

By the Committee on Crime & Punishment and Representatives
Ball and Fasano

1 A bill to be entitled
2 An act relating to criminal offenses involving
3 minors; creating the Children's Protection Act
4 of 1999; amending s. 775.084, F.S., and
5 reenacting s. 775.084(6), F.S., relating to
6 violent career criminal sentencing, to conform
7 to the act; amending ss. 787.01 and 787.02,
8 F.S., relating to kidnapping and false
9 imprisonment, to conform to the act; amending
10 s. 800.04, F.S.; creating the offenses of "lewd
11 or lascivious battery," "lewd or lascivious
12 molestation," "lewd or lascivious conduct," and
13 "lewd or lascivious exhibition"; providing
14 definitions; providing penalties; precluding
15 consent from being raised as a defense if the
16 victim is under a specified age; precluding
17 ignorance or belief of age from being raised as
18 a defense; providing an exception for maternal
19 breastfeeding; deleting provisions that define
20 and provide penalties for "lewd, lascivious, or
21 indecent assault or act upon or in the presence
22 of a child"; amending s. 826.04, F.S., relating
23 to incest; removing definition of "sexual
24 intercourse" and defining "sexual activity";
25 redefining the offense of third degree felony
26 incest to include knowingly marrying or
27 engaging in sexual activity with any of the
28 specified relatives who is at least 18 years
29 old; providing penalties; defining the offense
30 of second degree felony incest against a person
31 under 16 years of age; providing penalties;

1 reenacting ss. 775.15(7), 787.025(2)(a),
2 914.16, and 944.606(1)(b), F.S., relating to
3 time limitations, luring or enticing a child,
4 limits on interviews, and sex offender
5 notification upon release, to incorporate the
6 amendments to ss. 800.04 and 826.04, F.S., in
7 cross references; amending s. 921.0022, F.S.;
8 ranking offenses created in the act in the
9 Criminal Punishment Code offense severity
10 ranking chart; amending s. 948.03, F.S., and
11 reenacting s. 948.03(6), F.S., relating to
12 terms and conditions of probation or community
13 control, to conform to the act; providing an
14 effective date.

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

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18 Section 1. This act shall be known and may be cited as
19 the "Children's Protection Act of 1999."

20 Section 2. Paragraph (c) of subsection (1) of section
21 775.084, Florida Statutes, 1998 Supplement, is amended, and
22 subsection (6) of said section is reenacted, to read:

23 775.084 Violent career criminals; habitual felony
24 offenders and habitual violent felony offenders; definitions;
25 procedure; enhanced penalties.--

26 (1) As used in this act:

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

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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.
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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 800.04, Florida Statutes, is
26 amended to read:

27 800.04 Lewd or lascivious offenses committed upon or
28 in the presence of persons less than 16 years of age ~~Lewd,~~
29 ~~lascivious, or indecent assault or act upon or in presence of~~
30 ~~child~~.--

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

1 (a) "Sexual activity" means the oral, anal, or vaginal
2 penetration by, or union with, the sexual organ of another or
3 the anal or vaginal penetration of another by any other
4 object; however, sexual activity does not include an act done
5 for a bona fide medical purpose.

6 (b) "Consent" means intelligent, knowing, and
7 voluntary consent, and does not include submission by
8 coercion.

9 (c) "Coercion" means the use of exploitation, bribes,
10 threats of force, or intimidation to gain cooperation or
11 compliance.

12 (d) "Victim" means a person upon whom an offense
13 described in this section was committed or attempted or a
14 person who has reported a violation of this section to a law
15 enforcement officer.

16 (2) CONSENT OF VICTIM.--If the victim is under 16
17 years of age, the consent of the victim cannot be raised as a
18 defense to a prosecution for any offense under this section.

19 (3) IGNORANCE OR BELIEF OF VICTIM'S AGE.--The
20 perpetrator's ignorance of the victim's age, the victim's
21 misrepresentation of his or her age, or the perpetrator's bona
22 fide belief of the victim's age cannot be raised as a defense
23 in a prosecution under this section.

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

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

27 (b) Encourages, forces, or entices any person less
28 than 16 years of age to engage in sadomasochistic abuse,
29 sexual bestiality, prostitution, or any other act involving
30 sexual activity

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1 commits lewd or lascivious battery, a felony of the second
2 degree, punishable as provided in s. 775.082, s. 775.083, or
3 s. 775.084.

4 (5) LEWD OR LASCIVIOUS MOLESTATION.--

5 (a) A person who intentionally touches in a lewd or
6 lascivious manner the breasts, genitals, genital area, or
7 buttocks, or the clothing covering them, of a person less than
8 16 years of age, or forces or entices a person under 16 years
9 of age to so touch the perpetrator, commits lewd or lascivious
10 molestation.

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

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

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

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

24 (d) An offender less than 18 years of age who commits
25 lewd or lascivious molestation against a victim 12 years of
26 age or older but less than 16 years of age commits a felony of
27 the third degree, punishable as provided in s. 775.082, s.
28 775.083, or s. 775.084.

29 (6) LEWD OR LASCIVIOUS CONDUCT.--

30 (a) A person who:

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1 1. Intentionally touches a person under 16 years of
2 age in a lewd or lascivious manner; or
3 2. Solicits a person under 16 years of age to commit a
4 lewd or lascivious act
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6 commits lewd or lascivious conduct.
7 (b) An offender 18 years of age or older who commits
8 lewd or lascivious conduct commits a felony of the second
9 degree, punishable as provided in s. 775.082, s. 775.083, or
10 s. 775.084.
11 (c) An offender less than 18 years of age who commits
12 lewd or lascivious conduct commits a felony of the third
13 degree, punishable as provided in s. 775.082, s. 775.083, or
14 s. 775.084.
15 (7) LEWD OR LASCIVIOUS EXHIBITION.--
16 (a) A person who:
17 1. Intentionally masturbates;
18 2. Intentionally exposes the genitals in a lewd or
19 lascivious manner; or
20 3. Intentionally commits any other sexual act that
21 does not involve actual physical or sexual contact with the
22 victim, including, but not limited to, sadomasochistic abuse,
23 sexual bestiality, or the simulation of any act involving
24 sexual activity
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26 in the presence of a victim who is less than 16 years of age,
27 commits lewd or lascivious exhibition.
28 (b) An offender 18 years of age or older who commits a
29 lewd or lascivious exhibition commits a felony of the second
30 degree, punishable as provided in s. 775.082, s. 775.083, or
31 s. 775.084.

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

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

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

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

16 ~~(3) Commits an act defined as sexual battery under s.~~
17 ~~794.011(1)(h) upon any child under the age of 16 years; or~~

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

20
21 ~~without committing the crime of sexual battery, commits a~~
22 ~~felony of the second degree, punishable as provided in s.~~
23 ~~775.082, s. 775.083, or s. 775.084. Neither the victim's lack~~
24 ~~of chastity nor the victim's consent is a defense to the crime~~
25 ~~proscribed by this section. A mother's breastfeeding of her~~
26 ~~baby does not under any circumstance violate this section.~~

27 Section 6. Section 826.04, Florida Statutes, is
28 amended to read:

29 826.04 Incest.--

30 (1) A person who ~~Whoever~~ knowingly marries or engages
31 in sexual activity ~~has sexual intercourse~~ with a person 18

1 years of age or older to whom he or she is related by lineal
2 consanguinity, or a brother, sister, uncle, aunt, nephew, or
3 niece, commits incest, ~~which constitutes~~ a felony of the third
4 degree, punishable as provided in s. 775.082, s. 775.083, or
5 s. 775.084. ~~"Sexual intercourse" is the penetration of the~~
6 ~~female sex organ by the male sex organ, however slight,~~
7 ~~emission of semen is not required.~~

8 (2) A person who knowingly marries or engages in
9 sexual activity with a person less than 18 years of age to
10 whom he or she is related by lineal consanguinity, or a
11 brother, sister, uncle, aunt, nephew, or niece, commits
12 incest, a felony of the second degree, punishable as provided
13 in s. 775.082, s. 775.083, or s. 775.084.

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

18 Section 7. For the purpose of incorporating the
19 amendments to sections 800.04 and 826.04, Florida Statutes, in
20 references thereto, the sections or subdivisions of Florida
21 Statutes, or Florida Statutes, 1998 Supplement, set forth
22 below are reenacted to read:

23 775.15 Time limitations.--

24 (7) If the victim of a violation of s. 794.011, former
25 s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04 is
26 under the age of 16, the applicable period of limitation, if
27 any, does not begin to run until the victim has reached the
28 age of 16 or the violation is reported to a law enforcement
29 agency or other governmental agency, whichever occurs earlier.
30 Such law enforcement agency or other governmental agency shall
31 promptly report such allegation to the state attorney for the

1 judicial circuit in which the alleged violation occurred. If
2 the offense is a first or second degree felony violation of s.
3 794.011, and the crime is reported within 72 hours after its
4 commission, paragraph (1)(b) applies. This subsection applies
5 to any such offense except an offense the prosecution of which
6 would have been barred by subsection (2) on or before December
7 31, 1984.

8 787.025 Luring or enticing a child.--

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

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

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

3 944.606 Sexual offenders; notification upon release.--

4 (1) As used in this section:

5 (b) "Sexual offender" means a person who has been
6 convicted of committing, or attempting, soliciting, or
7 conspiring to commit, any of the criminal offenses proscribed
8 in the following statutes in this state or similar offenses in
9 another jurisdiction: s. 787.01 or s. 782.02, where the
10 victim is a minor and the defendant is not the victim's
11 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
12 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145;
13 or any similar offense committed in this state which has been
14 redesignated from a former statute number to one of those
15 listed in this subsection, when the department has received
16 verified information regarding such conviction; an offender's
17 computerized criminal history record is not, in and of itself,
18 verified information.

19 Section 8. Paragraphs (b), (d), (e), (f), (g), (h),
20 (i), and (j) of subsection (3) of section 921.0022, Florida
21 Statutes, 1998 Supplement, are amended to read:

22 921.0022 Criminal Punishment Code; offense severity
23 ranking chart.--

24 (3) OFFENSE SEVERITY RANKING CHART

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26 Florida	Felony	
27 Statute	Degree	Description

28

29 (b) LEVEL 2

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1	403.413(5)(c)	3rd	Dumps waste litter exceeding 500
2			lbs. in weight or 100 cubic feet
3			in volume or any quantity for
4			commercial purposes, or hazardous
5			waste.
6	517.07	3rd	Registration of securities and
7			furnishing of prospectus
8			required.
9	590.28(1)	3rd	Willful, malicious, or
10			intentional burning.
11	784.05(3)	3rd	Storing or leaving a loaded
12			firearm within reach of minor who
13			uses it to inflict injury or
14			death.
15	787.04(1)	3rd	In violation of court order,
16			take, entice, etc., minor beyond
17			state limits.
18	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
19			or more to public communication
20			or any other public service.
21	810.09(2)(e)	3rd	Trespassing on posted commercial
22			horticulture property.
23	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
24			more but less than \$5,000.
25	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
26			more but less than \$300, taken
27			from unenclosed curtilage of
28			dwelling.
29	817.234(1)(a)2.	3rd	False statement in support of
30			insurance claim.
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1	817.481(3)(a)	3rd	Obtain credit or purchase with
2			false, expired, counterfeit,
3			etc., credit card, value over
4			\$300.
5	817.52(3)	3rd	Failure to redeliver hired
6			vehicle.
7	817.54	3rd	With intent to defraud, obtain
8			mortgage note, etc., by false
9			representation.
10	817.60(5)	3rd	Dealing in credit cards of
11			another.
12	817.60(6)(a)	3rd	Forgery; purchase goods, services
13			with false card.
14	817.61	3rd	Fraudulent use of credit cards
15			over \$100 or more within 6
16			months.
17	826.04 <u>(1)</u>	3rd	Knowingly marries or <u>engages in</u>
18			<u>sexual activity</u> has sexual
19			intercourse with person <u>18 years</u>
20			<u>of age or older</u> to whom related.
21	831.01	3rd	Forgery.
22	831.02	3rd	Uttering forged instrument;
23			utters or publishes alteration
24			with intent to defraud.
25	831.07	3rd	Forging bank bills or promissory
26			note.
27	831.08	3rd	Possession of 10 or more forged
28			notes.
29	831.09	3rd	Uttering forged bills; passes as
30			bank bill or promissory note.
31			

1	832.05(3)(a)	3rd	Cashing or depositing item with
2			intent to defraud.
3	843.08	3rd	Falsely impersonating an officer.
4	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
5			(2)(c), (3), or (4) drugs other
6			than cannabis.
7	893.147(2)	3rd	Manufacture or delivery of drug
8			paraphernalia.
9			(d) LEVEL 4
10	316.1935(3)	2nd	Driving at high speed or with
11			wanton disregard for safety while
12			fleeing or attempting to elude
13			law enforcement officer who is in
14			a marked patrol vehicle with
15			siren and lights activated.
16	784.07(2)(b)	3rd	Battery of law enforcement
17			officer, firefighter, intake
18			officer, etc.
19	784.075	3rd	Battery on detention or
20			commitment facility staff.
21	784.08(2)(c)	3rd	Battery on a person 65 years of
22			age or older.
23	784.081(3)	3rd	Battery on specified official or
24			employee.
25	784.082(3)	3rd	Battery by detained person on
26			visitor or other detainee.
27	784.083(3)	3rd	Battery on code inspector.
28	787.03(1)	3rd	Interference with custody;
29			wrongly takes child from
30			appointed guardian.
31			

1	787.04(2)	3rd	Take, entice, or remove child
2			beyond state limits with criminal
3			intent pending custody
4			proceedings.
5	787.04(3)	3rd	Carrying child beyond state lines
6			with criminal intent to avoid
7			producing child at custody
8			hearing or delivering to
9			designated person.
10	790.115(1)	3rd	Exhibiting firearm or weapon
11			within 1,000 feet of a school.
12	790.115(2)(b)	3rd	Possessing electric weapon or
13			device, destructive device, or
14			other weapon on school property.
15	790.115(2)(c)	3rd	Possessing firearm on school
16			property.
17	<u>800.04(7)(c)</u>	<u>3rd</u>	<u>Lewd or lascivious exhibition;</u>
18			<u>offender less than 18 years.</u>
19	810.02(4)(a)	3rd	Burglary, or attempted burglary,
20			of an unoccupied structure;
21			unarmed; no assault or battery.
22	810.02(4)(b)	3rd	Burglary, or attempted burglary,
23			of an unoccupied conveyance;
24			unarmed; no assault or battery.
25	810.06	3rd	Burglary; possession of tools.
26	810.08(2)(c)	3rd	Trespass on property, armed with
27			firearm or dangerous weapon.
28	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
29			or more but less than \$20,000.
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1	812.014		
2	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
3			firearm, motor vehicle,
4			livestock, etc.
5	817.563(1)	3rd	Sell or deliver substance other
6			than controlled substance agreed
7			upon, excluding s. 893.03(5)
8			drugs.
9	828.125(1)	2nd	Kill, maim, or cause great bodily
10			harm or permanent breeding
11			disability to any registered
12			horse or cattle.
13	837.02(1)	3rd	Perjury in official proceedings.
14	837.021(1)	3rd	Make contradictory statements in
15			official proceedings.
16	843.025	3rd	Deprive law enforcement,
17			correctional, or correctional
18			probation officer of means of
19			protection or communication.
20	843.15(1)(a)	3rd	Failure to appear while on bail
21			for felony (bond estreature or
22			bond jumping).
23	874.05(1)	3rd	Encouraging or recruiting another
24			to join a criminal street gang.
25	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
26			893.03(1)(a), (b), or (d), or
27			(2)(a) or (b) drugs).
28	914.14(2)	3rd	Witnesses accepting bribes.
29	914.22(1)	3rd	Force, threaten, etc., witness,
30			victim, or informant.
31			

1	914.23(2)	3rd	Retaliation against a witness,
2			victim, or informant, no bodily
3			injury.
4	918.12	3rd	Tampering with jurors.
5			(e) LEVEL 5
6	316.027(1)(a)	3rd	Accidents involving personal
7			injuries, failure to stop;
8			leaving scene.
9	316.1935(4)	2nd	Aggravated fleeing or eluding.
10	322.34(3)	3rd	Careless operation of motor
11			vehicle with suspended license,
12			resulting in death or serious
13			bodily injury.
14	327.30(5)	3rd	Vessel accidents involving
15			personal injury; leaving scene.
16	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
17			knowing HIV positive.
18	790.01(2)	3rd	Carrying a concealed firearm.
19	790.162	2nd	Threat to throw or discharge
20			destructive device.
21	790.163	2nd	False report of deadly explosive.
22	790.165(2)	3rd	Manufacture, sell, possess, or
23			deliver hoax bomb.
24	790.221(1)	2nd	Possession of short-barreled
25			shotgun or machine gun.
26	790.23	2nd	Felons in possession of firearms
27			or electronic weapons or devices.
28	<u>800.04(6)(c)</u>	<u>3rd</u>	<u>Lewd or lascivious conduct;</u>
29			<u>offender less than 18 years.</u>
30	<u>800.04(7)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious exhibition;</u>
31			<u>offender 18 years or older.</u>

1	806.111(1)	3rd	Possess, manufacture, or dispense
2			fire bomb with intent to damage
3			any structure or property.
4	812.019(1)	2nd	Stolen property; dealing in or
5			trafficking in.
6	812.16(2)	3rd	Owning, operating, or conducting
7			a chop shop.
8	817.034(4)(a)2.	2nd	Communications fraud, value
9			\$20,000 to \$50,000.
10	825.1025(4)	3rd	Lewd or lascivious exhibition in
11			the presence of an elderly person
12			or disabled adult.
13	827.071(4)	2nd	Possess with intent to promote
14			any photographic material, motion
15			picture, etc., which includes
16			sexual conduct by a child.
17	843.01	3rd	Resist officer with violence to
18			person; resist arrest with
19			violence.
20	874.05(2)	2nd	Encouraging or recruiting another
21			to join a criminal street gang;
22			second or subsequent offense.
23	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
24			cocaine (or other s.
25			893.03(1)(a), (1)(b), (1)(d),
26			(2)(a), or (2)(b) drugs).
27	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
28			cannabis (or other s.
29			893.03(1)(c), (2)(c), (3), or (4)
30			drugs) within 1,000 feet of a
31			child care facility or school.

1	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other s.
3			893.03(1)(a), (1)(b), (1)(d),
4			(2)(a), or (2)(b) drugs) within
5			200 feet of university or public
6			park.
7	893.13(1)(e)	2nd	Sell, manufacture, or deliver
8			cannabis or other drug prohibited
9			under s. 893.03(1)(c), (2)(c),
10			(3), or (4) within 1,000 feet of
11			property used for religious
12			services or a specified business
13			site.
14	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
15			cocaine (or other s.
16			893.03(1)(a), (1)(b), (1)(d), or
17			(2)(a), or (2)(b) drugs) within
18			200 feet of public housing
19			facility.
20	893.13(4)(b)	2nd	Deliver to minor cannabis (or
21			other s. 893.03(1)(c), (2)(c),
22			(3), or (4) drugs).
23			(f) LEVEL 6
24	316.027(1)(b)	2nd	Accident involving death, failure
25			to stop; leaving scene.
26	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
27			conviction.
28	775.0875(1)	3rd	Taking firearm from law
29			enforcement officer.
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1	775.21(9)	3rd	Sexual predators; failure to
2			register; failure to renew
3			driver's license or
4			identification card.
5	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
6			without intent to kill.
7	784.021(1)(b)	3rd	Aggravated assault; intent to
8			commit felony.
9	784.041	3rd	Felony battery.
10	784.048(3)	3rd	Aggravated stalking; credible
11			threat.
12	784.048(5)	3rd	Aggravated stalking of person
13			under 16.
14	784.07(2)(c)	2nd	Aggravated assault on law
15			enforcement officer.
16	784.08(2)(b)	2nd	Aggravated assault on a person 65
17			years of age or older.
18	784.081(2)	2nd	Aggravated assault on specified
19			official or employee.
20	784.082(2)	2nd	Aggravated assault by detained
21			person on visitor or other
22			detainee.
23	784.083(2)	2nd	Aggravated assault on code
24			inspector.
25	787.02(2)	3rd	False imprisonment; restraining
26			with purpose other than those in
27			s. 787.01.
28	790.115(2)(d)	2nd	Discharging firearm or weapon on
29			school property.
30			
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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 less than \$20,000.
18	827.03(1)	3rd	Abuse of a child.
19	827.03(3)(c)	3rd	Neglect of a child.
20	827.071(2)&(3)	2nd	Use or induce a child in a sexual
21			performance, or promote or direct
22			such performance.
23	836.05	2nd	Threats; extortion.
24	836.10	2nd	Written threats to kill or do
25			bodily injury.
26	843.12	3rd	Aids or assists person to escape.
27	847.0135(3)	3rd	Solicitation of a child, via a
28			computer service, to commit an
29			unlawful sex act.
30			
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1	914.23	2nd	Retaliation against a witness,
2			victim, or informant, with bodily
3			injury.
4	943.0435(6)	3rd	Sex offenders; failure to comply
5			with reporting requirements.
6	944.35(3)(a)2.	3rd	Committing malicious battery upon
7			or inflicting cruel or inhuman
8			treatment on an inmate or
9			offender on community
10			supervision, resulting in great
11			bodily harm.
12	944.40	2nd	Escapes.
13	944.46	3rd	Harboring, concealing, aiding
14			escaped prisoners.
15	944.47(1)(a)5.	2nd	Introduction of contraband
16			(firearm, weapon, or explosive)
17			into correctional facility.
18	951.22(1)	3rd	Intoxicating drug, firearm, or
19			weapon introduced into county
20			facility.
21			(g) LEVEL 7
22	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
23			injury.
24	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
25			bodily injury.
26	409.920(2)	3rd	Medicaid provider fraud.
27			
28			
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1	494.0018(2)	1st	Conviction of any violation of
2			ss. 494.001-494.0077 in which the
3			total money and property
4			unlawfully obtained exceeded
5			\$50,000 and there were five or
6			more victims.
7	782.051(3)	2nd	Attempted felony murder of a
8			person by a person other than the
9			perpetrator or the perpetrator of
10			an attempted felony.
11	782.07(1)	2nd	Killing of a human being by the
12			act, procurement, or culpable
13			negligence of another
14			(manslaughter).
15	782.071	3rd	Killing of human being or viable
16			fetus by the operation of a motor
17			vehicle in a reckless manner
18			(vehicular homicide).
19	782.072	3rd	Killing of a human being by the
20			operation of a vessel in a
21			reckless manner (vessel
22			homicide).
23	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
24			causing great bodily harm or
25			disfigurement.
26	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
27			weapon.
28	784.045(1)(b)	2nd	Aggravated battery; perpetrator
29			aware victim pregnant.
30	784.048(4)	3rd	Aggravated stalking; violation of
31			injunction or court order.

1	784.07(2)(d)	1st	Aggravated battery on law
2			enforcement officer.
3	784.08(2)(a)	1st	Aggravated battery on a person 65
4			years of age or older.
5	784.081(1)	1st	Aggravated battery on specified
6			official or employee.
7	784.082(1)	1st	Aggravated battery by detained
8			person on visitor or other
9			detainee.
10	784.083(1)	1st	Aggravated battery on code
11			inspector.
12	790.07(4)	1st	Specified weapons violation
13			subsequent to previous conviction
14			of s. 790.07(1) or (2).
15	790.16(1)	1st	Discharge of a machine gun under
16			specified circumstances.
17	796.03	2nd	Procuring any person under 16
18			years for prostitution.
19	<u>800.04(5)(c)1.</u>	2nd	<u>Lewd or lascivious molestation;</u>
20			<u>victim less than 12 years of age;</u>
21			<u>offender less than 18 years.</u>
22			Handle, fondle, or assault child
23			under 16 years in lewd,
24			lascivious, or indecent manner.
25	<u>800.04(5)(c)2.</u>	<u>2nd</u>	<u>Lewd or lascivious molestation;</u>
26			<u>victim 12 years of age or older</u>
27			<u>but less than 16 years; offender</u>
28			<u>18 years or older.</u>
29	806.01(2)	2nd	Maliciously damage structure by
30			fire or explosive.
31			

1	810.02(3)(a)	2nd	Burglary of occupied dwelling;
2			unarmed; no assault or battery.
3	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
4			unarmed; no assault or battery.
5	810.02(3)(d)	2nd	Burglary of occupied conveyance;
6			unarmed; no assault or battery.
7	812.014(2)(a)	1st	Property stolen, valued at
8			\$100,000 or more; property stolen
9			while causing other property
10			damage; 1st degree grand theft.
11	812.019(2)	1st	Stolen property; initiates,
12			organizes, plans, etc., the theft
13			of property and traffics in
14			stolen property.
15	812.133(2)(b)	1st	Carjacking; no firearm, deadly
16			weapon, or other weapon.
17	825.102(3)(b)	2nd	Neglecting an elderly person or
18			disabled adult causing great
19			bodily harm, disability, or
20			disfigurement.
21	825.1025(2)	2nd	Lewd or lascivious battery upon
22			an elderly person or disabled
23			adult.
24	825.103(2)(b)	2nd	Exploiting an elderly person or
25			disabled adult and property is
26			valued at \$20,000 or more, but
27			less than \$100,000.
28	827.03(3)(b)	2nd	Neglect of a child causing great
29			bodily harm, disability, or
30			disfigurement.
31			

1	827.04(4)	3rd	Impregnation of a child under 16
2			years of age by person 21 years
3			of age or older.
4	837.05(2)	3rd	Giving false information about
5			alleged capital felony to a law
6			enforcement officer.
7	872.06	2nd	Abuse of a dead human body.
8	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
9			cocaine (or other drug prohibited
10			under s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), or (2)(b)) within
12			1,000 feet of a child care
13			facility or school.
14	893.13(1)(e)	1st	Sell, manufacture, or deliver
15			cocaine or other drug prohibited
16			under s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), or (2)(b), within
18			1,000 feet of property used for
19			religious services or a specified
20			business site.
21	893.13(4)(a)	1st	Deliver to minor cocaine (or
22			other s. 893.03(1)(a), (1)(b),
23			(1)(d), (2)(a), or (2)(b) drugs).
24	893.135(1)(a)1.	1st	Trafficking in cannabis, more
25			than 50 lbs., less than 2,000
26			lbs.
27	893.135		
28	(1)(b)1.a.	1st	Trafficking in cocaine, more than
29			28 grams, less than 200 grams.
30			
31			

1	893.135		
2	(1)(c)1.a.	1st	Trafficking in illegal drugs,
3			more than 4 grams, less than 14
4			grams.
5	893.135		
6	(1)(d)1.	1st	Trafficking in phencyclidine,
7			more than 28 grams, less than 200
8			grams.
9	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
10			than 200 grams, less than 5
11			kilograms.
12	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
13			than 14 grams, less than 28
14			grams.
15	893.135		
16	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
17			grams or more, less than 14
18			grams.
19			(h) LEVEL 8
20	316.193		
21	(3)(c)3.a.	2nd	DUI manslaughter.
22	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
23	777.03(2)(a)	1st	Accessory after the fact, capital
24			felony.
25	782.04(4)	2nd	Killing of human without design
26			when engaged in act or attempt of
27			any felony other than arson,
28			sexual battery, robbery,
29			burglary, kidnapping, aircraft
30			piracy, or unlawfully discharging
31			bomb.

1	782.051(2)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony not
4			enumerated in s. 782.04(3).
5	782.071(2)	2nd	Committing vehicular homicide and
6			failing to render aid or give
7			information.
8	782.072(2)	2nd	Committing vessel homicide and
9			failing to render aid or give
10			information.
11	790.161(3)	1st	Discharging a destructive device
12			which results in bodily harm or
13			property damage.
14	794.011(5)	2nd	Sexual battery, victim 12 years
15			or over, offender does not use
16			physical force likely to cause
17			serious injury.
18	<u>800.02(4)</u>	<u>2nd</u>	<u>Lewd or lascivious battery.</u>
19	806.01(1)	1st	Maliciously damage dwelling or
20			structure by fire or explosive,
21			believing person in structure.
22	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
23	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
24			or dangerous weapon.
25	810.02(2)(c)	1st	Burglary of a dwelling or
26			structure causing structural
27			damage or \$1,000 or more property
28			damage.
29	812.13(2)(b)	1st	Robbery with a weapon.
30	812.135(2)	1st	Home-invasion robbery.
31			

1	825.102(2)	2nd	Aggravated abuse of an elderly
2			person or disabled adult.
3	825.103(2)(a)	1st	Exploiting an elderly person or
4			disabled adult and property is
5			valued at \$100,000 or more.
6	<u>826.04(2)</u>	<u>2nd</u>	<u>Knowingly marries or engages in</u>
7			<u>sexual activity with person less</u>
8			<u>than 18 years of age to whom</u>
9			<u>related.</u>
10	827.03(2)	2nd	Aggravated child abuse.
11	837.02(2)	2nd	Perjury in official proceedings
12			relating to prosecution of a
13			capital felony.
14	837.021(2)	2nd	Making contradictory statements
15			in official proceedings relating
16			to prosecution of a capital
17			felony.
18	860.121(2)(c)	1st	Shooting at or throwing any
19			object in path of railroad
20			vehicle resulting in great bodily
21			harm.
22	860.16	1st	Aircraft piracy.
23	893.13(1)(b)	1st	Sell or deliver in excess of 10
24			grams of any substance specified
25			in s. 893.03(1)(a) or (b).
26	893.13(2)(b)	1st	Purchase in excess of 10 grams of
27			any substance specified in s.
28			893.03(1)(a) or (b).
29	893.13(6)(c)	1st	Possess in excess of 10 grams of
30			any substance specified in s.
31			893.03(1)(a) or (b).

1	893.135(1)(a)2.	1st	Trafficking in cannabis, more
2			than 2,000 lbs., less than 10,000
3			lbs.
4	893.135		
5	(1)(b)1.b.	1st	Trafficking in cocaine, more than
6			200 grams, less than 400 grams.
7	893.135		
8	(1)(c)1.b.	1st	Trafficking in illegal drugs,
9			more than 14 grams, less than 28
10			grams.
11	893.135		
12	(1)(d)1.b.	1st	Trafficking in phencyclidine,
13			more than 200 grams, less than
14			400 grams.
15	893.135		
16	(1)(e)1.b.	1st	Trafficking in methaqualone, more
17			than 5 kilograms, less than 25
18			kilograms.
19	893.135		
20	(1)(f)1.b.	1st	Trafficking in amphetamine, more
21			than 28 grams, less than 200
22			grams.
23	893.135		
24	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
25			grams or more, less than 28
26			grams.
27	895.03(1)	1st	Use or invest proceeds derived
28			from pattern of racketeering
29			activity.
30			
31			

1	895.03(2)	1st	Acquire or maintain through
2			racketeering activity any
3			interest in or control of any
4			enterprise or real property.
5	895.03(3)	1st	Conduct or participate in any
6			enterprise through pattern of
7			racketeering activity.
8			(i) LEVEL 9
9	316.193		
10	(3)(c)3.b.	1st	DUI manslaughter; failing to
11			render aid or give information.
12	782.04(1)	1st	Attempt, conspire, or solicit to
13			commit premeditated murder.
14	782.04(3)	1st,PBL	Accomplice to murder in
15			connection with arson, sexual
16			battery, robbery, burglary, and
17			other specified felonies.
18	782.051(1)	1st	Attempted felony murder while
19			perpetrating or attempting to
20			perpetrate a felony enumerated in
21			s. 782.04(3).
22	782.07(2)	1st	Aggravated manslaughter of an
23			elderly person or disabled adult.
24	782.07(3)	1st	Aggravated manslaughter of a
25			child.
26	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
27			reward or as a shield or hostage.
28	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
29			or facilitate commission of any
30			felony.
31			

1	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
2			interfere with performance of any
3			governmental or political
4			function.
5	787.02(3)(a)	1st	False imprisonment; child under
6			age 13; perpetrator also commits
7			child abuse, sexual battery, <u>or</u>
8			<u>lewd,or lascivious battery,</u>
9			<u>molestation, conduct, or</u>
10			<u>exhibition act, etc.</u>
11	790.161	1st	Attempted capital destructive
12			device offense.
13	794.011(2)	1st	Attempted sexual battery; victim
14			less than 12 years of age.
15	794.011(2)	Life	Sexual battery; offender younger
16			than 18 years and commits sexual
17			battery on a person less than 12
18			years.
19	794.011(4)	1st	Sexual battery; victim 12 years
20			or older, certain circumstances.
21	794.011(8)(b)	1st	Sexual battery; engage in sexual
22			conduct with minor 12 to 18 years
23			by person in familial or
24			custodial authority.
25	<u>800.04(5)(b)</u>	<u>1st</u>	<u>Lewd or lascivious molestation;</u>
26			<u>victim less than 12 years;</u>
27			<u>offender 18 years or older.</u>
28	812.13(2)(a)	1st,PBL	Robbery with firearm or other
29			deadly weapon.
30	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
31			deadly weapon.

1	847.0145(1)	1st	Selling, or otherwise
2			transferring custody or control,
3			of a minor.
4	847.0145(2)	1st	Purchasing, or otherwise
5			obtaining custody or control, of
6			a minor.
7	859.01	1st	Poisoning food, drink, medicine,
8			or water with intent to kill or
9			injure another person.
10	893.135	1st	Attempted capital trafficking
11			offense.
12	893.135(1)(a)3.	1st	Trafficking in cannabis, more
13			than 10,000 lbs.
14	893.135		
15	(1)(b)1.c.	1st	Trafficking in cocaine, more than
16			400 grams, less than 150
17			kilograms.
18	893.135		
19	(1)(c)1.c.	1st	Trafficking in illegal drugs,
20			more than 28 grams, less than 30
21			kilograms.
22	893.135		
23	(1)(d)1.c.	1st	Trafficking in phencyclidine,
24			more than 400 grams.
25	893.135		
26	(1)(e)1.c.	1st	Trafficking in methaqualone, more
27			than 25 kilograms.
28	893.135		
29	(1)(f)1.c.	1st	Trafficking in amphetamine, more
30			than 200 grams.
31			(j) LEVEL 10

1 782.04(2) 1st,PBL Unlawful killing of human; act is
2 homicide, unpremeditated.
3 787.01(1)(a)3. 1st,PBL Kidnapping; inflict bodily harm
4 upon or terrorize victim.
5 787.01(3)(a) Life Kidnapping; child under age 13,
6 perpetrator also commits child
7 abuse, sexual battery, or lewd,
8 or lascivious battery,
9 molestation, conduct, or
10 exhibition act, etc.
11 794.011(3) Life Sexual battery; victim 12 years
12 or older, offender uses or
13 threatens to use deadly weapon or
14 physical force to cause serious
15 injury.
16 876.32 1st Treason against the state.

17 Section 9. Paragraph (a) of subsection (4) and
18 paragraph (a) of subsection (5) of section 948.03, Florida
19 Statutes, 1998 Supplement, are amended, and subsection (6) of
20 said section is reenacted, to read:

21 948.03 Terms and conditions of probation or community
22 control.--

23 (4) The court shall require a diagnosis and evaluation
24 to determine the need of a probationer or offender in
25 community control for treatment. If the court determines that
26 a need therefor is established by such diagnosis and
27 evaluation process, the court shall require outpatient
28 counseling as a term or condition of probation or community
29 control for any person who was found guilty of any of the
30 following, or whose plea of guilty or nolo contendere to any
31 of the following was accepted by the court:

1 (a) Lewd or lascivious battery, lewd or lascivious
2 molestation, lewd or lascivious conduct, or lewd or lascivious
3 exhibition, as defined in s. 800.04 ~~A lewd, lascivious, or~~
4 ~~indecent assault or act upon, or in the presence of, a child.~~

5 (b) Sexual battery, as defined in chapter 794, against
6 a child.

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

9
10 Such counseling shall be required to be obtained from a
11 community mental health center, a recognized social service
12 agency providing mental health services, or a private mental
13 health professional or through other professional counseling.
14 The plan for counseling for the individual shall be provided
15 to the court for review.

16 (5) Conditions imposed pursuant to this subsection, as
17 specified in paragraphs (a) and (b), do not require oral
18 pronouncement at the time of sentencing and shall be
19 considered standard conditions of probation or community
20 control for offenders specified in this subsection.

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

27 1. A mandatory curfew from 10 p.m. to 6 a.m. The court
28 may designate another 8-hour period if the offender's
29 employment precludes the above specified time, and such
30 alternative is recommended by the Department of Corrections.

31

1 If the court determines that imposing a curfew would endanger
2 the victim, the court may consider alternative sanctions.

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

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

15 4. A prohibition on any contact with the victim,
16 directly or indirectly, including through a third person,
17 unless approved by the victim, the offender's therapist, and
18 the sentencing court.

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

26 6. If the victim was under age 18, a prohibition on
27 working for pay or as a volunteer at any school, day care
28 center, park, playground, or other place where children
29 regularly congregate.

30 7. Unless otherwise indicated in the treatment plan
31 provided by the sexual offender treatment program, a

1 prohibition on viewing, owning, or possessing any obscene,
2 pornographic, or sexually stimulating visual or auditory
3 material, including telephone, electronic media, computer
4 programs, or computer services that are relevant to the
5 offender's deviant behavior pattern.

6 8. A requirement that the probationer or community
7 controllee must submit two specimens of blood to the Florida
8 Department of Law Enforcement to be registered with the DNA
9 data bank.

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

15 10. Submission to a warrantless search by the
16 community control or probation officer of the probationer's or
17 community controllee's person, residence, or vehicle.

18 (b) Effective for a probationer or community
19 controllee whose crime was committed on or after October 1,
20 1997, and who is placed on sex offender probation for a
21 violation of chapter 794, s. 800.04, s. 827.071, or s.
22 847.0145, in addition to any other provision of this
23 subsection, the court must impose the following conditions of
24 probation or community control:

25 1. As part of a treatment program, participation at
26 least annually in polygraph examinations to obtain information
27 necessary for risk management and treatment and to reduce the
28 sex offender's denial mechanisms. A polygraph examination must
29 be conducted by a polygrapher trained specifically in the use
30 of the polygraph for the monitoring of sex offenders, where
31 available, and shall be paid by the sex offender. The results

1 of the polygraph examination shall not be used as evidence in
2 court to prove that a violation of community supervision has
3 occurred.

4 2. Maintenance of a driving log and a prohibition
5 against driving a motor vehicle alone without the prior
6 approval of the supervising officer.

7 3. A prohibition against obtaining or using a post
8 office box without the prior approval of the supervising
9 officer.

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

14 5. Electronic monitoring when deemed necessary by the
15 community control or probation officer and his or her
16 supervisor, and ordered by the court at the recommendation of
17 the Department of Corrections.

18 (6) The enumeration of specific kinds of terms and
19 conditions shall not prevent the court from adding thereto
20 such other or others as it considers proper. However, the
21 sentencing court may only impose a condition of supervision
22 allowing an offender convicted of s. 794.011, s. 800.04, s.
23 827.071, or s. 847.0145, to reside in another state, if the
24 order stipulates that it is contingent upon the approval of
25 the receiving state interstate compact authority. The court
26 may rescind or modify at any time the terms and conditions
27 theretofore imposed by it upon the probationer or offender in
28 community control. However, if the court withholds
29 adjudication of guilt or imposes a period of incarceration as
30 a condition of probation or community control, the period
31 shall not exceed 364 days, and incarceration shall be

1 restricted to either a county facility, a probation and
2 restitution center under the jurisdiction of the Department of
3 Corrections, a probation program drug punishment phase I
4 secure residential treatment institution, or a community
5 residential facility owned or operated by any entity providing
6 such services.

7 Section 10. This act shall take effect October 1,
8 1999.

9

10 *****

11 HOUSE SUMMARY

12 Creates the Children's Protection Act of 1999.
13

14 Creates the offenses of "lewd or lascivious battery,"
15 "lewd or lascivious molestation," "lewd or lascivious
16 conduct," and "lewd or lascivious exhibition." Provides
17 definitions. Provides penalties. Precludes consent from
18 being raised as a defense if the victim is under a
19 specified age. Precludes ignorance or belief of age from
20 being raised as a defense. Provides an exception for
21 maternal breastfeeding. Deletes provisions that define
22 and provide penalties for "lewd, lascivious, or indecent
23 assault or act upon or in the presence of a child."
24

25 Revises provisions relating to incest. Removes definition
26 of "sexual intercourse," and defines "sexual activity."
27 Redefines the offense of third degree felony incest to
28 include knowingly marrying or engaging in sexual activity
29 with any of the specified relatives who is at least 18
30 years old. Defines the offense of second degree felony
31 incest against a person under 16 years of age. Provides
penalties. Ranks offenses created in the act in the
Criminal Punishment Code offense severity ranking chart.
Conforms references. See bill for details.

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