

1 A bill to be entitled
2 An act relating to sex offenders; amending s.
3 947.1405, F.S.; clarifying legislative intent
4 regarding sentences that are eligible for
5 conditional release supervision; revising a
6 provision to require an 8-hour curfew between
7 10 p.m. and 6 a.m. and providing alternatives;
8 revising a provision that requires sex offender
9 treatment to be conducted by trained sex
10 offender therapists; revising a provision that
11 requires approval of victim's and the
12 sentencing court for contact with victim;
13 revising a provision that prohibits a sex
14 offender from viewing, owning, or possessing
15 certain materials; prohibiting a sex offender
16 from possessing telephone, electronic media, or
17 computer programs or services that are relevant
18 to the offender's behavior pattern; providing
19 submission to warrantless search of community
20 controllee's person, vehicle or residence;
21 requiring a sex offender whose crime was
22 committed on or after a specified date to
23 submit to electronic monitoring; requiring that
24 such offender undergo polygraph examinations;
25 requiring that such offender maintain a driving
26 log and not drive a motor vehicle alone without
27 prior approval; prohibiting such offender from
28 obtaining or using a post office box without
29 prior approval; amending s. 948.001, F.S.;
30 defining the terms "sex offender probation" and
31 "sex offender community control"; amending s.

1 948.03, F.S.; revising a provision that
2 requires sex offender treatment to be conducted
3 by trained sex offender therapists; revising a
4 provision that requires approval of the victim
5 and the sentencing court for contact with
6 victim; revising a provision that prohibits a
7 sex offender from viewing, owning, or
8 possessing certain materials; prohibiting a sex
9 offender from possessing telephone, electronic
10 media, or computer programs or services that
11 are relevant to the offender's behavior
12 pattern; providing submission to warrantless
13 search of probationer's person, vehicle or
14 residence; requiring a sex offender whose crime
15 was committed on or after a specified date to
16 submit to electronic monitoring; requiring that
17 such offender undergo polygraph examinations;
18 requiring that such offender maintain a driving
19 log and not drive a motor vehicle alone without
20 prior approval; prohibiting such offender from
21 obtaining or using a post office box without
22 prior approval; requiring such offender to
23 submit to HIV testing; requiring such offender
24 to submit to electronic monitoring; providing
25 an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 947.1405, Florida Statutes, 1996
30 Supplement, is amended to read:

31 947.1405 Conditional release program.--

1 (1) This section and s. 947.141 may be cited as the
2 "Conditional Release Program Act."

3 (2) Any inmate who:

4 (a) Is convicted of a crime committed on or after
5 October 1, 1988, and before January 1, 1994, and any inmate
6 who is convicted of a crime committed on or after January 1,
7 1994, which crime is or was contained in category 1, category
8 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,
9 Florida Rules of Criminal Procedure (1993), and who has served
10 at least one prior felony commitment at a state or federal
11 correctional institution;

12 (b) Is sentenced as a habitual or violent habitual
13 offender or a violent career criminal pursuant to s. 775.084;
14 or

15 (c) Is found to be a sexual predator under s. 775.21
16 or former s. 775.23,

17
18 shall, upon reaching the tentative release date or provisional
19 release date, whichever is earlier, as established by the
20 Department of Corrections, be released under supervision
21 subject to specified terms and conditions, including payment
22 of the cost of supervision pursuant to s. 948.09. Such
23 supervision shall be applicable to all sentences within the
24 overall term of sentences if an inmate's overall term of
25 sentences includes one or more sentences that are eligible for
26 conditional release supervision as provided herein.Effective
27 July 1, 1994, and applicable for offenses committed on or
28 after that date, the commission may require, as a condition of
29 conditional release, that the releasee make payment of the
30 debt due and owing to a county or municipal detention facility
31 under s. 951.032 for medical care, treatment, hospitalization,

1 or transportation received by the releasee while in that
2 detention facility. The commission, in determining whether to
3 order such repayment and the amount of such repayment, shall
4 consider the amount of the debt, whether there was any fault
5 of the institution for the medical expenses incurred, the
6 financial resources of the releasee, the present and potential
7 future financial needs and earning ability of the releasee,
8 and dependents, and other appropriate factors. If an inmate
9 has received a term of probation or community control
10 supervision to be served after release from incarceration, the
11 period of probation or community control must be substituted
12 for the conditional release supervision. A panel of no fewer
13 than two commissioners shall establish the terms and
14 conditions of any such release. If the offense was a
15 controlled substance violation, the conditions shall include a
16 requirement that the offender submit to random substance abuse
17 testing intermittently throughout the term of conditional
18 release supervision, upon the direction of the correctional
19 probation officer as defined in s. 943.10(3). The commission
20 shall also determine whether the terms and conditions of such
21 release have been violated and whether such violation warrants
22 revocation of the conditional release.

23 (3) As part of the conditional release process, the
24 commission shall determine:

25 (a) The amount of reparation or restitution.

26 (b) The consequences of the offense as reported by the
27 aggrieved party.

28 (c) The aggrieved party's fear of the inmate or
29 concerns about the release of the inmate.

30 (4) The commission shall provide to the aggrieved
31 party information regarding the manner in which notice of any

1 developments concerning the status of the inmate during the
2 term of conditional release may be requested.

3 (5) Within 180 days prior to the tentative release
4 date or provisional release date, whichever is earlier, a
5 representative of the commission shall interview the inmate.
6 The commission representative shall review the inmate's
7 program participation, disciplinary record, psychological and
8 medical records, and any other information pertinent to the
9 impending release. A commission representative shall conduct
10 a personal interview with the inmate for the purpose of
11 determining the details of the inmate's release plan,
12 including his planned residence and employment. The results
13 of the interview must be forwarded to the commission in
14 writing.

15 (6) Upon receipt of notice as required under s.
16 947.175, the commission shall conduct a review of the inmate's
17 record for the purpose of establishing the terms and
18 conditions of the conditional release. The commission may
19 impose any special conditions it considers warranted from its
20 review of the record. If the commission determines that the
21 inmate is eligible for release under this section, the
22 commission shall enter an order establishing the length of
23 supervision and the conditions attendant thereto. However, an
24 inmate who has been convicted of a violation of chapter 794 or
25 found by the court to be a sexual predator is subject to the
26 maximum level of supervision provided, with the mandatory
27 conditions as required in subsection (7), and that supervision
28 shall continue through the end of the releasee's original
29 court-imposed sentence. The length of supervision must not
30 exceed the maximum penalty imposed by the court.

31

1 (7)(a) Any inmate who is convicted of a crime
2 committed on or after October 1, 1995, or who has been
3 previously convicted of a crime committed on or after October
4 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,
5 or s. 847.0145, and is subject to conditional release
6 supervision, and who meets the criteria of s. 775.21 or former
7 s. 775.23(2)(a) or (b) shall have, in addition to any other
8 conditions imposed, the following special conditions imposed
9 by the commission:

10 1.(a) A mandatory curfew from 10 p.m. to 6 a.m. The
11 court may designate another 8-hour period if the offender's
12 employment precludes the above specified time, and such
13 alternative is recommended by the Department of Corrections.
14 If the court determines that imposing a curfew would endanger
15 the victim, the court may consider alternative sanctions.

16 2.(b) If the victim was under the age of 18, a
17 prohibition on living within 1,000 feet of a school, day care
18 center, park, playground, or other place where children
19 regularly congregate.

20 3.(c) Active participation in and successful
21 completion of a sex offender treatment program with therapists
22 specifically trained to treat sex offenders, at the releasee's
23 own expense., ~~unless one~~ If a specially trained therapist is
24 not available within a 50-mile radius of the releasee's
25 residence, the offender shall participate in other appropriate
26 therapy.

27 4.(d) A prohibition on any contact with the victim,
28 directly or indirectly, including through a third person,
29 unless approved by both the victim and the sentencing court
30 ~~the commission.~~

31

1 ~~5.(e)~~ If the victim was under the age of 18, a
2 prohibition, until successful completion of a sex offender
3 treatment program, on unsupervised contact with a child under
4 the age of 18, unless authorized by the commission without
5 another adult present who is responsible for the child's
6 welfare, has been advised of the crime, and is approved by the
7 commission.

8 ~~6.(f)~~ If the victim was under age 18, a prohibition on
9 working for pay or as a volunteer at any school, day care
10 center, park, playground, or other place where children
11 regularly congregate, as prescribed by the commission.

12 ~~7.(g)~~ Unless otherwise indicated in the treatment plan
13 provided by the sexual offender treatment program, a
14 prohibition on viewing, owning, or possessing any obscene,
15 pornographic, or sexually stimulating visual or auditory
16 explicit material, including telephone, electronic media,
17 computer programs, or computer services that are relevant to
18 the offender's deviant behavior pattern.

19 ~~8.(h)~~ A requirement that the releasee must submit two
20 specimens of blood to the Florida Department of Law
21 Enforcement to be registered with the DNA database.

22 9. A requirement that the releasee make restitution to
23 the victim, as determined by the sentencing court or the
24 commission, for all necessary medical and related professional
25 services relating to physical, psychiatric, and psychological
26 care.

27 10. Submission to a warrantless search by the
28 community control or probation officer of the probationer's or
29 community controllee's person, residence, or vehicle.

30 (b) For a releasee whose crime was committed on or
31 after October 1, 1997, in violation of chapter 794, s. 800.04,

1 s. 827.071, or s. 847.0145, and who is subject to conditional
2 release supervision, in addition to any other provision of
3 this subsection, the commission shall impose the following
4 additional conditions of conditional release supervision:

5 1. As part of a treatment program, participation in a
6 minimum of one annual polygraph examination to obtain
7 information necessary for risk management and treatment and to
8 reduce the sex offender's denial mechanisms. The polygraph
9 examination must be conducted by a polygrapher trained
10 specifically in the use of the polygraph for the monitoring of
11 sex offenders, where available, and at the expense of the sex
12 offender. The results of the polygraph examination shall not
13 be used as evidence in a hearing to prove that a violation of
14 supervision has occurred.

15 2. Maintenance of a driving log and a prohibition
16 against driving a motor vehicle alone without the prior
17 approval of the supervising officer.

18 3. A prohibition against obtaining or using a post
19 office box without the prior approval of the supervising
20 officer.

21 4. If there was sexual contact, a submission to, at
22 the probationer's or community controllee's expense, an HIV
23 test with the results to be released to the victim and/or the
24 victim's parent or guardian.

25 5. The probationer or community controllee may be
26 placed on electronic monitoring when deemed necessary by the
27 community control or probation officer and his or her
28 supervisor, and ordered by the court at the recommendation of
29 the Department of Corrections.

30 Section 2. Subsection (7) is added to section 948.001,
31 Florida Statutes, to read:

1 948.001 Definitions.--As used in this chapter, the
2 term:

3 (7) "Sex offender probation" or "sex offender
4 community control" means a form of intensive supervision, with
5 or without electronic monitoring, which emphasizes treatment
6 and supervision of a sex offender in accordance with an
7 individualized treatment plan administered by an officer who
8 has a restricted caseload and specialized training. An officer
9 who supervises an offender placed on sex offender probation or
10 sex offender community control must meet as necessary with a
11 treatment provider and polygraph examiner to develop and
12 implement the supervision and treatment plan, if a treatment
13 provider and polygraph examiner specially trained in the
14 treatment and monitoring of sex offenders are reasonably
15 available.

16 Section 3. Subsection (5) of section 948.03, Florida
17 Statutes, 1996 Supplement, is amended to read:

18 948.03 Terms and conditions of probation or community
19 control.--

20 (5) Effective for probationers or community
21 controllees whose crime was committed on or after October 1,
22 1995, and who are placed under supervision for violation of
23 chapter 794 or s. 800.04, s. 827.071, or s. 847.0145, the
24 court must impose the following conditions in addition to all
25 other standard and special conditions imposed:

26 1.(a) A mandatory curfew from 10 p.m. to 6 a.m. The
27 court may designate another 8-hour period if the offender's
28 employment precludes the above specified time, and such
29 alternative is recommended by the Department of Corrections.
30 If the court determines that imposing a curfew would endanger
31 the victim, the court may consider alternative sanctions.

1 ~~2.(b)~~ If the victim was under the age of 18, a
2 prohibition on living within 1,000 feet of a school, day care
3 center, park, playground, or other place where children
4 regularly congregate, as prescribed by the court.

5 ~~3.(c)~~ Active participation in and successful
6 completion of a sex offender treatment program with therapists
7 specifically trained to treat sex offenders, at the
8 probationer's or community controllee's own expense. ~~7~~ unless
9 one If a specially trained therapist is not available within a
10 50-mile radius of the probationer's or community controllee's
11 residence, the offender shall participate in other appropriate
12 therapy.

13 ~~4.(d)~~ A prohibition on any contact with the victim,
14 directly or indirectly, including through a third person,
15 unless approved by both the victim and the sentencing court.

16 ~~5.(e)~~ If the victim was under the age of 18, a
17 prohibition, until successful completion of a sex offender
18 treatment program, on unsupervised contact with a child under
19 the age of 18, unless authorized by the sentencing court
20 without another adult present who is responsible for the
21 child's welfare, has been advised of the crime, and is
22 approved by the sentencing court ~~commission~~.

23 ~~6.(f)~~ If the victim was under age 18, a prohibition on
24 working for pay or as a volunteer at any school, day care
25 center, park, playground, or other place where children
26 regularly congregate.

27 ~~7.(g)~~ Unless otherwise indicated in the treatment plan
28 provided by the sexual offender treatment program, a
29 prohibition on viewing, owning, or possessing any obscene,
30 pornographic, or sexually stimulating visual or auditory
31 ~~explicit~~ material, including telephone, electronic media,

1 computer programs, or computer services that are relevant to
2 the offender's deviant behavior pattern.

3 8.(h) A requirement that the probationer or community
4 controllee must submit two specimens of blood to the Florida
5 Department of Law Enforcement to be registered with the DNA
6 data bank.

7 9.(i) A requirement that the probationer or community
8 controllee make restitution to the victim, as ordered by the
9 court under s. 775.089, for all necessary medical and related
10 professional services relating to physical, psychiatric, and
11 psychological care.

12 10. Submission to a warrantless search by the
13 community control or probation officer of the probationer's or
14 community controllee's person, residence, or vehicle.

15 (b) Effective for a probationer or community
16 controllee whose crime was committed on or after October 1,
17 1997, and who is placed on sex offender probation for a
18 violation of chapter 794, s. 800.04, s. 827.071, or s.
19 847.0145, in addition to any other provision of this
20 subsection, the court must impose the following conditions of
21 probation or community control:

22 1. As part of a treatment program, participation at
23 least annually in polygraph examinations to obtain information
24 necessary for risk management and treatment and to reduce the
25 sex offender's denial mechanisms. A polygraph examination must
26 be conducted by a polygrapher trained specifically in the use
27 of the polygraph for the monitoring of sex offenders, where
28 available, and shall be paid by the sex offender. The results
29 of the polygraph examination shall not be used as evidence in
30 court to prove that a violation of community supervision has
31 occurred.

1 2. Maintenance of a driving log and a prohibition
2 against driving a motor vehicle alone without the prior
3 approval of the supervising officer.

4 3. A prohibition against obtaining or using a post
5 office box without the prior approval of the supervising
6 officer.

7 4. If there was sexual contact, a submission to, at
8 the probationer's or community controllee's expense, an HIV
9 test with the results to be released to the victim and/or the
10 victim's parent or guardian.

11 5. The probationer or community controllee may be
12 placed on electronic monitoring when deemed necessary by the
13 community control or probation officer and his or her
14 supervisor, and ordered by the court at the recommendation of
15 the Department of Corrections.

16 Section 4. This act shall take effect October 1, 1997.
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