

1                   A bill to be entitled  
 2           An act relating to violations of probation or community  
 3           control; creating the "Officer Andrew Widman Act";  
 4           amending s. 948.06, F.S.; authorizing a judge, after  
 5           making a certain finding, to issue a warrant for the  
 6           arrest of a probationer or offender who has violated the  
 7           terms of probation or community control; requiring that  
 8           the court inform the probationer or offender of the  
 9           violation; authorizing the court to commit or release the  
 10          probationer or offender under certain circumstances;  
 11          authorizing the court, in determining whether to require  
 12          or set the amount of bail, to consider the likelihood that  
 13          the person will be imprisoned for the violation of  
 14          probation or community control; providing an effective  
 15          date.

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

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 19           Section 1. This act may be cited as the "Officer Andrew  
 20 Widman Act."

21           Section 2. Subsection (1) of section 948.06, Florida  
 22 Statutes, is amended to read:

23           948.06 Violation of probation or community control;  
 24 revocation; modification; continuance; failure to pay  
 25 restitution or cost of supervision.—

26           (1) (a) Whenever within the period of probation or  
 27 community control there are reasonable grounds to believe that a  
 28 probationer or offender in community control has violated his or

CS/HB 575

2011

29 her probation or community control in a material respect, any  
30 law enforcement officer who is aware of the probationary or  
31 community control status of the probationer or offender in  
32 community control or any parole or probation supervisor may  
33 arrest or request any county or municipal law enforcement  
34 officer to arrest such probationer or offender without warrant  
35 wherever found and return him or her to the court granting such  
36 probation or community control.

37 (b) Any committing trial court judge may issue a warrant,  
38 upon the facts being made known to him or her by affidavit of  
39 one having knowledge of such facts, for the arrest of the  
40 probationer or offender, returnable forthwith before the court  
41 granting such probation or community control. In lieu of issuing  
42 a warrant for arrest, the committing trial court judge may issue  
43 a notice to appear if the probationer or offender in community  
44 control has never been convicted of committing, and is not  
45 currently alleged to have committed, a qualifying offense as  
46 defined in this section.

47 (c) If a judge finds reasonable grounds to believe that a  
48 probationer or an offender has violated his or her probation or  
49 community control in a material respect by committing a new  
50 violation of law, the judge may issue a warrant for the arrest  
51 of the person.

52 (d)1. At a first appearance hearing for an offender who  
53 has been arrested for violating his or her probation or  
54 community control in a material respect by committing a new  
55 violation of law, the court:

56 a. Shall inform the person of the violation.

CS/HB 575

2011

57 b. May order the person to be taken before the court that  
58 granted the probation or community control if the person admits  
59 the violation.

60 2. If the probationer or offender does not admit the  
61 violation at the first appearance hearing, the court:

62 a. May commit the probationer or offender or may release  
63 the person with or without bail to await further hearing,  
64 notwithstanding s. 907.041; or

65 b. May order the probationer or offender to be brought  
66 before the court that granted the probation or community  
67 control.

68 3. In determining whether to require or set the amount of  
69 bail, and notwithstanding s. 907.041, the court may consider  
70 whether the probationer or offender is more likely than not to  
71 receive a prison sanction for the violation.

72  
73 This paragraph does not apply to a probationer or offender on  
74 community control who is subject to the hearing requirements of  
75 subsection (4) or paragraph (8) (e).

76 (e)-(e) Any parole or probation supervisor, any officer  
77 authorized to serve criminal process, or any peace officer of  
78 this state is authorized to serve and execute such warrant. Any  
79 parole or probation supervisor is authorized to serve such  
80 notice to appear.

81 (f)-(d) Upon the filing of an affidavit alleging a  
82 violation of probation or community control and following  
83 issuance of a warrant under s. 901.02, a warrantless arrest  
84 under this section, or a notice to appear under this section,

85 the probationary period is tolled until the court enters a  
86 ruling on the violation. Notwithstanding the tolling of  
87 probation, the court shall retain jurisdiction over the offender  
88 for any violation of the conditions of probation or community  
89 control that is alleged to have occurred during the tolling  
90 period. The probation officer is permitted to continue to  
91 supervise any offender who remains available to the officer for  
92 supervision until the supervision expires pursuant to the order  
93 of probation or community control or until the court revokes or  
94 terminates the probation or community control, whichever comes  
95 first.

96 (g)~~(e)~~ The chief judge of each judicial circuit may direct  
97 the department to use a notification letter of a technical  
98 violation in appropriate cases in lieu of a violation report,  
99 affidavit, and warrant when the alleged violation is not a new  
100 felony or misdemeanor offense. Such direction must be in writing  
101 and must specify the types of specific violations which are to  
102 be reported by a notification letter of a technical violation,  
103 any exceptions to those violations, and the required process for  
104 submission. At the direction of the chief judge, the department  
105 shall send the notification letter of a technical violation to  
106 the court.

107 (h)~~(f)~~ The court may allow the department to file an  
108 affidavit, notification letter, violation report, or other  
109 report under this section by facsimile or electronic submission.

110 Section 3. This act shall take effect October 1, 2011.