

By the Committees on Family Law & Children, Crime & Punishment and Representatives Ball, Fasano, Constantine, Feeney and Byrd

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"; reenacting ss. 775.15(7),
23 787.025(2)(a), 914.16, and 944.606(1)(b), F.S.,
24 relating to time limitations, luring or
25 enticing a child, limits on interviews, and sex
26 offender notification upon release, to
27 incorporate the amendments to s. 800.04, F.S.,
28 in cross references; amending s. 921.0022,
29 F.S.; ranking offenses created in the act in
30 the Criminal Punishment Code offense severity
31 ranking chart; amending s. 948.03, F.S., and

1 reenacting s. 948.03(6), F.S., relating to
2 terms and conditions of probation or community
3 control, to conform to the act; amending ss.
4 119.07, 947.146, 985.03, 985.227, and 985.313,
5 F.S.; revising a description of certain lewd or
6 lascivious offenses for certain purposes;
7 providing an effective date.

8

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

10

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

13 Section 2. Paragraph (f) of subsection (3) of section
14 119.07, Florida Statutes, 1998 Supplement, is amended to read:

15 119.07 Inspection, examination, and duplication of
16 records; exemptions.--

17 (3)

18 (f) Any criminal intelligence information or criminal
19 investigative information including the photograph, name,
20 address, or other fact or information which reveals the
21 identity of the victim of the crime of sexual battery as
22 defined in chapter 794; the identity of the victim of a the
23 ~~crime of lewd or lascivious offense committed, or indecent~~
24 ~~assault~~ upon or in the presence of a person less than 16 years
25 of age child, as defined in chapter 800; or the identity of
26 the victim of the crime of child abuse as defined by chapter
27 827 and any criminal intelligence information or criminal
28 investigative information or other criminal record, including
29 those portions of court records and court proceedings, which
30 may reveal the identity of a person who is a victim of any
31 sexual offense, including a sexual offense proscribed in

1 chapter 794, chapter 800, or chapter 827, is exempt from the
2 provisions of subsection (1) and s. 24(a), Art. I of the State
3 Constitution.

4 Section 3. Paragraph (c) of subsection (1) of section
5 775.084, Florida Statutes, 1998 Supplement, is amended, and
6 subsection (6) of said section is reenacted, to read:

7 775.084 Violent career criminals; habitual felony
8 offenders and habitual violent felony offenders; definitions;
9 procedure; enhanced penalties.--

10 (1) As used in this act:

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

14 1. The defendant has previously been convicted as an
15 adult three or more times for an offense in this state or
16 other qualified offense that is:

17 a. Any forcible felony, as described in s. 776.08;

18 b. Aggravated stalking, as described in s. 784.048(3)
19 and (4);

20 c. Aggravated child abuse, as described in s.
21 827.03(2);

22 d. Aggravated abuse of an elderly person or disabled
23 adult, as described in s. 825.102(2);

24 e. Lewd or lascivious battery, lewd or lascivious
25 molestation, lewd or lascivious conduct, or lewd or lascivious
26 exhibition, lascivious, or indecent conduct,as described in
27 s. 800.04;

28 f. Escape, as described in s. 944.40; or

29 g. A felony violation of chapter 790 involving the use
30 or possession of a firearm.

31

1 2. The defendant has been incarcerated in a state
2 prison or a federal prison.

3 3. The primary felony offense for which the defendant
4 is to be sentenced is a felony enumerated in subparagraph 1.
5 and was committed on or after October 1, 1995, and:

6 a. While the defendant was serving a prison sentence
7 or other commitment imposed as a result of a prior conviction
8 for an enumerated felony; or

9 b. Within 5 years after the conviction of the last
10 prior enumerated felony, or within 5 years after the
11 defendant's release from a prison sentence or other commitment
12 imposed as a result of a prior conviction for an enumerated
13 felony, whichever is later.

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

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

20 (6) The purpose of this section is to provide uniform
21 punishment for those crimes made punishable under this
22 section, and to this end, a reference to this section
23 constitutes a general reference under the doctrine of
24 incorporation by reference.

25 Section 4. Paragraph (a) of subsection (3) of section
26 787.01, Florida Statutes, is amended to read:

27 787.01 Kidnapping; kidnapping of child under age 13,
28 aggravating circumstances.--

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

- 1 1. Aggravated child abuse, as defined in s. 827.03;
- 2 2. Sexual battery, as defined in chapter 794, against
- 3 the child;
- 4 3. Lewd or lascivious battery, lewd or lascivious
- 5 molestation, lewd or lascivious conduct, or lewd or lascivious
- 6 exhibition ~~A lewd, lascivious, or indecent assault or act upon~~
- 7 ~~or in the presence of the child~~, in violation of s. 800.04;
- 8 4. A violation of s. 796.03 or s. 796.04, relating to
- 9 prostitution, upon the child; or
- 10 5. Exploitation of the child or allowing the child to
- 11 be exploited, in violation of s. 450.151,
- 12
- 13 commits a life felony, punishable as provided in s. 775.082,
- 14 s. 775.083, or s. 775.084.
- 15 Section 5. Paragraph (a) of subsection (3) of section
- 16 787.02, Florida Statutes, is amended to read:
- 17 787.02 False imprisonment; false imprisonment of child
- 18 under age 13, aggravating circumstances.--
- 19 (3)(a) A person who commits the offense of false
- 20 imprisonment upon a child under the age of 13 and who, in the
- 21 course of committing the offense, commits any offense
- 22 enumerated in subparagraphs 1.-5., commits a felony of the
- 23 first degree, punishable by imprisonment for a term of years
- 24 not exceeding life or as provided in s. 775.082, s. 775.083,
- 25 or s. 775.084.
- 26 1. Aggravated child abuse, as defined in s. 827.03;
- 27 2. Sexual battery, as defined in chapter 794, against
- 28 the child;
- 29 3. Lewd or lascivious battery, lewd or lascivious
- 30 molestation, lewd or lascivious conduct, or lewd or lascivious
- 31

1 ~~exhibition~~ ~~A lewd, lascivious, or indecent assault or act upon~~
2 ~~or in the presence of the child, in violation of s. 800.04;~~
3 4. A violation of s. 796.03 or s. 796.04, relating to
4 prostitution, upon the child; or
5 5. Exploitation of the child or allowing the child to
6 be exploited, in violation of s. 450.151.
7 Section 6. Section 800.04, Florida Statutes, is
8 amended to read:
9 800.04 Lewd or lascivious offenses committed upon or
10 in the presence of persons less than 16 years of age ~~lewd,~~
11 ~~lascivious, or indecent assault or act upon or in presence of~~
12 ~~child.--~~
13 (1) DEFINITIONS.--As used in this section:
14 (a) "Sexual activity" means the oral, anal, or vaginal
15 penetration by, or union with, the sexual organ of another or
16 the anal or vaginal penetration of another by any other
17 object; however, sexual activity does not include an act done
18 for a bona fide medical purpose.
19 (b) "Consent" means intelligent, knowing, and
20 voluntary consent, and does not include submission by
21 coercion.
22 (c) "Coercion" means the use of exploitation, bribes,
23 threats of force, or intimidation to gain cooperation or
24 compliance.
25 (d) "Victim" means a person upon whom an offense
26 described in this section was committed or attempted or a
27 person who has reported a violation of this section to a law
28 enforcement officer.
29 (2) PROHIBITED DEFENSES.--Neither the victim's lack of
30 chastity nor the victim's consent is a defense to the crimes
31 proscribed by this section.

1 (3) IGNORANCE OR BELIEF OF VICTIM'S AGE.--The
2 perpetrator's ignorance of the victim's age, the victim's
3 misrepresentation of his or her age, or the perpetrator's bona
4 fide belief of the victim's age cannot be raised as a defense
5 in a prosecution under this section.
6 (4) LEWD OR LASCIVIOUS BATTERY.--A person who:
7 (a) Engages in sexual activity with a person 12 years
8 of age or older but less than 16 years of age; or
9 (b) Encourages, forces, or entices any person less
10 than 16 years of age to engage in sadomasochistic abuse,
11 sexual bestiality, prostitution, or any other act involving
12 sexual activity
13
14 commits lewd or lascivious battery, a felony of the second
15 degree, punishable as provided in s. 775.082, s. 775.083, or
16 s. 775.084.
17 (5) LEWD OR LASCIVIOUS MOLESTATION.--
18 (a) A person who intentionally touches in a lewd or
19 lascivious manner the breasts, genitals, genital area, or
20 buttocks, or the clothing covering them, of a person less than
21 16 years of age, or forces or entices a person under 16 years
22 of age to so touch the perpetrator, commits lewd or lascivious
23 molestation.
24 (b) An offender 18 years of age or older who commits
25 lewd or lascivious molestation against a victim less than 12
26 years of age commits a felony of the first degree, punishable
27 as provided in s. 775.082, s. 775.083, or s. 775.084.
28 (c)1. An offender less than 18 years of age who
29 commits lewd or lascivious molestation against a victim less
30 than 12 years of age; or
31

1 2. An offender 18 years of age or older who commits
2 lewd or lascivious molestation against a victim 12 years of
3 age or older but less than 16 years of age
4
5 commits a felony of the second degree, punishable as provided
6 in s. 775.082, s. 775.083, or s. 775.084.
7 (d) An offender less than 18 years of age who commits
8 lewd or lascivious molestation against a victim 12 years of
9 age or older but less than 16 years of age commits a felony of
10 the third degree, punishable as provided in s. 775.082, s.
11 775.083, or s. 775.084.
12 (6) LEWD OR LASCIVIOUS CONDUCT.--
13 (a) A person who:
14 1. Intentionally touches a person under 16 years of
15 age in a lewd or lascivious manner; or
16 2. Solicits a person under 16 years of age to commit a
17 lewd or lascivious act
18
19 commits lewd or lascivious conduct.
20 (b) An offender 18 years of age or older who commits
21 lewd or lascivious conduct commits a felony of the second
22 degree, punishable as provided in s. 775.082, s. 775.083, or
23 s. 775.084.
24 (c) An offender less than 18 years of age who commits
25 lewd or lascivious conduct commits a felony of the third
26 degree, punishable as provided in s. 775.082, s. 775.083, or
27 s. 775.084.
28 (7) LEWD OR LASCIVIOUS EXHIBITION.--
29 (a) A person who:
30 1. Intentionally masturbates;
31

1 2. Intentionally exposes the genitals in a lewd or
2 lascivious manner; or
3 3. Intentionally commits any other sexual act that
4 does not involve actual physical or sexual contact with the
5 victim, including, but not limited to, sadomasochistic abuse,
6 sexual bestiality, or the simulation of any act involving
7 sexual activity
8
9 in the presence of a victim who is less than 16 years of age,
10 commits lewd or lascivious exhibition.
11 (b) An offender 18 years of age or older who commits a
12 lewd or lascivious exhibition commits a felony of the second
13 degree, punishable as provided in s. 775.082, s. 775.083, or
14 s. 775.084.
15 (c) An offender less than 18 years of age who commits
16 a lewd or lascivious exhibition commits a felony of the third
17 degree, punishable as provided in s. 775.082, s. 775.083, or
18 s. 775.084.
19 (8) EXCEPTION.--A mother's breastfeeding of her baby
20 does not under any circumstance constitute a violation of this
21 section.~~A person who:~~
22 ~~(1) Handles, fondles, or assaults any child under the~~
23 ~~age of 16 years in a lewd, lascivious, or indecent manner;~~
24 ~~(2) Commits actual or simulated sexual intercourse,~~
25 ~~deviate sexual intercourse, sexual bestiality, masturbation,~~
26 ~~sadomasochistic abuse, actual lewd exhibition of the genitals,~~
27 ~~or any act or conduct which simulates that sexual battery is~~
28 ~~being or will be committed upon any child under the age of 16~~
29 ~~years or forces or entices the child to commit any such act;~~
30 ~~(3) Commits an act defined as sexual battery under s.~~
31 ~~794.011(1)(h) upon any child under the age of 16 years; or~~

1 ~~(4) Knowingly commits any lewd or lascivious act in~~
2 ~~the presence of any child under the age of 16 years,~~
3
4 ~~without committing the crime of sexual battery, commits a~~
5 ~~felony of the second degree, punishable as provided in s.~~
6 ~~775.082, s. 775.083, or s. 775.084. Neither the victim's lack~~
7 ~~of chastity nor the victim's consent is a defense to the crime~~
8 ~~proscribed by this section. A mother's breastfeeding of her~~
9 ~~baby does not under any circumstance violate this section.~~

10 Section 7. For the purpose of incorporating the
11 amendments to section 800.04, Florida Statutes, in references
12 thereto, the sections or subdivisions of Florida Statutes, or
13 Florida Statutes, 1998 Supplement, set forth below are
14 reenacted to read:

15 775.15 Time limitations.--

16 (7) If the victim of a violation of s. 794.011, former
17 s. 794.05, Florida Statutes 1995, s. 800.04, or s. 826.04 is
18 under the age of 16, the applicable period of limitation, if
19 any, does not begin to run until the victim has reached the
20 age of 16 or the violation is reported to a law enforcement
21 agency or other governmental agency, whichever occurs earlier.
22 Such law enforcement agency or other governmental agency shall
23 promptly report such allegation to the state attorney for the
24 judicial circuit in which the alleged violation occurred. If
25 the offense is a first or second degree felony violation of s.
26 794.011, and the crime is reported within 72 hours after its
27 commission, paragraph (1)(b) applies. This subsection applies
28 to any such offense except an offense the prosecution of which
29 would have been barred by subsection (2) on or before December
30 31, 1984.

31 787.025 Luring or enticing a child.--

1 (2)(a) A person over the age of 18 who, having been
2 previously convicted of a violation of chapter 794 or s.
3 800.04, or a violation of a similar law of another
4 jurisdiction, intentionally lures or entices, or attempts to
5 lure or entice, a child under the age of 12 into a structure,
6 dwelling, or conveyance for other than a lawful purpose
7 commits a felony of the third degree, punishable as provided
8 in s. 775.082, s. 775.083, or s. 775.084.

9 914.16 Child abuse and sexual abuse of victims under
10 age 16 or persons with mental retardation; limits on
11 interviews.--The chief judge of each judicial circuit, after
12 consultation with the state attorney and the public defender
13 for the judicial circuit, the appropriate chief law
14 enforcement officer, and any other person deemed appropriate
15 by the chief judge, shall provide by order reasonable limits
16 on the number of interviews that a victim of a violation of s.
17 794.011, s. 800.04, or s. 827.03 who is under 16 years of age
18 or a victim of a violation of s. 794.011, s. 800.02, s.
19 800.03, or s. 825.102 who is a person with mental retardation
20 as defined in s. 393.063(41) must submit to for law
21 enforcement or discovery purposes. The order shall, to the
22 extent possible, protect the victim from the psychological
23 damage of repeated interrogations while preserving the rights
24 of the public, the victim, and the person charged with the
25 violation.

26 944.606 Sexual offenders; notification upon release.--

27 (1) As used in this section:

28 (b) "Sexual offender" means a person who has been
29 convicted of committing, or attempting, soliciting, or
30 conspiring to commit, any of the criminal offenses proscribed
31 in the following statutes in this state or similar offenses in

1 another jurisdiction: s. 787.01 or s. 782.02, where the
2 victim is a minor and the defendant is not the victim's
3 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
4 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145;
5 or any similar offense committed in this state which has been
6 redesignated from a former statute number to one of those
7 listed in this subsection, when the department has received
8 verified information regarding such conviction; an offender's
9 computerized criminal history record is not, in and of itself,
10 verified information.

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

14 921.0022 Criminal Punishment Code; offense severity
15 ranking chart.--

16 (3) OFFENSE SEVERITY RANKING CHART

18 Florida	Felony	
19 Statute	Degree	Description
		(d) LEVEL 4
22 316.1935(3)	2nd	Driving at high speed or with 23 wanton disregard for safety while 24 fleeing or attempting to elude 25 law enforcement officer who is in 26 a marked patrol vehicle with 27 siren and lights activated.
28 784.07(2)(b)	3rd	Battery of law enforcement 29 officer, firefighter, intake 30 officer, etc.

31

1	784.075	3rd	Battery on detention or
2			commitment facility staff.
3	784.08(2)(c)	3rd	Battery on a person 65 years of
4			age or older.
5	784.081(3)	3rd	Battery on specified official or
6			employee.
7	784.082(3)	3rd	Battery by detained person on
8			visitor or other detainee.
9	784.083(3)	3rd	Battery on code inspector.
10	787.03(1)	3rd	Interference with custody;
11			wrongly takes child from
12			appointed guardian.
13	787.04(2)	3rd	Take, entice, or remove child
14			beyond state limits with criminal
15			intent pending custody
16			proceedings.
17	787.04(3)	3rd	Carrying child beyond state lines
18			with criminal intent to avoid
19			producing child at custody
20			hearing or delivering to
21			designated person.
22	790.115(1)	3rd	Exhibiting firearm or weapon
23			within 1,000 feet of a school.
24	790.115(2)(b)	3rd	Possessing electric weapon or
25			device, destructive device, or
26			other weapon on school property.
27	790.115(2)(c)	3rd	Possessing firearm on school
28			property.
29	<u>800.04(7)(c)</u>	<u>3rd</u>	<u>Lewd or lascivious exhibition;</u>
30			<u>offender less than 18 years.</u>
31			

1	810.02(4)(a)	3rd	Burglary, or attempted burglary,
2			of an unoccupied structure;
3			unarmed; no assault or battery.
4	810.02(4)(b)	3rd	Burglary, or attempted burglary,
5			of an unoccupied conveyance;
6			unarmed; no assault or battery.
7	810.06	3rd	Burglary; possession of tools.
8	810.08(2)(c)	3rd	Trespass on property, armed with
9			firearm or dangerous weapon.
10	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
11			or more but less than \$20,000.
12	812.014		
13	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
14			firearm, motor vehicle,
15			livestock, etc.
16	817.563(1)	3rd	Sell or deliver substance other
17			than controlled substance agreed
18			upon, excluding s. 893.03(5)
19			drugs.
20	828.125(1)	2nd	Kill, maim, or cause great bodily
21			harm or permanent breeding
22			disability to any registered
23			horse or cattle.
24	837.02(1)	3rd	Perjury in official proceedings.
25	837.021(1)	3rd	Make contradictory statements in
26			official proceedings.
27	843.025	3rd	Deprive law enforcement,
28			correctional, or correctional
29			probation officer of means of
30			protection or communication.
31			

1	843.15(1)(a)	3rd	Failure to appear while on bail
2			for felony (bond estreature or
3			bond jumping).
4	874.05(1)	3rd	Encouraging or recruiting another
5			to join a criminal street gang.
6	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
7			893.03(1)(a), (b), or (d), or
8			(2)(a) or (b) drugs).
9	914.14(2)	3rd	Witnesses accepting bribes.
10	914.22(1)	3rd	Force, threaten, etc., witness,
11			victim, or informant.
12	914.23(2)	3rd	Retaliation against a witness,
13			victim, or informant, no bodily
14			injury.
15	918.12	3rd	Tampering with jurors.
16			(e) LEVEL 5
17	316.027(1)(a)	3rd	Accidents involving personal
18			injuries, failure to stop;
19			leaving scene.
20	316.1935(4)	2nd	Aggravated fleeing or eluding.
21	322.34(3)	3rd	Careless operation of motor
22			vehicle with suspended license,
23			resulting in death or serious
24			bodily injury.
25	327.30(5)	3rd	Vessel accidents involving
26			personal injury; leaving scene.
27	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
28			knowing HIV positive.
29	790.01(2)	3rd	Carrying a concealed firearm.
30	790.162	2nd	Threat to throw or discharge
31			destructive device.

1	790.163	2nd	False report of deadly explosive.
2	790.165(2)	3rd	Manufacture, sell, possess, or
3			deliver hoax bomb.
4	790.221(1)	2nd	Possession of short-barreled
5			shotgun or machine gun.
6	790.23	2nd	Felons in possession of firearms
7			or electronic weapons or devices.
8	<u>800.04(6)(c)</u>	<u>3rd</u>	<u>Lewd or lascivious conduct;</u>
9			<u>offender less than 18 years.</u>
10	<u>800.04(7)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious exhibition;</u>
11			<u>offender 18 years or older.</u>
12	806.111(1)	3rd	Possess, manufacture, or dispense
13			fire bomb with intent to damage
14			any structure or property.
15	812.019(1)	2nd	Stolen property; dealing in or
16			trafficking in.
17	812.16(2)	3rd	Owning, operating, or conducting
18			a chop shop.
19	817.034(4)(a)2.	2nd	Communications fraud, value
20			\$20,000 to \$50,000.
21	825.1025(4)	3rd	Lewd or lascivious exhibition in
22			the presence of an elderly person
23			or disabled adult.
24	827.071(4)	2nd	Possess with intent to promote
25			any photographic material, motion
26			picture, etc., which includes
27			sexual conduct by a child.
28	843.01	3rd	Resist officer with violence to
29			person; resist arrest with
30			violence.
31			

1	874.05(2)	2nd	Encouraging or recruiting another
2			to join a criminal street gang;
3			second or subsequent offense.
4	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
5			cocaine (or other s.
6			893.03(1)(a), (1)(b), (1)(d),
7			(2)(a), or (2)(b) drugs).
8	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
9			cannabis (or other s.
10			893.03(1)(c), (2)(c), (3), or (4)
11			drugs) within 1,000 feet of a
12			child care facility or school.
13	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
14			cocaine (or other s.
15			893.03(1)(a), (1)(b), (1)(d),
16			(2)(a), or (2)(b) drugs) within
17			200 feet of university or public
18			park.
19	893.13(1)(e)	2nd	Sell, manufacture, or deliver
20			cannabis or other drug prohibited
21			under s. 893.03(1)(c), (2)(c),
22			(3), or (4) within 1,000 feet of
23			property used for religious
24			services or a specified business
25			site.
26	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
27			cocaine (or other s.
28			893.03(1)(a), (1)(b), (1)(d), or
29			(2)(a), or (2)(b) drugs) within
30			200 feet of public housing
31			facility.

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			(f) LEVEL 6
5	316.027(1)(b)	2nd	Accident involving death, failure
6			to stop; leaving scene.
7	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
8			conviction.
9	775.0875(1)	3rd	Taking firearm from law
10			enforcement officer.
11	775.21(9)	3rd	Sexual predators; failure to
12			register; failure to renew
13			driver's license or
14			identification card.
15	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
16			without intent to kill.
17	784.021(1)(b)	3rd	Aggravated assault; intent to
18			commit felony.
19	784.041	3rd	Felony battery.
20	784.048(3)	3rd	Aggravated stalking; credible
21			threat.
22	784.048(5)	3rd	Aggravated stalking of person
23			under 16.
24	784.07(2)(c)	2nd	Aggravated assault on law
25			enforcement officer.
26	784.08(2)(b)	2nd	Aggravated assault on a person 65
27			years of age or older.
28	784.081(2)	2nd	Aggravated assault on specified
29			official or employee.
30			
31			

1	784.082(2)	2nd	Aggravated assault by detained
2			person on visitor or other
3			detainee.
4	784.083(2)	2nd	Aggravated assault on code
5			inspector.
6	787.02(2)	3rd	False imprisonment; restraining
7			with purpose other than those in
8			s. 787.01.
9	790.115(2)(d)	2nd	Discharging firearm or weapon on
10			school property.
11	790.161(2)	2nd	Make, possess, or throw
12			destructive device with intent to
13			do bodily harm or damage
14			property.
15	790.164(1)	2nd	False report of deadly explosive
16			or act of arson or violence to
17			state property.
18	790.19	2nd	Shooting or throwing deadly
19			missiles into dwellings, vessels,
20			or vehicles.
21	794.011(8)(a)	3rd	Solicitation of minor to
22			participate in sexual activity by
23			custodial adult.
24	794.05(1)	2nd	Unlawful sexual activity with
25			specified minor.
26	<u>800.04(5)(d)</u>	<u>3rd</u>	<u>Lewd or lascivious molestation;</u>
27			<u>victim 12 years of age or older</u>
28			<u>but less than 16 years; offender</u>
29			<u>less than 18 years.</u>
30			
31			

1	<u>800.04(6)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious conduct;</u>
2			<u>offender 18 years of age or</u>
3			<u>older.</u>
4	806.031(2)	2nd	Arson resulting in great bodily
5			harm to firefighter or any other
6			person.
7	810.02(3)(c)	2nd	Burglary of occupied structure;
8			unarmed; no assault or battery.
9	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
10			but less than \$100,000, grand
11			theft in 2nd degree.
12	812.13(2)(c)	2nd	Robbery, no firearm or other
13			weapon (strong-arm robbery).
14	817.034(4)(a)1.	1st	Communications fraud, value
15			greater than \$50,000.
16	817.4821(5)	2nd	Possess cloning paraphernalia
17			with intent to create cloned
18			cellular telephones.
19	825.102(1)	3rd	Abuse of an elderly person or
20			disabled adult.
21	825.102(3)(c)	3rd	Neglect of an elderly person or
22			disabled adult.
23	825.1025(3)	3rd	Lewd or lascivious molestation of
24			an elderly person or disabled
25			adult.
26	825.103(2)(c)	3rd	Exploiting an elderly person or
27			disabled adult and property is
28			valued at less than \$20,000.
29	827.03(1)	3rd	Abuse of a child.
30	827.03(3)(c)	3rd	Neglect of a child.
31			

1	827.071(2)&(3)	2nd	Use or induce a child in a sexual
2			performance, or promote or direct
3			such performance.
4	836.05	2nd	Threats; extortion.
5	836.10	2nd	Written threats to kill or do
6			bodily injury.
7	843.12	3rd	Aids or assists person to escape.
8	847.0135(3)	3rd	Solicitation of a child, via a
9			computer service, to commit an
10			unlawful sex act.
11	914.23	2nd	Retaliation against a witness,
12			victim, or informant, with bodily
13			injury.
14	943.0435(6)	3rd	Sex offenders; failure to comply
15			with reporting requirements.
16	944.35(3)(a)2.	3rd	Committing malicious battery upon
17			or inflicting cruel or inhuman
18			treatment on an inmate or
19			offender on community
20			supervision, resulting in great
21			bodily harm.
22	944.40	2nd	Escapes.
23	944.46	3rd	Harboring, concealing, aiding
24			escaped prisoners.
25	944.47(1)(a)5.	2nd	Introduction of contraband
26			(firearm, weapon, or explosive)
27			into correctional facility.
28	951.22(1)	3rd	Intoxicating drug, firearm, or
29			weapon introduced into county
30			facility.
31			(g) LEVEL 7

1	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
2			injury.
3	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
4			bodily injury.
5	409.920(2)	3rd	Medicaid provider fraud.
6	494.0018(2)	1st	Conviction of any violation of
7			ss. 494.001-494.0077 in which the
8			total money and property
9			unlawfully obtained exceeded
10			\$50,000 and there were five or
11			more victims.
12	782.051(3)	2nd	Attempted felony murder of a
13			person by a person other than the
14			perpetrator or the perpetrator of
15			an attempted felony.
16	782.07(1)	2nd	Killing of a human being by the
17			act, procurement, or culpable
18			negligence of another
19			(manslaughter).
20	782.071	3rd	Killing of human being or viable
21			fetus by the operation of a motor
22			vehicle in a reckless manner
23			(vehicular homicide).
24	782.072	3rd	Killing of a human being by the
25			operation of a vessel in a
26			reckless manner (vessel
27			homicide).
28	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
29			causing great bodily harm or
30			disfigurement.
31			

1	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
2			weapon.
3	784.045(1)(b)	2nd	Aggravated battery; perpetrator
4			aware victim pregnant.
5	784.048(4)	3rd	Aggravated stalking; violation of
6			injunction or court order.
7	784.07(2)(d)	1st	Aggravated battery on law
8			enforcement officer.
9	784.08(2)(a)	1st	Aggravated battery on a person 65
10			years of age or older.
11	784.081(1)	1st	Aggravated battery on specified
12			official or employee.
13	784.082(1)	1st	Aggravated battery by detained
14			person on visitor or other
15			detainee.
16	784.083(1)	1st	Aggravated battery on code
17			inspector.
18	790.07(4)	1st	Specified weapons violation
19			subsequent to previous conviction
20			of s. 790.07(1) or (2).
21	790.16(1)	1st	Discharge of a machine gun under
22			specified circumstances.
23	796.03	2nd	Procuring any person under 16
24			years for prostitution.
25	800.04 <u>(5)(c)1.</u>	2nd	<u>Lewd or lascivious molestation;</u>
26			<u>victim less than 12 years of age;</u>
27			<u>offender less than 18 years.</u>
28			Handle, fondle, or assault child
29			under 16 years in lewd,
30			lascivious, or indecent manner.
31			

1	<u>800.04(5)(c)2.</u>	<u>2nd</u>	<u>Lewd or lascivious molestation;</u>
2			<u>victim 12 years of age or older</u>
3			<u>but less than 16 years; offender</u>
4			<u>18 years or older.</u>
5	806.01(2)	2nd	Maliciously damage structure by
6			fire or explosive.
7	810.02(3)(a)	2nd	Burglary of occupied dwelling;
8			unarmed; no assault or battery.
9	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
10			unarmed; no assault or battery.
11	810.02(3)(d)	2nd	Burglary of occupied conveyance;
12			unarmed; no assault or battery.
13	812.014(2)(a)	1st	Property stolen, valued at
14			\$100,000 or more; property stolen
15			while causing other property
16			damage; 1st degree grand theft.
17	812.019(2)	1st	Stolen property; initiates,
18			organizes, plans, etc., the theft
19			of property and traffics in
20			stolen property.
21	812.133(2)(b)	1st	Carjacking; no firearm, deadly
22			weapon, or other weapon.
23	825.102(3)(b)	2nd	Neglecting an elderly person or
24			disabled adult causing great
25			bodily harm, disability, or
26			disfigurement.
27	825.1025(2)	2nd	Lewd or lascivious battery upon
28			an elderly person or disabled
29			adult.
30			
31			

1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(4)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	837.05(2)	3rd	Giving false information about
12			alleged capital felony to a law
13			enforcement officer.
14	872.06	2nd	Abuse of a dead human body.
15	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
16			cocaine (or other drug prohibited
17			under s. 893.03(1)(a), (1)(b),
18			(1)(d), (2)(a), or (2)(b)) within
19			1,000 feet of a child care
20			facility or school.
21	893.13(1)(e)	1st	Sell, manufacture, or deliver
22			cocaine or other drug prohibited
23			under s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), or (2)(b), within
25			1,000 feet of property used for
26			religious services or a specified
27			business site.
28	893.13(4)(a)	1st	Deliver to minor cocaine (or
29			other s. 893.03(1)(a), (1)(b),
30			(1)(d), (2)(a), or (2)(b) drugs).
31			

1	893.135(1)(a)1.	1st	Trafficking in cannabis, more
2			than 50 lbs., less than 2,000
3			lbs.
4	893.135		
5	(1)(b)1.a.	1st	Trafficking in cocaine, more than
6			28 grams, less than 200 grams.
7	893.135		
8	(1)(c)1.a.	1st	Trafficking in illegal drugs,
9			more than 4 grams, less than 14
10			grams.
11	893.135		
12	(1)(d)1.	1st	Trafficking in phencyclidine,
13			more than 28 grams, less than 200
14			grams.
15	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
16			than 200 grams, less than 5
17			kilograms.
18	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
19			than 14 grams, less than 28
20			grams.
21	893.135		
22	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
23			grams or more, less than 14
24			grams.
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	782.051(2)	1st	Attempted felony murder while
9			perpetrating or attempting to
10			perpetrate a felony not
11			enumerated in s. 782.04(3).
12	782.071(2)	2nd	Committing vehicular homicide and
13			failing to render aid or give
14			information.
15	782.072(2)	2nd	Committing vessel homicide and
16			failing to render aid or give
17			information.
18	790.161(3)	1st	Discharging a destructive device
19			which results in bodily harm or
20			property damage.
21	794.011(5)	2nd	Sexual battery, victim 12 years
22			or over, offender does not use
23			physical force likely to cause
24			serious injury.
25	<u>800.04(4)</u>	<u>2nd</u>	<u>Lewd or lascivious battery.</u>
26	806.01(1)	1st	Maliciously damage dwelling or
27			structure by fire or explosive,
28			believing person in structure.
29	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
30	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
31			or dangerous weapon.

1	810.02(2)(c)	1st	Burglary of a dwelling or
2			structure causing structural
3			damage or \$1,000 or more property
4			damage.
5	812.13(2)(b)	1st	Robbery with a weapon.
6	812.135(2)	1st	Home-invasion robbery.
7	825.102(2)	2nd	Aggravated abuse of an elderly
8			person or disabled adult.
9	825.103(2)(a)	1st	Exploiting an elderly person or
10			disabled adult and property is
11			valued at \$100,000 or more.
12	827.03(2)	2nd	Aggravated child abuse.
13	837.02(2)	2nd	Perjury in official proceedings
14			relating to prosecution of a
15			capital felony.
16	837.021(2)	2nd	Making contradictory statements
17			in official proceedings relating
18			to prosecution of a capital
19			felony.
20	860.121(2)(c)	1st	Shooting at or throwing any
21			object in path of railroad
22			vehicle resulting in great bodily
23			harm.
24	860.16	1st	Aircraft piracy.
25	893.13(1)(b)	1st	Sell or deliver in excess of 10
26			grams of any substance specified
27			in s. 893.03(1)(a) or (b).
28	893.13(2)(b)	1st	Purchase in excess of 10 grams of
29			any substance specified in s.
30			893.03(1)(a) or (b).
31			

1	893.13(6)(c)	1st	Possess in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.135(1)(a)2.	1st	Trafficking in cannabis, more
5			than 2,000 lbs., less than 10,000
6			lbs.
7	893.135		
8	(1)(b)1.b.	1st	Trafficking in cocaine, more than
9			200 grams, less than 400 grams.
10	893.135		
11	(1)(c)1.b.	1st	Trafficking in illegal drugs,
12			more than 14 grams, less than 28
13			grams.
14	893.135		
15	(1)(d)1.b.	1st	Trafficking in phencyclidine,
16			more than 200 grams, less than
17			400 grams.
18	893.135		
19	(1)(e)1.b.	1st	Trafficking in methaqualone, more
20			than 5 kilograms, less than 25
21			kilograms.
22	893.135		
23	(1)(f)1.b.	1st	Trafficking in amphetamine, more
24			than 28 grams, less than 200
25			grams.
26	893.135		
27	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
28			grams or more, less than 28
29			grams.
30			
31			

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

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

1	812.13(2)(a)	1st,PBL	Robbery with firearm or other
2			deadly weapon.
3	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
4			deadly weapon.
5	847.0145(1)	1st	Selling, or otherwise
6			transferring custody or control,
7			of a minor.
8	847.0145(2)	1st	Purchasing, or otherwise
9			obtaining custody or control, of
10			a minor.
11	859.01	1st	Poisoning food, drink, medicine,
12			or water with intent to kill or
13			injure another person.
14	893.135	1st	Attempted capital trafficking
15			offense.
16	893.135(1)(a)3.	1st	Trafficking in cannabis, more
17			than 10,000 lbs.
18	893.135		
19	(1)(b)1.c.	1st	Trafficking in cocaine, more than
20			400 grams, less than 150
21			kilograms.
22	893.135		
23	(1)(c)1.c.	1st	Trafficking in illegal drugs,
24			more than 28 grams, less than 30
25			kilograms.
26	893.135		
27	(1)(d)1.c.	1st	Trafficking in phencyclidine,
28			more than 400 grams.
29	893.135		
30	(1)(e)1.c.	1st	Trafficking in methaqualone, more
31			than 25 kilograms.

1 893.135
2 (1)(f)1.c. 1st Trafficking in amphetamine, more
3 than 200 grams.
4 (j) LEVEL 10
5 782.04(2) 1st,PBL Unlawful killing of human; act is
6 homicide, unpremeditated.
7 787.01(1)(a)3. 1st,PBL Kidnapping; inflict bodily harm
8 upon or terrorize victim.
9 787.01(3)(a) Life Kidnapping; child under age 13,
10 perpetrator also commits child
11 abuse, sexual battery, or lewd-
12 or lascivious battery,
13 molestation, conduct, or
14 exhibition act, etc.
15 794.011(3) Life Sexual battery; victim 12 years
16 or older, offender uses or
17 threatens to use deadly weapon or
18 physical force to cause serious
19 injury.
20 876.32 1st Treason against the state.
21 Section 9. Paragraph (f) of subsection (3) of section
22 947.146, Florida Statutes, 1998 Supplement, is amended to
23 read:
24 947.146 Control Release Authority.--
25 (3) Within 120 days prior to the date the state
26 correctional system is projected pursuant to s. 216.136 to
27 exceed 99 percent of total capacity, the authority shall
28 determine eligibility for and establish a control release date
29 for an appropriate number of parole ineligible inmates
30 committed to the department and incarcerated within the state
31 who have been determined by the authority to be eligible for

1 discretionary early release pursuant to this section. In
2 establishing control release dates, it is the intent of the
3 Legislature that the authority prioritize consideration of
4 eligible inmates closest to their tentative release date. The
5 authority shall rely upon commitment data on the offender
6 information system maintained by the department to initially
7 identify inmates who are to be reviewed for control release
8 consideration. The authority may use a method of objective
9 risk assessment in determining if an eligible inmate should be
10 released. Such assessment shall be a part of the department's
11 management information system. However, the authority shall
12 have sole responsibility for determining control release
13 eligibility, establishing a control release date, and
14 effectuating the release of a sufficient number of inmates to
15 maintain the inmate population between 99 percent and 100
16 percent of total capacity. Inmates who are ineligible for
17 control release are inmates who are parole eligible or inmates
18 who:

19 (f) Are convicted, or have been previously convicted,
20 of committing or attempting to commit false imprisonment upon
21 a child under the age of 13 and, in the course of committing
22 the offense, the inmate committed aggravated child abuse,
23 sexual battery against the child, or a lewd or lascivious
24 offense committed, ~~or indecent assault or act upon or in the~~
25 presence of a person less than 16 years of age ~~the child~~;

26
27 In making control release eligibility determinations under
28 this subsection, the authority may rely on any document
29 leading to or generated during the course of the criminal
30 proceedings, including, but not limited to, any presentence or
31

1 postsentence investigation or any information contained in
2 arrest reports relating to circumstances of the offense.

3 Section 10. Paragraph (a) of subsection (4) and
4 paragraph (a) of subsection (5) of section 948.03, Florida
5 Statutes, 1998 Supplement, are amended, and subsection (6) of
6 said section is 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) Conditions imposed pursuant to this subsection, as
4 specified in paragraphs (a) and (b), do not require oral
5 pronouncement at the time of sentencing and shall be
6 considered standard conditions of probation or community
7 control for offenders specified in this subsection.

8 (a) Effective for probationers or community
9 controllees whose crime was committed on or after October 1,
10 1995, and who are placed under supervision for violation of
11 chapter 794, or s. 800.04, s. 827.071, or s. 847.0145, the
12 court must impose the following conditions in addition to all
13 other standard and special conditions imposed:

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

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

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

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

5 5. If the victim was under the age of 18, a
6 prohibition, until successful completion of a sex offender
7 treatment program, on unsupervised contact with a child under
8 the age of 18, unless authorized by the sentencing court
9 without another adult present who is responsible for the
10 child's welfare, has been advised of the crime, and is
11 approved by the sentencing court.

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

16 7. Unless otherwise indicated in the treatment plan
17 provided by the sexual offender treatment program, a
18 prohibition on viewing, owning, or possessing any obscene,
19 pornographic, or sexually stimulating visual or auditory
20 material, including telephone, electronic media, computer
21 programs, or computer services that are relevant to the
22 offender's deviant behavior pattern.

23 8. A requirement that the probationer or community
24 controllee must submit two specimens of blood to the Florida
25 Department of Law Enforcement to be registered with the DNA
26 data bank.

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

1 10. Submission to a warrantless search by the
2 community control or probation officer of the probationer's or
3 community controllee's person, residence, or vehicle.

4 (b) Effective for a probationer or community
5 controllee whose crime was committed on or after October 1,
6 1997, and who is placed on sex offender probation for a
7 violation of chapter 794, s. 800.04, s. 827.071, or s.
8 847.0145, in addition to any other provision of this
9 subsection, the court must impose the following conditions of
10 probation or community control:

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

21 2. Maintenance of a driving log and a prohibition
22 against driving a motor vehicle alone without the prior
23 approval of the supervising officer.

24 3. A prohibition against obtaining or using a post
25 office box without the prior approval of the supervising
26 officer.

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

31

1 5. Electronic monitoring when deemed necessary by the
2 community control or probation officer and his or her
3 supervisor, and ordered by the court at the recommendation of
4 the Department of Corrections.

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

25 Section 11. Paragraph (a) of subsection (7) and
26 paragraph (a) of subsection (48) of section 985.03, Florida
27 Statutes, 1998 Supplement, are amended to read:

28 985.03 Definitions.--When used in this chapter, the
29 term:

30 (7) "Child eligible for an intensive residential
31 treatment program for offenders less than 13 years of age"

1 means a child who has been found to have committed a
2 delinquent act or a violation of law in the case currently
3 before the court and who meets at least one of the following
4 criteria:
5 (a) The child is less than 13 years of age at the time
6 of the disposition for the current offense and has been
7 adjudicated on the current offense for:
8 1. Arson;
9 2. Sexual battery;
10 3. Robbery;
11 4. Kidnapping;
12 5. Aggravated child abuse;
13 6. Aggravated assault;
14 7. Aggravated stalking;
15 8. Murder;
16 9. Manslaughter;
17 10. Unlawful throwing, placing, or discharging of a
18 destructive device or bomb;
19 11. Armed burglary;
20 12. Aggravated battery;
21 13. Any lewd or lascivious offense committed upon or
22 ~~assault or act~~ in the presence of a person less than 16 years
23 of age child; or
24 14. Carrying, displaying, using, threatening, or
25 attempting to use a weapon or firearm during the commission of
26 a felony.
27 (48) "Serious or habitual juvenile offender," for
28 purposes of commitment to a residential facility and for
29 purposes of records retention, means a child who has been
30 found to have committed a delinquent act or a violation of
31

1 law, in the case currently before the court, and who meets at
2 least one of the following criteria:

3 (a) The youth is at least 13 years of age at the time
4 of the disposition for the current offense and has been
5 adjudicated on the current offense for:

- 6 1. Arson;
- 7 2. Sexual battery;
- 8 3. Robbery;
- 9 4. Kidnapping;
- 10 5. Aggravated child abuse;
- 11 6. Aggravated assault;
- 12 7. Aggravated stalking;
- 13 8. Murder;
- 14 9. Manslaughter;
- 15 10. Unlawful throwing, placing, or discharging of a
16 destructive device or bomb;
- 17 11. Armed burglary;
- 18 12. Aggravated battery;
- 19 13. Any lewd or lascivious offense committed upon or
20 ~~assault or act~~ in the presence of a person less than 16 years
21 of age child; or
- 22 14. Carrying, displaying, using, threatening, or
23 attempting to use a weapon or firearm during the commission of
24 a felony.

25 Section 12. Paragraph (a) of subsection (1) of section
26 985.227, Florida Statutes, is amended to read:

27 985.227 Prosecution of juveniles as adults by the
28 direct filing of an information in the criminal division of
29 the circuit court; discretionary criteria; mandatory
30 criteria.--

31 (1) DISCRETIONARY DIRECT FILE; CRITERIA.--

1 (a) With respect to any child who was 14 or 15 years
2 of age at the time the alleged offense was committed, the
3 state attorney may file an information when in the state
4 attorney's judgment and discretion the public interest
5 requires that adult sanctions be considered or imposed and
6 when the offense charged is:

- 7 1. Arson;
- 8 2. Sexual battery;
- 9 3. Robbery;
- 10 4. Kidnapping;
- 11 5. Aggravated child abuse;
- 12 6. Aggravated assault;
- 13 7. Aggravated stalking;
- 14 8. Murder;
- 15 9. Manslaughter;
- 16 10. Unlawful throwing, placing, or discharging of a
17 destructive device or bomb;
- 18 11. Armed burglary in violation of s. 810.02(2)(b) or
19 specified burglary of a dwelling or structure in violation of
20 s. 810.02(2)(c);
- 21 12. Aggravated battery;
- 22 13. Any lewd or lascivious offense committed upon or
23 ~~assault or act~~ in the presence of a person less than 16 years
24 of age child;
- 25 14. Carrying, displaying, using, threatening, or
26 attempting to use a weapon or firearm during the commission of
27 a felony; or
- 28 15. Grand theft in violation of s. 812.014(2)(a).

29 Section 13. Paragraph (m) of subsection (1) of section
30 985.313, Florida Statutes, is amended to read:
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1 985.313 Maximum-risk residential program.--A
2 maximum-risk residential program is a physically secure
3 residential commitment program with a designated length of
4 stay from 18 months to 36 months, primarily serving children
5 13 years of age to 19 years of age, or until the jurisdiction
6 of the court expires. The court may retain jurisdiction over
7 the child until the child reaches the age of 21, specifically
8 for the purpose of the child completing the program. Each
9 child committed to this level must meet one of the following
10 criteria:

11 (1) The youth is at least 13 years of age at the time
12 of the disposition for the current offense and has been
13 adjudicated on the current offense for:

14 (m) Any lewd or lascivious offense committed upon or
15 ~~assault or act~~ in the presence of a person less than 16 years
16 of age child; or

17 Section 14. This act shall take effect October 1,
18 1999.

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