

By the Committee on Criminal Justice; and Senator Dockery

591-03790-10

20102350c1

1                                   A bill to be entitled  
2           An act relating to criminal justice; repealing s.  
3           16.07, F.S., relating to a prohibition on the Attorney  
4           General collecting any fee for defending any supposed  
5           offender; repealing s. 30.11, F.S., relating to a  
6           sheriff's or deputy's required place of residence;  
7           amending ss. 384.34 and 796.08, F.S.; removing  
8           references to conform to changes made by the act;  
9           amending s. 775.0877, F.S.; removing penalty  
10          provisions relating to criminal transmission of HIV;  
11          amending s. 893.13, F.S.; removing penalty provisions  
12          relating to obsolete community residential drug  
13          punishment centers; amending s. 921.187, F.S.;  
14          removing sentencing provisions relating to community  
15          residential drug punishment centers and quarantine of  
16          offenders convicted of criminal transmission of HIV;  
17          repealing s. 944.293, F.S., relating to initiation of  
18          restoration of civil rights; amending s. 948.001,  
19          F.S.; removing the definition of the term "criminal  
20          quarantine community control"; repealing s. 948.034,  
21          F.S., relating to community residential drug  
22          punishment centers; repealing s. 948.0345, F.S.,  
23          relating to community service alternative to fines;  
24          amending s. 948.04, F.S.; removing a reference to  
25          conform to changes made by the act; amending ss.  
26          948.101 and 948.11, F.S.; removing references to  
27          criminal quarantine community control; repealing s.  
28          957.125, F.S., relating to authorization for the  
29          Correctional Privatization Commission to contract for

591-03790-10

20102350c1

30 youthful offender correctional facilities; repealing  
31 s. 985.4891, F.S., relating to sheriff's training and  
32 respect programs; amending ss. 958.046, 985.445,  
33 985.47, 985.483, 985.494, and 985.645, F.S.;  
34 conforming provisions to the repeal of s. 985.4891,  
35 F.S.; providing an effective date.

36  
37 Be It Enacted by the Legislature of the State of Florida:

38  
39 Section 1. Section 16.07, Florida Statutes, is repealed.

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 Section 30.11, Florida Statutes, is repealed.

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

43 384.34 Penalties.—

44 (5) Any person who violates the provisions of s. 384.24(2)  
45 commits a felony of the third degree, punishable as provided in  
46 s. ss. 775.082, s. 775.083, or s. 775.084,~~and 775.0877(7)~~. Any  
47 person who commits multiple violations of the provisions of s.  
48 384.24(2) commits a felony of the first degree, punishable as  
49 provided in s. ss. 775.082, s. 775.083, or s. 775.084,~~and~~  
50 ~~775.0877(7)~~.

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

53 775.0877 Criminal transmission of HIV; procedures;  
54 penalties.—

55 (3) An offender who has undergone HIV testing pursuant to  
56 subsection (1), and to whom positive test results have been  
57 disclosed pursuant to subsection (2), who commits a second or  
58 subsequent offense enumerated in paragraphs (1)(a)-(n), commits

591-03790-10

20102350c1

59 criminal transmission of HIV, a felony of the third degree,  
60 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
61 ~~subsection (7)~~. A person may be convicted and sentenced  
62 separately for a violation of this subsection and for the  
63 underlying crime enumerated in paragraphs (1) (a) - (n).

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

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

71 796.08 Screening for HIV and sexually transmissible  
72 diseases; providing penalties.-

73 (5) A person who:

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

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

87 Section 6. Subsections (10), (11), and (12) of section

591-03790-10

20102350c1

88 893.13, Florida Statutes, are amended to read:

89 893.13 Prohibited acts; penalties.—

90 ~~(10) Notwithstanding any provision of the sentencing~~  
91 ~~guidelines or the Criminal Punishment Code to the contrary, on~~  
92 ~~or after October 1, 1993, any defendant who:~~

93 ~~(a) Violates subparagraph (1)(a)1., subparagraph (1)(c)2.,~~  
94 ~~subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph~~  
95 ~~(5)(a); and~~

96 ~~(b) Has not previously been convicted, regardless of~~  
97 ~~whether adjudication was withheld, of any felony, other than a~~  
98 ~~violation of subparagraph (1)(a)1., subparagraph (1)(c)2.,~~  
99 ~~subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph~~  
100 ~~(5)(a),~~

101  
102 ~~may be required by the court to successfully complete a term of~~  
103 ~~probation pursuant to the terms and conditions set forth in s.~~  
104 ~~948.034(1), in lieu of serving a term of imprisonment.~~

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

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

110 ~~(b) Has not previously been convicted, regardless of~~  
111 ~~whether adjudication was withheld, of any felony, other than a~~  
112 ~~violation of subparagraph (1)(a)2., subparagraph (2)(a)2.,~~  
113 ~~paragraph (5)(b), or paragraph (6)(a),~~

114  
115 ~~may be required by the court to successfully complete a term of~~  
116 ~~probation pursuant to the terms and conditions set forth in s.~~

591-03790-10

20102350c1

117 ~~948.034(2), in lieu of serving a term of imprisonment.~~

118 (10)~~(12)~~ If a person violates any provision of this chapter  
119 and the violation results in a serious injury to a state or  
120 local law enforcement officer as defined in s. 943.10,  
121 firefighter as defined in s. 633.30, emergency medical  
122 technician as defined in s. 401.23, paramedic as defined in s.  
123 401.23, employee of a public utility or an electric utility as  
124 defined in s. 366.02, animal control officer as defined in s.  
125 828.27, volunteer firefighter engaged by state or local  
126 government, law enforcement officer employed by the Federal  
127 Government, or any other local, state, or Federal Government  
128 employee injured during the course and scope of his or her  
129 employment, the person commits a felony of the third degree,  
130 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
131 If the injury sustained results in death or great bodily harm,  
132 the person commits a felony of the second degree, punishable as  
133 provided in s. 775.082, s. 775.083, or s. 775.084.

134 Section 7. Section 921.187, Florida Statutes, is amended to  
135 read:

136 921.187 Disposition and sentencing; alternatives;  
137 restitution.-

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

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

144 (a)1. Impose a split sentence whereby the offender is to be  
145 placed on probation upon completion of any specified period of

591-03790-10

20102350c1

146 such sentence, which period may include a term of years or less.

147 (b)2. Make any other disposition that is authorized by law.

148 (c)3. Place the offender on probation with or without an  
149 adjudication of guilt pursuant to s. 948.01.

150 (d)4. Impose a fine and probation pursuant to s. 948.011  
151 when the offense is punishable by both a fine and imprisonment  
152 and probation is authorized.

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

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

173 (g)7. Sentence the offender pursuant to s. 922.051 to  
174 imprisonment in a county jail when a statute directs

591-03790-10

20102350c1

175 imprisonment in a state prison, if the offender's cumulative  
176 sentence, whether from the same circuit or from separate  
177 circuits, is not more than 364 days.

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

182 (i)~~9~~. Require the offender to participate in a work-release  
183 or educational or technical training program pursuant to s.  
184 951.24 while serving a sentence in a county jail, if such a  
185 program is available.

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

188 (k)~~11~~. Require the offender who violates chapter 893 or  
189 violates any law while under the influence of a controlled  
190 substance or alcohol to participate in a substance abuse  
191 program.

192 (l)~~1.12.a~~. Require the offender who violates any criminal  
193 provision of chapter 893 to pay an additional assessment in an  
194 amount up to the amount of any fine imposed, pursuant to ss.  
195 938.21 and 938.23.

196 2~~b~~. Require the offender who violates any provision of s.  
197 893.13 to pay an additional assessment in an amount of \$100,  
198 pursuant to ss. 938.25 and 943.361.

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

202 (n)~~14~~. Impose split probation whereby upon satisfactory  
203 completion of half the term of probation, the Department of

591-03790-10

20102350c1

204 Corrections may place the offender on administrative probation  
205 pursuant to s. 948.013 for the remainder of the term of  
206 supervision.

207 (o)~~15~~. Require residence in a state probation and  
208 restitution center or private drug treatment program for  
209 offenders on community control or offenders who have violated  
210 conditions of probation.

211 (p)~~16~~. Impose any other sanction which is provided within  
212 the community and approved as an intermediate sanction by the  
213 county public safety coordinating council as described in s.  
214 951.26.

215 (q)~~17~~. Impose, as a condition of community control,  
216 probation, or probation following incarceration, a requirement  
217 that an offender who has not obtained a high school diploma or  
218 high school equivalency diploma or who lacks basic or functional  
219 literacy skills, upon acceptance by an adult education program,  
220 make a good faith effort toward completion of such basic or  
221 functional literacy skills or high school equivalency diploma,  
222 as defined in s. 1003.435, in accordance with the assessed adult  
223 general education needs of the individual offender.

224 ~~(b)1. Notwithstanding any provision of former s. 921.001 or~~  
225 ~~s. 921.002 to the contrary, on or after October 1, 1993, the~~  
226 ~~court may require any defendant who violates s. 893.13(1)(a)1.,~~  
227 ~~(1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria~~  
228 ~~described in s. 893.13(10), to successfully complete a term of~~  
229 ~~probation pursuant to the terms and conditions set forth in s.~~  
230 ~~948.034(1), in lieu of serving a term of imprisonment.~~

231 ~~2. Notwithstanding any provision of former s. 921.001 or s.~~  
232 ~~921.002 to the contrary, on or after October 1, 1993, the court~~



591-03790-10

20102350c1

233 ~~may require any defendant who violates s. 893.13(1)(a)2.,~~  
234 ~~(2)(a)2., (5)(b), or (6)(a), and meets the criteria described in~~  
235 ~~s. 893.13(11), to successfully complete a term of probation~~  
236 ~~pursuant to the terms and conditions set forth in s. 948.034(2),~~  
237 ~~in lieu of serving a term of imprisonment.~~

238 ~~(2) In addition to any other penalty provided by law for an~~  
239 ~~offense enumerated in s. 775.0877(1)(a)-(n), if the offender is~~  
240 ~~convicted of criminal transmission of HIV pursuant to s.~~  
241 ~~775.0877, the court may sentence the offender to criminal~~  
242 ~~quarantine community control as described in s. 948.001.~~

243 (2)~~(3)~~ The court shall require an offender to make  
244 restitution under s. 775.089, unless the court finds clear and  
245 compelling reasons not to order such restitution. If the court  
246 does not order restitution, or orders restitution of only a  
247 portion of the damages, as provided in s. 775.089, the court  
248 shall state the reasons on the record in detail. An order  
249 requiring an offender to make restitution to a victim under s.  
250 775.089 does not remove or diminish the requirement that the  
251 court order payment to the Crimes Compensation Trust Fund under  
252 chapter 960.

253 Section 8. Section 944.293, Florida Statutes, is repealed.

254 Section 9. Subsections (4) through (10) of section 948.001,  
255 Florida Statutes, are redesignated as subsections (3) through  
256 (9), respectively, and subsection (3) of that section is amended  
257 to read:

258 948.001 Definitions.—As used in this chapter, the term:

259 ~~(3) "Criminal quarantine community control" means intensive~~  
260 ~~supervision, by officers with restricted caseloads, with a~~  
261 ~~condition of 24-hour per day electronic monitoring, and a~~

591-03790-10

20102350c1

262 ~~condition of confinement to a designated residence during~~  
263 ~~designated hours.~~

264 Section 10. Section 948.034, Florida Statutes, is repealed.

265 Section 11. Section 948.0345, Florida Statutes, is  
266 repealed.

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

269 948.04 Period of probation; duty of probationer; early  
270 termination.-

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

281 Section 13. Section 948.101, Florida Statutes, is amended  
282 to read:

283 948.101 Terms and conditions of community control ~~and~~  
284 ~~criminal quarantine community control.~~

285 (1) The court shall determine the terms and conditions of  
286 community control. Conditions specified in this subsection do  
287 not require oral pronouncement at the time of sentencing and may  
288 be considered standard conditions of community control.

289 ~~(a)~~ The court shall require intensive supervision and  
290 surveillance for an offender placed into community control,

591-03790-10

20102350c1

291 which may include but is not limited to:

292 (a)~~1.~~ Specified contact with the parole and probation  
293 officer.

294 (b)~~2.~~ Confinement to an agreed-upon residence during hours  
295 away from employment and public service activities.

296 (c)~~3.~~ Mandatory public service.

297 (d)~~4.~~ Supervision by the Department of Corrections by means  
298 of an electronic monitoring device or system.

299 (e)~~5.~~ The standard conditions of probation set forth in s.  
300 948.03.

301 ~~(b) For an offender placed on criminal quarantine community  
302 control, the court shall require:~~

303 ~~1. Electronic monitoring 24 hours per day.~~

304 ~~2. Confinement to a designated residence during designated  
305 hours.~~

306 (2) The enumeration of specific kinds of terms and  
307 conditions does not prevent the court from adding thereto any  
308 other terms or conditions that the court considers proper.  
309 However, the sentencing court may only impose a condition of  
310 supervision allowing an offender convicted of s. 794.011, s.  
311 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in  
312 another state if the order stipulates that it is contingent upon  
313 the approval of the receiving state interstate compact  
314 authority. The court may rescind or modify at any time the terms  
315 and conditions theretofore imposed by it upon the offender in  
316 community control. However, if the court withholds adjudication  
317 of guilt or imposes a period of incarceration as a condition of  
318 community control, the period may not exceed 364 days, and  
319 incarceration shall be restricted to a county facility, a

591-03790-10

20102350c1

320 probation and restitution center under the jurisdiction of the  
321 Department of Corrections, a probation program drug punishment  
322 phase I secure residential treatment institution, or a community  
323 residential facility owned or operated by any entity providing  
324 such services.

325 ~~(3) The court may place a defendant who is being sentenced~~  
326 ~~for criminal transmission of HIV in violation of s. 775.0877 on~~  
327 ~~criminal quarantine community control. The Department of~~  
328 ~~Corrections shall develop and administer a criminal quarantine~~  
329 ~~community control program emphasizing intensive supervision with~~  
330 ~~24-hour-per-day electronic monitoring. Criminal quarantine~~  
331 ~~community control status must include surveillance and may~~  
332 ~~include other measures normally associated with community~~  
333 ~~control, except that specific conditions necessary to monitor~~  
334 ~~this population may be ordered.~~

335 Section 14. Subsection (1) of section 948.11, Florida  
336 Statutes, is amended to read:

337 948.11 Electronic monitoring devices.—

338 (1)~~(a)~~ The Department of Corrections may, at its  
339 discretion, electronically monitor an offender sentenced to  
340 community control.

341 ~~(b) The Department of Corrections shall electronically~~  
342 ~~monitor an offender sentenced to criminal quarantine community~~  
343 ~~control 24 hours per day.~~

344 Section 15. Section 957.125, Florida Statutes, is repealed.

345 Section 16. Section 985.4891, Florida Statutes, is  
346 repealed.

347 Section 17. Section 958.046, Florida Statutes, is amended  
348 to read:

591-03790-10

20102350c1

349           958.046 Placement in county-operated boot camp programs for  
350 youthful offenders.—In counties where there are county-operated  
351 youthful offender boot camp programs, other than boot camps  
352 described in s. 958.04 ~~or sheriff's training and respect~~  
353 ~~programs in s. 985.4891~~, the court may sentence a youthful  
354 offender to such a boot camp. In county-operated youthful  
355 offender boot camp programs, juvenile offenders shall not be  
356 commingled with youthful offenders.

357           Section 18. Section 985.445, Florida Statutes, is amended  
358 to read:

359           985.445 Cases involving grand theft of a motor vehicle.—If  
360 the offense committed by the child was grand theft of a motor  
361 vehicle, the court:

362           (1) Upon a first adjudication for a grand theft of a motor  
363 vehicle, ~~may place the child in a sheriff's training and respect~~  
364 ~~program, unless the child is ineligible under s. 985.4891, and~~  
365 shall order the child to complete a minimum of 50 hours of  
366 community service.

367           (2) Upon a second adjudication for grand theft of a motor  
368 vehicle which is separate and unrelated to the previous  
369 adjudication, may place the child in a sheriff's training and  
370 respect program, ~~unless the child is ineligible under s.~~  
371 ~~985.4891,~~ and shall order the child to complete a minimum of 100  
372 hours of community service.

373           (3) Upon a third adjudication for grand theft of a motor  
374 vehicle which is separate and unrelated to the previous  
375 adjudications, shall place the child in a sheriff's training and  
376 respect program or other treatment program, ~~unless the child is~~  
377 ~~ineligible under s. 985.4891,~~ and shall order the child to

591-03790-10

20102350c1

378 complete a minimum of 250 hours of community service.

379 Section 19. Paragraph (a) of subsection (6) of section  
380 985.47, Florida Statutes, is amended to read:

381 985.47 Serious or habitual juvenile offender.—

382 (6) ACTION ON RECOMMENDATIONS.—The treatment and placement  
383 recommendations shall be submitted to the court for further  
384 action under this subsection:

385 (a) If it is recommended that placement in a serious or  
386 habitual juvenile offender program or facility is inappropriate,  
387 the court shall make an alternative disposition ~~under s.~~  
388 ~~985.4891 or other alternative sentencing as applicable,~~ using  
389 the recommendation as a guide.

390 Section 20. Paragraph (a) of subsection (6) of section  
391 985.483, Florida Statutes, is amended to read:

392 985.483 Intensive residential treatment program for  
393 offenders less than 13 years of age.—

394 (6) ACTION ON RECOMMENDATIONS.—The treatment and placement  
395 recommendations shall be submitted to the court for further  
396 action under this subsection:

397 (a) If it is recommended that placement in an intensive  
398 residential treatment program for offenders less than 13 years  
399 of age is inappropriate, the court shall make an alternative  
400 disposition ~~under s. 985.4891 or other alternative sentencing as~~  
401 ~~applicable,~~ using the recommendation as a guide.

402 Section 21. Subsection (1) of section 985.494, Florida  
403 Statutes, is amended to read:

404 985.494 Commitment programs for juvenile felony offenders.—

405 (1) Notwithstanding any other law and regardless of the  
406 child's age, a child who is adjudicated delinquent, or for whom

591-03790-10

20102350c1

407 adjudication is withheld, for an act that would be a felony if  
408 committed by an adult, shall be committed to:

409 ~~(a) A sheriff's training and respect program under s.~~  
410 ~~985.4891 if the child has participated in an early delinquency~~  
411 ~~intervention program as provided in s. 985.61.~~

412 (a) ~~(b)~~ A program for serious or habitual juvenile offenders  
413 under s. 985.47 or an intensive residential treatment program  
414 for offenders less than 13 years of age under s. 985.483, if the  
415 child has participated in an early delinquency intervention  
416 program and has completed a sheriff's training and respect  
417 program.

418 (b) ~~(e)~~ A maximum-risk residential program, if the child has  
419 participated in an early delinquency intervention program, has  
420 completed a sheriff's training and respect program, and has  
421 completed a program for serious or habitual juvenile offenders  
422 or an intensive residential treatment program for offenders less  
423 than 13 years of age. The commitment of a child to a maximum-  
424 risk residential program must be for an indeterminate period,  
425 but may not exceed the maximum term of imprisonment that an  
426 adult may serve for the same offense.

427 Section 22. Paragraph (d) of subsection (2) of section  
428 985.645, Florida Statutes, is amended to read:

429 985.645 Protective action response.—

430 (2) The department shall adopt rules under ss. 120.536(1)  
431 and 120.54 that:

432 ~~(d) Except as provided in s. 985.4891(9) for specified~~  
433 ~~certified officers,~~ Require each employee who was not certified  
434 by the department in protective action response prior to July 1,  
435 2006, to receive his or her protective action response

591-03790-10

20102350c1

436 certification by September 30, 2006, or within 90 calendar days  
437 following his or her date of hire, whichever date is later.

438 Section 23. This act shall take effect July 1, 2010.