

By Senator Crist

12-457-03

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; increasing
9 the penalty imposed for the offense of luring
10 or enticing a minor child for an unlawful
11 purpose; reenacting ss. 435.03(2)(j) and (k),
12 435.04(2)(k) and (l), 775.21(4), 903.133,
13 910.14, F.S., relating to screening standards,
14 the Florida Sexual Predators Act, bail on
15 appeal, and kidnapping, to incorporate the
16 amendments to ss. 787.01, 787.02, 787.025,
17 F.S., in references thereto; reenacting and
18 amending s. 921.0022(3)(f), (i), and (j), F.S.,
19 relating to the offense severity ranking chart
20 of the Criminal Punishment Code, to incorporate
21 the amendments to s. 787.02, F.S., in
22 references thereto; conforming provisions to
23 changes made by the act; reenacting ss.
24 943.0435(1)(a), 943.0585, 943.059,
25 944.606(1)(b), 944.607(1)(a), 948.01(15),
26 948.06(2)(a), F.S., relating to the
27 registration of sexual offenders, expunction
28 and court-ordered sealing of criminal history
29 records, the definition of the term "sexual
30 offender," and probation and community control,
31 to incorporate the amendments to ss. 787.01,

1 787.02, 787.025, F.S., in references thereto;
2 providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 787.01, Florida Statutes, is
7 amended to read:

8 787.01 Kidnapping; kidnapping of child under age 16
9 ~~13~~, aggravating circumstances.--

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

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

21 (b) Confinement of a child under the age of 16 ~~13~~ is
22 against her or his will within the meaning of this subsection
23 if such confinement is without the consent of her or his
24 parent or legal guardian.

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

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

- 1 1. Aggravated child abuse, as defined in s. 827.03;
2 2. Sexual battery, as defined in chapter 794, against
3 the child;
4 3. Lewd or lascivious battery, lewd or lascivious
5 molestation, lewd or lascivious conduct, or lewd or lascivious
6 exhibition, in violation of s. 800.04;
7 4. A violation of s. 796.03 or s. 796.04, relating to
8 prostitution, upon the child; or
9 5. Exploitation of the child or allowing the child to
10 be exploited, in violation of s. 450.151,
11
12 commits a life felony, punishable as provided in s. 775.082,
13 s. 775.083, or s. 775.084.
14 (b) Pursuant to s. 775.021(4), nothing contained
15 herein shall be construed to prohibit the imposition of
16 separate judgments and sentences for the life felony described
17 in paragraph (a) and for each separate offense enumerated in
18 subparagraphs (a)1.-5.
19 Section 2. Section 787.02, Florida Statutes, is
20 amended to read:
21 787.02 False imprisonment; false imprisonment of child
22 under age 16 ~~13~~, aggravating circumstances.--
23 (1)(a) The term "false imprisonment" means forcibly,
24 by threat, or secretly confining, abducting, imprisoning, or
25 restraining another person without lawful authority and
26 against her or his will.
27 (b) Confinement of a child under the age of 16 ~~13~~ is
28 against her or his will within the meaning of this section if
29 such confinement is without the consent of her or his parent
30 or legal guardian.
31

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

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

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

13 2. Sexual battery, as defined in chapter 794, against
14 the child;

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

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

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

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

27 Section 3. Section 787.025, Florida Statutes, is
28 amended to read:

29 787.025 Luring or enticing a child.--

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

31

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

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

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

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

20 (b) For purposes of this section, the luring or
21 enticing, or attempted luring or enticing, of a child under
22 the age of 16 ~~12~~ into a structure, dwelling, or conveyance
23 without the consent of the child's parent or legal guardian
24 shall be prima facie evidence of other than a lawful purpose.

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

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

30
31

1 (b) The person lured or enticed, or attempted to lure
2 or entice, the child under the age of 16 ~~±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

31

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			weapon of mass destruction, or
14			act of arson or violence to state
15			property.
16	790.19	2nd	Shooting or throwing deadly
17			missiles into dwellings, vessels,
18			or vehicles.
19	794.011(8)(a)	3rd	Solicitation of minor to
20			participate in sexual activity by
21			custodial adult.
22	794.05(1)	2nd	Unlawful sexual activity with
23			specified minor.
24	800.04(5)(d)	3rd	Lewd or lascivious molestation;
25			victim 12 years of age or older
26			but less than 16 years; offender
27			less than 18 years.
28	800.04(6)(b)	2nd	Lewd or lascivious conduct;
29			offender 18 years of age or
30			older.
31			

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	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
9			render aid or give information.
10	560.123(8)(b)3.	1st	Failure to report currency or
11			payment instruments totaling or
12			exceeding \$100,000 by money
13			transmitter.
14	560.125(5)(c)	1st	Money transmitter business by
15			unauthorized person, currency, or
16			payment instruments totaling or
17			exceeding \$100,000.
18	655.50(10)(b)3.	1st	Failure to report financial
19			transactions totaling or
20			exceeding \$100,000 by financial
21			institution.
22	775.0844	1st	Aggravated white collar crime.
23	782.04(1)	1st	Attempt, conspire, or solicit to
24			commit premeditated murder.
25	782.04(3)	1st,PBL	Accomplice to murder in
26			connection with arson, sexual
27			battery, robbery, burglary, and
28			other specified felonies.
29			
30			
31			

1	782.051(1)	1st	Attempted felony murder while
2			perpetrating or attempting to
3			perpetrate a felony enumerated in
4			s. 782.04(3).
5	782.07(2)	1st	Aggravated manslaughter of an
6			elderly person or disabled adult.
7	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
8			reward or as a shield or hostage.
9	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
10			or facilitate commission of any
11			felony.
12	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
13			interfere with performance of any
14			governmental or political
15			function.
16	787.02(3)(a)	1st	False imprisonment; child under
17			age <u>16</u> 13 ; perpetrator also
18			commits aggravated child abuse,
19			sexual battery, or lewd or
20			lascivious battery, molestation,
21			conduct, or exhibition.
22	790.161	1st	Attempted capital destructive
23			device offense.
24	790.166(2)	1st,PBL	Possessing, selling, using, or
25			attempting to use a weapon of
26			mass destruction.
27	794.011(2)	1st	Attempted sexual battery; victim
28			less than 12 years of age.
29			
30			
31			

1	794.011(2)	Life	Sexual battery; offender younger
2			than 18 years and commits sexual
3			battery on a person less than 12
4			years.
5	794.011(4)	1st	Sexual battery; victim 12 years
6			or older, certain circumstances.
7	794.011(8)(b)	1st	Sexual battery; engage in sexual
8			conduct with minor 12 to 18 years
9			by person in familial or
10			custodial authority.
11	800.04(5)(b)	1st	Lewd or lascivious molestation;
12			victim less than 12 years;
13			offender 18 years or older.
14	812.13(2)(a)	1st,PBL	Robbery with firearm or other
15			deadly weapon.
16	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
17			deadly weapon.
18	827.03(2)	1st	Aggravated child abuse.
19	847.0145(1)	1st	Selling, or otherwise
20			transferring custody or control,
21			of a minor.
22	847.0145(2)	1st	Purchasing, or otherwise
23			obtaining custody or control, of
24			a minor.
25	859.01	1st	Poisoning or introducing
26			bacteria, radioactive materials,
27			viruses, or chemical compounds
28			into food, drink, medicine, or
29			water with intent to kill or
30			injure another person.
31			

1	893.135	1st	Attempted capital trafficking
2			offense.
3	893.135(1)(a)3.	1st	Trafficking in cannabis, more
4			than 10,000 lbs.
5	893.135		
6	(1)(b)1.c.	1st	Trafficking in cocaine, more than
7			400 grams, less than 150
8			kilograms.
9	893.135		
10	(1)(c)1.c.	1st	Trafficking in illegal drugs,
11			more than 28 grams, less than 30
12			kilograms.
13	893.135		
14	(1)(d)1.c.	1st	Trafficking in phencyclidine,
15			more than 400 grams.
16	893.135		
17	(1)(e)1.c.	1st	Trafficking in methaqualone, more
18			than 25 kilograms.
19	893.135		
20	(1)(f)1.c.	1st	Trafficking in amphetamine, more
21			than 200 grams.
22	893.135		
23	(1)(h)1.c.	1st	Trafficking in
24			gamma-hydroxybutyric acid (GHB),
25			10 kilograms or more.
26	893.135		
27	(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10
28			kilograms or more.
29	893.135		
30	(1)(k)2.c.	1st	Trafficking in Phenethylamines,
31			400 grams or more.

1	896.101(5)(c)	1st	Money laundering, financial
2			instruments totaling or exceeding
3			\$100,000.
4	896.104(4)(a)3.	1st	Structuring transactions to evade
5			reporting or registration
6			requirements, financial
7			transactions totaling or
8			exceeding \$100,000.
9			(j) LEVEL 10
10	782.04(2)	1st,PBL	Unlawful killing of human; act is
11			homicide, unpremeditated.
12	787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm
13			upon or terrorize victim.
14	787.01(3)(a)	Life	Kidnapping; child under age <u>16</u>
15			13 , perpetrator also commits
16			aggravated child abuse, sexual
17			battery, or lewd or lascivious
18			battery, molestation, conduct, or
19			exhibition.
20	782.07(3)	1st	Aggravated manslaughter of a
21			child.
22	794.011(3)	Life	Sexual battery; victim 12 years
23			or older, offender uses or
24			threatens to use deadly weapon or
25			physical force to cause serious
26			injury.
27	876.32	1st	Treason against the state.
28	Section 10. For the purpose of incorporating the		
29	amendments made by this act to sections 787.01, 787.02, and		
30	787.025, Florida Statutes, in references thereto, paragraph		
31			

1 (a) of subsection (1) of section 943.0435, Florida Statutes,
2 is reenacted to read:

3 943.0435 Sexual offenders required to register with
4 the department; penalty.--

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

6 (a) "Sexual offender" means a person who:

7 1. Has been convicted of committing, or attempting,
8 soliciting, or conspiring to commit, any of the criminal
9 offenses proscribed in the following statutes in this state or
10 similar offenses in another jurisdiction: s. 787.01, s.

11 787.02, or s. 787.025, where the victim is a minor and the

12 defendant is not the victim's parent; chapter 794, excluding

13 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.

14 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;

15 s. 847.0138; s. 847.0145; or any similar offense committed in

16 this state which has been redesignated from a former statute

17 number to one of those listed in this subparagraph; and

18 2. Has been released on or after October 1, 1997, from
19 the sanction imposed for any conviction of an offense

20 described in subparagraph 1. For purposes of subparagraph 1.,

21 a sanction imposed in this state or in any other jurisdiction

22 includes, but is not limited to, a fine, probation, community

23 control, parole, conditional release, control release, or

24 incarceration in a state prison, federal prison, private

25 correctional facility, or local detention facility; or

26 3. Establishes or maintains a residence in this state

27 and who has not been designated as a sexual predator by a

28 court of this state but who has been designated as a sexual

29 predator, as a sexually violent predator, or by another sexual

30 offender designation in another state or jurisdiction and was,

31 as a result of such designation, subjected to registration or

1 community or public notification, or both, or would be if the
2 person were a resident of that state or jurisdiction; or
3 4. Establishes or maintains a residence in this state
4 who is in the custody or control of, or under the supervision
5 of, any other state or jurisdiction as a result of a
6 conviction for committing, or attempting, soliciting, or
7 conspiring to commit, any of the criminal offenses proscribed
8 in the following statutes or similar offense in another
9 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the
10 victim is a minor and the defendant is not the victim's
11 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;
12 s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
13 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or any
14 similar offense committed in this state which has been
15 redesignated from a former statute number to one of those
16 listed in this subparagraph.

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. 847.0137; s. 847.0138; s. 847.0145;
24 or any similar offense committed in this state which has been
25 redesignated from a former statute number to one of those
26 listed in this subsection, when the department has received
27 verified 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:

11 1. On or after October 1, 1997, as a result of a
12 conviction for committing, or attempting, soliciting, or
13 conspiring to commit, any of the criminal offenses proscribed
14 in the following statutes in this state or similar offenses in
15 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
16 where the victim is a minor and the defendant is not the
17 victim's parent; chapter 794, excluding ss. 794.011(10) and
18 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
19 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;
20 or any similar offense committed in this state which has been
21 redesignated from a former statute number to one of those
22 listed in this paragraph; or

23 2. Who establishes or maintains a residence in this
24 state and who has not been designated as a sexual predator by
25 a court of this state but who has been designated as a sexual
26 predator, as a sexually violent predator, or by another sexual
27 offender designation in another state or jurisdiction and was,
28 as a result of such designation, subjected to registration or
29 community or public notification, or both, or would be if the
30 person were a resident of that state or jurisdiction.

31

1 Section 15. For the purpose of incorporating the
2 amendments made by this act to sections 787.01, 787.02, and
3 787.025, Florida Statutes, in references thereto, subsection
4 (15) of section 948.01, Florida Statutes, is reenacted to
5 read:

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

8 (15) Effective for an offense committed on or after
9 July 1, 1998, a person is ineligible for placement on
10 administrative probation if the person is sentenced to or is
11 serving a term of probation or community control, regardless
12 of the conviction or adjudication, for committing, or
13 attempting, conspiring, or soliciting to commit, any of the
14 felony offenses described in 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(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.
18 847.0145.

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

23 948.06 Violation of probation or community control;
24 revocation; modification; continuance; failure to pay
25 restitution or cost of supervision.--

26 (2)(a) When any state or local law enforcement agency
27 investigates or arrests a person for committing, or
28 attempting, soliciting, or conspiring to commit, a violation
29 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,
30 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement
31 agency shall contact the Department of Corrections to verify

1 whether the person under investigation or under arrest is on
2 probation, community control, parole, conditional release, or
3 control release.

4 Section 17. This act shall take effect October 1,
5 2003.

6
7 *****

8 SENATE SUMMARY

9 Provides that kidnapping a child under the age of 16
10 rather than under the age of 13 is a first-degree felony.
11 Provides that kidnapping and committing certain sexual
12 offenses against a child under the age of 16 rather than
13 under the age of 13 is a life felony. Provides that
14 falsely imprisoning a child under the age of 16 rather
15 than under the age of 13 is a third-degree felony.
16 Provides that falsely imprisoning a child and committing
17 certain sexual offenses against a child under the age of
18 16 rather than under the age of 13 is a first-degree
19 felony. Provides that luring or enticing, or attempting
20 to lure or entice, a child under the age of 16 rather
21 than under the age of 12 for an unlawful purpose is a
22 second-degree felony. (See bill for details.)
23
24
25
26
27
28
29
30
31