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2 An act relating to lewd or lascivious
3 exhibition; amending s. 800.04, F.S.; providing
4 a penalty for the transmission of lewd or
5 lascivious exhibition over the Internet under
6 certain circumstances; amending s. 921.0022,
7 F.S.; conforming a cross reference; reenacting
8 ss. 394.912(9)(e), 775.082(9), 775.084(1)(d),
9 775.15(7), 775.21(4)(c) and (10)(b), 787.01(3),
10 787.02(3), 787.025(2)(a), 914.16,
11 943.0435(1)(a), 943.0585(2)(a), 943.059,
12 944.606(1)(b), 944.607(1)(a), 947.1405(7),
13 948.01(15), 948.03(4)(a), (5), and (6), and
14 948.06(2)(a), F.S., relating to definition of
15 "sexually violent offense" for purposes of pt.
16 IV of ch. 394, F.S., penalties, applicability
17 of sentencing structures, and mandatory minimum
18 sentences, violent career criminals, habitual
19 felony offenders and habitual violent felony
20 offenders, three-time violent felony offenders,
21 definitions, procedure, and enhanced penalties
22 or mandatory minimum prison terms, time
23 limitations, the Florida Sexual Predators Act,
24 kidnapping, false imprisonment, luring or
25 enticing a child, child abuse and sexual abuse
26 of victims under age 16 or persons with mental
27 retardation, and limits on interviews, sexual
28 offenders required to register with the
29 Department of Law Enforcement, court-ordered
30 expunction of criminal history records,
31 court-ordered sealing of criminal history

1 records, notification to law enforcement
2 agencies upon release of sexual offenders,
3 notification to Department of Law Enforcement
4 of information on sexual offenders, conditional
5 release program, when court may place defendant
6 on probation or into community control, terms
7 and conditions of probation or community
8 control, violation of probation or community
9 control, revocation, modification, continuance,
10 and failure to pay restitution or cost of
11 supervision, to incorporate the amendment to s.
12 800.04, F.S., in references thereto; providing
13 an effective date.

14

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

16

17 Section 1. Subsection (7) of section 800.04, Florida
18 Statutes, is amended to read:19 800.04 Lewd or lascivious offenses committed upon or
20 in the presence of persons less than 16 years of age.--

21 (7) LEWD OR LASCIVIOUS EXHIBITION.--

22 (a) A person who:

23 1. Intentionally masturbates;

24 2. Intentionally exposes the genitals in a lewd or
25 lascivious manner; or26 3. Intentionally commits any other sexual act that
27 does not involve actual physical or sexual contact with the
28 victim, including, but not limited to, sadomasochistic abuse,
29 sexual bestiality, or the simulation of any act involving
30 sexual activity

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

3 (b) A person who:

4 1. Intentionally masturbates;

5 2. Intentionally exposes the genitals in a lewd or
6 lascivious manner; or

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

12
13 live over a computer on-line service, Internet service, or
14 local bulletin board service and who knows or should know or
15 has reason to believe that the transmission is viewed on a
16 computer or television monitor by a victim in this state who
17 is less than 16 years of age, commits lewd or lascivious
18 exhibition. The fact that an undercover operative or law
19 enforcement officer was involved in the detection and
20 investigation of an offense under this paragraph shall not
21 constitute a defense to a prosecution under this paragraph.

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

26 (d)(c) An offender less than 18 years of age who
27 commits a lewd or lascivious exhibition commits a felony of
28 the third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30 Section 2. Paragraphs (d) and (e) of subsection (3) of
31 section 921.0022, Florida Statutes, are amended to read:

1	921.0022 Criminal Punishment Code; offense severity		
2	ranking chart.--		
3	(3) OFFENSE SEVERITY RANKING CHART		
4			
5	Florida	Felony	
6	Statute	Degree	Description
7			
8			
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	800.04(7) <u>(d)</u> (c)	3rd	Lewd or lascivious exhibition;
18			offender less than 18 years.
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(6)	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	800.04(6)(c)	3rd	Lewd or lascivious conduct;
29			offender less than 18 years.
30	800.04(7) <u>(c)</u> (b)	2nd	Lewd or lascivious exhibition;
31			offender 18 years or older.

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	812.131(2)(b)	3rd	Robbery by sudden snatching.
7	812.16(2)	3rd	Owning, operating, or conducting
8			a chop shop.
9	817.034(4)(a)2.	2nd	Communications fraud, value
10			\$20,000 to \$50,000.
11	825.1025(4)	3rd	Lewd or lascivious exhibition in
12			the presence of an elderly person
13			or disabled adult.
14	827.071(4)	2nd	Possess with intent to promote
15			any photographic material, motion
16			picture, etc., which includes
17			sexual conduct by a child.
18	843.01	3rd	Resist officer with violence to
19			person; resist arrest with
20			violence.
21	874.05(2)	2nd	Encouraging or recruiting another
22			to join a criminal street gang;
23			second or subsequent offense.
24	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
25			cocaine (or other s.
26			893.03(1)(a), (1)(b), (1)(d),
27			(2)(a), or (2)(b) drugs).
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1	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
2			cannabis (or other s.
3			893.03(1)(c), (2)(c), (3), or (4)
4			drugs) within 1,000 feet of a
5			child care facility or school.
6	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
7			cocaine (or other s.
8			893.03(1)(a), (1)(b), (1)(d),
9			(2)(a), or (2)(b) drugs) within
10			200 feet of university or public
11			park.
12	893.13(1)(e)	2nd	Sell, manufacture, or deliver
13			cannabis or other drug prohibited
14			under s. 893.03(1)(c), (2)(c),
15			(3), or (4) within 1,000 feet of
16			property used for religious
17			services or a specified business
18			site.
19	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
20			cocaine (or other s.
21			893.03(1)(a), (1)(b), (1)(d), or
22			(2)(a), or (2)(b) drugs) within
23			200 feet of public housing
24			facility.
25	893.13(4)(b)	2nd	Deliver to minor cannabis (or
26			other s. 893.03(1)(c), (2)(c),
27			(3), or (4) drugs).

28 Section 3. For the purpose of incorporating the
 29 amendment to s. 800.04, Florida Statutes, in references
 30 thereto, the sections or subdivisions of Florida Statutes set
 31 forth below are reenacted to read:

1 394.912 Definitions.--As used in this part, the term:

2 (9) "Sexually violent offense" means:

3 (e) Lewd, lascivious, or indecent assault or act upon
4 or in presence of the child in violation of s. 800.04;

5 775.082 Penalties; applicability of sentencing
6 structures; mandatory minimum sentences for certain
7 reoffenders previously released from prison.--

8 (9)(a)1. "Prison releasee reoffender" means any
9 defendant who commits, or attempts to commit:

10 a. Treason;

11 b. Murder;

12 c. Manslaughter;

13 d. Sexual battery;

14 e. Carjacking;

15 f. Home-invasion robbery;

16 g. Robbery;

17 h. Arson;

18 i. Kidnapping;

19 j. Aggravated assault with a deadly weapon;

20 k. Aggravated battery;

21 l. Aggravated stalking;

22 m. Aircraft piracy;

23 n. Unlawful throwing, placing, or discharging of a
24 destructive device or bomb;

25 o. Any felony that involves the use or threat of
26 physical force or violence against an individual;

27 p. Armed burglary;

28 q. Burglary of an occupied structure or dwelling; or

29 r. Any felony violation of s. 790.07, s. 800.04, s.
30 827.03, or s. 827.071;

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1 within 3 years of being released from a state correctional
2 facility operated by the Department of Corrections or a
3 private vendor.

4 2. "Prison releasee reoffender" also means any
5 defendant who commits or attempts to commit any offense listed
6 in subparagraph (a)1.a.-r. while the defendant was serving a
7 prison sentence or on escape status from a state correctional
8 facility operated by the Department of Corrections or a
9 private vendor.

10 3. If the state attorney determines that a defendant
11 is a prison releasee reoffender as defined in subparagraph 1.,
12 the state attorney may seek to have the court sentence the
13 defendant as a prison releasee reoffender. Upon proof from the
14 state attorney that establishes by a preponderance of the
15 evidence that a defendant is a prison releasee reoffender as
16 defined in this section, such defendant is not eligible for
17 sentencing under the sentencing guidelines and must be
18 sentenced as follows:

19 a. For a felony punishable by life, by a term of
20 imprisonment for life;

21 b. For a felony of the first degree, by a term of
22 imprisonment of 30 years;

23 c. For a felony of the second degree, by a term of
24 imprisonment of 15 years; and

25 d. For a felony of the third degree, by a term of
26 imprisonment of 5 years.

27 775.084 Violent career criminals; habitual felony
28 offenders and habitual violent felony offenders; three-time
29 violent felony offenders; definitions; procedure; enhanced
30 penalties or mandatory minimum prison terms.--

31 (1) As used in this act:

1 (d) "Violent career criminal" means a defendant for
2 whom the court must impose imprisonment pursuant to paragraph
3 (4)(d), if it finds that:

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

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

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

10 c. Aggravated child abuse, as described in s.
11 827.03(2);

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

14 e. Lewd or lascivious battery, lewd or lascivious
15 molestation, lewd or lascivious conduct, or lewd or lascivious
16 exhibition, as described in s. 800.04;

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

18 g. A felony violation of chapter 790 involving the use
19 or possession of a firearm.

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

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

25 a. While the defendant was serving a prison sentence
26 or other sentence, or court-ordered or lawfully imposed
27 supervision that is imposed as a result of a prior conviction
28 for an enumerated felony; or

29 b. Within 5 years after the conviction of the last
30 prior enumerated felony, or within 5 years after the
31 defendant's release from a prison sentence, probation,

1 community control, control release, conditional release,
2 parole, or court-ordered or lawfully imposed supervision or
3 other sentence that is imposed as a result of a prior
4 conviction for an enumerated felony, whichever is later.

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

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

11 775.15 Time limitations.--

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

27 775.21 The Florida Sexual Predators Act; definitions;
28 legislative findings, purpose, and intent; criteria;
29 designation; registration; community and public notification;
30 immunity; penalties.--

31 (4) SEXUAL PREDATOR CRITERIA.--

1 (c) For a current offense committed on or after
2 October 1, 1996, upon conviction, an offender shall be
3 designated as a "sexual predator" under subsection (5), and
4 subject to registration under subsection (6) and community and
5 public notification under subsection (7) if:

6 1. The felony meets the criteria of former ss.
7 775.22(2) and 775.23(2), specifically, the felony is:

8 a. A capital, life, or first-degree felony violation
9 of s. 787.01 or s. 787.02, where the victim is a minor and the
10 defendant is not the victim's parent, or of chapter 794 or s.
11 847.0145, or a violation of a similar law of another
12 jurisdiction;

13 b. An attempt to commit a capital, life, or
14 first-degree felony violation of chapter 794, where the victim
15 is a minor, or a violation of a similar law of another
16 jurisdiction; or

17 c. Any second-degree or greater felony violation of s.
18 787.01 or s. 787.02, where the victim is a minor and the
19 defendant is not the victim's parent; chapter 794; s. 796.03;
20 s. 800.04; s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a
21 violation of a similar law of another jurisdiction, and the
22 offender has previously been convicted of or found to have
23 committed, or has pled nolo contendere or guilty to,
24 regardless of adjudication, any violation of s. 787.01 or s.
25 787.02, where the victim is a minor and the defendant is not
26 the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s.
27 794.023; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
28 847.0133; s. 847.0135; or s. 847.0145, or a violation of a
29 similar law of another jurisdiction;

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1 2. The offender has not received a pardon for any
2 felony or similar law of another jurisdiction that is
3 necessary for the operation of this paragraph; and

4 3. A conviction of a felony or similar law of another
5 jurisdiction necessary to the operation of this paragraph has
6 not been set aside in any postconviction proceeding.

7 (10) PENALTIES.--

8 (b) A sexual predator who has been convicted of or
9 found to have committed, or has pled nolo contendere or guilty
10 to, regardless of adjudication, any violation of s.

11 794.011(2), (3), (4), (5), or (8); s. 794.023; s. 800.04; s.
12 827.071; s. 847.0133; or s. 847.0145, or a violation of a
13 similar law of another jurisdiction, when the victim of the
14 offense was a minor, and who works, whether for compensation
15 or as a volunteer, at any business, school, day care center,
16 park, playground, or other place where children regularly
17 congregate, commits a felony of the third degree, punishable
18 as provided in s. 775.082, s. 775.083, or s. 775.084.

19 787.01 Kidnapping; kidnapping of child under age 13,
20 aggravating circumstances.--

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

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

25 2. Sexual battery, as defined in chapter 794, against
26 the child;

27 3. Lewd or lascivious battery, lewd or lascivious
28 molestation, lewd or lascivious conduct, or lewd or lascivious
29 exhibition, in violation of s. 800.04;

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

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

3
4 commits a life felony, punishable as provided in s. 775.082,
5 s. 775.083, or s. 775.084.

6 (b) Pursuant to s. 775.021(4), nothing contained
7 herein shall be construed to prohibit the imposition of
8 separate judgments and sentences for the life felony described
9 in paragraph (a) and for each separate offense enumerated in
10 subparagraphs (a)1.-5.

11 787.02 False imprisonment; false imprisonment of child
12 under age 13, aggravating circumstances.--

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

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

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

23 3. Lewd or lascivious battery, lewd or lascivious
24 molestation, lewd or lascivious conduct, or lewd or lascivious
25 exhibition, 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.

30 (b) Pursuant to s. 775.021(4), nothing contained
31 herein shall be construed to prohibit the imposition of

1 separate judgments and sentences for the first degree offense
2 described in paragraph (a) and for each separate offense
3 enumerated in subparagraphs (a)1.-5.

4 787.025 Luring or enticing a child.--

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

13 914.16 Child abuse and sexual abuse of victims under
14 age 16 or persons with mental retardation; limits on
15 interviews.--The chief judge of each judicial circuit, after
16 consultation with the state attorney and the public defender
17 for the judicial circuit, the appropriate chief law
18 enforcement officer, and any other person deemed appropriate
19 by the chief judge, shall provide by order reasonable limits
20 on the number of interviews that a victim of a violation of s.
21 794.011, s. 800.04, or s. 827.03 who is under 16 years of age
22 or a victim of a violation of s. 794.011, s. 800.02, s.
23 800.03, or s. 825.102 who is a person with mental retardation
24 as defined in s. 393.063(44) must submit to for law
25 enforcement or discovery purposes. The order shall, to the
26 extent possible, protect the victim from the psychological
27 damage of repeated interrogations while preserving the rights
28 of the public, the victim, and the person charged with the
29 violation.

30 943.0435 Sexual offenders required to register with
31 the department; penalty.--

1 (1) As used in this section, the term:

2 (a) "Sexual offender" means a person who has been:

3 1. Convicted of committing, or attempting, soliciting,
4 or conspiring to commit, any of the criminal offenses
5 proscribed in the following statutes in this state or similar
6 offenses in another jurisdiction: s. 787.01 or s. 787.02,
7 where the victim is a minor and the defendant is not the
8 victim's parent; s. 787.025; chapter 794; s. 796.03; s.
9 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s.
10 847.0145; or any similar offense committed in this state which
11 has been redesignated from a former statute number to one of
12 those listed in this subparagraph.

13 2. Released on or after October 1, 1997, from the
14 sanction imposed for any conviction of an offense described in
15 subparagraph 1. For purposes of subparagraph 1., a sanction
16 imposed in this state or in any other jurisdiction includes,
17 but is not limited to, a fine, probation, community control,
18 parole, conditional release, control release, or incarceration
19 in a state prison, federal prison, private correctional
20 facility, or local detention facility.

21 943.0585 Court-ordered expunction of criminal history
22 records.--The courts of this state have jurisdiction over
23 their own procedures, including the maintenance, expunction,
24 and correction of judicial records containing criminal history
25 information to the extent such procedures are not inconsistent
26 with the conditions, responsibilities, and duties established
27 by this section. Any court of competent jurisdiction may
28 order a criminal justice agency to expunge the criminal
29 history record of a minor or an adult who complies with the
30 requirements of this section. The court shall not order a
31 criminal justice agency to expunge a criminal history record

1 until the person seeking to expunge a criminal history record
2 has applied for and received a certificate of eligibility for
3 expunction pursuant to subsection (2). A criminal history
4 record that relates to a violation of chapter 794, s. 800.04,
5 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
6 violation enumerated in s. 907.041 may not be expunged,
7 without regard to whether adjudication was withheld, if the
8 defendant was found guilty of or pled guilty or nolo
9 contendere to the offense, or if the defendant, as a minor,
10 was found to have committed, or pled guilty or nolo contendere
11 to committing, the offense as a delinquent act. The court may
12 only order expunction of a criminal history record pertaining
13 to one arrest or one incident of alleged criminal activity,
14 except as provided in this section. The court may, at its sole
15 discretion, order the expunction of a criminal history record
16 pertaining to more than one arrest if the additional arrests
17 directly relate to the original arrest. If the court intends
18 to order the expunction of records pertaining to such
19 additional arrests, such intent must be specified in the
20 order. A criminal justice agency may not expunge any record
21 pertaining to such additional arrests if the order to expunge
22 does not articulate the intention of the court to expunge a
23 record pertaining to more than one arrest. This section does
24 not prevent the court from ordering the expunction of only a
25 portion of a criminal history record pertaining to one arrest
26 or one incident of alleged criminal activity. Notwithstanding
27 any law to the contrary, a criminal justice agency may comply
28 with laws, court orders, and official requests of other
29 jurisdictions relating to expunction, correction, or
30 confidential handling of criminal history records or
31 information derived therefrom. This section does not confer

1 any right to the expunction of any criminal history record,
2 and any request for expunction of a criminal history record
3 may be denied at the sole discretion of the court.

4 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
5 to petitioning the court to expunge a criminal history record,
6 a person seeking to expunge a criminal history record shall
7 apply to the department for a certificate of eligibility for
8 expunction. The department shall, by rule adopted pursuant to
9 chapter 120, establish procedures pertaining to the
10 application for and issuance of certificates of eligibility
11 for expunction. The department shall issue a certificate of
12 eligibility for expunction to a person who is the subject of a
13 criminal history record if that person:

14 (a) Has obtained, and submitted to the department, a
15 written, certified statement from the appropriate state
16 attorney or statewide prosecutor which indicates:

17 1. That an indictment, information, or other charging
18 document was not filed or issued in the case.

19 2. That an indictment, information, or other charging
20 document, if filed or issued in the case, was dismissed or
21 nolle prosequi by the state attorney or statewide prosecutor,
22 or was dismissed by a court of competent jurisdiction.

23 3. That the criminal history record does not relate to
24 a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071,
25 chapter 839, s. 893.135, or a violation enumerated in s.
26 907.041, where the defendant was found guilty of, or pled
27 guilty or nolo contendere to any such offense, or that the
28 defendant, as a minor, was found to have committed, or pled
29 guilty or nolo contendere to committing, such an offense as a
30 delinquent act, without regard to whether adjudication was
31 withheld.

1 943.059 Court-ordered sealing of criminal history
2 records.--The courts of this state shall continue to have
3 jurisdiction over their own procedures, including the
4 maintenance, sealing, and correction of judicial records
5 containing criminal history information to the extent such
6 procedures are not inconsistent with the conditions,
7 responsibilities, and duties established by this section. Any
8 court of competent jurisdiction may order a criminal justice
9 agency to seal the criminal history record of a minor or an
10 adult who complies with the requirements of this section. The
11 court shall not order a criminal justice agency to seal a
12 criminal history record until the person seeking to seal a
13 criminal history record has applied for and received a
14 certificate of eligibility for sealing pursuant to subsection
15 (2). A criminal history record that relates to a violation of
16 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,
17 s. 893.135, or a violation enumerated in s. 907.041 may not be
18 sealed, without regard to whether adjudication was withheld,
19 if the defendant was found guilty of or pled guilty or nolo
20 contendere to the offense, or if the defendant, as a minor,
21 was found to have committed or pled guilty or nolo contendere
22 to committing the offense as a delinquent act. The court may
23 only order sealing of a criminal history record pertaining to
24 one arrest or one incident of alleged criminal activity,
25 except as provided in this section. The court may, at its sole
26 discretion, order the sealing of a criminal history record
27 pertaining to more than one arrest if the additional arrests
28 directly relate to the original arrest. If the court intends
29 to order the sealing of records pertaining to such additional
30 arrests, such intent must be specified in the order. A
31 criminal justice agency may not seal any record pertaining to

1 such additional arrests if the order to seal does not
2 articulate the intention of the court to seal records
3 pertaining to more than one arrest. This section does not
4 prevent the court from ordering the sealing of only a portion
5 of a criminal history record pertaining to one arrest or one
6 incident of alleged criminal activity. Notwithstanding any law
7 to the contrary, a criminal justice agency may comply with
8 laws, court orders, and official requests of other
9 jurisdictions relating to sealing, correction, or confidential
10 handling of criminal history records or information derived
11 therefrom. This section does not confer any right to the
12 sealing of any criminal history record, and any request for
13 sealing a criminal history record may be denied at the sole
14 discretion of the court.

15 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
16 petition to a court to seal a criminal history record is
17 complete only when accompanied by:

18 (a) A certificate of eligibility for sealing issued by
19 the department pursuant to subsection (2).

20 (b) The petitioner's sworn statement attesting that
21 the petitioner:

22 1. Has never, prior to the date on which the petition
23 is filed, been adjudicated guilty of a criminal offense or
24 comparable ordinance violation or adjudicated delinquent for
25 committing a felony or a misdemeanor specified in s.
26 943.051(3)(b).

27 2. Has not been adjudicated guilty of or adjudicated
28 delinquent for committing any of the acts stemming from the
29 arrest or alleged criminal activity to which the petition to
30 seal pertains.

31

1 3. Has never secured a prior sealing or expunction of
2 a criminal history record under this section, former s.
3 893.14, former s. 901.33, former s. 943.058, or from any
4 jurisdiction outside the state.

5 4. Is eligible for such a sealing to the best of his
6 or her knowledge or belief and does not have any other
7 petition to seal or any petition to expunge pending before any
8 court.

9
10 Any person who knowingly provides false information on such
11 sworn statement to the court commits a felony of the third
12 degree, punishable as provided in s. 775.082, s. 775.083, or
13 s. 775.084.

14 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
15 petitioning the court to seal a criminal history record, a
16 person seeking to seal a criminal history record shall apply
17 to the department for a certificate of eligibility for
18 sealing. The department shall, by rule adopted pursuant to
19 chapter 120, establish procedures pertaining to the
20 application for and issuance of certificates of eligibility
21 for sealing. The department shall issue a certificate of
22 eligibility for sealing to a person who is the subject of a
23 criminal history record provided that such person:

24 (a) Has submitted to the department a certified copy
25 of the disposition of the charge to which the petition to seal
26 pertains.

27 (b) Remits a \$75 processing fee to the department for
28 placement in the Department of Law Enforcement Operating Trust
29 Fund, unless such fee is waived by the executive director.

30 (c) Has never, prior to the date on which the
31 application for a certificate of eligibility is filed, been

1 adjudicated guilty of a criminal offense or comparable
2 ordinance violation or adjudicated delinquent for committing a
3 felony or a misdemeanor specified in s. 943.051(3)(b).

4 (d) Has not been adjudicated guilty of or adjudicated
5 delinquent for committing any of the acts stemming from the
6 arrest or alleged criminal activity to which the petition to
7 seal pertains.

8 (e) Has never secured a prior sealing or expunction of
9 a criminal history record under this section, former s.
10 893.14, former s. 901.33, or former s. 943.058.

11 (f) Is no longer under court supervision applicable to
12 the disposition of the arrest or alleged criminal activity to
13 which the petition to seal pertains.

14 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

15 (a) In judicial proceedings under this section, a copy
16 of the completed petition to seal shall be served upon the
17 appropriate state attorney or the statewide prosecutor and
18 upon the arresting agency; however, it is not necessary to
19 make any agency other than the state a party. The appropriate
20 state attorney or the statewide prosecutor and the arresting
21 agency may respond to the court regarding the completed
22 petition to seal.

23 (b) If relief is granted by the court, the clerk of
24 the court shall certify copies of the order to the appropriate
25 state attorney or the statewide prosecutor and to the
26 arresting agency. The arresting agency is responsible for
27 forwarding the order to any other agency to which the
28 arresting agency disseminated the criminal history record
29 information to which the order pertains. The department shall
30 forward the order to seal to the Federal Bureau of
31 Investigation. The clerk of the court shall certify a copy of

1 the order to any other agency which the records of the court
2 reflect has received the criminal history record from the
3 court.

4 (c) For an order to seal entered by a court prior to
5 July 1, 1992, the department shall notify the appropriate
6 state attorney or statewide prosecutor of any order to seal
7 which is contrary to law because the person who is the subject
8 of the record has previously been convicted of a crime or
9 comparable ordinance violation or has had a prior criminal
10 history record sealed or expunged. Upon receipt of such
11 notice, the appropriate state attorney or statewide prosecutor
12 shall take action, within 60 days, to correct the record and
13 petition the court to void the order to seal. The department
14 shall seal the record until such time as the order is voided
15 by the court.

16 (d) On or after July 1, 1992, the department or any
17 other criminal justice agency is not required to act on an
18 order to seal entered by a court when such order does not
19 comply with the requirements of this section. Upon receipt of
20 such an order, the department must notify the issuing court,
21 the appropriate state attorney or statewide prosecutor, the
22 petitioner or the petitioner's attorney, and the arresting
23 agency of the reason for noncompliance. The appropriate state
24 attorney or statewide prosecutor shall take action within 60
25 days to correct the record and petition the court to void the
26 order. No cause of action, including contempt of court, shall
27 arise against any criminal justice agency for failure to
28 comply with an order to seal when the petitioner for such
29 order failed to obtain the certificate of eligibility as
30 required by this section or when such order does not comply
31 with the requirements of this section.

1 (e) An order sealing a criminal history record
2 pursuant to this section does not require that such record be
3 surrendered to the court, and such record shall continue to be
4 maintained by the department and other criminal justice
5 agencies.

6 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
7 criminal history record of a minor or an adult which is
8 ordered sealed by a court of competent jurisdiction pursuant
9 to this section is confidential and exempt from the provisions
10 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
11 and is available only to the person who is the subject of the
12 record, to the subject's attorney, to criminal justice
13 agencies for their respective criminal justice purposes, or to
14 those entities set forth in subparagraphs (a)1., 4., 5., and
15 6. for their respective licensing and employment purposes.

16 (a) The subject of a criminal history record sealed
17 under this section or under other provisions of law, including
18 former s. 893.14, former s. 901.33, and former s. 943.058, may
19 lawfully deny or fail to acknowledge the arrests covered by
20 the sealed record, except when the subject of the record:

- 21 1. Is a candidate for employment with a criminal
22 justice agency;
- 23 2. Is a defendant in a criminal prosecution;
- 24 3. Concurrently or subsequently petitions for relief
25 under this section or s. 943.0585;
- 26 4. Is a candidate for admission to The Florida Bar;
- 27 5. Is seeking to be employed or licensed by or to
28 contract with the Department of Children and Family Services
29 or the Department of Juvenile Justice or to be employed or
30 used by such contractor or licensee in a sensitive position
31 having direct contact with children, the developmentally

1 disabled, the aged, or the elderly as provided in s.
2 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
3 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
4 415.103, s. 985.407, or chapter 400; or

5 6. Is seeking to be employed or licensed by the Office
6 of Teacher Education, Certification, Staff Development, and
7 Professional Practices of the Department of Education, any
8 district school board, or any local governmental entity which
9 licenses child care facilities.

10 (b) Subject to the exceptions in paragraph (a), a
11 person who has been granted a sealing under this section,
12 former s. 893.14, former s. 901.33, or former s. 943.058 may
13 not be held under any provision of law of this state to commit
14 perjury or to be otherwise liable for giving a false statement
15 by reason of such person's failure to recite or acknowledge a
16 sealed criminal history record.

17 (c) Information relating to the existence of a sealed
18 criminal record provided in accordance with the provisions of
19 paragraph (a) is confidential and exempt from the provisions
20 of s. 119.07(1) and s. 24(a), Art. I of the State
21 Constitution, except that the department shall disclose the
22 sealed criminal history record to the entities set forth in
23 subparagraphs (a)1., 4., 5., and 6. for their respective
24 licensing and employment purposes. It is unlawful for any
25 employee of an entity set forth in subparagraph (a)1.,
26 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.
27 to disclose information relating to the existence of a sealed
28 criminal history record of a person seeking employment or
29 licensure with such entity or contractor, except to the person
30 to whom the criminal history record relates or to persons
31 having direct responsibility for employment or licensure

1 decisions. Any person who violates the provisions of this
2 paragraph commits a misdemeanor of the first degree,
3 punishable as provided in s. 775.082 or s. 775.083.

4 (5) STATUTORY REFERENCES.--Any reference to any other
5 chapter, section, or subdivision of the Florida Statutes in
6 this section constitutes a general reference under the
7 doctrine of incorporation by reference.

8 944.606 Sexual offenders; notification upon release.--

9 (1) As used in this section:

10 (b) "Sexual offender" means a person who has been
11 convicted of committing, or attempting, soliciting, or
12 conspiring to commit, any of the criminal offenses proscribed
13 in the following statutes in this state or similar offenses in
14 another jurisdiction: s. 787.01 or s. 787.02, where the
15 victim is a minor and the defendant is not the victim's
16 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
17 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145;
18 or any similar offense committed in this state which has been
19 redesignated from a former statute number to one of those
20 listed in this subsection, when the department has received
21 verified information regarding such conviction; an offender's
22 computerized criminal history record is not, in and of itself,
23 verified information.

24 944.607 Notification to Department of Law Enforcement
25 of information on sexual offenders.--

26 (1) As used in this section, the term:

27 (a) "Sexual offender" means a person who is in the
28 custody or control of, or under the supervision of, the
29 department or is in the custody of a private correctional
30 facility on or after October 1, 1997, as a result of a
31 conviction for committing, or attempting, soliciting, or

1 conspiring to commit, any of the criminal offenses proscribed
2 in the following statutes in this state or similar offenses in
3 another jurisdiction: s. 787.01 or s. 787.02, where the
4 victim is a minor and the defendant is not the victim's
5 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
6 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145;
7 or any similar offense committed in this state which has been
8 redesignated from a former statute number to one of those
9 listed in this paragraph.

10 947.1405 Conditional release program.--

11 (7)(a) Any inmate who is convicted of a crime
12 committed on or after October 1, 1995, or who has been
13 previously convicted of a crime committed on or after October
14 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,
15 or s. 847.0145, and is subject to conditional release
16 supervision, shall have, in addition to any other conditions
17 imposed, the following special conditions imposed by the
18 commission:

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

25 2. If the victim was under the age of 18, a
26 prohibition on living within 1,000 feet of a school, day care
27 center, park, playground, or other place where children
28 regularly congregate.

29 3. Active participation in and successful completion
30 of a sex offender treatment program with therapists
31 specifically trained to treat sex offenders, at the releasee's

1 own expense. If a specially trained therapist is not available
2 within a 50-mile radius of the releasee's residence, the
3 offender shall participate in other appropriate therapy.

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

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

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

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

26 8. A requirement that the releasee must submit two
27 specimens of blood to the Florida Department of Law
28 Enforcement to be registered with the DNA database.

29 9. A requirement that the releasee make restitution to
30 the victim, as determined by the sentencing court or the
31 commission, for all necessary medical and related professional

1 services relating to physical, psychiatric, and psychological
2 care.

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

6 (b) For a releasee whose crime was committed on or
7 after October 1, 1997, in violation of chapter 794, s. 800.04,
8 s. 827.071, or s. 847.0145, and who is subject to conditional
9 release supervision, in addition to any other provision of
10 this subsection, the commission shall impose the following
11 additional conditions of conditional release supervision:

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

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

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

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

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.

5 948.01 When court may place defendant on probation or
6 into community control.--

7 (15) Effective for an offense committed on or after
8 July 1, 1998, a person is ineligible for placement on
9 administrative probation if the person is sentenced to or is
10 serving a term of probation or community control, regardless
11 of the conviction or adjudication, for committing, or
12 attempting, conspiring, or soliciting to commit, any of the
13 felony offenses described in s. 787.01 or s. 787.02, where the
14 victim is a minor and the defendant is not the victim's
15 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
16 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.
17 847.0145.

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

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

29 (a) Lewd or lascivious battery, lewd or lascivious
30 molestation, lewd or lascivious conduct, or lewd or lascivious
31 exhibition, as defined in s. 800.04.

1 (b) Sexual battery, as defined in chapter 794, against
2 a child.

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

5
6 Such counseling shall be required to be obtained from a
7 community mental health center, a recognized social service
8 agency providing mental health services, or a private mental
9 health professional or through other professional counseling.
10 The plan for counseling for the individual shall be provided
11 to the court for review.

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

17 (a) Effective for probationers or community
18 controllees whose crime was committed on or after October 1,
19 1995, and who are placed under supervision for violation of
20 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court
21 must impose the following conditions in addition to all other
22 standard and special conditions imposed:

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

29 2. If the victim was under the age of 18, a
30 prohibition on living within 1,000 feet of a school, day care
31

1 center, park, playground, or other place where children
2 regularly congregate, as prescribed by the court.

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

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

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

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

26 7. Unless otherwise indicated in the treatment plan
27 provided by the sexual offender treatment program, a
28 prohibition on viewing, owning, or possessing any obscene,
29 pornographic, or sexually stimulating visual or auditory
30 material, including telephone, electronic media, computer
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1 programs, or computer services that are relevant to the
2 offender's deviant behavior pattern.

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

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

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

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

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

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

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

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

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

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

1 secure residential treatment institution, or a community
2 residential facility owned or operated by any entity providing
3 such services.

4 948.06 Violation of probation or community control;
5 revocation; modification; continuance; failure to pay
6 restitution or cost of supervision.--

7 (2)(a) When any state or local law enforcement agency
8 investigates or arrests a person for committing, or
9 attempting, soliciting, or conspiring to commit, a violation
10 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,
11 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement
12 agency shall contact the Department of Corrections to verify
13 whether the person under investigation or under arrest is on
14 probation, community control, parole, conditional release, or
15 control release.

16 Section 4. This act shall take effect October 1, 2000.
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