

1                   A bill to be entitled  
2           An act relating to criminal sentencing; amending s.  
3           921.0024, F.S.; prohibiting points from being assessed  
4           for violations of community sanctions that are  
5           resolved under an alternative sanctioning program for  
6           purposes of calculations under the Criminal Punishment  
7           Code; amending s. 948.06, F.S.; providing for the  
8           resolution of low-risk violations of probation through  
9           an alternative sanctioning program in certain  
10          circumstances; correcting provisions concerning  
11          limiting prison sentences for first-time revocations  
12          for technical violations; providing for structured  
13          sentences when technical violations result in prison  
14          terms in certain circumstances; providing time periods  
15          for hearing and release of a probationer or offender  
16          concerning alleged violations that are criminal  
17          traffic offenses or technical violations; providing  
18          that an alternative sanctioning program is the default  
19          method for the resolution of certain low-risk  
20          violations; providing an effective date.

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

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24           Section 1. Paragraph (b) of subsection (1) of section  
25   921.0024, Florida Statutes, is amended to read:

26 921.0024 Criminal Punishment Code; worksheet computations;  
27 scoresheets.—

28 (1)

29 (b) WORKSHEET KEY:

30 Legal status points are assessed when any form of legal status  
31 existed at the time the offender committed an offense before the  
32 court for sentencing. Four (4) sentence points are assessed for  
33 an offender's legal status.

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35 Community sanction violation points are assessed when a  
36 community sanction violation is before the court for sentencing.  
37 Six (6) sentence points are assessed for each community sanction  
38 violation and each successive community sanction violation,  
39 unless any of the following apply:

40 1. If the community sanction violation includes a new  
41 felony conviction before the sentencing court, twelve (12)  
42 community sanction violation points are assessed for the  
43 violation, and for each successive community sanction violation  
44 involving a new felony conviction.

45 2. If the community sanction violation is committed by a  
46 violent felony offender of special concern as defined in s.  
47 948.06:

48 a. Twelve (12) community sanction violation points are  
49 assessed for the violation and for each successive violation of  
50 felony probation or community control where:

51 I. The violation does not include a new felony conviction;  
52 and

53 II. The community sanction violation is not based solely  
54 on the probationer or offender's failure to pay costs or fines  
55 or make restitution payments.

56 b. Twenty-four (24) community sanction violation points  
57 are assessed for the violation and for each successive violation  
58 of felony probation or community control where the violation  
59 includes a new felony conviction.

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61 Multiple counts of community sanction violations before the  
62 sentencing court shall not be a basis for multiplying the  
63 assessment of community sanction violation points.

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65 Prior serious felony points: If the offender has a primary  
66 offense or any additional offense ranked in level 8, level 9, or  
67 level 10, and one or more prior serious felonies, a single  
68 assessment of thirty (30) points shall be added. For purposes of  
69 this section, a prior serious felony is an offense in the  
70 offender's prior record that is ranked in level 8, level 9, or  
71 level 10 under s. 921.0022 or s. 921.0023 and for which the  
72 offender is serving a sentence of confinement, supervision, or  
73 other sanction or for which the offender's date of release from  
74 confinement, supervision, or other sanction, whichever is later,  
75 is within 3 years before the date the primary offense or any

76 additional offense was committed.

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78 Prior capital felony points: If the offender has one or more  
79 prior capital felonies in the offender's criminal record, points  
80 shall be added to the subtotal sentence points of the offender  
81 equal to twice the number of points the offender receives for  
82 the primary offense and any additional offense. A prior capital  
83 felony in the offender's criminal record is a previous capital  
84 felony offense for which the offender has entered a plea of nolo  
85 contendere or guilty or has been found guilty; or a felony in  
86 another jurisdiction which is a capital felony in that  
87 jurisdiction, or would be a capital felony if the offense were  
88 committed in this state.

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90 Possession of a firearm, semiautomatic firearm, or machine gun:  
91 If the offender is convicted of committing or attempting to  
92 commit any felony other than those enumerated in s. 775.087(2)  
93 while having in his or her possession: a firearm as defined in  
94 s. 790.001(6), an additional eighteen (18) sentence points are  
95 assessed; or if the offender is convicted of committing or  
96 attempting to commit any felony other than those enumerated in  
97 s. 775.087(3) while having in his or her possession a  
98 semiautomatic firearm as defined in s. 775.087(3) or a machine  
99 gun as defined in s. 790.001(9), an additional twenty-five (25)  
100 sentence points are assessed.

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Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), or (4), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(10) or (11), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal

126 sentence points are multiplied by 1.5.

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128 Offense related to a criminal gang: If the offender is convicted  
129 of the primary offense and committed that offense for the  
130 purpose of benefiting, promoting, or furthering the interests of  
131 a criminal gang as defined in s. 874.03, the subtotal sentence  
132 points are multiplied by 1.5. If applying the multiplier results  
133 in the lowest permissible sentence exceeding the statutory  
134 maximum sentence for the primary offense under chapter 775, the  
135 court may not apply the multiplier and must sentence the  
136 defendant to the statutory maximum sentence.

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138 Domestic violence in the presence of a child: If the offender is  
139 convicted of the primary offense and the primary offense is a  
140 crime of domestic violence, as defined in s. 741.28, which was  
141 committed in the presence of a child under 16 years of age who  
142 is a family or household member as defined in s. 741.28(3) with  
143 the victim or perpetrator, the subtotal sentence points are  
144 multiplied by 1.5.

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146 Adult-on-minor sex offense: If the offender was 18 years of age  
147 or older and the victim was younger than 18 years of age at the  
148 time the offender committed the primary offense, and if the  
149 primary offense was an offense committed on or after October 1,  
150 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the

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151 violation involved a victim who was a minor and, in the course  
152 of committing that violation, the defendant committed a sexual  
153 battery under chapter 794 or a lewd act under s. 800.04 or s.  
154 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
155 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
156 800.04; or s. 847.0135(5), the subtotal sentence points are  
157 multiplied by 2.0. If applying the multiplier results in the  
158 lowest permissible sentence exceeding the statutory maximum  
159 sentence for the primary offense under chapter 775, the court  
160 may not apply the multiplier and must sentence the defendant to  
161 the statutory maximum sentence.

162 3. If the community sanction violation is resolved through  
163 the alternative sanctioning program under s. 948.06(9), no  
164 points are assessed. If a community sanction violation not  
165 resolved through the alternative sanctioning program is before  
166 the court, no points are assessed for prior violations that were  
167 resolved through the alternative sanctioning program.

168 Section 2. Paragraph (c) of subsection (1), paragraph (f)  
169 of subsection (2), subsection (4), and paragraphs (c), (d), (e),  
170 and (i) of subsection (9) of section 948.06, Florida Statutes,  
171 are amended to read:

172 948.06 Violation of probation or community control;  
173 revocation; modification; continuance; failure to pay  
174 restitution or cost of supervision.—

175 (1)

176 (c) If a probationer or offender on community control  
 177 commits a technical violation, the probation officer shall  
 178 determine whether the probationer or offender on community  
 179 control is eligible for the alternative sanctioning program  
 180 under subsection (9). If the probation officer determines that  
 181 the probationer or offender on community control is eligible,  
 182 the probation officer may proceed with the alternative  
 183 sanctioning program in lieu of filing an affidavit of violation  
 184 with the court. If the probationer or offender on community  
 185 control is eligible for the alternative sanctioning program and  
 186 the violation is a low-risk violation, as defined in paragraph  
 187 (9)(b), the probation officer shall proceed with the alternative  
 188 sanctioning program in lieu of filing an affidavit of violation  
 189 with the court unless directed by the court to submit or file an  
 190 affidavit of violation pursuant to paragraph (9)(i). For  
 191 purposes of this section, the term "technical violation" means  
 192 an alleged violation of supervision that is not a new felony  
 193 offense, a misdemeanor violation of chapter 784, a misdemeanor  
 194 crime of domestic violence, as defined in s. 741.28, or a  
 195 misdemeanor under s. 316.193, s. 741.29, s. 741.31, s. 784.046,  
 196 s. 784.047, s. 784.048, s. 784.0487, s. 784.049, or s. 787.025  
 197 ~~misdemeanor offense~~, or criminal traffic offense other than a  
 198 misdemeanor violation of s. 322.34.

199 (2)  
 200 (f)1. Except as provided in subparagraph 4. 3- or upon



201 waiver by the probationer, the court shall modify or continue a  
 202 probationary term upon finding a probationer in violation when  
 203 all of the following apply:

204 a. The term of supervision is probation.

205 b. The probationer does not qualify as a violent felony  
 206 offender of special concern, as defined in paragraph (8) (b).

207 c. The violation is a low-risk technical violation, as  
 208 defined in paragraph (9) (b).

209 d. The court has not, on two or more separate occasions,  
 210 previously found the probationer in violation of his or her  
 211 probation pursuant to a filed violation of probation affidavit  
 212 during the current term of supervision. A probationer who has  
 213 successfully completed sanctions through the alternative  
 214 sanctioning program is eligible for mandatory modification or  
 215 continuation of his or her probation.

216 2. Upon modifying probation under subparagraph 1., the  
 217 court may include in the sentence a maximum of 90 days in county  
 218 jail as a special condition of probation. If the court has  
 219 previously found the probationer in violation of his or her  
 220 probation and modified probation with up to 90 days in county  
 221 jail as a special condition of probation it may, upon  
 222 modification of probation under subparagraph 1., include in the  
 223 sentence a maximum of 120 days in county jail as a special  
 224 condition of probation.

225 ~~3.2.~~ Upon modifying probation under subparagraph 1., the

226 court may include in the sentence a maximum of 90 days in county  
227 jail as a special condition of probation.

228 ~~4.3.~~ Notwithstanding s. 921.0024, if a probationer meets  
229 the criteria for mandatory modification in subparagraph 1. but  
230 has less time on supervision remaining than the number of days  
231 in jail authorized in subparagraph 2. than 90 days of  
232 supervision remaining on his or her term of probation and meets  
233 the criteria for mandatory modification or continuation in  
234 subparagraph 1., the court may revoke probation and sentence the  
235 probationer to a maximum of 90 or 120 days in county jail as  
236 provided in subparagraph 2.

237 ~~5.4.~~ For purposes of imposing a jail sentence under this  
238 paragraph only, the court may grant credit only for time served  
239 in the county jail since the probationer's most recent arrest  
240 for the violation. However, the court may not order the  
241 probationer to a total term of incarceration greater than the  
242 maximum provided by s. 775.082.

243 (4) Notwithstanding any other provision of this section, a  
244 felony probationer or an offender in community control who is  
245 arrested for violating his or her probation or community control  
246 in a material respect may be taken before the court in the  
247 county or circuit in which the probationer or offender was  
248 arrested. That court shall advise him or her of the charge of a  
249 violation and, if such charge is admitted, shall cause him or  
250 her to be brought before the court that granted the probation or

251 community control. If the violation is not admitted by the  
252 probationer or offender, the court may commit him or her or  
253 release him or her with or without bail to await further  
254 hearing. However, if the probationer or offender is under  
255 supervision for any criminal offense proscribed in chapter 794,  
256 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
257 registered sexual predator or a registered sexual offender, or  
258 is under supervision for a criminal offense for which he or she  
259 would meet the registration criteria in s. 775.21, s. 943.0435,  
260 or s. 944.607 but for the effective date of those sections, the  
261 court must make a finding that the probationer or offender is  
262 not a danger to the public prior to release with or without  
263 bail. In determining the danger posed by the offender's or  
264 probationer's release, the court may consider the nature and  
265 circumstances of the violation and any new offenses charged; the  
266 offender's or probationer's past and present conduct, including  
267 convictions of crimes; any record of arrests without conviction  
268 for crimes involving violence or sexual crimes; any other  
269 evidence of allegations of unlawful sexual conduct or the use of  
270 violence by the offender or probationer; the offender's or  
271 probationer's family ties, length of residence in the community,  
272 employment history, and mental condition; his or her history and  
273 conduct during the probation or community control supervision  
274 from which the violation arises and any other previous  
275 supervisions, including disciplinary records of previous

276 | incarceration; the likelihood that the offender or probationer  
277 | will engage again in a criminal course of conduct; the weight of  
278 | the evidence against the offender or probationer; and any other  
279 | facts the court considers relevant. The court, as soon as is  
280 | practicable, shall give the probationer or offender an  
281 | opportunity to be fully heard on his or her behalf in person or  
282 | by counsel. If the alleged violation is a criminal traffic  
283 | offense or a low-risk violation, as defined in paragraph (9) (b),  
284 | the court shall, within 20 days after arrest, give the  
285 | probationer or offender an opportunity to be fully heard on his  
286 | or her behalf in person or by counsel. If no hearing is held  
287 | within 20 days after arrest, the court shall release the  
288 | probationer or offender without bail. The court may impose  
289 | nonmonetary conditions of release. After the hearing, the court  
290 | shall make findings of fact and forward the findings to the  
291 | court that granted the probation or community control and to the  
292 | probationer or offender or his or her attorney. The findings of  
293 | fact by the hearing court are binding on the court that granted  
294 | the probation or community control. Upon the probationer or  
295 | offender being brought before it, the court that granted the  
296 | probation or community control may revoke, modify, or continue  
297 | the probation or community control or may place the probationer  
298 | into community control as provided in this section. However, the  
299 | probationer or offender shall not be released and shall not be  
300 | admitted to bail, but shall be brought before the court that

301 granted the probation or community control if any violation of  
302 felony probation or community control other than a failure to  
303 pay costs or fines or make restitution payments is alleged to  
304 have been committed by:

305 (a) A violent felony offender of special concern, as  
306 defined in this section;

307 (b) A person who is on felony probation or community  
308 control for any offense committed on or after the effective date  
309 of this act and who is arrested for a qualifying offense as  
310 defined in this section; or

311 (c) A person who is on felony probation or community  
312 control and has previously been found by a court to be a  
313 habitual violent felony offender as defined in s. 775.084(1)(b),  
314 a three-time violent felony offender as defined in s.  
315 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
316 arrested for committing a qualifying offense as defined in this  
317 section on or after the effective date of this act.

318 (9)

319 (c) As used in this subsection, the term "moderate-risk  
320 violation" means any of the following:

321 1. A violation identified in paragraph (b), when committed  
322 by an offender on community control.

323 2. Failure to remain at an approved residence by an  
324 offender on community control.

325 3. A third violation identified in paragraph (b) by a

326 probationer within the current term of supervision.

327 4. A new misdemeanor offense that is not a misdemeanor  
 328 violation of chapter 784, a misdemeanor crime of domestic  
 329 violence, as defined in s. 741.28, or a misdemeanor under s.  
 330 316.193, s. 741.29, s. 741.31, s. 784.046, s. 784.047, s.  
 331 784.048, s. 784.0487, s. 784.049, or s. 787.025.

332 5.4. Any other violation as determined by administrative  
 333 order of the chief judge of the circuit.

334 (d) A probationer or offender on community control is not  
 335 eligible for an alternative sanction if:

336 1. He or she is a violent felony offender of special  
 337 concern as defined in paragraph (8) (b);

338 2. The violation is a felony, a misdemeanor violation of  
 339 chapter 784, a misdemeanor crime of domestic violence, as  
 340 defined in s. 741.28, or a misdemeanor under s. 316.193, s.  
 341 741.29, s. 741.31, s. 784.046, s. 784.047, s. 784.048, s.  
 342 784.0487, s. 784.049, or s. 787.025 ~~misdemeanor~~, or criminal  
 343 traffic offense other than a misdemeanor violation of s. 322.34;

344 3. The violation is absconding;

345 4. The violation is of a stay-away order or no-contact  
 346 order;

347 5. The violation is not identified as low-risk or  
 348 moderate-risk under this subsection or by administrative order;

349 6. He or she has a prior moderate-risk level violation  
 350 during the current term of supervision;

351           7. He or she has three prior low-risk level violations  
352 during the same term of supervision;

353           8. The term of supervision is scheduled to terminate in  
354 less than 90 days; or

355           9. The terms of the sentence prohibit alternative  
356 sanctioning.

357           (e) For a first or second low-risk violation, as defined  
358 in paragraph (b), within the current term of supervision, a  
359 probation officer shall ~~may~~ offer an eligible probationer one or  
360 more of the following as an alternative sanction:

- 361           1. Up to 5 days in the county jail.
- 362           2. Up to 50 additional community service hours.
- 363           3. Counseling or treatment.
- 364           4. Support group attendance.
- 365           5. Drug testing.
- 366           6. Loss of travel or other privileges.
- 367           7. Curfew for up to 30 days.
- 368           8. House arrest for up to 30 days.
- 369           9.a. Any other sanction as determined by administrative  
370 order of the chief judge of the circuit.

371           b. However, in no circumstance shall participation in an  
372 alternative sanctioning program convert a withheld adjudication  
373 to an adjudication of guilt.

374           (i) If the violation is a low-risk violation under  
375 paragraph (b), the court shall impose the recommended sanction

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376 | unless it records a finding of specific, identified risk to  
377 | public safety, in which case it may direct the department to  
378 | submit a violation report, affidavit, and warrant to the court.  
379 | In all other cases, the court may impose the recommended  
380 | sanction or direct the department to submit a violation report,  
381 | affidavit, and warrant to the court.

382 |       Section 3. This act shall take effect October 1, 2023.