

By Senator Siplin

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1 A bill to be entitled
2 An act relating to criminal justice; amending s.
3 900.02, F.S.; specifying that the Criminal Procedure
4 Law is effective to the extent that it is not in
5 conflict with the Florida Rules of Criminal Procedure
6 unless the conflict is incidental or substantive in
7 nature; amending s. 900.03, F.S.; specifying the
8 criminal jurisdiction of county and circuit courts;
9 amending s. 900.04, F.S.; specifying the punishment
10 available for contempt; amending s. 901.02, F.S.;
11 providing that arrest warrants may be issued for
12 contempt; providing additional circumstances when an
13 arrest warrant may issue; amending s. 901.16, F.S.;
14 revising provisions relating to presentation of an
15 arrest warrant after an arrest; amending s. 910.11,
16 F.S.; revising provisions specifying when a person may
17 not be held to answer on a second indictment,
18 information, or affidavit for an offense or tried for
19 such an offense; providing that state courts and
20 judicial and prosecuting officers lack jurisdiction in
21 specified circumstances; prohibiting actions by
22 judicial or prosecuting officers lacking jurisdiction;
23 providing criminal penalties; amending s. 918.19,
24 F.S.; providing that after the close of evidence in a
25 criminal prosecution an accused who is not represented
26 by counsel may respond to the rebuttal; deleting
27 legislative intent; amending s. 921.16, F.S.;
28 requiring that two or more sentences be served
29 consecutively for violent offenses and concurrently

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30 for nonviolent offenses; allowing a court to make a
31 sentence coterminous with a sentence imposed by
32 another court; amending s. 924.09, F.S.; requiring a
33 clerk of court to provide a copy of a judgment,
34 sentence, or order to a defendant within a specified
35 period after rendition; allowing extension of the time
36 for taking an appeal for a specified period in certain
37 circumstances; amending s. 924.31, F.S.; authorizing
38 an appellate court to reverse a judgment absent any
39 brief or argument by the appellant in certain
40 circumstances; amending s. 924.38, F.S.; requiring an
41 appellate court remanding a case for a new trial to
42 order the case to be reassigned if an application to
43 disqualify the trial judge is in the record; amending
44 s. 925.12, F.S.; revising requirements to be followed
45 in a guilty or nolo contendere plea proceeding
46 concerning DNA evidence; amending s. 933.17, F.S.;
47 increasing the classification of a violation for
48 exceeding authority under a search warrant from a
49 second degree misdemeanor to a first degree
50 misdemeanor; amending ss. 933.21 and 933.24, F.S.;
51 clarifying references; amending s. 933.27, F.S.;
52 clarifying a reference; increasing the classification
53 of a violation for failure to permit an inspection
54 authorized under an administrative inspection warrant
55 from a second degree misdemeanor to a first degree
56 misdemeanor; amending s. 933.28, F.S.; clarifying a
57 reference; increasing the classification of a
58 violation for maliciously causing issuance of an

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59 inspection warrant from a second degree misdemeanor to
60 a first degree misdemeanor; creating s. 933.281, F.S.;
61 prohibiting exceeding authority in the execution of an
62 administrative inspection warrant; providing criminal
63 penalties; amending s. 933.30, F.S.; clarifying a
64 reference; amending s. 943.601, F.S.; revising
65 provisions relating to preservation of legislative
66 powers in relation to activities of the Capitol
67 Police; specifying that requirements for probable
68 cause for Capitol Police activities have not been
69 affected; amending s. 943.61, F.S.; revising
70 provisions relating to the powers of the Capitol
71 Police to respond to complaints; specifying that
72 requirements for probable cause for Capitol Police
73 activities have not been affected; amending s.
74 944.292, F.S.; specifying the civil rights that are
75 suspended due to a felony conviction; providing that
76 suspension of civil rights is not required for felony
77 convictions for which adjudication of guilt is
78 withheld; amending s. 944.48, F.S.; correcting a
79 cross-reference; amending s. 948.01, F.S.; eliminating
80 a requirement for the development and distribution of
81 uniform order of supervision forms; giving a
82 sentencing court discretion to place a felon on
83 probation, regardless of whether adjudication is
84 withheld; amending s. 948.03, F.S.; requiring that a
85 court only rescind or modify terms and conditions of a
86 probationer upon request of a party or finding of a
87 violation of probation; amending s. 948.06, F.S.;

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88 eliminating the authority of a parole or probation
89 supervisor to serve a notice to appear; eliminating
90 the tolling of a probationary period due to service of
91 a notice to appear; requiring a chief judge to direct
92 the Department of Corrections to use notification
93 letters for technical probation violations; requiring
94 dismissal of a charge for a technical probation
95 violation unless the probationer has received two
96 prior warnings for the violation; deleting a provision
97 that allowed a court to impose a term for a violation
98 that exceeded that permissible under a specified
99 provision in certain circumstances; amending s.
100 948.09, F.S.; allowing the waiver or deferral of
101 supervision fees for indigent persons; deleting
102 authority for the Department of Corrections to require
103 offenders under any form of supervision to submit to
104 and pay for urinalysis testing to identify drug usage;
105 allowing courts to waive or defer required
106 contributions; amending s. 951.29, F.S.; revising
107 provisions relating to assistance for county prisoners
108 in restoration of their civil rights; providing an
109 effective date.

110
111 Be It Enacted by the Legislature of the State of Florida:

112
113 Section 1. Section 900.02, Florida Statutes, is amended to
114 read:

115 900.02 Effective date and applicability.—The Criminal
116 Procedure Law shall become effective at 12:01 a.m., January 1,

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117 1971, and shall govern the procedure in all criminal cases
118 instituted after that time to the extent that it is not in
119 conflict with the Florida Rules of Criminal Procedure, unless
120 the conflict is incidental or substantive in nature.

121 Section 2. Subsection (1) of section 900.03, Florida
122 Statutes, is amended to read:

123 900.03 Courts vested with criminal jurisdiction; process.—

124 (1) Original jurisdiction in criminal cases is vested in
125 the circuit courts as prescribed in s. 26.012(1) and (2)(d) and
126 county courts as prescribed in s. 34.01(1)(a) and (b), (2), and
127 (3).

128 Section 3. Section 900.04, Florida Statutes, is amended to
129 read:

130 900.04 Contempts.—~~Said~~ Courts vested with jurisdiction in
131 criminal cases under s. 900.03 may, when exercising ~~in the~~
132 ~~exercise of~~ their criminal jurisdiction, may punish for
133 contempts as in the exercise of their civil jurisdiction, and
134 the county courts shall possess, in this respect, the same
135 powers as the circuit courts. Contempts under this section are
136 punishable as provided in s. 775.02.

137 Section 4. Section 901.02, Florida Statutes, is amended to
138 read:

139 901.02 When warrant of arrest to be issued.—

140 (1) A warrant may be issued for the arrest of the person
141 complained against if the trial court judge, from the
142 examination of the complainant and other witnesses, reasonably
143 believes that the person complained against has committed an
144 offense or contempt within the trial court judge's jurisdiction.
145 A warrant is issued at the time it is signed by the trial court

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146 judge.

147 (2) The court may issue a warrant for the defendant's
148 arrest when any ~~all~~ of the following circumstances has occurred
149 ~~apply~~:

150 (a) A complaint has been filed charging the commission of a
151 misdemeanor only;

152 (b) The summons issued to the defendant has been returned
153 unserved; ~~and~~

154 (c) A commission of any felony has been alleged; ~~The~~
155 ~~conditions of subsection (1) are met.~~

156 (d) A violation of probation or community control has been
157 pursued as prescribed under s. 948.06;

158 (e) An indirect criminal contempt has been pursued as
159 prescribed under Rule 3.840, Florida Rules of Criminal
160 Procedure, and the conditions of subsection (1) are met; or

161 (f) There has been a failure to appear during any scheduled
162 criminal or contempt proceeding without prior court approval for
163 such absence.

164 Section 5. Section 901.16, Florida Statutes, is amended to
165 read:

166 901.16 Method of arrest by officer by a warrant.—A peace
167 officer making an arrest by a warrant shall inform the person to
168 be arrested of the cause of arrest and that a warrant has been
169 issued, except when the person flees or forcibly resists before
170 the officer has an opportunity to inform the person, or when
171 giving the information will imperil the arrest. The officer need
172 not have the warrant in his or her possession at the time of
173 arrest but on request of the person arrested, or other person
174 having interest, shall show and provide a verified copy of it to

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175 the person, or other person having interest, as soon as
176 practicable once the arrest has been safely secured.

177 Section 6. Section 910.11, Florida Statutes, is amended to
178 read:

179 910.11 Conviction or acquittal bar to prosecution;
180 penalties.—

181 (1) No person shall be held to answer on a second
182 indictment, information, or affidavit for an offense, including
183 indirect criminal contempt, for which the person has been
184 acquitted or convicted or for which a prior charging document
185 was dismissed with prejudice. The acquittal, conviction, or
186 dismissal with prejudice shall be a bar to a subsequent
187 prosecution for the same offense or indirect criminal contempt,
188 notwithstanding any defect in the form or circumstances of the
189 indictment, information, or affidavit.

190 (2) When a person may be tried for an offense, including
191 indirect criminal contempt, in two or more counties or courts of
192 this state, a conviction or acquittal or dismissal with
193 prejudice in one county or state court shall be a bar to
194 prosecution for the same offense or indirect criminal contempt
195 in another county or state court.

196 (3) Neither a state court nor a judicial or prosecuting
197 officer has jurisdiction in matter and person concerning any
198 person for an offense for which prosecution is barred in the
199 circumstances described in subsection (1) or subsection (2).

200 (4) Any judicial or prosecuting officer who knowingly,
201 willingly, or negligently violates this section commits a felony
202 of the third degree, punishable as provided in s. 775.082, s.
203 775.083, or s. 775.084.

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204 Section 7. Section 918.19, Florida Statutes, is amended to
205 read:

206 918.19 Closing argument.—As provided in the common law, in
207 criminal prosecutions after the closing of evidence:

208 (1) The prosecuting attorney shall open the closing
209 arguments.

210 (2) The accused or the attorney for the accused may reply.

211 (3) The prosecuting attorney may reply in rebuttal.

212 (4) The accused who is not represented by an attorney may
213 respond to the rebuttal.

214
215 ~~The method set forth in this section shall control unless the~~
216 ~~Supreme Court determines it is procedural and issues a~~
217 ~~substitute rule of criminal procedure.~~

218 Section 8. Subsections (1) and (3) of section 921.16,
219 Florida Statutes, are amended to read:

220 921.16 When sentences to be concurrent and when
221 consecutive.—

222 (1) A defendant convicted of two or more offenses charged
223 in the same indictment, information, or affidavit or in
224 consolidated indictments, informations, or affidavits shall
225 serve the sentences of imprisonment concurrently unless the
226 ~~court directs that two or more of the sentences are to be served~~
227 consecutively due to the violent nature of one or more of the
228 offenses charged. Sentences of imprisonment for offenses not
229 charged in the same indictment, information, or affidavit shall
230 be served consecutively unless the ~~court directs that two or~~
231 ~~more of the sentences are to be served concurrently due to the~~
232 nonviolent nature of the offenses charged. Any sentence for

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233 sexual battery as defined in chapter 794 or murder as defined in
234 s. 782.04 must be imposed consecutively to any other sentence
235 for sexual battery or murder which arose out of a separate
236 criminal episode or transaction.

237 (3) A county court or circuit court of this state may ~~not~~
238 direct that the sentence imposed by such court be served
239 coterminously with a sentence imposed by another court of this
240 state or imposed by a court of another state.

241 Section 9. Section 924.09, Florida Statutes, is amended to
242 read:

243 924.09 When appeal to be taken by defendant.—An appeal may
244 be taken by the defendant only within the time provided by the
245 Florida Rules of Appellate Procedure after the judgment,
246 sentence, or order appealed from is entered, except that an
247 appeal by a person who has not been granted probation may be
248 taken from both judgment and sentence within the time provided
249 by such said rules after the sentence is entered. To ensure the
250 right to a timely appeal, the clerk of court shall provide one
251 copy of the judgment, sentence, or order to the defendant within
252 3 days after rendition. Notwithstanding any other law, the time
253 for taking an appeal may be extended by an additional 30 days if
254 a defendant shows his or her right to a timely appeal has been
255 frustrated or delayed.

256 Section 10. Section 924.31, Florida Statutes, is amended to
257 read:

258 924.31 When argument necessary; exception.—A judgment may
259 not be affirmed if the appellant fails to argue and may, but it
260 ~~shall~~ not be reversed unless the appellant submits a written
261 brief or makes oral argument or unless, absent any brief or

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262 argument by the appellant, on the face of the record the court
263 finds fundamental error or a manifest injustice.

264 Section 11. Section 924.38, Florida Statutes, is amended to
265 read:

266 924.38 When removal shall be allowed on new trial.—When the
267 appellate court orders a new trial, it shall be held in the
268 court from which the appeal was taken unless the appellate court
269 finds ~~determines~~ that the trial court improperly denied the
270 defendant's application for removal of the original trial or any
271 application to disqualify the judge. If the appellate court
272 finds ~~determines~~ that removal is proper or the record reveals
273 any application to disqualify the judge, it shall designate the
274 court or order assignment of a new judge for the new trial.

275 Section 12. Section 925.12, Florida Statutes, is amended to
276 read:

277 925.12 DNA testing; defendants entering pleas.—

278 (1) For defendants who have entered a plea of guilty or
279 nolo contendere to a felony on or after July 1, 2006, a
280 defendant may petition for postsentencing DNA testing under s.
281 925.11 under the following circumstances:

282 (a) The facts on which the petition is predicated were
283 unknown to the petitioner or the petitioner's attorney at the
284 time the plea was entered and could not have been ascertained by
285 the exercise of due diligence; or

286 (b) The physical evidence for which DNA testing is sought
287 was not disclosed to the defense by the state prior to the entry
288 of the plea by the petitioner.

289 (2) For defendants seeking to enter a plea of guilty or
290 nolo contendere to a felony on or after July 1, 2006, the court

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291 shall inquire of the defendant and of counsel for the defendant
292 and the state as to physical evidence containing DNA known to
293 exist that could exonerate the defendant prior to accepting a
294 plea of guilty or nolo contendere. If no physical evidence
295 containing DNA that could exonerate the defendant is known to
296 exist, the court may proceed with consideration of accepting the
297 plea. If physical evidence containing DNA that could exonerate
298 the defendant is known to exist, the court may postpone the
299 proceeding on the defendant's behalf and order DNA testing upon
300 motion of counsel specifying the physical evidence to be tested.

301 (3) To ensure the rights of any defendant under subsection
302 (2), prior to the acceptance of a plea by the court, a
303 proceeding must be conducted pursuant to Rule 3.172(d), Florida
304 Rules of Criminal Procedure. ~~It is the intent of the Legislature~~
305 ~~that the Supreme Court adopt rules of procedure consistent with~~
306 ~~this section for a court, prior to the acceptance of a plea, to~~
307 ~~make an inquiry into the following matters:~~

308 ~~(a) Whether counsel for the defense has reviewed the~~
309 ~~discovery disclosed by the state and whether such discovery~~
310 ~~included a listing or description of physical items of evidence.~~

311 ~~(b) Whether the nature of the evidence against the~~
312 ~~defendant disclosed through discovery has been reviewed with the~~
313 ~~defendant.~~

314 ~~(c) Whether the defendant or counsel for the defendant is~~
315 ~~aware of any physical evidence disclosed by the state for which~~
316 ~~DNA testing may exonerate the defendant.~~

317 ~~(d) Whether the state is aware of any physical evidence for~~
318 ~~which DNA testing may exonerate the defendant.~~

319 (4) It is the intent of the Legislature that the

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320 postponement of the proceedings by the court on the defendant's
321 behalf under subsection (2) constitute an extension attributable
322 to the defendant for purposes of the defendant's right to a
323 speedy trial.

324 Section 13. Section 933.17, Florida Statutes, is amended to
325 read:

326 933.17 Exceeding authority in executing search warrant;
327 penalty.—Any officer who in executing a search warrant willfully
328 exceeds his or her authority or exercises it with unnecessary
329 severity commits, ~~shall be guilty of~~ a misdemeanor of the first
330 ~~second~~ degree, punishable as provided in s. 775.082 or s.
331 775.083.

332 Section 14. Section 933.21, Florida Statutes, is amended to
333 read:

334 933.21 Requirements for issuance of inspection warrant.—An
335 inspection warrant shall be issued only upon cause, supported by
336 affidavit, particularly describing the place, dwelling,
337 structure, or premises to be inspected and the purpose for which
338 the inspection is to be made. In addition, the affidavit shall
339 contain a statement that consent to inspect has been sought and
340 refused or a statement setting forth facts or circumstances
341 reasonably justifying the failure to seek such consent. Owner-
342 occupied family residences are exempt from the provisions of ss.
343 933.20-933.30 ~~this act~~.

344 Section 15. Section 933.24, Florida Statutes, is amended to
345 read:

346 933.24 Issuance of inspection warrant; contents.—If the
347 judge is satisfied that cause for the inspection exists, he or
348 she may issue the warrant particularly describing the place,

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349 dwelling, structure, or premises to be inspected and designating
350 on the warrant the purpose and limitations of the inspection,
351 including the limitations required by ss. 933.20-933.30 ~~this~~
352 ~~act~~.

353 Section 16. Section 933.27, Florida Statutes, is amended to
354 read:

355 933.27 Refusal to permit authorized inspection; penalty.—
356 Any person who willfully refuses to permit an inspection
357 authorized by a warrant issued pursuant to ss. 933.20-933.30
358 commits this act ~~is guilty of~~ a misdemeanor of the first ~~second~~
359 degree, punishable as provided in s. 775.082 or s. 775.083.

360 Section 17. Section 933.28, Florida Statutes, is amended to
361 read:

362 933.28 Maliciously causing issuance of inspection warrant;
363 penalty.—Any person who maliciously, or with knowledge that
364 cause to issue an inspection warrant does not exist, causes the
365 issuance of an inspection warrant by executing a supporting
366 affidavit or by directing or requesting another to execute a
367 supporting affidavit, or who maliciously causes an inspection
368 warrant to be executed and served for purposes other than
369 defined in ss. 933.20-933.30 commits this act, ~~is guilty of~~ a
370 misdemeanor of the first ~~second~~ degree, punishable as provided
371 in s. 775.082 or s. 775.083.

372 Section 18. Section 933.281, Florida Statutes, is created
373 to read:

374 933.281 Exceeding authority in executing inspection
375 warrant; penalty.—Any officer who in executing an inspection
376 warrant willfully exceeds his or her authority or exercises his
377 or her authority with unnecessary severity commits a misdemeanor

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378 of the second degree, punishable as provided in s. 775.082 or s.
379 775.083.

380 Section 19. Section 933.30, Florida Statutes, is amended to
381 read:

382 933.30 Inspector; restrictions on giving information,
383 testifying, etc.—A person performing an inspection pursuant to
384 the authority of ss. 933.20-933.30 ~~this act~~ shall not give
385 information as a confidential informer, testify as a witness, or
386 execute an affidavit as a predicate for the issuance of a
387 criminal search warrant or for probable cause to search any
388 dwelling or other building without a criminal search warrant.

389 Section 20. Section 943.601, Florida Statutes, is amended
390 to read:

391 943.601 Preservation of legislative powers.—Except as may
392 be agreed to by the presiding officers of both houses of the
393 Legislature or in the event of any criminal offense or official
394 misconduct, nothing in this chapter shall limit or otherwise
395 interfere with the rights and powers of the Senate or the House
396 of Representatives, or the officers of either, to direct or
397 command members or committees of the Legislature or legislative
398 employees to attend any meeting or enter any area of the Capitol
399 Complex for a legislative purpose, and the Capitol Police may,
400 as provided by the security plans developed and approved under
401 s. 943.61(4)(a), and upon request of the presiding officer of
402 either house of the Legislature, ensure the ability of any
403 member of the house presided over by such presiding officer to
404 attend to such legislative business without wrongful
405 interference from any person or governmental ~~government~~ entity,
406 except in the event of a criminal offense or official

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407 misconduct. This chapter does not eliminate the requirement for
408 probable cause when otherwise required for an act by the Capitol
409 Police concerning any criminal offense or misconduct that may
410 result in interference with the rights and powers of the Senate
411 or the House of Representatives, or the officers of either, and
412 their employees.

413 Section 21. Paragraph (g) of subsection (4) and subsection
414 (5) of section 943.61, Florida Statutes, are amended to read:

415 943.61 Powers and duties of the Capitol Police.—

416 (4) The Capitol Police shall have the following
417 responsibilities, powers, and duties:

418 (g) To respond to all complaints relating to criminal
419 activity or security threats within the Capitol Complex,
420 including those by or against the Governor, the Lieutenant
421 Governor, a member of the Cabinet, a member of the Senate or of
422 the House of Representatives, or an employee assisting such
423 official.

424 (5) Officers of the Capitol Police may make lawful arrests,
425 consistent with the purposes, responsibilities, and limitations
426 set forth in ss. 943.60-943.68. However, except with the prior
427 approval of the appropriate presiding officer, officers of the
428 Capitol Police shall have no power to prevent the convening or
429 continuation of any meeting of the Legislature, legislative
430 committees, or staff, nor shall they have the power to interfere
431 with the legislative duties or rights of a member of the
432 Legislature, or to interfere with the constitutional duties or
433 rights of the Governor or a member of the Cabinet, except as may
434 be necessary to protect the health and safety of any person from
435 a clear and present danger, or as may be otherwise provided in

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436 the security plans developed and approved for fire prevention,
437 firesafety, and emergency medical procedures under paragraph
438 (4) (a). No employee of the Capitol Police shall be permitted in
439 either legislative chamber without the specific permission of
440 the presiding officer of that house of the Legislature, but may
441 enter in the case of an emergency when the presiding officer is
442 not able or available to consent. This section does not
443 eliminate the requirement for probable cause when otherwise
444 required for an act by the Capitol Police concerning any
445 criminal offense or misconduct that may result in interference
446 with the rights and powers of a member of the Legislature, the
447 Governor, or a member of the Cabinet or their employees.

448 Section 22. Section 944.292, Florida Statutes, is amended
449 to read:

450 944.292 Suspension of civil rights.—

451 (1) Upon conviction of a felony as defined in s. 10, Art. X
452 of the State Constitution, the civil rights of the person
453 convicted shall be suspended in Florida until such rights are
454 restored by a full pardon, conditional pardon, or restoration of
455 civil rights granted pursuant to s. 8, Art. IV of the State
456 Constitution. The civil rights suspended under this section are
457 the right to vote, sit on a jury, hold a public office, bear
458 firearms, and hold a professional or occupational license.

459 (2) This section shall not be construed to deny a convicted
460 felon access to the courts, as guaranteed by s. 21, Art. I of
461 the State Constitution, until restoration of her or his civil
462 rights.

463 (3) This section does not apply to any felony offense for
464 which adjudication of guilt has been withheld.

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465 Section 23. Section 944.48, Florida Statutes, is amended to
466 read:

467 944.48 Service of sentence.—Whenever any prisoner is
468 convicted under the provisions of ss. 944.44-944.47 ~~944.41-~~
469 ~~944.47~~ the punishment of imprisonment imposed shall be served
470 consecutively to any former sentence imposed upon any prisoner
471 convicted hereunder.

472 Section 24. Subsections (1), (2), and (6) of section
473 948.01, Florida Statutes, are amended to read:

474 948.01 When court may place defendant on probation or into
475 community control.—

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

484 ~~(a)~~ If the court places the defendant on probation or into
485 community control for a felony, the department shall provide
486 immediate supervision by an officer employed in compliance with
487 the minimum qualifications for officers as provided in s.
488 943.13. A private entity may not provide probationary or
489 supervision services to felony or misdemeanor offenders
490 sentenced or placed on probation or other supervision by the
491 circuit court.

492 ~~(b) The department, in consultation with the Office of the~~
493 ~~State Courts Administrator, shall develop and disseminate to the~~

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494 ~~courts uniform order of supervision forms by July 1 of each year~~
495 ~~or as necessary. The courts shall use the uniform order of~~
496 ~~supervision forms provided by the department for all persons~~
497 ~~placed on community supervision.~~

498 (2) If it appears to the court upon a hearing of the matter
499 that the defendant is not likely again to engage in a criminal
500 course of conduct and that the ends of justice and the welfare
501 of society do not require that the defendant presently suffer
502 the penalty imposed by law, the court, in its discretion, may
503 either adjudge the defendant to be guilty or stay and withhold
504 the adjudication of guilt. In either case, the court shall stay
505 and withhold the imposition of sentence upon the defendant and
506 may ~~shall~~ place a felony defendant upon probation. If the
507 defendant is found guilty of a nonfelony offense as the result
508 of a trial or entry of a plea of guilty or nolo contendere,
509 regardless of whether adjudication is withheld, the court may
510 place the defendant on probation. In addition to court costs and
511 fees and notwithstanding any law to the contrary, the court may
512 impose a fine authorized by law if the offender is a nonfelony
513 offender who is not placed on probation. However, a defendant
514 who is placed on probation for a misdemeanor may not be placed
515 under the supervision of the department unless the circuit court
516 was the court of original jurisdiction.

517 (6) When the court, under ~~any of the foregoing~~ subsections
518 (1)-(5), places a defendant on probation or into community
519 control, it may specify that the defendant serve all or part of
520 the probationary or community control period in a community
521 residential or nonresidential facility under the jurisdiction of
522 the Department of Corrections or the Department of Children and

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523 Family Services or any public or private entity providing such
524 services, and it shall require the payment prescribed in s.
525 948.09.

526 Section 25. Subsection (2) of section 948.03, Florida
527 Statutes, is amended to read:

528 948.03 Terms and conditions of probation.—

529 (2) The enumeration of specific kinds of terms and
530 conditions shall not prevent the court from adding thereto such
531 other or others as it considers proper. However, the sentencing
532 court may only impose a condition of supervision allowing an
533 offender convicted of s. 794.011, s. 800.04, s. 827.071, s.
534 847.0135(5), or s. 847.0145, to reside in another state, if the
535 order stipulates that it is contingent upon the approval of the
536 receiving state interstate compact authority. Upon the request
537 of a party or upon finding a violation of probation, the court
538 may rescind or modify ~~at any time~~ the terms and conditions
539 theretofore imposed by it upon the probationer. However, if the
540 court withholds adjudication of guilt or imposes a period of
541 incarceration as a condition of probation, the period shall not
542 exceed 364 days, and incarceration shall be restricted to either
543 a county facility, a probation and restitution center under the
544 jurisdiction of the Department of Corrections, a probation
545 program drug punishment phase I secure residential treatment
546 institution, or a community residential facility owned or
547 operated by any entity providing such services.

548 Section 26. Paragraphs (c), (d), and (e) of subsection (1)
549 and subsection (2) of section 948.06, Florida Statutes, are
550 amended to read:

551 948.06 Violation of probation or community control;

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552 revocation; modification; continuance; failure to pay
553 restitution or cost of supervision.—

554 (1)

555 (c) Any parole or probation supervisor, any officer
556 authorized to serve criminal process, or any peace officer of
557 this state is authorized to serve and execute such warrant. ~~Any~~
558 ~~parole or probation supervisor is authorized to serve such~~
559 ~~notice to appear.~~

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

574 (e) The chief judge of each judicial circuit shall ~~may~~
575 direct the department to use a notification letter of a
576 technical violation in appropriate cases in lieu of a violation
577 report, affidavit, and warrant when the alleged violation is not
578 a new felony or misdemeanor offense. Such direction must be in
579 writing and must specify the types of specific violations which
580 are to be reported by a notification letter of a technical

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581 violation, any exceptions to those violations, and the required
582 process for submission. At the direction of the chief judge, the
583 department shall send the notification letter of a technical
584 violation to the court.

585 (2) (a) The court, upon the probationer or offender being
586 brought before it, shall advise him or her of such charge of
587 violation and, if such charge is admitted to be true, may
588 forthwith revoke, modify, or continue the probation or community
589 control or place the probationer into a community control
590 program.

591 (b) If probation or community control is revoked, the court
592 shall adjudge the probationer or offender guilty of the offense
593 charged and proven or admitted, unless he or she has previously
594 been adjudged guilty, and impose any sentence which it might
595 have originally imposed before placing the probationer on
596 probation or the offender into community control.

597 (c) If such violation of probation or community control is
598 not admitted by the probationer or offender, the court may
599 commit him or her or release him or her with or without bail to
600 await further hearing, or it may dismiss the charge of probation
601 or community control violation. If a technical violation is
602 charged and there are not at least two prior warnings by a
603 parole or probation officer for the violation present in the
604 record, the violation shall be dismissed and release upon such a
605 dismissal shall be without bail on the grounds that such a
606 probationer or offender is not an imminent danger to the public
607 or a flight risk.

608 (d) If such charge is not at that time admitted by the
609 probationer or offender and if it is not dismissed, the court,

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610 as soon as may be practicable, shall give the probationer or
611 offender an opportunity to be fully heard on his or her behalf
612 in person or by counsel.

613 (e) After such hearing, the court may revoke, modify, or
614 continue the probation or community control or place the
615 probationer into community control. If such probation or
616 community control is revoked, the court shall adjudge the
617 probationer or offender guilty of the offense charged and proven
618 or admitted, unless he or she has previously been adjudged
619 guilty, and impose any sentence which it might have originally
620 imposed before placing the probationer or offender on probation
621 or into community control.

622 ~~(f) Notwithstanding s. 775.082, when a period of probation~~
623 ~~or community control has been tolled, upon revocation or~~
624 ~~modification of the probation or community control, the court~~
625 ~~may impose a sanction with a term that when combined with the~~
626 ~~amount of supervision served and tolled, exceeds the term~~
627 ~~permissible pursuant to s. 775.082 for a term up to the amount~~
628 ~~of the tolled period of supervision.~~

629 (f)~~(g)~~ If the court dismisses an affidavit alleging a
630 violation of probation or community control, the offender's
631 probation or community control shall continue as previously
632 imposed, and the offender shall receive credit for all tolled
633 time against his or her term of probation or community control.

634 (g)~~(h)~~1. For each case in which the offender admits to
635 committing a violation or is found to have committed a
636 violation, the department shall provide the court with a
637 recommendation as to disposition by the court. The department
638 shall provide the reasons for its recommendation and include an

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639 evaluation of:

640 a. The appropriateness or inappropriateness of community
641 facilities, programs, or services for treating or supervising
642 the offender;

643 b. The ability or inability of the department to provide an
644 adequate level of supervision of the offender in the community
645 and a statement of what constitutes an adequate level of
646 supervision; and

647 c. The existence of treatment modalities that the offender
648 could use but that do not currently exist in the community.

649 2. The report must also include a summary of the offender's
650 prior supervision history, including the offender's prior
651 participation in treatment, educational, and vocational
652 programs, and any other actions by or circumstances concerning
653 the offender which are relevant.

654 3. The court may specify whether the recommendation or
655 report must be oral or written and may waive the requirement for
656 a report in an individual case or a class of cases. This
657 paragraph does not prohibit the department from making any other
658 report or recommendation that is provided for by law or
659 requested by the court.

660 (h)~~(i)~~1. Notwithstanding s. 921.0024 and effective for
661 offenses committed on or after July 1, 2009, the court may order
662 the defendant to successfully complete a postadjudicatory
663 treatment-based drug court program if:

664 a. The court finds or the offender admits that the offender
665 has violated his or her community control or probation and the
666 violation was due only to a failed or suspect substance abuse
667 test;

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668 b. The offender's Criminal Punishment Code scoresheet total
669 sentence points under s. 921.0024 are 52 points or fewer after
670 including points for the violation;

671 c. The underlying offense is a nonviolent felony. As used
672 in this subsection, the term "nonviolent felony" means a third
673 degree felony violation under chapter 810 or any other felony
674 offense that is not a forcible felony as defined in s. 776.08;

675 d. The court determines that the offender is amenable to
676 the services of a postadjudicatory treatment-based drug court
677 program;

678 e. The court has explained the purpose of the program to
679 the offender and the offender has agreed to participate; and

680 f. The offender is otherwise qualified to participate in
681 the program under the provisions of s. 397.334(3).

682 2. After the court orders the modification of community
683 control or probation, the original sentencing court shall
684 relinquish jurisdiction of the offender's case to the
685 postadjudicatory treatment-based drug court program until the
686 offender is no longer active in the program, the case is
687 returned to the sentencing court due to the offender's
688 termination from the program for failure to comply with the
689 terms thereof, or the offender's sentence is completed.

690 Section 27. Paragraph (a) of subsection (1), subsection
691 (6), and present subsection (7) of section 948.09, Florida
692 Statutes, are amended, and a new subsection (7) is added to that
693 section, to read:

694 948.09 Payment for cost of supervision and rehabilitation.—

695 (1) (a) 1. Any person ordered by the court, the Department of
696 Corrections, or the parole commission to be placed on probation,

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697 drug offender probation, community control, parole, control
698 release, provisional release supervision, addiction-recovery
699 supervision, or conditional release supervision under chapter
700 944, chapter 945, chapter 947, chapter 948, or chapter 958, or
701 in a pretrial intervention program, must, as a condition of any
702 placement, pay the department a total sum of money equal to the
703 total month or portion of a month of supervision times the
704 court-ordered amount, but not to exceed the actual per diem cost
705 of the supervision. Such payment may be waived or deferred if
706 the person is determined to be indigent. The department shall
707 adopt rules by which an offender who pays in full and in advance
708 of regular termination of supervision may receive a reduction in
709 the amount due. The rules shall incorporate provisions by which
710 the offender's ability to pay is linked to an established
711 written payment plan. Funds collected from felony offenders may
712 be used to offset costs of the Department of Corrections
713 associated with community supervision programs, subject to
714 appropriation by the Legislature.

715 2. In addition to any other contribution or surcharge
716 imposed by this section, each felony offender assessed under
717 this paragraph shall pay a \$2-per-month surcharge to the
718 department. The surcharge shall be deemed to be paid only after
719 the full amount of any monthly payment required by the
720 established written payment plan has been collected by the
721 department. These funds shall be used by the department to pay
722 for correctional probation officers' training and equipment,
723 including radios, and firearms training, firearms, and attendant
724 equipment necessary to train and equip officers who choose to
725 carry a concealed firearm while on duty. Nothing in this

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726 subparagraph shall be construed to limit the department's
727 authority to determine who shall be authorized to carry a
728 concealed firearm while on duty, or to limit the right of a
729 correctional probation officer to carry a personal firearm
730 approved by the department.

731 ~~(6) In addition to any other required contributions, the~~
732 ~~department, at its discretion, may require offenders under any~~
733 ~~form of supervision to submit to and pay for urinalysis testing~~
734 ~~to identify drug usage as part of the rehabilitation program.~~
735 ~~Any failure to make such payment, or participate, may be~~
736 ~~considered a ground for revocation by the court, the Parole~~
737 ~~Commission, or the Control Release Authority, or for removal~~
738 ~~from the pretrial intervention program by the state attorney.~~
739 ~~The department may exempt a person from such payment if it~~
740 ~~determines that any of the factors specified in subsection (3)~~
741 ~~exist.~~

742 (6) ~~(7)~~ The department shall establish a payment plan for
743 all costs of supervision and rehabilitation or contribution
744 ordered by the courts for collection or imposed by the
745 department and a priority order for payments, except that victim
746 restitution payments authorized under s. 948.03(1)(e) take
747 precedence over all other court-ordered payments. The department
748 is not required to disburse cumulative amounts of less than \$10
749 to individual payees established on this payment plan.

750 (7) The court by order may waive or defer any contribution
751 prescribed under this section.

752 Section 28. Subsection (1) of section 951.29, Florida
753 Statutes, is amended to read:

754 951.29 Procedure for requesting restoration of civil rights

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755 of county prisoners convicted of felonies.-

756 (1) With respect to persons ~~a person~~ who have ~~has been~~
757 ~~convicted of a~~ felony convictions and are ~~is~~ serving sentences ~~a~~
758 ~~sentence~~ in a county detention facilities ~~facility~~, the
759 administrator of each of the county detention facilities
760 facility shall make a record of and provide to the prisoners
761 ~~prisoner~~, at least 2 weeks before or on the day of discharge, if
762 possible, an application form obtained from the Parole
763 Commission which the prisoners ~~prisoner~~ must complete in order
764 to begin the process of having their ~~his or her~~ civil rights
765 restored. The prisoners shall be informed where to go and how to
766 be assisted in the further completion of the process upon
767 discharge from the county facility either by an authorized
768 county officer or in writing.

769 Section 29. This act shall take effect July 1, 2010.