a time other than during such person’s regular hours of employment.

(2) Upon the request of the chief judge of the circuit, the Department of Corrections shall establish a community public service program for a county, which program may include, but ~~is~~ shall not be limited to, any of the following types of community public service:

(a) Maintenance work on any property or building owned or leased by any state, county, or municipality or any nonprofit organization or agency.

(b) Maintenance work on any state-owned, county-owned, or municipally owned road or highway.

(c) Landscaping or maintenance work in any state, county, or municipal park or recreation area.

(d) Work in any state, county, or municipal hospital or any developmental services institution or other nonprofit organization or agency.

Section 7. Subsections (1) and (3) of section 948.035, Florida Statutes, are amended to read:

948.035 Residential treatment as a condition of probation or community control.—

(1) If the court imposes a period of residential treatment or incarceration as a condition of probation or community control, the residential treatment or incarceration shall be restricted to the following facilities:

(a) A Department of Corrections probation and restitution center;

~~(b) A probation program drug punishment treatment community;~~

~~(b)~~(e) A community residential facility that ~~which~~ is owned and operated by a ~~any~~ public or private entity, excluding a community correctional center as defined in s. 944.026; or

~~(c)~~(d) A county-owned facility.

(3) ~~Before~~ Prior to admission to such a facility or center ~~treatment community~~, a qualified practitioner must provide ~~the court shall obtain~~ an individual assessment and recommendation on the appropriate treatment needs pursuant to the Community Control Implementation Manual which shall be considered by the court in ordering such placements. Placement in such a facility or center may, ~~or in the phase I secure residential phase of a probation program drug punishment treatment community~~, shall not exceed 364 days. Early completion of an offender's placement shall be recommended to the court, when appropriate, by the facility or center supervisor, by the supervising probation officer, or by the program manager. The Department of Corrections is authorized to contract with appropriate agencies for provision of services.

Section 8. Subsection (1) of section 948.037, Florida Statutes, is amended to read:

948.037 Education and learning as a condition of probation or community control.—

(1) As a condition of community control, probation, or probation following incarceration, the court may ~~shall~~ require an offender who has not obtained a high school diploma or high school equivalency diploma or who lacks basic or functional literacy skills, upon acceptance by an adult education program, to make a good faith effort toward completion of such basic or functional literacy skills or high school equivalency diploma, as defined in s. 1003.435, in accordance with the assessed adult general education needs of the individual offender. The court may ~~shall~~ not revoke community control, probation, or probation following incarceration because of the offender's inability to achieve such skills or diploma but may revoke community control, probation, or probation following incarceration if the offender fails to make a good faith effort to achieve such skills or diploma. The court may grant early termination of community control, probation, or probation following incarceration upon the offender's successful completion of the approved program. As used in this subsection, "good faith effort" means the offender is enrolled in a program of instruction and is attending and making satisfactory progress toward completion of the requirements.

Section 9. Paragraphs (a), (e), (f), and (g) of subsection (1) of section 948.06, Florida Statutes, are 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~~ probation officer ~~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.

(e) Any ~~parole or probation officer 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 officer supervisor~~ is authorized to serve such notice to appear.

(f) Upon the filing of an affidavit alleging a violation of probation or community control and following issuance of a warrant for such violation ~~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) 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 or a notice to appear 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 technical 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.

Section 10. Section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and other monetary obligations ~~rehabilitation.~~—

(1)(a)1. Any person ordered by the court, the Department of Corrections, or the Florida Commission on Offender Review to be placed under ~~on~~ probation, ~~drug offender probation, community control, parole, control release, provisional release supervision, addiction-recovery supervision, or conditional release supervision~~ under this chapter, chapter 944, chapter 945, chapter 947, or chapter 958, or in a pretrial intervention program, must, as a condition of any placement, pay the department a total sum of money equal to the total month or portion of a month of supervision times the court-ordered amount, but not to exceed the actual per diem cost of the supervision. The department shall adopt rules by which an offender who pays in full and in advance of regular termination of supervision may receive a reduction in the amount due. The rules shall incorporate provisions by which the offender's ability to pay is linked to an established written payment plan. Funds collected from felony offenders may be used to offset



costs of the Department of Corrections associated with community supervision programs, subject to appropriation by the Legislature.

2. In addition to any other contribution or surcharge imposed by this section, each felony offender assessed under this paragraph shall pay a \$2-per-month surcharge to the department. The surcharge shall be deemed to be paid only after the full amount of any monthly payment required by the established written payment plan has been collected by the department. These funds shall be used by the department to pay for correctional probation officers' training and equipment, including radios, and firearms training, firearms, and attendant equipment necessary to train and equip officers who choose to carry a concealed firearm while on duty. This subparagraph does not limit the department's authority to determine who shall be authorized to carry a concealed firearm while on duty, or limit the right of a correctional probation officer to carry a personal firearm approved by the department.

(b) Any person placed on misdemeanor probation by a county court must contribute not less than \$40 per month, as decided by the sentencing court, to the court-approved public or private entity providing misdemeanor supervision.

(2) Any person being electronically monitored by the department as a result of being placed on supervision shall pay the department for electronic monitoring services at a rate that may not exceed the full cost of the monitoring service in addition to the cost of supervision as directed by the sentencing court. The funds collected under this subsection shall be deposited in the General Revenue Fund. The department may exempt a person from paying all or any part of the costs of the electronic monitoring service if it finds that any of the factors listed in subsection (3) exist.

(3) Any failure to pay contribution as required under this section may constitute a ground for the revocation of supervision probation by the court ~~or, the revocation of parole or conditional release~~ by the Florida Commission on Offender Review, the revocation of control release by the Control Release Authority, or the removal from the pretrial intervention program by the state attorney. The Department of Corrections may exempt a person from the payment of all or any part of the contribution if it finds any of the following factors ~~to exist~~:

(a) The offender has diligently attempted, but has been unable, to obtain or maintain employment that ~~which~~ provides him or her sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or course of career training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the offender's probation officer ~~Secretary of Corrections~~ by the educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the secretary.

(d) The offender's age prevents him or her from obtaining employment.

(e) The offender is responsible for the support of dependents, and the payment of such contribution constitutes an undue hardship on the offender.

(f) The offender has been transferred outside the state under an interstate compact adopted pursuant to chapter 949.

~~(g) There are other extenuating circumstances, as determined by the secretary.~~

~~(4) In addition to the contribution required under subsection (1), the department may provide a maximum payment of \$10 per month for each misdemeanor probationer who is contributing \$10 per month to the court-approved public or private entity which is providing him or her with misdemeanor supervision or rehabilitation. The \$10 payment set forth herein shall only be for first degree misdemeanors, petty theft, and worthless checks. The department shall make such payment to the court-approved public or private entity which is providing supervision to the offender under this section. Such payment shall be implemented through a contract to be entered into by the Secretary of Corrections and the entity. Terms of the contract shall state, but are not limited to, the extent of the services to be rendered by the entity providing supervision or rehabilitation. In addition, the entity shall supply the department with a monthly report documenting the acceptance of each offender placed under its supervision by the court, documenting the payment of the required contribution by each offender under supervision or rehabilitation, and notifying the department of all offenders for whom supervision or rehabilitation will be terminated. Supervisory records of the entity shall be open to inspection upon the request of the department or its agents.~~

~~(4)(5)~~ As a condition of an interstate compact adopted pursuant to chapter 949, the department shall require each out-of-state probationer or parolee transferred to this state to contribute not less than \$30 or more than the cost of supervision, certified by the Department of Corrections, per month to defray the cost incurred by this state as a result of providing supervision and rehabilitation during the period of supervision.

~~(5)(6)~~ In addition to any other required contributions, the department, at its discretion, may require offenders under any form of supervision to submit to and pay for urinalysis testing to identify drug usage as part of the rehabilitation program. Any failure to make such payment, or participate, may be considered a ground for revocation by the court, the Florida Commission on Offender Review, or the Control Release Authority, or for removal from the pretrial intervention program by the state attorney. The

department may exempt a person from such payment if it determines that any of the factors specified in subsection (3) exist.

(6)(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) 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 11. Section 948.10, Florida Statutes, is amended to read:

948.10 Community control programs; home confinement.—

(1) The Department of Corrections shall develop and administer a community control program. This ~~complementary~~ program shall be rigidly structured and designed to accommodate offenders who, in the absence of such a program, would have been incarcerated in a jail or prison. The program shall focus on the provision of home confinement subject to an authorized level of limited freedom and special conditions ~~sanctions and consequences which~~ that are commensurate with the seriousness of the crime. The program shall offer the courts and the Florida Commission on Offender Review an alternative, community-based method to punish an offender in lieu of incarceration and shall provide intensive supervision to closely monitor compliance with restrictions and special conditions, including, but not limited to, treatment or rehabilitative programs. The targeted population for this community control program includes if the offender is a member of one of the following target groups:

(a) Probation violators charged with technical violations or new misdemeanor violations of law.

(b) Parole or conditional release violators charged with technical violations or new misdemeanor violations of law.

(c) Individuals found guilty of felonies, who, due to their criminal backgrounds or the seriousness of the offenses, would not be placed on regular probation.

(2) ~~The department shall commit not less than 10 percent of the parole and probation field staff and supporting resources to the operation of the community control program.~~ Caseloads should be restricted to a maximum of ~~30~~ 25 cases per officer in order to ensure an adequate level of staffing. Community control is an individualized program in which the offender is restricted to a residential treatment facility or a nursing facility ~~noninstitutional quarters~~ or restricted to his or her approved own residence subject to an authorized level of limited freedom.

(3) Procedures governing violations of community control ~~are~~ shall be the same as those described in s. 948.06 with respect to probation.

(4) Upon completion of the sanctions imposed ~~and in the community control plan~~ before the expiration of the community control term ordered by the court, the department may petition the court to terminate early the supervision of discharge the offender from community control supervision or to return the offender to a program of regular probation supervision for the remainder of the term. In considering the petition, the court should recognize the limited staff resources committed to the community control program, the purpose of the program, and the offender's successful compliance with the conditions set forth in the order of the court.

~~(5) In its annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives under s. 20.315(5), the department shall include a detailed analysis of the community control program and the department's specific efforts to protect the public from offenders placed on community control. The analysis must include, but need not be limited to, specific information on the department's ability to meet minimum officer-to-offender contact standards, the number of crimes committed by offenders on community control, and the level of community supervision provided.~~

Section 12. Subsection (2) of section 948.101, Florida Statutes, is amended to read:

948.101 Terms and conditions of community control.—

(2) The enumeration of specific kinds of terms and conditions does not prevent the court from adding 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, or 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.

Section 13. Subsections (1), (2), and (3) of section 948.11, Florida Statutes, are amended, and subsection (5) of that section is republished, to read:

948.11 Electronic monitoring devices.—

(1) The Department of Corrections shall ~~may~~ electronically monitor an offender sentenced to community control when the court has imposed electronic monitoring as a condition of community control.

(2) Any offender placed under supervision ~~on community control~~ who violates the terms and conditions of supervision ~~community control~~ and is restored to supervision ~~community control~~ may be supervised by means of an electronic monitoring device or system if ordered by the court.

(3) For those offenders being electronically monitored, the Department of Corrections shall develop procedures to determine, investigate, and report the offender’s noncompliance with the terms and conditions of sentence 24 hours per day. All reports of noncompliance shall be immediately investigated by a probation ~~community control~~ officer.

(5) Any person being electronically monitored by the department as a result of being placed on supervision shall pay the department for the electronic monitoring services as provided in s. 948.09(2).

Section 14. Paragraph (b) of subsection (3) of section 948.15, Florida Statutes, is amended to read:

948.15 Misdemeanor probation services.—

(3) Any private entity, including a licensed substance abuse education and intervention program, providing services for the supervision of misdemeanor probationers must contract with the county in which the services are to be rendered. In a county having a population of fewer than 70,000, the county court judge, or the administrative judge of the county court in a county that has more than one county court judge, must approve the contract. Terms of the contract must state, but are not limited to:

(b) Staff qualifications and criminal record checks of staff ~~in accordance with essential standards established by the American Correctional Association as of January 1, 1991.~~

In addition, the entity shall supply the chief judge’s office with a quarterly report summarizing the number of offenders supervised by the private entity, payment of the required contribution under supervision or rehabilitation, and the number of offenders for whom supervision or rehabilitation will be terminated. All records of the entity must be open to inspection upon the request of the county, the court, the Auditor General, the Office of Program Policy Analysis and Government Accountability, or agents thereof.

Section 15. Section 948.50, Florida Statutes, is repealed.

Section 16. For the purpose of incorporating the amendment made by this act to section 948.013, Florida Statutes, in a reference thereto, paragraph (n) of subsection (1) of section 921.187, Florida Statutes, is reenacted to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner that will best serve the needs of

society, punish criminal offenders, and provide the opportunity for rehabilitation. If the offender does not receive a state prison sentence, the court may:

(n) Impose split probation whereby upon satisfactory completion of half the term of probation, the Department of Corrections may place the offender on administrative probation pursuant to s. 948.013 for the remainder of the term of supervision.

Section 17. For the purpose of incorporating the amendment made by this act to section 948.09, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 947.1405, Florida Statutes, is reenacted to read:

947.1405 Conditional release program.—

(7)

(b) For a releasee whose crime was committed on or after October 1, 1997, in violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to conditional release supervision, in addition to any other provision of this subsection, the commission shall impose the following additional conditions of conditional release supervision:

1. As part of a treatment program, participation in a minimum of one annual polygraph examination to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. The polygraph examination must be conducted by a polygrapher who is a member of a national or state polygraph association and who is certified as a postconviction sex offender polygrapher, where available, and at the expense of the releasee. The results of the examination shall be provided to the releasee's probation officer and qualified practitioner and may not be used as evidence in a hearing to prove that a violation of supervision has occurred.

2. Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

3. A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

4. If there was sexual contact, a submission to, at the releasee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

5. Electronic monitoring of any form when ordered by the commission. Any person who has been placed under supervision and is electronically monitored by the department must pay the department for the cost of the electronic monitoring service at a rate that may not exceed the full cost of the monitoring service. Funds collected under this subparagraph shall be deposited into the General Revenue Fund. The department may exempt a

person from the payment of all or any part of the electronic monitoring service cost if the department finds that any of the factors listed in s. 948.09(3) exist.

Section 18. For the purpose of incorporating the amendment made by this act to section 948.10, Florida Statutes, in a reference thereto, section 947.1747, Florida Statutes, is reenacted to read:

947.1747 Community control as a special condition of parole.—Upon the establishment of an effective parole release date as provided for in ss. 947.1745 and 947.1746, the commission may, as a special condition of parole, require an inmate to be placed in the community control program of the Department of Corrections as described in s. 948.10 for a period not exceeding 6 months. In every case in which the commission decides to place an inmate on community control as a special condition of parole, the commission shall provide a written explanation of the reasons for its decision.

Section 19. For the purpose of incorporating the amendment made by this act to section 948.10, Florida Statutes, in a reference thereto, subsection (3) of section 948.01, Florida Statutes, is reenacted to read:

948.01 When court may place defendant on probation or into community control.—

(3) If, after considering the provisions of subsection (2) and the offender's prior record or the seriousness of the offense, it appears to the court in the case of a felony disposition that probation is an unsuitable dispositional alternative to imprisonment, the court may place the offender in a community control program as provided in s. 948.10. Or, in a case of prior disposition of a felony commitment, upon motion of the offender or the department or upon its own motion, the court may, within the period of its retained jurisdiction following commitment, suspend the further execution of the disposition and place the offender in a community control program upon such terms as the court may require. The court may consult with a local offender advisory council pursuant to s. 948.90 with respect to the placement of an offender into community control. Not later than 3 working days before the hearing on the motion, the department shall forward to the court all relevant material on the offender's progress while in custody. If this sentencing alternative to incarceration is utilized, the court shall:

(a) Determine what community-based sanctions will be imposed in the community control plan. Community-based sanctions may include, but are not limited to, rehabilitative restitution in money or in kind, curfew, revocation or suspension of the driver license, community service, deprivation of nonessential activities or privileges, or other appropriate restraints on the offender's liberty.

(b) After appropriate sanctions for the offense are determined, develop, approve, and order a plan of community control which contains rules,

requirements, conditions, and programs that are designed to encourage noncriminal functional behavior and promote the rehabilitation of the offender and the protection of the community. If the offense was a controlled substance violation, 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).

Section 20. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2017.

Approved by the Governor June 14, 2017.

Filed in Office Secretary of State June 14, 2017.