

By Senator Campbell

33-247-98

See CS for HB 1259

1 A bill to be entitled
2 An act relating to criminal offenses involving
3 minors; creating the Children's Protection Act
4 of 1998; amending s. 775.084, F.S., relating to
5 violent career criminal sentencing, to conform
6 to the act; amending ss. 787.01, 787.02, F.S.,
7 relating to kidnapping and false imprisonment,
8 to conform to the act; amending s. 800.03,
9 F.S.; redefining the offense of unlawful
10 exposure or exhibition of sexual organs to
11 prohibit appearing naked under specified
12 circumstances; providing penalties; providing
13 an exception for maternal breastfeeding;
14 amending s. 800.04, F.S.; creating the offenses
15 of "lewd or lascivious battery," "lewd or
16 lascivious molestation," "lewd or lascivious
17 conduct," and "lewd or lascivious exhibition";
18 providing definitions; providing penalties;
19 precluding consent from being raised as a
20 defense except in certain circumstances;
21 precluding ignorance or belief concerning age
22 from being raised as a defense; providing an
23 exception for maternal breastfeeding; deleting
24 provisions that define and provide penalties
25 for "lewd, lascivious, or indecent assault or
26 act upon or in the presence of a child";
27 amending s. 826.04, F.S., relating to incest;
28 removing definition of "sexual intercourse" and
29 defining "sexual activity"; redefining the
30 offense of third-degree felony incest to
31 include knowingly marrying or engaging in

1 sexual activity with specified adult relatives;
2 providing penalties; defining the offense of
3 second-degree felony incest against a person
4 under 16 years of age; providing penalties;
5 reenacting ss. 775.15(7), 787.025(2)(a),
6 914.16, 944.606(1)(b), F.S., relating to time
7 limitations, luring or enticing a child, limits
8 on interviews, and sex offender notification
9 upon release, to incorporate the amendments to
10 ss. 800.04, 826.04, F.S., in cross-references;
11 amending s. 921.0022, F.S.; ranking offenses
12 created in the act in the Criminal Punishment
13 Code offense severity ranking chart; amending
14 s. 948.03, F.S., and reenacting s. 948.03(6),
15 F.S., relating to terms and conditions of
16 probation or community control, to conform to
17 the act; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. This act shall be known and may be cited as
22 the "Children's Protection Act of 1998."

23 Section 2. Paragraph (c) of subsection (1) of section
24 775.084, Florida Statutes, is amended to read:

25 775.084 Violent career criminals; habitual felony
26 offenders and habitual violent felony offenders; definitions;
27 procedure; enhanced penalties.--

28 (1) As used in this act:

29 (c) "Violent career criminal" means a defendant for
30 whom the court must impose imprisonment pursuant to paragraph
31 (4)(c), if it finds that:

- 1 1. The defendant has previously been convicted as an
2 adult three or more times for an offense in this state or
3 other qualified offense that is:
- 4 a. Any forcible felony, as described in s. 776.08;
5 b. Aggravated stalking, as described in s. 784.048(3)
6 and (4);
7 c. Aggravated child abuse, as described in s.
8 827.03(2);
9 d. Aggravated abuse of an elderly person or disabled
10 adult, as described in s. 825.102(2);
11 e. Lewd or lascivious battery, lewd or lascivious
12 molestation, lewd or lascivious conduct, or lewd or lascivious
13 exhibition, lascivious, or indecent conduct,as described in
14 s. 800.04;
15 f. Escape, as described in s. 944.40; or
16 g. A felony violation of chapter 790 involving the use
17 or possession of a firearm.
- 18 2. The defendant has been incarcerated in a state
19 prison or a federal prison.
- 20 3. The primary felony offense for which the defendant
21 is to be sentenced is a felony enumerated in subparagraph 1.
22 and was committed on or after October 1, 1995, and:
- 23 a. While the defendant was serving a prison sentence
24 or other commitment imposed as a result of a prior conviction
25 for an enumerated felony; or
26 b. Within 5 years after the conviction of the last
27 prior enumerated felony, or within 5 years after the
28 defendant's release from a prison sentence or other commitment
29 imposed as a result of a prior conviction for an enumerated
30 felony, whichever is later.
31

1 4. The defendant has not received a pardon for any
2 felony or other qualified offense that is necessary for the
3 operation of this paragraph.

4 5. A conviction of a felony or other qualified offense
5 necessary to the operation of this paragraph has not been set
6 aside in any postconviction proceeding.

7 (6) The purpose of this section is to provide uniform
8 punishment for those crimes made punishable under this
9 section, and to this end, a reference to this section
10 constitutes a general reference under the doctrine of
11 incorporation by reference.

12 Section 3. Paragraph (a) of subsection (3) of section
13 787.01, Florida Statutes, is amended to read:

14 787.01 Kidnapping; kidnapping of child under age 13,
15 aggravating circumstances.--

16 (3)(a) A person who commits the offense of kidnapping
17 upon a child under the age of 13 and who, in the course of
18 committing the offense, commits one or more of the following:

19 1. Aggravated child abuse, as defined in s. 827.03;

20 2. Sexual battery, as defined in chapter 794, against
21 the child;

22 3. Lewd or lascivious battery, lewd or lascivious
23 molestation, lewd or lascivious conduct, or lewd or lascivious
24 exhibition ~~A lewd, lascivious, or indecent assault or act upon~~
25 ~~or in the presence of the child~~, in violation of s. 800.04;

26 4. A violation of s. 796.03 or s. 796.04, relating to
27 prostitution, upon the child; or

28 5. Exploitation of the child or allowing the child to
29 be exploited, in violation of s. 450.151,

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1 commits a life felony, punishable as provided in s. 775.082,
2 s. 775.083, or s. 775.084.

3 Section 4. Paragraph (a) of subsection (3) of section
4 787.02, Florida Statutes, is amended to read:

5 787.02 False imprisonment; false imprisonment of child
6 under age 13, aggravating circumstances.--

7 (3)(a) A person who commits the offense of false
8 imprisonment upon a child under the age of 13 and who, in the
9 course of committing the offense, commits any offense
10 enumerated in subparagraphs 1.-5., commits a felony of the
11 first degree, punishable by imprisonment for a term of years
12 not exceeding life or as provided in s. 775.082, s. 775.083,
13 or s. 775.084.

14 1. Aggravated child abuse, as defined in s. 827.03;

15 2. Sexual battery, as defined in chapter 794, against
16 the child;

17 3. Lewd or lascivious battery, lewd or lascivious
18 molestation, lewd or lascivious conduct, or lewd or lascivious
19 exhibition ~~A lewd, lascivious, or indecent assault or act upon~~
20 ~~or in the presence of the child,~~ in violation of s. 800.04;

21 4. A violation of s. 796.03 or s. 796.04, relating to
22 prostitution, upon the child; or

23 5. Exploitation of the child or allowing the child to
24 be exploited, in violation of s. 450.151.

25 Section 5. Section 800.03, Florida Statutes, is
26 amended to read:

27 800.03 Exposure of sexual organs.--

28 (1) It is unlawful for any person, in a lewd or
29 lascivious manner, to expose or exhibit his or her ~~one's~~
30 sexual organs in public or on the private premises of another,
31 or so near thereto as to be seen from such private premises,

1 ~~in a vulgar or indecent manner, or appear to be~~ naked in
2 public except in any place provided or set apart for that
3 purpose.

4 (2) A person who commits a violation of this section
5 commits ~~is~~ a misdemeanor of the first degree, punishable as
6 provided in s. 775.082 or s. 775.083.

7 (3) A mother's breastfeeding of her baby does not
8 under any circumstance violate this section.

9 Section 6. Section 800.04, Florida Statutes, is
10 amended to read:

11 800.04 Lewd or lascivious offenses committed upon or
12 in the presence of persons less than 16 years of age ~~Lewd,~~
13 ~~lascivious, or indecent assault or act upon or in presence of~~
14 ~~child.--~~

15 (1) DEFINITIONS.--As used in this section:

16 (a) "Sexual activity" means the oral, anal, or vaginal
17 penetration by, or union with, the sexual organ of another or
18 the anal or vaginal penetration of another by any other
19 object; however, sexual activity does not include an act done
20 for a bona fide medical purpose.

21 (b) "Consent" means intelligent, knowing, and
22 voluntary consent, and does not include submission by
23 coercion.

24 (c) "Coercion" means the use of exploitation, bribes,
25 threats of force, or intimidation to gain cooperation or
26 compliance.

27 (d) "Victim" means a person upon whom an offense
28 described in this section was committed or attempted; or a
29 person who has reported a violation of this section to a law
30 enforcement officer.

31 (2) CONSENT OF VICTIM.--

1 (a) If the victim is under 12 years of age, the
2 consent of the victim cannot be raised as a defense to a
3 prosecution for any offense under this section.

4 (b) If the victim is 12 years of age or older but less
5 than 16 years of age, the consent of the victim cannot be
6 raised as a defense to a prosecution for any offense under
7 this section if the difference between the age of the offender
8 and the age of the victim exceeds 2 years.

9 (3) IGNORANCE OR BELIEF CONCERNING VICTIM'S AGE.--The
10 perpetrator's ignorance of the victim's age, the victim's
11 misrepresentation of his or her age, or the perpetrator's bona
12 fide belief concerning the victim's age may not be raised as a
13 defense in a prosecution under this section.

14 (4) LEWD OR LASCIVIOUS BATTERY.--A person who:

15 (a) Engages in sexual activity with a person 12 years
16 of age or older but less than 16 years of age; or

17 (b) Encourages, forces, or entices any person less
18 than 16 years of age to engage in sadomasochistic abuse,
19 sexual bestiality, prostitution, or any other act involving
20 sexual activity

21
22 commits lewd or lascivious battery, a felony of the second
23 degree, punishable as provided in s. 775.082, s. 775.083, or
24 s. 775.084.

25 (5) LEWD OR LASCIVIOUS MOLESTATION.--

26 (a) A person who intentionally touches in a lewd or
27 lascivious manner the breasts, genitals, genital area, or
28 buttocks, or the clothing covering them, of a person less than
29 16 years of age, or forces or entices a person under 16 years
30 of age to so touch the perpetrator, commits lewd or lascivious
31 molestation.

1 (b) An offender 18 years of age or older who commits
2 lewd or lascivious molestation against a victim less than 12
3 years of age commits a felony of the first degree, punishable
4 as provided in s. 775.082, s. 775.083, or s. 775.084.

5 (c)1. An offender less than 18 years of age who
6 commits lewd or lascivious molestation against a victim less
7 than 12 years of age; or

8 2. An offender 18 years of age or older who commits
9 lewd or lascivious molestation against a victim 12 years of
10 age or older but less than 16 years of age

11
12 commits a felony of the second degree, punishable as provided
13 in s. 775.082, s. 775.083, or s. 775.084.

14 (d) An offender less than 18 years of age who commits
15 lewd or lascivious molestation against a victim 12 years of
16 age or older but less than 16 years of age commits a felony of
17 the third degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084.

19 (6) LEWD OR LASCIVIOUS CONDUCT.--

20 (a) A person who:

21 1. Intentionally touches a person under 16 years of
22 age in a lewd or lascivious manner; or

23 2. Solicits a person under 16 years of age to commit a
24 lewd or lascivious act

25
26 commits lewd or lascivious conduct.

27 (b) An offender 18 years of age or older who commits
28 lewd or lascivious conduct commits a felony of the second
29 degree, punishable as provided in s. 775.082, s. 775.083, or
30 s. 775.084.

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1 (c) An offender less than 18 years of age who commits
2 lewd or lascivious conduct commits a felony of the third
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084.

5 (7) LEWD OR LASCIVIOUS EXHIBITION.--

6 (a) A person who:

7 1. Intentionally masturbates;

8 2. Intentionally exposes the genitals in a lewd or
9 lascivious manner; or

10 3. Intentionally commits any other sexual act that
11 does not involve actual physical or sexual contact with the
12 victim, including, but not limited to, sadomasochistic abuse,
13 sexual bestiality, or the simulation of any act involving
14 sexual activity

15
16 in the presence of a victim who is less than 16 years of age,
17 commits lewd or lascivious exhibition.

18 (b) An offender 18 years of age or older who commits a
19 lewd or lascivious exhibition commits a felony of the second
20 degree, punishable as provided in s. 775.082, s. 775.083, or
21 s. 775.084.

22 (c) An offender less than 18 years of age who commits
23 a lewd or lascivious exhibition commits a felony of the third
24 degree, punishable as provided in s. 775.082, s. 775.083, or
25 s. 775.084.

26 (8) EXCEPTION.--A mother's breastfeeding of her baby
27 does not under any circumstance constitute a violation of this
28 section.~~A person who:~~

29 ~~(1) Handles, fondles, or assaults any child under the~~
30 ~~age of 16 years in a lewd, lascivious, or indecent manner;~~
31

1 ~~(2) Commits actual or simulated sexual intercourse,~~
2 ~~deviate sexual intercourse, sexual bestiality, masturbation,~~
3 ~~sadomasochistic abuse, actual lewd exhibition of the genitals,~~
4 ~~or any act or conduct which simulates that sexual battery is~~
5 ~~being or will be committed upon any child under the age of 16~~
6 ~~years or forces or entices the child to commit any such act;~~

7 ~~(3) Commits an act defined as sexual battery under s.~~
8 ~~794.011(1)(h) upon any child under the age of 16 years; or~~

9 ~~(4) Knowingly commits any lewd or lascivious act in~~
10 ~~the presence of any child under the age of 16 years,~~

11
12 ~~without committing the crime of sexual battery, commits a~~
13 ~~felony of the second degree, punishable as provided in s.~~
14 ~~775.082, s. 775.083, or s. 775.084. Neither the victim's lack~~
15 ~~of chastity nor the victim's consent is a defense to the crime~~
16 ~~proscribed by this section. A mother's breastfeeding of her~~
17 ~~baby does not under any circumstance violate this section.~~

18 Section 7. Section 826.04, Florida Statutes, is
19 amended to read:

20 826.04 Incest.--

21 (1) A person who ~~whoever~~ knowingly marries or engages
22 in sexual activity ~~has sexual intercourse~~ with a person 18
23 years of age or older to whom he or she is related by lineal
24 consanguinity, or a brother, sister, uncle, aunt, nephew, or
25 niece, commits incest, ~~which constitutes~~ a felony of the third
26 degree, punishable as provided in s. 775.082, s. 775.083, or
27 s. 775.084. ~~"Sexual intercourse" is the penetration of the~~
28 ~~female sex organ by the male sex organ, however slight;~~
29 ~~emission of semen is not required.~~

30 (2) A person who knowingly marries or engages in
31 sexual activity with a person less than 18 years of age to

1 whom he or she is related by lineal consanguinity, or a
2 brother, sister, uncle, aunt, nephew, or niece, commits
3 incest, a felony of the second degree, punishable as provided
4 in s. 775.082, s. 775.083, or s. 775.084.

5 (3) For purposes of this section, "sexual activity"
6 means the oral, anal, or vaginal penetration by or union with
7 the sexual organ of another; however, sexual activity does not
8 include an act done for a bona fide medical purpose.

9 Section 8. For the purpose of incorporating the
10 amendments to sections 800.04 and 826.04, Florida Statutes, in
11 references thereto, subsection (7) of section 775.15, Florida
12 Statutes, is reenacted to read:

13 775.15 Time limitations.--

14 (7) If the victim of a violation of s. 794.011, former
15 s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04 is
16 under the age of 16, the applicable period of limitation, if
17 any, does not begin to run until the victim has reached the
18 age of 16 or the violation is reported to a law enforcement
19 agency or other governmental agency, whichever occurs earlier.
20 Such law enforcement agency or other governmental agency shall
21 promptly report such allegation to the state attorney for the
22 judicial circuit in which the alleged violation occurred. If
23 the offense is a first or second degree felony violation of s.
24 794.011, and the crime is reported within 72 hours after its
25 commission, paragraph (1)(b) applies. This subsection applies
26 to any such offense except an offense the prosecution of which
27 would have been barred by subsection (2) on or before December
28 31, 1984.

29 Section 9. For the purpose of incorporating the
30 amendments to section 800.04, Florida Statutes, in references
31

1 thereto, paragraph (a) of subsection (2) of section 787.025,
2 Florida Statutes, is reenacted to read:

3 787.025 Luring or enticing a child.--

4 (2)(a) A person over the age of 18 who, having been
5 previously convicted of a violation of chapter 794 or s.
6 800.04, or a violation of a similar law of another
7 jurisdiction, intentionally lures or entices, or attempts to
8 lure or entice, a child under the age of 12 into a structure,
9 dwelling, or conveyance for other than a lawful purpose
10 commits a felony of the third degree, punishable as provided
11 in s. 775.082, s. 775.083, or s. 775.084.

12 Section 10. For the purpose of incorporating the
13 amendments to section 800.04, Florida Statutes, in references
14 thereto, section 914.16, Florida Statutes, is reenacted to
15 read:

16 914.16 Child abuse and sexual abuse of victims under
17 age 16 or persons with mental retardation; limits on
18 interviews.--The chief judge of each judicial circuit, after
19 consultation with the state attorney and the public defender
20 for the judicial circuit, the appropriate chief law
21 enforcement officer, and any other person deemed appropriate
22 by the chief judge, shall provide by order reasonable limits
23 on the number of interviews that a victim of a violation of s.
24 794.011, s. 800.04, or s. 827.03 who is under 16 years of age
25 or a victim of a violation of s. 794.011, s. 800.02, s.
26 800.03, or s. 825.102 who is a person with mental retardation
27 as defined in s. 393.063(41) must submit to for law
28 enforcement or discovery purposes. The order shall, to the
29 extent possible, protect the victim from the psychological
30 damage of repeated interrogations while preserving the rights
31

1 of the public, the victim, and the person charged with the
2 violation.

3 Section 11. For the purpose of incorporating the
4 amendments to section 800.04, Florida Statutes, in references
5 thereto, paragraph (b) of subsection (1) of section 944.606,
6 Florida Statutes, is reenacted to read:

7 944.606 Sexual offenders; notification upon release.--

8 (1) As used in this section:

9 (b) "Sexual offender" means a person who has been
10 convicted of a felony violation of chapter 794, s. 800.04, s.
11 827.071, or s. 847.0145, or a violation of a similar law of
12 another jurisdiction, when the department has received
13 verified information regarding such conviction; an offender's
14 computerized criminal history record is not, in and of itself,
15 verified information.

16 Section 12. Paragraphs (b), (d), (e), (f), (g), (h),
17 (i), and (j) of subsection (3) of section 921.0022, Florida
18 Statutes, are amended to read:

19 921.0022 Criminal Punishment Code; offense severity
20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

22

23 Florida	Felony	
24 Statute	Degree	Description
		(b) LEVEL 2
27 403.413(5)(c)	3rd	Dumps waste litter exceeding 500 28 lbs. in weight or 100 cubic feet 29 in volume or any quantity for 30 commercial purposes, or hazardous 31 waste.

1	517.07	3rd	Registration of securities and
2			furnishing of prospectus
3			required.
4	590.28(1)	3rd	Willful, malicious, or
5			intentional burning.
6	784.05(3)	3rd	Storing or leaving a loaded
7			firearm within reach of minor who
8			uses it to inflict injury or
9			death.
10	787.04(1)	3rd	In violation of court order,
11			take, entice, etc., minor beyond
12			state limits.
13	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
14			or more to public communication
15			or any other public service.
16	810.09(2)(e)	3rd	Trespassing on posted commercial
17			horticulture property.
18	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
19			more but less than \$5,000.
20	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
21			more but less than \$300, taken
22			from unenclosed curtilage of
23			dwelling.
24	817.234(1)(a)2.	3rd	False statement in support of
25			insurance claim.
26	817.481(3)(a)	3rd	Obtain credit or purchase with
27			false, expired, counterfeit,
28			etc., credit card, value over
29			\$300.
30	817.52(3)	3rd	Failure to redeliver hired
31			vehicle.

1	817.54	3rd	With intent to defraud, obtain
2			mortgage note, etc., by false
3			representation.
4	817.60(5)	3rd	Dealing in credit cards of
5			another.
6	817.60(6)(a)	3rd	Forgery; purchase goods, services
7			with false card.
8	817.61	3rd	Fraudulent use of credit cards
9			over \$100 or more within 6
10			months.
11	826.04 <u>(1)</u>	3rd	Knowingly marries or <u>engages in</u>
12			<u>sexual activity</u> has sexual
13			intercourse with person <u>18 years</u>
14			<u>of age or older</u> to whom related.
15	831.01	3rd	Forgery.
16	831.02	3rd	Uttering forged instrument;
17			utters or publishes alteration
18			with intent to defraud.
19	831.07	3rd	Forging bank bills or promissory
20			note.
21	831.08	3rd	Possession of 10 or more forged
22			notes.
23	831.09	3rd	Uttering forged bills; passes as
24			bank bill or promissory note.
25	832.05(3)(a)	3rd	Cashing or depositing item with
26			intent to defraud.
27	843.08	3rd	Falsely impersonating an officer.
28	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
29			(2)(c), (3), or (4) drugs other
30			than cannabis.
31			

1	893.147(2)	3rd	Manufacture or delivery of drug
2			paraphernalia.
3			
4			(d) LEVEL 4
5	316.1935(2)	3rd	Fleeing or attempting to elude
6			law enforcement officer resulting
7			in high-speed pursuit.
8	784.07(2)(b)	3rd	Battery of law enforcement
9			officer, firefighter, intake
10			officer, etc.
11	784.075	3rd	Battery on detention or
12			commitment facility staff.
13	784.08(2)(c)	3rd	Battery on a person 65 years of
14			age or older.
15	784.081(3)	3rd	Battery on specified official or
16			employee.
17	784.082(3)	3rd	Battery by detained person on
18			visitor or other detainee.
19	787.03(1)	3rd	Interference with custody;
20			wrongly takes child from
21			appointed guardian.
22	787.04(2)	3rd	Take, entice, or remove child
23			beyond state limits with criminal
24			intent pending custody
25			proceedings.
26	787.04(3)	3rd	Carrying child beyond state lines
27			with criminal intent to avoid
28			producing child at custody
29			hearing or delivering to
30			designated person.
31			

1	790.115(1)	3rd	Exhibiting firearm or weapon
2			within 1,000 feet of a school.
3	790.115(2)(b)	3rd	Possessing electric weapon or
4			device, destructive device, or
5			other weapon on school property.
6	790.115(2)(c)	3rd	Possessing firearm on school
7			property.
8	<u>800.04(7)(c)</u>	<u>3rd</u>	<u>Lewd or lascivious exhibition;</u>
9			<u>offender less than 18 years.</u>
10	810.02(4)(a)	3rd	Burglary, or attempted burglary,
11			of an unoccupied structure;
12			unarmed; no assault or battery.
13	810.02(4)(b)	3rd	Burglary, or attempted burglary,
14			of an unoccupied conveyance;
15			unarmed; no assault or battery.
16	810.06	3rd	Burglary; possession of tools.
17	810.08(2)(c)	3rd	Trespass on property, armed with
18			firearm or dangerous weapon.
19	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
20			or more but less than \$20,000.
21	812.014		
22	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
23			firearm, motor vehicle,
24			livestock, etc.
25	817.563(1)	3rd	Sell or deliver substance other
26			than controlled substance agreed
27			upon, excluding s. 893.03(5)
28			drugs.
29			
30			
31			

1	828.125(1)	2nd	Kill, maim, or cause great bodily
2			harm or permanent breeding
3			disability to any registered
4			horse or cattle.
5	837.02(1)	3rd	Perjury in official proceedings.
6	837.021(1)	3rd	Make contradictory statements in
7			official proceedings.
8	843.025	3rd	Deprive law enforcement,
9			correctional, or correctional
10			probation officer of means of
11			protection or communication.
12	843.15(1)(a)	3rd	Failure to appear while on bail
13			for felony (bond estreature or
14			bond jumping).
15	874.05(1)	3rd	Encouraging or recruiting another
16			to join a criminal street gang.
17	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
18			893.03(1)(a), (b), or (d), or
19			(2)(a) or (b) drugs).
20	914.14(2)	3rd	Witnesses accepting bribes.
21	914.22(1)	3rd	Force, threaten, etc., witness,
22			victim, or informant.
23	914.23(2)	3rd	Retaliation against a witness,
24			victim, or informant, no bodily
25			injury.
26	918.12	3rd	Tampering with jurors.
27			
28			(e) LEVEL 5
29	316.027(1)(a)	3rd	Accidents involving personal
30			injuries, failure to stop;
31			leaving scene.

1	316.1935(3)	3rd	Aggravated fleeing or eluding.
2	322.34(3)	3rd	Careless operation of motor
3			vehicle with suspended license,
4			resulting in death or serious
5			bodily injury.
6	327.30(5)	3rd	Vessel accidents involving
7			personal injury; leaving scene.
8	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
9			knowing HIV positive.
10	790.01(2)	3rd	Carrying a concealed firearm.
11	790.162	2nd	Threat to throw or discharge
12			destructive device.
13	790.163	2nd	False report of deadly explosive.
14	790.165(2)	3rd	Manufacture, sell, possess, or
15			deliver hoax bomb.
16	790.221(1)	2nd	Possession of short-barreled
17			shotgun or machine gun.
18	790.23	2nd	Felons in possession of firearms
19			or electronic weapons or devices.
20	<u>800.04(6)(c)</u>	<u>3rd</u>	<u>Lewd or lascivious conduct;</u>
21			<u>offender less than 18 years.</u>
22	<u>800.04(7)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious exhibition;</u>
23			<u>offender 18 years or older.</u>
24	806.111(1)	3rd	Possess, manufacture, or dispense
25			fire bomb with intent to damage
26			any structure or property.
27	812.019(1)	2nd	Stolen property; dealing in or
28			trafficking in.
29	812.16(2)	3rd	Owning, operating, or conducting
30			a chop shop.
31			

1	817.034(4)(a)2.	2nd	Communications fraud, value
2			\$20,000 to \$50,000.
3	825.1025(4)	3rd	Lewd or lascivious exhibition in
4			the presence of an elderly person
5			or disabled adult.
6	827.071(4)	2nd	Possess with intent to promote
7			any photographic material, motion
8			picture, etc., which includes
9			sexual conduct by a child.
10	843.01	3rd	Resist officer with violence to
11			person; resist arrest with
12			violence.
13	874.05(2)	2nd	Encouraging or recruiting another
14			to join a criminal street gang;
15			second or subsequent offense.
16	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
17			cocaine (or other s.
18			893.03(1)(a), (1)(b), (1)(d),
19			(2)(a), or (2)(b) drugs).
20	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
21			cannabis (or other s.
22			893.03(1)(c), (2)(c), (3), or (4)
23			drugs) within 1,000 feet of a
24			school.
25	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
26			cocaine (or other s.
27			893.03(1)(a), (1)(b), (1)(d),
28			(2)(a), or (2)(b) drugs) within
29			200 feet of university, public
30			housing facility, or public park.
31			

1	893.13(4)(b)	2nd	Deliver to minor cannabis (or
2			other s. 893.03(1)(c), (2)(c),
3			(3), or (4) drugs).
4			
5			(f) LEVEL 6
6	316.027(1)(b)	2nd	Accident involving death, failure
7			to stop; leaving scene.
8	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
9			conviction.
10	775.0875(1)	3rd	Taking firearm from law
11			enforcement officer.
12	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
13			without intent to kill.
14	784.021(1)(b)	3rd	Aggravated assault; intent to
15			commit felony.
16	784.048(3)	3rd	Aggravated stalking; credible
17			threat.
18	784.07(2)(c)	2nd	Aggravated assault on law
19			enforcement officer.
20	784.08(2)(b)	2nd	Aggravated assault on a person 65
21			years of age or older.
22	784.081(2)	2nd	Aggravated assault on specified
23			official or employee.
24	784.082(2)	2nd	Aggravated assault by detained
25			person on visitor or other
26			detainee.
27	787.02(2)	3rd	False imprisonment; restraining
28			with purpose other than those in
29			s. 787.01.
30	790.115(2)(d)	2nd	Discharging firearm or weapon on
31			school property.

1	790.161(2)	2nd	Make, possess, or throw
2			destructive device with intent to
3			do bodily harm or damage
4			property.
5	790.164(1)	2nd	False report of deadly explosive
6			or act of arson or violence to
7			state property.
8	790.19	2nd	Shooting or throwing deadly
9			missiles into dwellings, vessels,
10			or vehicles.
11	794.011(8)(a)	3rd	Solicitation of minor to
12			participate in sexual activity by
13			custodial adult.
14	794.05(1)	2nd	Unlawful sexual activity with
15			specified minor.
16	<u>800.04(5)(d)</u>	<u>3rd</u>	<u>Lewd or lascivious molestation;</u>
17			<u>victim 12 years of age or older</u>
18			<u>but less than 16 years; offender</u>
19			<u>less than 18 years.</u>
20	<u>800.04(6)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious conduct;</u>
21			<u>offender 18 years of age or</u>
22			<u>older.</u>
23	806.031(2)	2nd	Arson resulting in great bodily
24			harm to firefighter or any other
25			person.
26	810.02(3)(c)	2nd	Burglary of occupied structure;
27			unarmed; no assault or battery.
28	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
29			but less than \$100,000, grand
30			theft in 2nd degree.
31			

1	812.13(2)(c)	2nd	Robbery, no firearm or other
2			weapon (strong-arm robbery).
3	817.034(4)(a)1.	1st	Communications fraud, value
4			greater than \$50,000.
5	817.4821(5)	2nd	Possess cloning paraphernalia
6			with intent to create cloned
7			cellular telephones.
8	825.102(1)	3rd	Abuse of an elderly person or
9			disabled adult.
10	825.102(3)(c)	3rd	Neglect of an elderly person or
11			disabled adult.
12	825.1025(3)	3rd	Lewd or lascivious molestation of
13			an elderly person or disabled
14			adult.
15	825.103(2)(c)	3rd	Exploiting an elderly person or
16			disabled adult and property is
17			valued at \$100 or more, but less
18			than \$20,000.
19	827.03(1)	3rd	Abuse of a child.
20	827.03(3)(c)	3rd	Neglect of a child.
21	827.071(2)&(3)	2nd	Use or induce a child in a sexual
22			performance, or promote or direct
23			such performance.
24	836.05	2nd	Threats; extortion.
25	836.10	2nd	Written threats to kill or do
26			bodily injury.
27	843.12	3rd	Aids or assists person to escape.
28	914.23	2nd	Retaliation against a witness,
29			victim, or informant, with bodily
30			injury.
31			

1	944.35(3)(a)2.	3rd	Committing malicious battery upon
2			or inflicting cruel or inhuman
3			treatment on an inmate or
4			offender on community
5			supervision, resulting in great
6			bodily harm.
7	944.40	2nd	Escapes.
8	944.46	3rd	Harboring, concealing, aiding
9			escaped prisoners.
10	944.47(1)(a)5.	2nd	Introduction of contraband
11			(firearm, weapon, or explosive)
12			into correctional facility.
13	951.22(1)	3rd	Intoxicating drug, firearm, or
14			weapon introduced into county
15			facility.
16			
17			(g) LEVEL 7
18	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
19			injury.
20	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
21			bodily injury.
22	409.920(2)	3rd	Medicaid provider fraud.
23	494.0018(2)	1st	Conviction of any violation of
24			ss. 494.001-494.0077 in which the
25			total money and property
26			unlawfully obtained exceeded
27			\$50,000 and there were five or
28			more victims.
29			
30			
31			

1	782.07(1)	2nd	Killing of a human being by the
2			act, procurement, or culpable
3			negligence of another
4			(manslaughter).
5	782.071	3rd	Killing of human being by the
6			operation of a motor vehicle in a
7			reckless manner (vehicular
8			homicide).
9	782.072	3rd	Killing of a human being by the
10			operation of a vessel in a
11			reckless manner (vessel
12			homicide).
13	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
14			causing great bodily harm or
15			disfigurement.
16	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
17			weapon.
18	784.045(1)(b)	2nd	Aggravated battery; perpetrator
19			aware victim pregnant.
20	784.048(4)	3rd	Aggravated stalking; violation of
21			injunction or court order.
22	784.07(2)(d)	1st	Aggravated battery on law
23			enforcement officer.
24	784.08(2)(a)	1st	Aggravated battery on a person 65
25			years of age or older.
26	784.081(1)	1st	Aggravated battery on specified
27			official or employee.
28	784.082(1)	1st	Aggravated battery by detained
29			person on visitor or other
30			detainee.
31			

1	790.07(4)	1st	Specified weapons violation
2			subsequent to previous conviction
3			of s. 790.07(1) or (2).
4	790.16(1)	1st	Discharge of a machine gun under
5			specified circumstances.
6	796.03	2nd	Procuring any person under 16
7			years for prostitution.
8	<u>800.04(5)(c)1.</u>	2nd	<u>Lewd or lascivious molestation;</u>
9			<u>victim less than 12 years of age;</u>
10			<u>offender less than 18 years.</u>
11			Handle, fondle, or assault child
12			under 16 years in lewd,
13			lascivious, or indecent manner.
14	<u>800.04(5)(c)2.</u>	2nd	<u>Lewd or lascivious molestation;</u>
15			<u>victim 12 years of age or older</u>
16			<u>but less than 16 years; offender</u>
17			<u>18 years or older.</u>
18	806.01(2)	2nd	Maliciously damage structure by
19			fire or explosive.
20	810.02(3)(a)	2nd	Burglary of occupied dwelling;
21			unarmed; no assault or battery.
22	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
23			unarmed; no assault or battery.
24	810.02(3)(d)	2nd	Burglary of occupied conveyance;
25			unarmed; no assault or battery.
26	812.014(2)(a)	1st	Property stolen, valued at
27			\$100,000 or more; property stolen
28			while causing other property
29			damage; 1st degree grand theft.
30			
31			

1	812.019(2)	1st	Stolen property; initiates,
2			organizes, plans, etc., the theft
3			of property and traffics in
4			stolen property.
5	812.133(2)(b)	1st	Carjacking; no firearm, deadly
6			weapon, or other weapon.
7	825.102(3)(b)	2nd	Neglecting an elderly person or
8			disabled adult causing great
9			bodily harm, disability, or
10			disfigurement.
11	825.1025(2)	2nd	Lewd or lascivious battery upon
12			an elderly person or disabled
13			adult.
14	825.103(2)(b)	2nd	Exploiting an elderly person or
15			disabled adult and property is
16			valued at \$20,000 or more, but
17			less than \$100,000.
18	827.03(3)(b)	2nd	Neglect of a child causing great
19			bodily harm, disability, or
20			disfigurement.
21	827.04(4)	3rd	Impregnation of a child under 16
22			years of age by person 21 years
23			of age or older.
24	872.06	2nd	Abuse of a dead human body.
25	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
26			cocaine (or other s.
27			893.03(1)(a), (1)(b), (1)(d),
28			(2)(a), or (2)(b) drugs) within
29			1,000 feet of a school.
30			
31			

1	893.13(4)(a)	1st	Deliver to minor cocaine (or
2			other s. 893.03(1)(a), (1)(b),
3			(1)(d), (2)(a), or (2)(b) drugs).
4	893.135(1)(a)1.	1st	Trafficking in cannabis, more
5			than 50 lbs., less than 2,000
6			lbs.
7	893.135		
8	(1)(b)1.a.	1st	Trafficking in cocaine, more than
9			28 grams, less than 200 grams.
10	893.135		
11	(1)(c)1.a.	1st	Trafficking in illegal drugs,
12			more than 4 grams, less than 14
13			grams.
14	893.135		
15	(1)(d)1.	1st	Trafficking in phencyclidine,
16			more than 28 grams, less than 200
17			grams.
18	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
19			than 200 grams, less than 5
20			kilograms.
21	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
22			than 14 grams, less than 28
23			grams.
24			
25			(h) LEVEL 8
26	316.193		
27	(3)(c)3.a.	2nd	DUI manslaughter.
28	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
29	777.03(2)(a)	1st	Accessory after the fact, capital
30			felony.
31			

1	782.04(4)	2nd	Killing of human without design
2			when engaged in act or attempt of
3			any felony other than arson,
4			sexual battery, robbery,
5			burglary, kidnapping, aircraft
6			piracy, or unlawfully discharging
7			bomb.
8	782.071(2)	2nd	Committing vehicular homicide and
9			failing to render aid or give
10			information.
11	782.072(2)	2nd	Committing vessel homicide and
12			failing to render aid or give
13			information.
14	790.161(3)	1st	Discharging a destructive device
15			which results in bodily harm or
16			property damage.
17	794.011(5)	2nd	Sexual battery, victim 12 years
18			or over, offender does not use
19			physical force likely to cause
20			serious injury.
21	<u>800.04(4)</u>	<u>2nd</u>	<u>Lewd or lascivious battery.</u>
22	806.01(1)	1st	Maliciously damage dwelling or
23			structure by fire or explosive,
24			believing person in structure.
25	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
26	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
27			or dangerous weapon.
28	810.02(2)(c)	1st	Burglary of a dwelling or
29			structure causing structural
30			damage or \$1,000 or more property
31			damage.

1	812.13(2)(b)	1st	Robbery with a weapon.
2	812.135(2)	1st	Home-invasion robbery.
3	825.102(2)	2nd	Aggravated abuse of an elderly
4			person or disabled adult.
5	825.103(2)(a)	1st	Exploiting an elderly person or
6			disabled adult and property is
7			valued at \$100,000 or more.
8	<u>826.04(2)</u>	<u>2nd</u>	<u>Knowingly marries or engages in</u>
9			<u>sexual activity with person less</u>
10			<u>than 18 years of age to whom</u>
11			<u>related.</u>
12	827.03(2)	2nd	Aggravated child abuse.
13	860.121(2)(c)	1st	Shooting at or throwing any
14			object in path of railroad
15			vehicle resulting in great bodily
16			harm.
17	860.16	1st	Aircraft piracy.
18	893.13(1)(b)	1st	Sell or deliver in excess of 10
19			grams of any substance specified
20			in s. 893.03(1)(a) or (b).
21	893.13(2)(b)	1st	Purchase in excess of 10 grams of
22			any substance specified in s.
23			893.03(1)(a) or (b).
24	893.13(6)(c)	1st	Possess in excess of 10 grams of
25			any substance specified in s.
26			893.03(1)(a) or (b).
27	893.135(1)(a)2.	1st	Trafficking in cannabis, more
28			than 2,000 lbs., less than 10,000
29			lbs.
30			
31			

1	893.135		
2	(1)(b)1.b.	1st	Trafficking in cocaine, more than
3			200 grams, less than 400 grams.
4	893.135		
5	(1)(c)1.b.	1st	Trafficking in illegal drugs,
6			more than 14 grams, less than 28
7			grams.
8	893.135(1)(d)1.b.	1st	Trafficking in phencyclidine,
9			more than 200 grams, less than
10			400 grams.
11	893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more
12			than 5 kilograms, less than 25
13			kilograms.
14	893.135(1)(f)1.b.	1st	Trafficking in amphetamine, more
15			than 28 grams, less than 200
16			grams.
17	895.03(1)	1st	Use or invest proceeds derived
18			from pattern of racketeering
19			activity.
20	895.03(2)	1st	Acquire or maintain through
21			racketeering activity any
22			interest in or control of any
23			enterprise or real property.
24	895.03(3)	1st	Conduct or participate in any
25			enterprise through pattern of
26			racketeering activity.
27			
28			(i) LEVEL 9
29	316.193		
30	(3)(c)3.b.	1st	DUI manslaughter; failing to
31			render aid or give information.

1	782.04(1)	1st	Attempt, conspire, or solicit to
2			commit premeditated murder.
3	782.04(3)	1st,PBL	Accomplice to murder in
4			connection with arson, sexual
5			battery, robbery, burglary, and
6			other specified felonies.
7	782.07(2)	1st	Aggravated manslaughter of an
8			elderly person or disabled adult.
9	782.07(3)	1st	Aggravated manslaughter of a
10			child.
11	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
12			reward or as a shield or hostage.
13	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
14			or facilitate commission of any
15			felony.
16	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
17			interfere with performance of any
18			governmental or political
19			function.
20	787.02(3)(a)	1st	False imprisonment; child under
21			age 13; perpetrator also commits
22			child abuse, sexual battery, <u>or</u>
23			<u>lewd, or lascivious battery,</u>
24			<u>molestation, conduct, or</u>
25			<u>exhibition act, etc.</u>
26	790.161	1st	Attempted capital destructive
27			device offense.
28	794.011(2)	1st	Attempted sexual battery; victim
29			less than 12 years of age.
30			
31			

1	794.011(2)	Life	Sexual battery; offender younger
2			than 18 years and commits sexual
3			battery on a person less than 12
4			years.
5	794.011(4)	1st	Sexual battery; victim 12 years
6			or older, certain circumstances.
7	794.011(8)(b)	1st	Sexual battery; engage in sexual
8			conduct with minor 12 to 18 years
9			by person in familial or
10			custodial authority.
11	<u>800.04(5)(b)</u>	<u>1st</u>	<u>Lewd or lascivious molestation;</u>
12			<u>victim less than 12 years;</u>
13			<u>offender 18 years or older.</u>
14	812.13(2)(a)	1st,PBL	Robbery with firearm or other
15			deadly weapon.
16	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
17			deadly weapon.
18	847.0145(1)	1st	Selling, or otherwise
19			transferring custody or control,
20			of a minor.
21	847.0145(2)	1st	Purchasing, or otherwise
22			obtaining custody or control, of
23			a minor.
24	859.01	1st	Poisoning food, drink, medicine,
25			or water with intent to kill or
26			injure another person.
27	893.135	1st	Attempted capital trafficking
28			offense.
29	893.135(1)(a)3.	1st	Trafficking in cannabis, more
30			than 10,000 lbs.
31			

1	893.135		
2	(1)(b)1.c.	1st	Trafficking in cocaine, more than
3			400 grams, less than 150
4			kilograms.
5	893.135		
6	(1)(c)1.c.	1st	Trafficking in illegal drugs,
7			more than 28 grams, less than 30
8			kilograms.
9	893.135(1)(d)1.c.	1st	Trafficking in phencyclidine,
10			more than 400 grams.
11	893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more
12			than 25 kilograms.
13	893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more
14			than 200 grams.
15			
16			(j) LEVEL 10
17	782.04(2)	1st,PBL	Unlawful killing of human; act is
18			homicide, unpremeditated.
19	787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm
20			upon or terrorize victim.
21	787.01(3)(a)	Life	Kidnapping; child under age 13,
22			perpetrator also commits child
23			abuse, sexual battery, <u>or</u> lewd ;
24			or lascivious <u>battery,</u>
25			<u>molestation, conduct, or</u>
26			<u>exhibition act, etc.</u>
27	794.011(3)	Life	Sexual battery; victim 12 years
28			or older, offender uses or
29			threatens to use deadly weapon or
30			physical force to cause serious
31			injury.

1 876.32 1st Treason against the state.

2

3 Section 13. Paragraph (a) of subsection (4) and
4 paragraph (a) of subsection (5) of section 948.03, Florida
5 Statutes, are amended, and subsection (6) of said section is
6 reenacted, to read:

7 948.03 Terms and conditions of probation or community
8 control.--

9 (4) The court shall require a diagnosis and evaluation
10 to determine the need of a probationer or offender in
11 community control for treatment. If the court determines that
12 a need therefor is established by such diagnosis and
13 evaluation process, the court shall require outpatient
14 counseling as a term or condition of probation or community
15 control for any person who was found guilty of any of the
16 following, or whose plea of guilty or nolo contendere to any
17 of the following was accepted by the court:

18 (a) Lewd or lascivious battery, lewd or lascivious
19 molestation, lewd or lascivious conduct, or lewd or lascivious
20 exhibition, as defined in s. 800.04 ~~A lewd, lascivious, or~~
21 ~~indecent assault or act upon, or in the presence of, a child.~~

22 (b) Sexual battery, as defined in chapter 794, against
23 a child.

24 (c) Exploitation of a child as provided in s. 450.151,
25 or for prostitution.

26

27 Such counseling shall be required to be obtained from a
28 community mental health center, a recognized social service
29 agency providing mental health services, or a private mental
30 health professional or through other professional counseling.

31

1 The plan for counseling for the individual shall be provided
2 to the court for review.

3 (5)(a) Effective for probationers or community
4 controllees whose crime was committed on or after October 1,
5 1995, and who are placed under supervision for violation of
6 chapter 794, ~~or~~ s. 800.04, s. 827.071, or s. 847.0145, the
7 court must impose the following conditions in addition to all
8 other standard and special conditions imposed:

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

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

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

27 4. A prohibition on any contact with the victim,
28 directly or indirectly, including through a third person,
29 unless approved by the victim, the offender's therapist, and
30 the sentencing court.

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1 5. 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 sentencing court
5 without another adult present who is responsible for the
6 child's welfare, has been advised of the crime, and is
7 approved by the sentencing court.

8 6. 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.

12 7. 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 material, including telephone, electronic media, computer
17 programs, or computer services that are relevant to the
18 offender's deviant behavior pattern.

19 8. A requirement that the probationer or community
20 controllee must submit two specimens of blood to the Florida
21 Department of Law Enforcement to be registered with the DNA
22 data bank.

23 9. A requirement that the probationer or community
24 controllee make restitution to the victim, as ordered by the
25 court under s. 775.089, for all necessary medical and related
26 professional services relating to physical, psychiatric, and
27 psychological care.

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

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1 (b) Effective for a probationer or community
2 controllee whose crime was committed on or after October 1,
3 1997, and who is placed on sex offender probation for a
4 violation of chapter 794, s. 800.04, s. 827.071, or s.
5 847.0145, in addition to any other provision of this
6 subsection, the court must impose the following conditions of
7 probation or community control:

8 1. As part of a treatment program, participation at
9 least annually in polygraph examinations to obtain information
10 necessary for risk management and treatment and to reduce the
11 sex offender's denial mechanisms. A polygraph examination must
12 be conducted by a polygrapher trained specifically in the use
13 of the polygraph for the monitoring of sex offenders, where
14 available, and shall be paid by the sex offender. The results
15 of the polygraph examination shall not be used as evidence in
16 court to prove that a violation of community supervision has
17 occurred.

18 2. Maintenance of a driving log and a prohibition
19 against driving a motor vehicle alone without the prior
20 approval of the supervising officer.

21 3. A prohibition against obtaining or using a post
22 office box without the prior approval of the supervising
23 officer.

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

28 5. Electronic monitoring when deemed necessary by the
29 community control or probation officer and his or her
30 supervisor, and ordered by the court at the recommendation of
31 the Department of Corrections.

1 (6) The enumeration of specific kinds of terms and
2 conditions shall not prevent the court from adding thereto
3 such other or others as it considers proper. However, the
4 sentencing court may only impose a condition of supervision
5 allowing an offender convicted of s. 794.011, s. 800.04, s.
6 827.071, or s. 847.0145, to reside in another state, if the
7 order stipulates that it is contingent upon the approval of
8 the receiving state interstate compact authority. The court
9 may rescind or modify at any time the terms and conditions
10 theretofore imposed by it upon the probationer or offender in
11 community control. However, if the court withholds
12 adjudication of guilt or imposes a period of incarceration as
13 a condition of probation or community control, the period
14 shall not exceed 364 days, and incarceration shall be
15 restricted to either a county facility, a probation and
16 restitution center under the jurisdiction of the Department of
17 Corrections, a probation program drug punishment phase I
18 secure residential treatment institution, or a community
19 residential facility owned or operated by any entity providing
20 such services.

21 Section 14. This act shall take effect October 1 of
22 the year in which enacted.
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LEGISLATIVE SUMMARY

Creates the "Children's Protection Act of 1998." Defines the offenses of lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition. Provides that the victim's consent is not a defense to any such offense if the victim is under 12 years of age. If the victim is 12 years of age or older, provides that the victim's consent is not a defense if the difference in age between the offender and the victim exceeds 2 years. Provides that lack of knowledge, misrepresentation, or mistake as to the victim's age is not a defense to any such offense. Revises the elements of the offense of incest to prohibit sexual activity between persons 18 years of age or older who are related by lineal consanguinity. (See bill for details.)