

By Senator Crist

13-382-02

1                                   A bill to be entitled  
2           An act relating to crimes against minors;  
3           amending ss. 787.01, 787.02, F.S.; revising the  
4           elements of the crimes of kidnapping a minor  
5           child and false imprisonment of a minor child;  
6           amending s. 787.025, F.S.; revising the  
7           elements of the crime of luring or enticing a  
8           minor child for an unlawful purpose; providing  
9           for prosecuting an offender who has not been  
10          previously convicted of a violation involving  
11          sexual battery or a lewd or lascivious offense  
12          against a minor; increasing the penalty imposed  
13          for the offense of luring or enticing a minor  
14          child for an unlawful purpose; reenacting ss.  
15          435.03(2)(j) and (k), 435.04(2)(k) and (l),  
16          775.21(4), 903.133, 910.14, F.S., relating to  
17          screening standards, the Florida Sexual  
18          Predators Act, bail on appeal, and kidnapping,  
19          to incorporate the amendments to ss. 787.01,  
20          787.02, 787.025, F.S., in references thereto;  
21          reenacting and amending s. 921.0022(3)(f), (i),  
22          and (j), F.S., relating to the offense severity  
23          ranking chart of the Criminal Punishment Code,  
24          to incorporate the amendments to s. 787.02,  
25          F.S., in references thereto; conforming  
26          provisions to changes made by the act;  
27          reenacting ss. 943.0435(1)(a), 943.0585,  
28          943.059, 944.606(1)(b), 944.607(1)(a),  
29          948.01(15), 948.06(2)(a), F.S., relating to the  
30          registration of sexual offenders, expunction  
31          and court-ordered sealing of criminal history

1 records, the definition of the term "sexual  
2 offender," and probation and community control,  
3 to incorporate the amendments to ss. 787.01,  
4 787.02, 787.025, F.S., in references thereto;  
5 providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Section 787.01, Florida Statutes, is  
10 amended to read:

11 787.01 Kidnapping; kidnapping of child under age 15  
12 ~~13~~, aggravating circumstances.--

13 (1)(a) The term "kidnapping" means forcibly, secretly,  
14 or by threat confining, abducting, or imprisoning another  
15 person against her or his will and without lawful authority,  
16 with intent to:

- 17 1. Hold for ransom or reward or as a shield or  
18 hostage.  
19 2. Commit or facilitate commission of any felony.  
20 3. Inflict bodily harm upon or to terrorize the victim  
21 or another person.  
22 4. Interfere with the performance of any governmental  
23 or political function.

24 (b) Confinement of a child under the age of 15 ~~13~~ is  
25 against her or his will within the meaning of this subsection  
26 if such confinement is without the consent of her or his  
27 parent or legal guardian.

28 (2) A person who kidnaps a person is guilty of a  
29 felony of the first degree, punishable by imprisonment for a  
30 term of years not exceeding life or as provided in s. 775.082,  
31 s. 775.083, or s. 775.084.

1           (3)(a) A person who commits the offense of kidnapping  
2 upon a child under the age of 15 ~~13~~ and who, in the course of  
3 committing the offense, commits one or more of the following:

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

5           2. Sexual battery, as defined in chapter 794, against  
6 the child;

7           3. Lewd or lascivious battery, lewd or lascivious  
8 molestation, lewd or lascivious conduct, or lewd or lascivious  
9 exhibition, in violation of s. 800.04;

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

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

14

15 commits a life felony, punishable as provided in s. 775.082,  
16 s. 775.083, or s. 775.084.

17           (b) Pursuant to s. 775.021(4), nothing contained  
18 herein shall be construed to prohibit the imposition of  
19 separate judgments and sentences for the life felony described  
20 in paragraph (a) and for each separate offense enumerated in  
21 subparagraphs (a)1.-5.

22           Section 2. Section 787.02, Florida Statutes, is  
23 amended to read:

24           787.02 False imprisonment; false imprisonment of child  
25 under age 15 ~~13~~, aggravating circumstances.--

26           (1)(a) The term "false imprisonment" means forcibly,  
27 by threat, or secretly confining, abducting, imprisoning, or  
28 restraining another person without lawful authority and  
29 against her or his will.

30           (b) Confinement of a child under the age of 15 ~~13~~ is  
31 against her or his will within the meaning of this section if

1 such confinement is without the consent of her or his parent  
2 or legal guardian.

3 (2) A person who commits the offense of false  
4 imprisonment is guilty of a felony of the third degree,  
5 punishable as provided in s. 775.082, s. 775.083, or s.  
6 775.084.

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

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

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

17 3. Lewd or lascivious battery, lewd or lascivious  
18 molestation, lewd or lascivious conduct, or lewd or lascivious  
19 exhibition, in violation of s. 800.04;

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

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

24 (b) Pursuant to s. 775.021(4), nothing contained  
25 herein shall be construed to prohibit the imposition of  
26 separate judgments and sentences for the first degree offense  
27 described in paragraph (a) and for each separate offense  
28 enumerated in subparagraphs (a)1.-5.

29 Section 3. Section 787.025, Florida Statutes, is  
30 amended to read:

31 787.025 Luring or enticing a child.--

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

2 (a) "Structure" means a building of any kind, either  
3 temporary or permanent, which has a roof over it, together  
4 with the curtilage thereof.

5 (b) "Dwelling" means a building or conveyance of any  
6 kind, either temporary or permanent, mobile or immobile, which  
7 has a roof over it and is designed to be occupied by people  
8 lodging together therein at night, together with the curtilage  
9 thereof.

10 (c) "Conveyance" means any motor vehicle, ship,  
11 vessel, railroad car, trailer, aircraft, or sleeping car.

12 (2)(a) A person over the age of 18 who, ~~having been~~  
13 ~~previously convicted of a violation of chapter 794 or s.~~  
14 ~~800.04, or a violation of a similar law of another~~  
15 ~~jurisdiction,~~ intentionally lures or entices, or attempts to  
16 lure or entice, a child under the age of 15 ~~12~~ into a  
17 structure, dwelling, or conveyance for other than a lawful  
18 purpose commits a felony of the second ~~third~~ degree,  
19 punishable as provided in s. 775.082, s. 775.083, or s.  
20 775.084.

21 (b) For purposes of this section, the luring or  
22 enticing, or attempted luring or enticing, of a child under  
23 the age of 15 ~~12~~ into a structure, dwelling, or conveyance  
24 without the consent of the child's parent or legal guardian  
25 shall be prima facie evidence of other than a lawful purpose.

26 (3) It is an affirmative defense to a prosecution  
27 under this section that:

28 (a) The person reasonably believed that his or her  
29 action was necessary to prevent the child from being seriously  
30 injured.

31

1           (b) The person lured or enticed, or attempted to lure  
2 or entice, the child under the age of 15 ~~±2~~ into a structure,  
3 dwelling, or conveyance for a lawful purpose.

4           (c) The person's actions were reasonable under the  
5 circumstances and the defendant did not have any intent to  
6 harm the health, safety, or welfare of the child.

7           Section 4. For the purpose of incorporating the  
8 amendments made by this act to sections 787.01 and 787.02,  
9 Florida Statutes, in references thereto, paragraphs (j) and  
10 (k) of subsection (2) of section 435.03, Florida Statutes, are  
11 reenacted to read:

12           435.03 Level 1 screening standards.--

13           (2) Any person for whom employment screening is  
14 required by statute must not have been found guilty of,  
15 regardless of adjudication, or entered a plea of nolo  
16 contendere or guilty to, any offense prohibited under any of  
17 the following provisions of the Florida Statutes or under any  
18 similar statute of another jurisdiction:

19           (j) Section 787.01, relating to kidnapping.

20           (k) Section 787.02, relating to false imprisonment.

21           Section 5. For the purpose of incorporating the  
22 amendments made by this act to sections 787.01 and 787.02,  
23 Florida Statutes, in references thereto, paragraphs (k) and  
24 (l) of subsection (2) of section 435.04, Florida Statutes, are  
25 reenacted to read:

26           435.04 Level 2 screening standards.--

27           (2) The security background investigations under this  
28 section must ensure that no persons subject to the provisions  
29 of this section have been found guilty of, regardless of  
30 adjudication, or entered a plea of nolo contendere or guilty  
31 to, any offense prohibited under any of the following

1 provisions of the Florida Statutes or under any similar  
2 statute of another jurisdiction:

3 (k) Section 787.01, relating to kidnapping.

4 (l) Section 787.02, relating to false imprisonment.

5 Section 6. For the purpose of incorporating the  
6 amendments made by this act to sections 787.01, 787.02, and  
7 787.025, Florida Statutes, in references thereto, subsection  
8 (4) of section 775.21, Florida Statutes, is reenacted to read:

9 775.21 The Florida Sexual Predators Act; definitions;  
10 legislative findings, purpose, and intent; criteria;  
11 designation; registration; community and public notification;  
12 immunity; penalties.--

13 (4) SEXUAL PREDATOR CRITERIA.--

14 (a) For a current offense committed on or after  
15 October 1, 1993, upon conviction, an offender shall be  
16 designated as a "sexual predator" under subsection (5), and  
17 subject to registration under subsection (6) and community and  
18 public notification under subsection (7) if:

19 1. The felony is:

20 a. A capital, life, or first-degree felony violation,  
21 or any attempt thereof, of s. 787.01 or s. 787.02, where the  
22 victim is a minor and the defendant is not the victim's  
23 parent, or of chapter 794, s. 800.04, or s. 847.0145, or a  
24 violation of a similar law of another jurisdiction; or

25 b. Any felony violation, or any attempt thereof, of s.  
26 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
27 and the defendant is not the victim's parent; chapter 794,  
28 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04;  
29 s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation  
30 of a similar law of another jurisdiction, and the offender has  
31 previously been convicted of or found to have committed, or

1 has pled nolo contendere or guilty to, regardless of  
2 adjudication, any violation of s. 787.01, s. 787.02, or s.  
3 787.025, where the victim is a minor and the defendant is not  
4 the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s.  
5 794.05; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
6 847.0133; s. 847.0135; or s. 847.0145, or a violation of a  
7 similar law of another jurisdiction;

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

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

14           (b) In order to be counted as a prior felony for  
15 purposes of this subsection, the felony must have resulted in  
16 a conviction sentenced separately, or an adjudication of  
17 delinquency entered separately, prior to the current offense  
18 and sentenced or adjudicated separately from any other felony  
19 conviction that is to be counted as a prior felony. If the  
20 offender's prior enumerated felony was committed more than 10  
21 years before the primary offense, it shall not be considered a  
22 prior felony under this subsection if the offender has not  
23 been convicted of any other crime for a period of 10  
24 consecutive years from the most recent date of release from  
25 confinement, supervision, or sanction, whichever is later.

26           (c) If an offender has been registered as a sexual  
27 predator by the Department of Corrections, the department, or  
28 any other law enforcement agency and if:

29           1. The court did not, for whatever reason, make a  
30 written finding at the time of sentencing that the offender  
31 was a sexual predator; or



1           2. The offender was administratively registered as a  
2 sexual predator because the Department of Corrections, the  
3 department, or any other law enforcement agency obtained  
4 information that indicated that the offender met the criteria  
5 for designation as a sexual predator based on a violation of a  
6 similar law in another jurisdiction,

7  
8 the department shall remove that offender from the  
9 department's list of sexual predators and, for an offender  
10 described under subparagraph 1., shall notify the state  
11 attorney who prosecuted the offense that met the criteria for  
12 administrative designation as a sexual predator, and, for an  
13 offender described under this subparagraph, shall notify the  
14 state attorney of the county where the offender establishes or  
15 maintains a permanent or temporary residence. The state  
16 attorney shall bring the matter to the court's attention in  
17 order to establish that the offender meets the criteria for  
18 designation as a sexual predator. If the court makes a written  
19 finding that the offender is a sexual predator, the offender  
20 must be designated as a sexual predator, must register or be  
21 registered as a sexual predator with the department as  
22 provided in subsection (6), and is subject to the community  
23 and public notification as provided in subsection (7). If the  
24 court does not make a written finding that the offender is a  
25 sexual predator, the offender may not be designated as a  
26 sexual predator with respect to that offense and is not  
27 required to register or be registered as a sexual predator  
28 with the department.

29           Section 7. For the purpose of incorporating the  
30 amendments made by this act to section 787.01, Florida

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1 Statutes, in references thereto, section 903.133, Florida  
2 Statutes, is reenacted to read:

3 903.133 Bail on appeal; prohibited for certain felony  
4 convictions.--Notwithstanding the provisions of s. 903.132, no  
5 person adjudged guilty of a felony of the first degree for a  
6 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
7 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
8 violation of s. 794.011(2) or (3), shall be admitted to bail  
9 pending review either by posttrial motion or appeal.

10 Section 8. For the purpose of incorporating the  
11 amendments made by this act to sections 787.01 and 787.02,  
12 Florida Statutes, in references thereto, section 910.14,  
13 Florida Statutes, is reenacted to read:

14 910.14 Kidnapping.--A person who commits an offense  
15 provided for in s. 787.01 or s. 787.02 may be tried in any  
16 county in which the person's victim has been taken or confined  
17 during the course of the offense.

18 Section 9. For the purpose of incorporating the  
19 amendments made by this act to sections 787.01 and 787.02,  
20 Florida Statutes, in references thereto, paragraphs (f), (i),  
21 and (j) of subsection (3) of section 921.0022, Florida  
22 Statutes, are reenacted and amended to read:

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

25 (3) OFFENSE SEVERITY RANKING CHART

26  
27 Florida Felony  
28 Statute Degree Description

29

30

31 (f) LEVEL 6

1	316.027(1)(b)	2nd	Accident involving death, failure
2			to stop; leaving scene.
3	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
4			conviction.
5	775.0875(1)	3rd	Taking firearm from law
6			enforcement officer.
7	775.21(10)	3rd	Sexual predators; failure to
8			register; failure to renew
9			driver's license or
10			identification card.
11	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
12			without intent to kill.
13	784.021(1)(b)	3rd	Aggravated assault; intent to
14			commit felony.
15	784.041	3rd	Felony battery.
16	784.048(3)	3rd	Aggravated stalking; credible
17			threat.
18	784.048(5)	3rd	Aggravated stalking of person
19			under 16.
20	784.07(2)(c)	2nd	Aggravated assault on law
21			enforcement officer.
22	784.074(1)(b)	2nd	Aggravated assault on sexually
23			violent predators facility staff.
24	784.08(2)(b)	2nd	Aggravated assault on a person 65
25			years of age or older.
26	784.081(2)	2nd	Aggravated assault on specified
27			official or employee.
28	784.082(2)	2nd	Aggravated assault by detained
29			person on visitor or other
30			detainee.
31			

1	784.083(2)	2nd	Aggravated assault on code
2			inspector.
3	787.02(2)	3rd	False imprisonment; restraining
4			with purpose other than those in
5			s. 787.01.
6	790.115(2)(d)	2nd	Discharging firearm or weapon on
7			school property.
8	790.161(2)	2nd	Make, possess, or throw
9			destructive device with intent to
10			do bodily harm or damage
11			property.
12	790.164(1)	2nd	False report of deadly explosive
13			or act of arson or violence to
14			state property.
15	790.19	2nd	Shooting or throwing deadly
16			missiles into dwellings, vessels,
17			or vehicles.
18	794.011(8)(a)	3rd	Solicitation of minor to
19			participate in sexual activity by
20			custodial adult.
21	794.05(1)	2nd	Unlawful sexual activity with
22			specified minor.
23	800.04(5)(d)	3rd	Lewd or lascivious molestation;
24			victim 12 years of age or older
25			but less than 16 years; offender
26			less than 18 years.
27	800.04(6)(b)	2nd	Lewd or lascivious conduct;
28			offender 18 years of age or
29			older.
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1	806.031(2)	2nd	Arson resulting in great bodily
2			harm to firefighter or any other
3			person.
4	810.02(3)(c)	2nd	Burglary of occupied structure;
5			unarmed; no assault or battery.
6	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
7			but less than \$100,000, grand
8			theft in 2nd degree.
9	812.014(2)(b)2.	2nd	Property stolen cargo valued at
10			less than \$50,000, grand theft in
11			2nd degree.
12	812.015(9)	2nd	Retail theft; property stolen
13			\$300 or more; second or
14			subsequent conviction.
15	812.13(2)(c)	2nd	Robbery, no firearm or other
16			weapon (strong-arm robbery).
17	817.034(4)(a)1.	1st	Communications fraud, value
18			greater than \$50,000.
19	817.4821(5)	2nd	Possess cloning paraphernalia
20			with intent to create cloned
21			cellular telephones.
22	825.102(1)	3rd	Abuse of an elderly person or
23			disabled adult.
24	825.102(3)(c)	3rd	Neglect of an elderly person or
25			disabled adult.
26	825.1025(3)	3rd	Lewd or lascivious molestation of
27			an elderly person or disabled
28			adult.
29	825.103(2)(c)	3rd	Exploiting an elderly person or
30			disabled adult and property is
31			valued at less than \$20,000.

1	827.03(1)	3rd	Abuse of a child.
2	827.03(3)(c)	3rd	Neglect of a child.
3	827.071(2)&(3)	2nd	Use or induce a child in a sexual
4			performance, or promote or direct
5			such performance.
6	836.05	2nd	Threats; extortion.
7	836.10	2nd	Written threats to kill or do
8			bodily injury.
9	843.12	3rd	Aids or assists person to escape.
10	847.0135(3)	3rd	Solicitation of a child, via a
11			computer service, to commit an
12			unlawful sex act.
13	914.23	2nd	Retaliation against a witness,
14			victim, or informant, with bodily
15			injury.
16	943.0435(9)	3rd	Sex offenders; failure to comply
17			with reporting requirements.
18	944.35(3)(a)2.	3rd	Committing malicious battery upon
19			or inflicting cruel or inhuman
20			treatment on an inmate or
21			offender on community
22			supervision, resulting in great
23			bodily harm.
24	944.40	2nd	Escapes.
25	944.46	3rd	Harboring, concealing, aiding
26			escaped prisoners.
27	944.47(1)(a)5.	2nd	Introduction of contraband
28			(firearm, weapon, or explosive)
29			into correctional facility.
30			
31			

1	951.22(1)	3rd	Intoxicating drug, firearm, or
2			weapon introduced into county
3			facility.
4			(i) LEVEL 9
5	316.193		
6	(3)(c)3.b.	1st	DUI manslaughter; failing to
7			render aid or give information.
8	560.123(8)(b)3.	1st	Failure to report currency or
9			payment instruments totaling or
10			exceeding \$100,000 by money
11			transmitter.
12	560.125(5)(c)	1st	Money transmitter business by
13			unauthorized person, currency, or
14			payment instruments totaling or
15			exceeding \$100,000.
16	655.50(10)(b)3.	1st	Failure to report financial
17			transactions totaling or
18			exceeding \$100,000 by financial
19			institution.
20	755.0844	1st	Aggravated white collar crime.
21	782.04(1)	1st	Attempt, conspire, or solicit to
22			commit premeditated murder.
23	782.04(3)	1st,PBL	Accomplice to murder in
24			connection with arson, sexual
25			battery, robbery, burglary, and
26			other specified felonies.
27	782.051(1)	1st	Attempted felony murder while
28			perpetrating or attempting to
29			perpetrate a felony enumerated in
30			s. 782.04(3).
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1	782.07(2)	1st	Aggravated manslaughter of an
2			elderly person or disabled adult.
3	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
4			reward or as a shield or hostage.
5	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
6			or facilitate commission of any
7			felony.
8	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
9			interfere with performance of any
10			governmental or political
11			function.
12	787.02(3)(a)	1st	False imprisonment; child under
13			age <u>15</u> <del>13</del> ; perpetrator also
14			commits aggravated child abuse,
15			sexual battery, or lewd or
16			lascivious battery, molestation,
17			conduct, or exhibition.
18	790.161	1st	Attempted capital destructive
19			device offense.
20	790.166(2)	1st,PBL	Possessing, selling, using, or
21			attempting to use a weapon of
22			mass destruction.
23	794.011(2)	1st	Attempted sexual battery; victim
24			less than 12 years of age.
25	794.011(2)	Life	Sexual battery; offender younger
26			than 18 years and commits sexual
27			battery on a person less than 12
28			years.
29	794.011(4)	1st	Sexual battery; victim 12 years
30			or older, certain circumstances.
31			



1	794.011(8)(b)	1st	Sexual battery; engage in sexual
2			conduct with minor 12 to 18 years
3			by person in familial or
4			custodial authority.
5	800.04(5)(b)	1st	Lewd or lascivious molestation;
6			victim less than 12 years;
7			offender 18 years or older.
8	812.13(2)(a)	1st,PBL	Robbery with firearm or other
9			deadly weapon.
10	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
11			deadly weapon.
12	827.03(2)	1st	Aggravated child abuse.
13	847.0145(1)	1st	Selling, or otherwise
14			transferring custody or control,
15			of a minor.
16	847.0145(2)	1st	Purchasing, or otherwise
17			obtaining custody or control, of
18			a minor.
19	859.01	1st	Poisoning food, drink, medicine,
20			or water with intent to kill or
21			injure another person.
22	893.135	1st	Attempted capital trafficking
23			offense.
24	893.135(1)(a)3.	1st	Trafficking in cannabis, more
25			than 10,000 lbs.
26	893.135		
27	(1)(b)1.c.	1st	Trafficking in cocaine, more than
28			400 grams, less than 150
29			kilograms.
30			
31			

1	893.135		
2	(1)(c)1.c.	1st	Trafficking in illegal drugs,
3			more than 28 grams, less than 30
4			kilograms.
5	893.135		
6	(1)(d)1.c.	1st	Trafficking in phencyclidine,
7			more than 400 grams.
8	893.135		
9	(1)(e)1.c.	1st	Trafficking in methaqualone, more
10			than 25 kilograms.
11	893.135		
12	(1)(f)1.c.	1st	Trafficking in amphetamine, more
13			than 200 grams.
14	893.135		
15	(1)(h)1.c.	1st	Trafficking in
16			gamma-hydroxybutyric acid (GHB),
17			10 kilograms or more.
18	893.135		
19	(1)(i)1.c.	1st	Trafficking in 1,4-Butanediol, 10
20			kilograms or more.
21	893.135		
22	(1)(j)2.c.	1st	Trafficking in Phenethylamines,
23			400 grams or more.
24	896.101(5)(c)	1st	Money laundering, financial
25			instruments totaling or exceeding
26			\$100,000.
27	896.104(4)(a)3.	1st	Structuring transactions to evade
28			reporting or registration
29			requirements, financial
30			transactions totaling or
31			exceeding \$100,000.

1 (j) LEVEL 10  
2 782.04(2) 1st,PBL Unlawful killing of human; act is  
3 homicide, unpremeditated.  
4 787.01(1)(a)3. 1st,PBL Kidnapping; inflict bodily harm  
5 upon or terrorize victim.  
6 787.01(3)(a) Life Kidnapping; child under age 15  
7 ~~13~~, perpetrator also commits  
8 aggravated child abuse, sexual  
9 battery, or lewd or lascivious  
10 battery, molestation, conduct, or  
11 exhibition.  
12 782.07(3) 1st Aggravated manslaughter of a  
13 child.  
14 794.011(3) Life Sexual battery; victim 12 years  
15 or older, offender uses or  
16 threatens to use deadly weapon or  
17 physical force to cause serious  
18 injury.  
19 876.32 1st Treason against the state.  
20 Section 10. For the purpose of incorporating the  
21 amendments made by this act to sections 787.01, 787.02, and  
22 787.025, Florida Statutes, in references thereto, paragraph  
23 (a) of subsection (1) of section 943.0435, Florida Statutes,  
24 is reenacted to read:  
25 943.0435 Sexual offenders required to register with  
26 the department; penalty.--  
27 (1) As used in this section, the term:  
28 (a) "Sexual offender" means a person who has been:  
29 1. Convicted of committing, or attempting, soliciting,  
30 or conspiring to commit, any of the criminal offenses  
31 proscribed in the following statutes in this state or similar

1 offenses in another jurisdiction: s. 787.01, s. 787.02, or s.  
2 787.025, where the victim is a minor and the defendant is not  
3 the victim's parent; chapter 794, excluding ss. 794.011(10)  
4 and 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071;  
5 s. 847.0133; s. 847.0135; s. 847.0145; or any similar offense  
6 committed in this state which has been redesignated from a  
7 former statute number to one of those listed in this  
8 subparagraph.

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

17           Section 11. For the purpose of incorporating the  
18 amendments made by this act to section 787.025, Florida  
19 Statutes, in references thereto, section 943.0585, Florida  
20 Statutes, is reenacted to read:

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 order  
28 a criminal justice agency to expunge the criminal history  
29 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 s. 787.025, chapter 794,  
5 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
6 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
7 893.135, or a violation enumerated in s. 907.041 may not be  
8 expunged, without regard to whether adjudication was withheld,  
9 if the defendant was found guilty of or pled guilty or nolo  
10 contendere to the offense, or if the defendant, as a minor,  
11 was found to have committed, or pled guilty or nolo contendere  
12 to committing, the offense as a delinquent act. The court may  
13 only order expunction of a criminal history record pertaining  
14 to one arrest or one incident of alleged criminal activity,  
15 except as provided in this section. The court may, at its sole  
16 discretion, order the expunction of a criminal history record  
17 pertaining to more than one arrest if the additional arrests  
18 directly relate to the original arrest. If the court intends  
19 to order the expunction of records pertaining to such  
20 additional arrests, such intent must be specified in the  
21 order. A criminal justice agency may not expunge any record  
22 pertaining to such additional arrests if the order to expunge  
23 does not articulate the intention of the court to expunge a  
24 record pertaining to more than one arrest. This section does  
25 not prevent the court from ordering the expunction of only a  
26 portion of a criminal history record pertaining to one arrest  
27 or one incident of alleged criminal activity. Notwithstanding  
28 any law to the contrary, a criminal justice agency may comply  
29 with laws, court orders, and official requests of other  
30 jurisdictions relating to expunction, correction, or  
31 confidential handling of criminal history records or

1 information derived therefrom. This section does not confer  
2 any right to the expunction of any criminal history record,  
3 and any request for expunction of a criminal history record  
4 may be denied at the sole discretion of the court.

5 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY  
6 RECORD.--Each petition to a court to expunge a criminal  
7 history record is complete only when accompanied by:

8 (a) A certificate of eligibility for expunction issued  
9 by the department pursuant to subsection (2).

10 (b) The petitioner's sworn statement attesting that  
11 the petitioner:

12 1. Has never, prior to the date on which the petition  
13 is filed, been adjudicated guilty of a criminal offense or  
14 comparable ordinance violation or adjudicated delinquent for  
15 committing a felony or a misdemeanor specified in s.  
16 943.051(3)(b).

17 2. Has not been adjudicated guilty of, or adjudicated  
18 delinquent for committing, any of the acts stemming from the  
19 arrest or alleged criminal activity to which the petition  
20 pertains.

21 3. Has never secured a prior sealing or expunction of  
22 a criminal history record under this section, former s.  
23 893.14, former s. 901.33, or former s. 943.058, or from any  
24 jurisdiction outside the state.

25 4. Is eligible for such an expunction to the best of  
26 his or her knowledge or belief and does not have any other  
27 petition to expunge or any petition to seal pending before any  
28 court.

29

30 Any person who knowingly provides false information on such  
31 sworn statement to the court commits a felony of the third

1 degree, punishable as provided in s. 775.082, s. 775.083, or  
2 s. 775.084.

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

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

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

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

22 3. That the criminal history record does not relate to  
23 a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04,  
24 s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133,  
25 s. 847.0135, s. 847.0145, s. 893.135, or a violation  
26 enumerated in s. 907.041, where the defendant was found guilty  
27 of, or pled guilty or nolo contendere to any such offense, or  
28 that the defendant, as a minor, was found to have committed,  
29 or pled guilty or nolo contendere to committing, such an  
30 offense as a delinquent act, without regard to whether  
31 adjudication was withheld.

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

4 (c) Has submitted to the department a certified copy  
5 of the disposition of the charge to which the petition to  
6 expunge pertains.

7 (d) Has never, prior to the date on which the  
8 application for a certificate of eligibility is filed, been  
9 adjudicated guilty of a criminal offense or comparable  
10 ordinance violation or adjudicated delinquent for committing a  
11 felony or a misdemeanor specified in s. 943.051(3)(b).

12 (e) Has not been adjudicated guilty of, or adjudicated  
13 delinquent for committing, any of the acts stemming from the  
14 arrest or alleged criminal activity to which the petition to  
15 expunge pertains.

16 (f) Has never secured a prior sealing or expunction of  
17 a criminal history record under this section, former s.  
18 893.14, former s. 901.33, or former s. 943.058.

19 (g) Is no longer under court supervision applicable to  
20 the disposition of the arrest or alleged criminal activity to  
21 which the petition to expunge pertains.

22 (h) Is not required to wait a minimum of 10 years  
23 prior to being eligible for an expunction of such records  
24 because all charges related to the arrest or criminal activity  
25 to which the petition to expunge pertains were dismissed prior  
26 to trial, adjudication, or the withholding of adjudication.  
27 Otherwise, such criminal history record must be sealed under  
28 this section, former s. 893.14, former s. 901.33, or former s.  
29 943.058 for at least 10 years before such record is eligible  
30 for expunction.

31 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--



1 (a) In judicial proceedings under this section, a copy  
2 of the completed petition to expunge shall be served upon the  
3 appropriate state attorney or the statewide prosecutor and  
4 upon the arresting agency; however, it is not necessary to  
5 make any agency other than the state a party. The appropriate  
6 state attorney or the statewide prosecutor and the arresting  
7 agency may respond to the court regarding the completed  
8 petition to expunge.

9 (b) If relief is granted by the court, the clerk of  
10 the court shall certify copies of the order to the appropriate  
11 state attorney or the statewide prosecutor and the arresting  
12 agency. The arresting agency is responsible for forwarding the  
13 order to any other agency to which the arresting agency  
14 disseminated the criminal history record information to which  
15 the order pertains. The department shall forward the order to  
16 expunge to the Federal Bureau of Investigation. The clerk of  
17 the court shall certify a copy of the order to any other  
18 agency which the records of the court reflect has received the  
19 criminal history record from the court.

20 (c) For an order to expunge entered by a court prior  
21 to July 1, 1992, the department shall notify the appropriate  
22 state attorney or statewide prosecutor of an order to expunge  
23 which is contrary to law because the person who is the subject  
24 of the record has previously been convicted of a crime or  
25 comparable ordinance violation or has had a prior criminal  
26 history record sealed or expunged. Upon receipt of such  
27 notice, the appropriate state attorney or statewide prosecutor  
28 shall take action, within 60 days, to correct the record and  
29 petition the court to void the order to expunge. The  
30 department shall seal the record until such time as the order  
31 is voided by the court.

1           (d) On or after July 1, 1992, the department or any  
2 other criminal justice agency is not required to act on an  
3 order to expunge entered by a court when such order does not  
4 comply with the requirements of this section. Upon receipt of  
5 such an order, the department must notify the issuing court,  
6 the appropriate state attorney or statewide prosecutor, the  
7 petitioner or the petitioner's attorney, and the arresting  
8 agency of the reason for noncompliance. The appropriate state  
9 attorney or statewide prosecutor shall take action within 60  
10 days to correct the record and petition the court to void the  
11 order. No cause of action, including contempt of court, shall  
12 arise against any criminal justice agency for failure to  
13 comply with an order to expunge when the petitioner for such  
14 order failed to obtain the certificate of eligibility as  
15 required by this section or such order does not otherwise  
16 comply with the requirements of this section.

17           (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
18 criminal history record of a minor or an adult which is  
19 ordered expunged by a court of competent jurisdiction pursuant  
20 to this section must be physically destroyed or obliterated by  
21 any criminal justice agency having custody of such record;  
22 except that any criminal history record in the custody of the  
23 department must be retained in all cases. A criminal history  
24 record ordered expunged that is retained by the department is  
25 confidential and exempt from the provisions of s. 119.07(1)  
26 and s. 24(a), Art. I of the State Constitution and not  
27 available to any person or entity except upon order of a court  
28 of competent jurisdiction. A criminal justice agency may  
29 retain a notation indicating compliance with an order to  
30 expunge.

31

1 (a) The person who is the subject of a criminal  
2 history record that is expunged under this section or under  
3 other provisions of law, including former s. 893.14, former s.  
4 901.33, and former s. 943.058, may lawfully deny or fail to  
5 acknowledge the arrests covered by the expunged record, except  
6 when the subject of the record:

7 1. Is a candidate for employment with a criminal  
8 justice agency;

9 2. Is a defendant in a criminal prosecution;

10 3. Concurrently or subsequently petitions for relief  
11 under this section or s. 943.059;

12 4. Is a candidate for admission to The Florida Bar;

13 5. Is seeking to be employed or licensed by or to  
14 contract with the Department of Children and Family Services  
15 or the Department of Juvenile Justice or to be employed or  
16 used by such contractor or licensee in a sensitive position  
17 having direct contact with children, the developmentally  
18 disabled, the aged, or the elderly as provided in s.  
19 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
20 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
21 985.407, or chapter 400; or

22 6. Is seeking to be employed or licensed by the Office  
23 of Teacher Education, Certification, Staff Development, and  
24 Professional Practices of the Department of Education, any  
25 district school board, or any local governmental entity that  
26 licenses child care facilities.

27 (b) Subject to the exceptions in paragraph (a), a  
28 person who has been granted an expunction under this section,  
29 former s. 893.14, former s. 901.33, or former s. 943.058 may  
30 not be held under any provision of law of this state to commit  
31 perjury or to be otherwise liable for giving a false statement

1 by reason of such person's failure to recite or acknowledge an  
2 expunged criminal history record.

3 (c) Information relating to the existence of an  
4 expunged criminal history record which is provided in  
5 accordance with paragraph (a) is confidential and exempt from  
6 the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
7 State Constitution, except that the department shall disclose  
8 the existence of a criminal history record ordered expunged to  
9 the entities set forth in subparagraphs (a)1., 4., 5., and 6.  
10 for their respective licensing and employment purposes, and to  
11 criminal justice agencies for their respective criminal  
12 justice purposes. It is unlawful for any employee of an entity  
13 set forth in subparagraph (a)1., subparagraph (a)4.,  
14 subparagraph (a)5., or subparagraph (a)6. to disclose  
15 information relating to the existence of an expunged criminal  
16 history record of a person seeking employment or licensure  
17 with such entity or contractor, except to the person to whom  
18 the criminal history record relates or to persons having  
19 direct responsibility for employment or licensure decisions.  
20 Any person who violates this paragraph commits a misdemeanor  
21 of the first degree, punishable as provided in s. 775.082 or  
22 s. 775.083.

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

27 Section 12. For the purpose of incorporating the  
28 amendments made by this act to section 787.025, Florida  
29 Statutes, in references thereto, section 943.059, Florida  
30 Statutes, is reenacted to read:

31

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 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
17 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
18 s. 847.0145, s. 893.135, or a violation enumerated in s.  
19 907.041 may not be sealed, without regard to whether  
20 adjudication was withheld, if the defendant was found guilty  
21 of or pled guilty or nolo contendere to the offense, or if the  
22 defendant, as a minor, was found to have committed or pled  
23 guilty or nolo contendere to committing the offense as a  
24 delinquent act. The court may only order sealing of a criminal  
25 history record pertaining to one arrest or one incident of  
26 alleged criminal activity, except as provided in this section.  
27 The court may, at its sole discretion, order the sealing of a  
28 criminal history record pertaining to more than one arrest if  
29 the additional arrests directly relate to the original arrest.  
30 If the court intends to order the sealing of records  
31 pertaining to such additional arrests, such intent must be

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

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

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

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

23 1. Has never, prior to the date on which the petition  
24 is filed, been adjudicated guilty of a criminal offense or  
25 comparable ordinance violation or adjudicated delinquent for  
26 committing a felony or a misdemeanor specified in s.  
27 943.051(3)(b).

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

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 Section 13. For the purpose of incorporating the  
9 amendments made by this act to sections 787.01, 787.02, and  
10 787.025, Florida Statutes, in references thereto, paragraph  
11 (b) of subsection (1) of section 944.606, Florida Statutes, is  
12 reenacted to read:

13 944.606 Sexual offenders; notification upon release.--

14 (1) As used in this section:

15 (b) "Sexual offender" means a person who has been  
16 convicted of committing, or attempting, soliciting, or  
17 conspiring to commit, any of the criminal offenses proscribed  
18 in the following statutes in this state or similar offenses in  
19 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
20 where the victim is a minor and the defendant is not the  
21 victim's parent; chapter 794, excluding ss. 794.011(10) and  
22 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
23 847.0133; s. 847.0135; s. 847.0145; or any similar offense  
24 committed in this state which has been redesignated from a  
25 former statute number to one of those listed in this  
26 subsection, when the department has received verified  
27 information regarding such conviction; an offender's  
28 computerized criminal history record is not, in and of itself,  
29 verified information.

30 Section 14. For the purpose of incorporating the  
31 amendments made by this act to sections 787.01, 787.02, and

1 787.025, Florida Statutes, in references thereto, paragraph  
2 (a) of subsection (1) of section 944.607, Florida Statutes, is  
3 reenacted to read:

4 944.607 Notification to Department of Law Enforcement  
5 of information on sexual offenders.--

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

7 (a) "Sexual offender" means a person who is in the  
8 custody or control of, or under the supervision of, the  
9 department or is in the custody of a private correctional  
10 facility on or after October 1, 1997, as a result of a  
11 conviction for 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, s. 787.02, or s. 787.025,  
15 where the victim is a minor and the defendant is not the  
16 victim's parent; chapter 794, excluding ss. 794.011(10) and  
17 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
18 847.0133; s. 847.0135; s. 847.0145; or any similar offense  
19 committed in this state which has been redesignated from a  
20 former statute number to one of those listed in this  
21 paragraph.

22 Section 15. For the purpose of incorporating the  
23 amendments made by this act to sections 787.01, 787.02, and  
24 787.025, Florida Statutes, in references thereto, subsection  
25 (15) of section 948.01, Florida Statutes, is reenacted to  
26 read:

27 948.01 When court may place defendant on probation or  
28 into community control.--

29 (15) Effective for an offense committed on or after  
30 July 1, 1998, a person is ineligible for placement on  
31 administrative probation if the person is sentenced to or is

1 serving a term of probation or community control, regardless  
2 of the conviction or adjudication, for committing, or  
3 attempting, conspiring, or soliciting to commit, any of the  
4 felony offenses described in s. 787.01 or s. 787.02, where the  
5 victim is a minor and the defendant is not the victim's  
6 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.  
7 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.  
8 847.0145.

9           Section 16. For the purpose of incorporating the  
10 amendments made by this act to section 787.025, Florida  
11 Statutes, in references thereto, paragraph (a) of subsection  
12 (2) of section 948.06, Florida Statutes, is reenacted to read:

13           948.06 Violation of probation or community control;  
14 revocation; modification; continuance; failure to pay  
15 restitution or cost of supervision.--

16           (2)(a) When any state or local law enforcement agency  
17 investigates or arrests a person for committing, or  
18 attempting, soliciting, or conspiring to commit, a violation  
19 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,  
20 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement  
21 agency shall contact the Department of Corrections to verify  
22 whether the person under investigation or under arrest is on  
23 probation, community control, parole, conditional release, or  
24 control release.

25           Section 17. This act shall take effect October 1,  
26 2002.

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SENATE SUMMARY

Provides that kidnapping a child under the age of 15 rather than under the age is 13 is a first-degree felony. Provides that kidnapping and committing certain sexual offenses against a child under the age of 15 rather than under the age of 13 is a life felony. Provides that falsely imprisoning a child under the age of 15 rather than under the age of 13 is a third-degree felony. Provides that falsely imprisoning a child and committing certain sexual offenses against a child under the age of 15 rather than under the age of 13 is a first-degree felony. Revises the elements of the crime of luring or enticing a minor child for an unlawful purpose so that an offender who has not previously been convicted of a violation involving sexual battery or a lewd or lascivious offense against a minor may be prosecuted for such offense. Provides that it is a second-degree felony to lure or entice, or attempt to lure or entice, a child under the age of 15 for an unlawful purpose. (See bill for details.)