

1 A bill to be entitled
2 An act relating to criminal justice; repealing s. 16.07,
3 F.S., relating to prohibition on collecting fee for
4 defending; repealing s. 30.11, F.S., relating to sheriff's
5 place of residence; amending s. 384.34, F.S., relating to
6 penalties; amending s. 775.0877, F.S.; removing a penalty
7 provision related to criminal transmission of HIV;
8 amending s. 796.08, F.S., removing a penalty provision
9 related to criminal transmission of HIV; amending s.
10 893.13, F.S., removing penalty provisions relating to
11 obsolete community residential drug punishment centers;
12 amending s. 921.187, F.S., removing sentencing provisions
13 relating to community residential drug punishment centers
14 and quarantine of offenders convicted of criminal
15 transmission of HIV; repealing s. 944.293, F.S., relating
16 to initiation of restoration of civil rights; amending s.
17 948.001, F.S., removing the definition of criminal
18 quarantine community control; repealing s. 948.034, F.S.,
19 relating to community residential drug punishment centers;
20 repealing s. 948.0345, F.S., relating to community service
21 alternative to fines; amending s. 984.04, F.S., removing a
22 reference to community residential drug punishment
23 centers; repealing s. 957.125, F.S., authorizing the
24 Correctional Privatization Commission to contract for
25 youthful offender correctional facilities; repealing s.
26 985.4891, F.S., relating to sheriff's training and respect
27 programs; providing an effective date.

28

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

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 31 Section 1. Section 16.07, Florida Statutes, is repealed.

32 Section 2. Section 30.11, Florida Statutes, is repealed.

33 Section 3. Subsection (5) of section 384.34, Florida
 34 Statutes, is amended to read:

35 384.34 Penalties.—

36 (5) Any person who violates the provisions of s. 384.24(2)
 37 commits a felony of the third degree, punishable as provided in
 38 s. ss. 775.082, s. 775.083, or s. 775.084,~~and 775.0877(7).~~ Any
 39 person who commits multiple violations of the provisions of s.
 40 384.24(2) commits a felony of the first degree, punishable as
 41 provided in s. ss. 775.082, s. 775.083, or s. 775.084,~~and~~
 42 ~~775.0877(7).~~

43 Section 4. Subsections (3) and (7) of section 775.0877,
 44 Florida Statutes, are amended to read:

45 775.0877 Criminal transmission of HIV; procedures;
 46 penalties.—

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

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

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

63 796.08 Screening for HIV and sexually transmissible
 64 diseases; providing penalties.-

65 (5) A person who:

66 (a) Commits or offers to commit prostitution; or

67 (b) Procures another for prostitution by engaging in
 68 sexual activity in a manner likely to transmit the human
 69 immunodeficiency virus, and who, prior to the commission of such
 70 crime, had tested positive for human immunodeficiency virus and
 71 knew or had been informed that he or she had tested positive for
 72 human immunodeficiency virus and could possibly communicate such
 73 disease to another person through sexual activity commits
 74 criminal transmission of HIV, a felony of the third degree,
 75 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 76 ~~or s. 775.0877(7)~~. A person may be convicted and sentenced
 77 separately for a violation of this subsection and for the
 78 underlying crime of prostitution or procurement of prostitution.

79 Section 6. Subsections (10), (11), and (12) of section
 80 893.13, Florida Statutes, are amended to read:

81 893.13 Prohibited acts; penalties.-

82 ~~(10) Notwithstanding any provision of the sentencing~~
 83 ~~guidelines or the Criminal Punishment Code to the contrary, on~~

84 ~~or after October 1, 1993, any defendant who:~~

85 ~~(a) Violates subparagraph (1) (a)1., subparagraph (1) (c)2.,~~
 86 ~~subparagraph (1) (d)2., subparagraph (2) (a)1., or paragraph~~
 87 ~~(5) (a); and~~

88 ~~(b) Has not previously been convicted, regardless of~~
 89 ~~whether adjudication was withheld, of any felony, other than a~~
 90 ~~violation of subparagraph (1) (a)1., subparagraph (1) (c)2.,~~
 91 ~~subparagraph (1) (d)2., subparagraph (2) (a)1., or paragraph~~
 92 ~~(5) (a), may be required by the court to successfully complete a~~
 93 ~~term of probation pursuant to the terms and conditions set forth~~
 94 ~~in s. 948.034(1), in lieu of serving a term of imprisonment.~~

95 ~~(11) Notwithstanding any provision of the sentencing~~
 96 ~~guidelines or the Criminal Punishment Code to the contrary, on~~
 97 ~~or after January 1, 1994, any defendant who:~~

98 ~~(a) Violates subparagraph (1) (a)2., subparagraph (2) (a)2.,~~
 99 ~~paragraph (5) (b), or paragraph (6) (a); and~~

100 ~~(b) Has not previously been convicted, regardless of~~
 101 ~~whether adjudication was withheld, of any felony, other than a~~
 102 ~~violation of subparagraph (1) (a)2., subparagraph (2) (a)2.,~~
 103 ~~paragraph (5) (b), or paragraph (6) (a), may be required by the~~
 104 ~~court to successfully complete a term of probation pursuant to~~
 105 ~~the terms and conditions set forth in s. 948.034(2), in lieu of~~
 106 ~~serving a term of imprisonment.~~

107 (10)~~(12)~~ If a person violates any provision of this
 108 chapter and the violation results in a serious injury to a state
 109 or local law enforcement officer as defined in s. 943.10,
 110 firefighter as defined in s. 633.30, emergency medical
 111 technician as defined in s. 401.23, paramedic as defined in s.

112 401.23, employee of a public utility or an electric utility as
 113 defined in s. 366.02, animal control officer as defined in s.
 114 828.27, volunteer firefighter engaged by state or local
 115 government, law enforcement officer employed by the Federal
 116 Government, or any other local, state, or Federal Government
 117 employee injured during the course and scope of his or her
 118 employment, the person commits a felony of the third degree,
 119 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 120 If the injury sustained results in death or great bodily harm,
 121 the person commits a felony of the second degree, punishable as
 122 provided in s. 775.082, s. 775.083, or s. 775.084.

123 Section 7. Section 921.187, Florida Statutes, is amended
 124 to read:

125 921.187 Disposition and sentencing; alternatives;
 126 restitution.—

127 (1) The alternatives provided in this section for the
 128 disposition of criminal cases shall be used in a manner that
 129 will best serve the needs of society, punish criminal offenders,
 130 and provide the opportunity for rehabilitation.

131 ~~(a)~~ If the offender does not receive a state prison
 132 sentence, the court may:

133 (a) ~~1.~~ Impose a split sentence whereby the offender is to
 134 be placed on probation upon completion of any specified period
 135 of such sentence, which period may include a term of years or
 136 less.

137 (b) ~~2.~~ Make any other disposition that is authorized by
 138 law.

139 (c) ~~3.~~ Place the offender on probation with or without an

140 adjudication of guilt pursuant to s. 948.01.

141 (d) ~~4.~~ Impose a fine and probation pursuant to s. 948.011
 142 when the offense is punishable by both a fine and imprisonment
 143 and probation is authorized.

144 (e) ~~5.~~ Place the offender into community control requiring
 145 intensive supervision and surveillance pursuant to chapter 948.

146 (f) ~~6.~~ Impose, as a condition of probation or community
 147 control, a period of treatment which shall be restricted to a
 148 county facility, a Department of Corrections probation and
 149 restitution center, a probation program drug punishment
 150 treatment community, or a community residential or
 151 nonresidential facility, excluding a community correctional
 152 center as defined in s. 944.026, which is owned and operated by
 153 any qualified public or private entity providing such services.
 154 Before admission to such a facility, the court shall obtain an
 155 individual assessment and recommendations on the appropriate
 156 treatment needs, which shall be considered by the court in
 157 ordering such placements. Placement in such a facility, except
 158 for a county residential probation facility, may not exceed 364
 159 days. Placement in a county residential probation facility may
 160 not exceed 3 years. Early termination of placement may be
 161 recommended to the court, when appropriate, by the center
 162 supervisor, the supervising probation officer, or the probation
 163 program manager.

164 (g) ~~7.~~ Sentence the offender pursuant to s. 922.051 to
 165 imprisonment in a county jail when a statute directs
 166 imprisonment in a state prison, if the offender's cumulative
 167 sentence, whether from the same circuit or from separate

168 circuits, is not more than 364 days.

169 (h) ~~8.~~ Sentence the offender who is to be punished by
 170 imprisonment in a county jail to a jail in another county if
 171 there is no jail within the county suitable for such prisoner
 172 pursuant to s. 950.01.

173 (i) ~~9.~~ Require the offender to participate in a work-
 174 release or educational or technical training program pursuant to
 175 s. 951.24 while serving a sentence in a county jail, if such a
 176 program is available.

177 (j) ~~10.~~ Require the offender to perform a specified public
 178 service pursuant to s. 775.091.

179 (k) ~~11.~~ Require the offender who violates chapter 893 or
 180 violates any law while under the influence of a controlled
 181 substance or alcohol to participate in a substance abuse
 182 program.

183 (l) ~~1.12.a.~~ Require the offender who violates any criminal
 184 provision of chapter 893 to pay an additional assessment in an
 185 amount up to the amount of any fine imposed, pursuant to ss.
 186 938.21 and 938.23.

187 2.b. Require the offender who violates any provision of s.
 188 893.13 to pay an additional assessment in an amount of \$100,
 189 pursuant to ss. 938.25 and 943.361.

190 (m) ~~13.~~ Impose a split sentence whereby the offender is to
 191 be placed in a county jail or county work camp upon the
 192 completion of any specified term of community supervision.

193 (n) ~~14.~~ Impose split probation whereby upon satisfactory
 194 completion of half the term of probation, the Department of
 195 Corrections may place the offender on administrative probation

196 pursuant to s. 948.013 for the remainder of the term of
 197 supervision.

198 (o)15. Require residence in a state probation and
 199 restitution center or private drug treatment program for
 200 offenders on community control or offenders who have violated
 201 conditions of probation.

202 (p)16. Impose any other sanction which is provided within
 203 the community and approved as an intermediate sanction by the
 204 county public safety coordinating council as described in s.
 205 951.26.

206 (q)17. Impose, as a condition of community control,
 207 probation, or probation following incarceration, a requirement
 208 that an offender who has not obtained a high school diploma or
 209 high school equivalency diploma or who lacks basic or functional
 210 literacy skills, upon acceptance by an adult education program,
 211 make a good faith effort toward completion of such basic or
 212 functional literacy skills or high school equivalency diploma,
 213 as defined in s. 1003.435, in accordance with the assessed adult
 214 general education needs of the individual offender.

215 ~~(b)1. Notwithstanding any provision of former s. 921.001~~
 216 ~~or s. 921.002 to the contrary, on or after October 1, 1993, the~~
 217 ~~court may require any defendant who violates s. 893.13(1)(a)1.,~~
 218 ~~(1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria~~
 219 ~~described in s. 893.13(10), to successfully complete a term of~~
 220 ~~probation pursuant to the terms and conditions set forth in s.~~
 221 ~~948.034(1), in lieu of serving a term of imprisonment.~~

222 ~~2. Notwithstanding any provision of former s. 921.001 or~~
 223 ~~s. 921.002 to the contrary, on or after October 1, 1993, the~~

224 ~~court may require any defendant who violates s. 893.13(1)(a)2.,~~
 225 ~~(2)(a)2., (5)(b), or (6)(a), and meets the criteria described in~~
 226 ~~s. 893.13(11), to successfully complete a term of probation~~
 227 ~~pursuant to the terms and conditions set forth in s. 948.034(2),~~
 228 ~~in lieu of serving a term of imprisonment.~~

229 ~~(2) In addition to any other penalty provided by law for~~
 230 ~~an offense enumerated in s. 775.0877(1)(a)-(n), if the offender~~
 231 ~~is convicted of criminal transmission of HIV pursuant to s.~~
 232 ~~775.0877, the court may sentence the offender to criminal~~
 233 ~~quarantine community control as described in s. 948.001.~~

234 (2) ~~(3)~~ The court shall require an offender to make
 235 restitution under s. 775.089, unless the court finds clear and
 236 compelling reasons not to order such restitution. If the court
 237 does not order restitution, or orders restitution of only a
 238 portion of the damages, as provided in s. 775.089, the court
 239 shall state the reasons on the record in detail. An order
 240 requiring an offender to make restitution to a victim under s.
 241 775.089 does not remove or diminish the requirement that the
 242 court order payment to the Crimes Compensation Trust Fund under
 243 chapter 960.

244 Section 8. Section 944. 293, Florida Statutes, is
 245 repealed.

246 Section 9. Subsections (4) through (10) of section
 247 948.001, Florida Statutes, are renumbered as subsections (3)
 248 through (9), respectively, and subsection (3) of that section is
 249 amended to read:

250 948.001 Definitions.—As used in this chapter, the term:

251 ~~(3) "Criminal quarantine community control" means~~
 252 ~~intensive supervision, by officers with restricted caseloads,~~
 253 ~~with a condition of 24-hour-per-day electronic monitoring, and a~~
 254 ~~condition of confinement to a designated residence during~~
 255 ~~designated hours.~~

256 Section 10. Section 948.034, Florida Statutes, is
 257 repealed.

258 Section 11. Section 948.0345, Florida Statutes, is
 259 repealed.

260 Section 12. Subsection (1) of section 948.04, Florida
 261 Statutes, is amended to read:

262 948.04 Period of probation; duty of probationer; early
 263 termination.—

264 (1) Defendants found guilty of felonies who are placed on
 265 probation shall be under supervision not to exceed 2 years
 266 unless otherwise specified by the court. No defendant placed on
 267 probation pursuant to s. 948.012(1) ~~or s. 948.034~~ is subject to
 268 the probation limitations of this subsection. A defendant who is
 269 placed on probation or community control for a violation of
 270 chapter 794 or chapter 827 is subject to the maximum level of
 271 supervision provided by the supervising agency, and that
 272 supervision shall continue through the full term of the court-
 273 imposed probation or community control.

274 Section 13. Section 957.125, Florida Statutes, is
 275 repealed.

276 Section 14. Section 985.4891, Florida Statutes, is
 277 repealed.

278 Section 15. This act shall take effect July 1, 2010.