



HB 0063

2003

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

A bill to be entitled

An act relating to crimes against minors; amending ss. 787.01 and 787.02, F.S.; revising the elements of the crimes of kidnapping a minor child and false imprisonment of a minor child; amending s. 787.025, F.S.; revising the elements of the crime of luring or enticing a minor child for an unlawful purpose; increasing the penalty imposed for the offense of luring or enticing a minor child for an unlawful purpose; reenacting ss. 435.03(2)(j) and (k), 435.04(2)(k) and (l), 775.21(4), 903.133, and 910.14, F.S., relating to screening standards, the Florida Sexual Predators Act, bail on appeal, and kidnapping, to incorporate the amendments to ss. 787.01, 787.02, and 787.025, F.S., in references thereto; reenacting and amending s. 921.0022(3)(i) and (j), F.S., relating to the offense severity ranking chart of the Criminal Punishment Code, to incorporate the amendments to ss. 787.01 and 787.02, F.S., in references thereto; conforming provisions to changes made by the act; reenacting ss. 943.0435(1)(a), 943.0585, 943.059, 944.606(1)(b), 944.607(1)(a), 948.01(15), and 948.06(2)(a), F.S., relating to the registration of sexual offenders, expunction and court-ordered sealing of criminal history records, the definition of the term "sexual offender," and probation and community control, to incorporate the amendments to ss. 787.01, 787.02, and 787.025, F.S., in references thereto; providing an effective date.

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



HB 0063

2003

30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58

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

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

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

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

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

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

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

1. Aggravated child abuse, as defined in s. 827.03;
2. Sexual battery, as defined in chapter 794, against the child;



HB 0063

2003

59           3. Lewd or lascivious battery, lewd or lascivious  
60 molestation, lewd or lascivious conduct, or lewd or lascivious  
61 exhibition, in violation of s. 800.04;

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

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

66  
67 commits a life felony, punishable as provided in s. 775.082, s.  
68 775.083, or s. 775.084.

69           (b) Pursuant to s. 775.021(4), nothing contained herein  
70 shall be construed to prohibit the imposition of separate  
71 judgments and sentences for the life felony described in  
72 paragraph (a) and for each separate offense enumerated in  
73 subparagraphs (a)1.-5.

74           Section 2. Section 787.02, Florida Statutes, is amended to  
75 read:

76           787.02 False imprisonment; false imprisonment of child  
77 under age 16 ~~13~~, aggravating circumstances.--

78           (1)(a) The term "false imprisonment" means forcibly, by  
79 threat, or secretly confining, abducting, imprisoning, or  
80 restraining another person without lawful authority and against  
81 her or his will.

82           (b) Confinement of a child under the age of 16 ~~13~~ is  
83 against her or his will within the meaning of this section if  
84 such confinement is without the consent of her or his parent or  
85 legal guardian.



HB 0063

2003

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

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

- 95 1. Aggravated child abuse, as defined in s. 827.03;
- 96 2. Sexual battery, as defined in chapter 794, against the  
 97 child;
- 98 3. Lewd or lascivious battery, lewd or lascivious  
 99 molestation, lewd or lascivious conduct, or lewd or lascivious  
 100 exhibition, in violation of s. 800.04;
- 101 4. A violation of s. 796.03 or s. 796.04, relating to  
 102 prostitution, upon the child; or
- 103 5. Exploitation of the child or allowing the child to be  
 104 exploited, in violation of s. 450.151.

105 (b) Pursuant to s. 775.021(4), nothing contained herein  
 106 shall be construed to prohibit the imposition of separate  
 107 judgments and sentences for the first degree offense described  
 108 in paragraph (a) and for each separate offense enumerated in  
 109 subparagraphs (a)1.-5.

110 Section 3. Section 787.025, Florida Statutes, is amended  
 111 to read:

112 787.025 Luring or enticing a child.--

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



HB 0063

2003

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

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

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

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

131 (b) For purposes of this section, the luring or enticing,  
 132 or attempted luring or enticing, of a child under the age of 16  
 133 ~~12~~ into a structure, dwelling, or conveyance without the consent  
 134 of the child's parent or legal guardian shall be prima facie  
 135 evidence of other than a lawful purpose.

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

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

140 (b) The person lured or enticed, or attempted to lure or  
 141 entice, the child under the age of 16 ~~12~~ into a structure,  
 142 dwelling, or conveyance for a lawful purpose.



HB 0063

2003

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

146 Section 4. For the purpose of incorporating the amendments  
 147 made by this act to sections 787.01 and 787.02, Florida  
 148 Statutes, in references thereto, paragraphs (j) and(k) of  
 149 subsection (2) of section 435.03, Florida Statutes, are  
 150 reenacted to read:

151 435.03 Level 1 screening standards.--

152 (2) Any person for whom employment screening is required  
 153 by statute must not have been found guilty of, regardless of  
 154 adjudication, or entered a plea of nolo contendere or guilty to,  
 155 any offense prohibited under any of the following provisions of  
 156 the Florida Statutes or under any similar statute of another  
 157 jurisdiction:

158 (j) Section 787.01, relating to kidnapping.

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

160 Section 5. For the purpose of incorporating the amendments  
 161 made by this act to sections 787.01 and 787.02, Florida  
 162 Statutes, in references thereto, paragraphs (k) and (l) of  
 163 subsection (2) of section 435.04, Florida Statutes, are  
 164 reenacted to read:

165 435.04 Level 2 screening standards.--

166 (2) The security background investigations under this  
 167 section must ensure that no persons subject to the provisions of  
 168 this section have been found guilty of, regardless of  
 169 adjudication, or entered a plea of nolo contendere or guilty to,  
 170 any offense prohibited under any of the following provisions of



HB 0063

2003

171 the Florida Statutes or under any similar statute of another  
 172 jurisdiction:

173 (k) Section 787.01, relating to kidnapping.

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

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

179 775.21 The Florida Sexual Predators Act; definitions;  
 180 legislative findings, purpose, and intent; criteria;  
 181 designation; registration; community and public notification;  
 182 immunity; penalties.--

183 (4) SEXUAL PREDATOR CRITERIA.--

184 (a) For a current offense committed on or after October 1,  
 185 1993, upon conviction, an offender shall be designated as a  
 186 "sexual predator" under subsection (5), and subject to  
 187 registration under subsection (6) and community and public  
 188 notification under subsection (7) if:

189 1. The felony is:

190 a. A capital, life, or first-degree felony violation, or  
 191 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
 192 is a minor and the defendant is not the victim's parent, or of  
 193 chapter 794, s. 800.04, or s. 847.0145, or a violation of a  
 194 similar law of another jurisdiction; or

195 b. Any felony violation, or any attempt thereof, of s.  
 196 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
 197 and the defendant is not the victim's parent; chapter 794,  
 198 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.  
 199 825.1025(2) (b); s. 827.071; or s. 847.0145; or a violation of a



HB 0063

2003

200 similar law of another jurisdiction, and the offender has  
201 previously been convicted of or found to have committed, or has  
202 pled nolo contendere or guilty to, regardless of adjudication,  
203 any violation of s. 787.01, s. 787.02, or s. 787.025, where the  
204 victim is a minor and the defendant is not the victim's parent;  
205 s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.  
206 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; or s.  
207 847.0145, or a violation of a similar law of another  
208 jurisdiction;

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

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

215 (b) In order to be counted as a prior felony for purposes  
216 of this subsection, the felony must have resulted in a  
217 conviction sentenced separately, or an adjudication of  
218 delinquency entered separately, prior to the current offense and  
219 sentenced or adjudicated separately from any other felony  
220 conviction that is to be counted as a prior felony. If the  
221 offender's prior enumerated felony was committed more than 10  
222 years before the primary offense, it shall not be considered a  
223 prior felony under this subsection if the offender has not been  
224 convicted of any other crime for a period of 10 consecutive  
225 years from the most recent date of release from confinement,  
226 supervision, or sanction, whichever is later.





HB 0063

2003

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

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

233 2. The offender was administratively registered as a  
234 sexual predator because the Department of Corrections, the  
235 department, or any other law enforcement agency obtained  
236 information that indicated that the offender met the criteria  
237 for designation as a sexual predator based on a violation of a  
238 similar law in another jurisdiction,

239  
240 the department shall remove that offender from the department's  
241 list of sexual predators and, for an offender described under  
242 subparagraph 1., shall notify the state attorney who prosecuted  
243 the offense that met the criteria for administrative designation  
244 as a sexual predator, and, for an offender described under this  
245 subparagraph, shall notify the state attorney of the county  
246 where the offender establishes or maintains a permanent or  
247 temporary residence. The state attorney shall bring the matter  
248 to the court's attention in order to establish that the offender  
249 meets the criteria for designation as a sexual predator. If the  
250 court makes a written finding that the offender is a sexual  
251 predator, the offender must be designated as a sexual predator,  
252 must register or be registered as a sexual predator with the  
253 department as provided in subsection (6), and is subject to the  
254 community and public notification as provided in subsection (7).  
255 If the court does not make a written finding that the offender



HB 0063

2003

256 is a sexual predator, the offender may not be designated as a  
 257 sexual predator with respect to that offense and is not required  
 258 to register or be registered as a sexual predator with the  
 259 department.

260 Section 7. For the purpose of incorporating the amendments  
 261 made by this act to section 787.01, Florida Statutes, in  
 262 references thereto, section 903.133, Florida Statutes, is  
 263 reenacted to read:

264 903.133 Bail on appeal; prohibited for certain felony  
 265 convictions.--Notwithstanding the provisions of s. 903.132, no  
 266 person adjudged guilty of a felony of the first degree for a  
 267 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
 268 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
 269 violation of s. 794.011(2) or (3), shall be admitted to bail  
 270 pending review either by posttrial motion or appeal.

271 Section 8. For the purpose of incorporating the amendments  
 272 made by this act to sections 787.01 and 787.02, Florida  
 273 Statutes, in references thereto, section 910.14, Florida  
 274 Statutes, is reenacted to read:

275 910.14 Kidnapping.--A person who commits an offense  
 276 provided for in s. 787.01 or s. 787.02 may be tried in any  
 277 county in which the person's victim has been taken or confined  
 278 during the course of the offense.

279 Section 9. For the purpose of incorporating the amendments  
 280 made by this act to sections 787.01 and 787.02, Florida  
 281 Statutes, in references thereto, paragraphs (i) and (j) of  
 282 subsection (3) of section 921.0022, Florida Statutes, are  
 283 reenacted and amended to read:



HB 0063

2003

284	921.0022		Criminal Punishment Code; offense severity
285			ranking chart.--
286		(3)	OFFENSE SEVERITY RANKING CHART
	Florida		Felony
	Statute		Degree Description
287			(i) LEVEL 9
288	316.193 (3) (c) 3	1st	DUI manslaughter; failing to render aid or give information.
289	.b.		
290	327.35 (3) (c) 3.	1st	BUI manslaughter; failing to render aid or give information.
291	b.		
292	560.123 (8) (b) 3	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
293	.		
294	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
295	655.50 (10) (b) 3	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
296	.		
297	775.0844	1st	Aggravated white collar crime.
298	782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
299	782.04 (3)	1st, PB	Accomplice to murder in connection with arson, sexual battery, robbery,
		L	



HB 0063

2003

296	782.051(1)	1st	burglary, and other specified felonies.
297	782.07(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
298	787.01(1)(a)1.	1st, PB L	Aggravated manslaughter of an elderly person or disabled adult.
299	787.01(1)(a)2.	1st, PB L	Kidnapping; hold for ransom or reward or as a shield or hostage.
300	787.01(1)(a)4.	1st, PB L	Kidnapping with intent to commit or facilitate commission of any felony.
301	787.02(3)(a)	1st	Kidnapping with intent to interfere with performance of any governmental or political function.
302	790.161	1st	False imprisonment; child under age <u>16</u> <del>13</del> ; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
303	790.166(2)	1st, PB L	Attempted capital destructive device offense.
304	794.011(2)	1st	Possessing, selling, using, or attempting to use a weapon of mass destruction.
			Attempted sexual battery; victim less than 12 years of age.



HB 0063

2003

305	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
306	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
307	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
308	800.04(5)(b)	1st	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
309	812.13(2)(a)	1st, PB L	Robbery with firearm or other deadly weapon.
310	812.133(2)(a)	1st, PB L	Carjacking; firearm or other deadly weapon.
311	827.03(2)	1st	Aggravated child abuse.
312	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
313	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
314	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill



HB 0063

2003

			or injure another person.
315	893.135	1st	Attempted capital trafficking offense.
316	893.135 (1) (a) 3	1st	Trafficking in cannabis, more than . 10,000 lbs.
317	893.135 (1) (b) 1	1st	Trafficking in cocaine, more than 400 .c. grams, less than 150 kilograms.
318	893.135 (1) (c) 1	1st	Trafficking in illegal drugs, more than .c. 28 grams, less than 30 kilograms.
319	893.135 (1) (d) 1	1st	Trafficking in phencyclidine, more than .c. 400 grams.
320	893.135 (1) (e) 1	1st	Trafficking in methaqualone, more than .c. 25 kilograms.
321	893.135 (1) (f) 1	1st	Trafficking in amphetamine, more than .c. 200 grams.
322	893.135 (1) (h) 1	1st	Trafficking in gamma-hydroxybutyric acid .c. (GHB), 10 kilograms or more.
323	893.135 (1) (j) 1	1st	Trafficking in 1,4-Butanediol, 10 .c. kilograms or more.
324	893.135 (1) (k) 2	1st	Trafficking in Phenethylamines, 400 .c. grams or more.
325	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
326	896.104 (4) (a) 3	1st	Structuring transactions to evade



HB 0063

2003

327 . reporting or registration requirements,  
 financial transactions totaling or  
 exceeding \$100,000.

328 (j) LEVEL 10

329 782.04 (2) 1st, PB Unlawful killing of human; act is  
 L homicide, unpremeditated.

330 787.01 (1) (a) 3. 1st, PB Kidnapping; inflict bodily harm upon or  
 L terrorize victim.

331 787.01 (3) (a) Life Kidnapping; child under age 16 ~~13~~,  
 perpetrator also commits aggravated  
 child abuse, sexual battery, or lewd or  
 lascivious battery, molestation,  
 conduct, or exhibition.

332 782.07 (3) 1st Aggravated manslaughter of a child.

333 794.011 (3) Life Sexual battery; victim 12 years or  
 older, offender uses or threatens to use  
 deadly weapon or physical force to cause  
 serious injury.

334 876.32 1st Treason against the state.

335 Section 10. For the purpose of incorporating the  
 336 amendments made by this act to sections 787.01, 787.02, and  
 337 787.025, Florida Statutes, in references thereto, paragraph (a)  
 338 of subsection (1) of section 943.0435, Florida Statutes, is  
 339 amended to read:



HB 0063

2003

340 943.0435 Sexual offenders required to register with the  
 341 department; penalty.--

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

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

344 1. Has been convicted of committing, or attempting,  
 345 soliciting, or conspiring to commit, any of the criminal  
 346 offenses proscribed in the following statutes in this state or  
 347 similar offenses in another jurisdiction: s. 787.01, s. 787.02,  
 348 or s. 787.025, where the victim is a minor and the defendant is  
 349 not the victim's parent; chapter 794, excluding ss. 794.011(10)  
 350 and 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
 351 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or  
 352 any similar offense committed in this state which has been  
 353 redesignated from a former statute number to one of those listed  
 354 in this subparagraph; and

355 2. Has been released on or after October 1, 1997, from the  
 356 sanction imposed for any conviction of an offense described in  
 357 subparagraph 1. For purposes of subparagraph 1., a sanction  
 358 imposed in this state or in any other jurisdiction includes, but  
 359 is not limited to, a fine, probation, community control, parole,  
 360 conditional release, control release, or incarceration in a  
 361 state prison, federal prison, private correctional facility, or  
 362 local detention facility; or

363 3. Establishes or maintains a residence in this state and  
 364 who has not been designated as a sexual predator by a court of  
 365 this state but who has been designated as a sexual predator, as  
 366 a sexually violent predator, or by another sexual offender  
 367 designation in another state or jurisdiction and was, as a  
 368 result of such designation, subjected to registration or





HB 0063

2003

369 community or public notification, or both, or would be if the  
 370 person were a resident of that state or jurisdiction; or

371 4. Establishes or maintains a residence in this state who  
 372 is in the custody or control of, or under the supervision of,  
 373 any other state or jurisdiction as a result of a conviction for  
 374 committing, or attempting, soliciting, or conspiring to commit,  
 375 any of the criminal offenses proscribed in the following  
 376 statutes or similar offense in another jurisdiction: s. 787.01,  
 377 s. 787.02, or s. 787.025, where the victim is a minor and the  
 378 defendant is not the victim's parent; chapter 794, excluding ss.  
 379 794.011(10) and 794.0235; s. 796.03; s. 800.04; s. 825.1025; s.  
 380 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.  
 381 847.0145; or any similar offense committed in this state which  
 382 has been redesignated from a former statute number to one of  
 383 those listed in this subparagraph.

384 Section 11. For the purpose of incorporating the  
 385 amendments made by this act to section 787.025, Florida  
 386 Statutes, in references thereto, section 943.0585, Florida  
 387 Statutes, is reenacted to read:

388 943.0585 Court-ordered expunction of criminal history  
 389 records.--The courts of this state have jurisdiction over their  
 390 own procedures, including the maintenance, expunction, and  
 391 correction of judicial records containing criminal history  
 392 information to the extent such procedures are not inconsistent  
 393 with the conditions, responsibilities, and duties established by  
 394 this section. Any court of competent jurisdiction may order a  
 395 criminal justice agency to expunge the criminal history record  
 396 of a minor or an adult who complies with the requirements of  
 397 this section. The court shall not order a criminal justice



HB 0063

2003

398 agency to expunge a criminal history record until the person  
399 seeking to expunge a criminal history record has applied for and  
400 received a certificate of eligibility for expunction pursuant to  
401 subsection (2). A criminal history record that relates to a  
402 violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s.  
403 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.  
404 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in  
405 s. 907.041 may not be expunged, without regard to whether  
406 adjudication was withheld, if the defendant was found guilty of  
407 or pled guilty or nolo contendere to the offense, or if the  
408 defendant, as a minor, was found to have committed, or pled  
409 guilty or nolo contendere to committing, the offense as a  
410 delinquent act. The court may only order expunction of a  
411 criminal history record pertaining to one arrest or one incident  
412 of alleged criminal activity, except as provided in this  
413 section. The court may, at its sole discretion, order the  
414 expunction of a criminal history record pertaining to more than  
415 one arrest if the additional arrests directly relate to the  
416 original arrest. If the court intends to order the expunction of  
417 records pertaining to such additional arrests, such intent must  
418 be specified in the order. A criminal justice agency may not  
419 expunge any record pertaining to such additional arrests if the  
420 order to expunge does not articulate the intention of the court  
421 to expunge a record pertaining to more than one arrest. This  
422 section does not prevent the court from ordering the expunction  
423 of only a portion of a criminal history record pertaining to one  
424 arrest or one incident of alleged criminal activity.  
425 Notwithstanding any law to the contrary, a criminal justice  
426 agency may comply with laws, court orders, and official requests



HB 0063

2003

427 of other jurisdictions relating to expunction, correction, or  
 428 confidential handling of criminal history records or information  
 429 derived therefrom. This section does not confer any right to the  
 430 expunction of any criminal history record, and any request for  
 431 expunction of a criminal history record may be denied at the  
 432 sole discretion of the court.

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

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

438 (b) The petitioner's sworn statement attesting that the  
 439 petitioner:

440 1. Has never, prior to the date on which the petition is  
 441 filed, been adjudicated guilty of a criminal offense or  
 442 comparable ordinance violation or adjudicated delinquent for  
 443 committing a felony or a misdemeanor specified in s.  
 444 943.051(3)(b).

445 2. Has not been adjudicated guilty of, or adjudicated  
 446 delinquent for committing, any of the acts stemming from the  
 447 arrest or alleged criminal activity to which the petition  
 448 pertains.

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

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



HB 0063

2003

456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484

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

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

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

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

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

3. That the criminal history record does not relate to a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in s. 907.041, where the defendant was found guilty of, or pled



HB 0063

2003

485 guilty or nolo contendere to any such offense, or that the  
486 defendant, as a minor, was found to have committed, or pled  
487 guilty or nolo contendere to committing, such an offense as a  
488 delinquent act, without regard to whether adjudication was  
489 withheld.

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

493 (c) Has submitted to the department a certified copy of  
494 the disposition of the charge to which the petition to expunge  
495 pertains.

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

501 (e) Has not been adjudicated guilty of, or adjudicated  
502 delinquent for committing, any of the acts stemming from the  
503 arrest or alleged criminal activity to which the petition to  
504 expunge pertains.

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

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

511 (h) Is not required to wait a minimum of 10 years prior to  
512 being eligible for an expunction of such records because all  
513 charges related to the arrest or criminal activity to which the



HB 0063

2003

514 petition to expunge pertains were dismissed prior to trial,  
515 adjudication, or the withholding of adjudication. Otherwise,  
516 such criminal history record must be sealed under this section,  
517 former s. 893.14, former s. 901.33, or former s. 943.058 for at  
518 least 10 years before such record is eligible for expunction.

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

520 (a) In judicial proceedings under this section, a copy of  
521 the completed petition to expunge shall be served upon the  
522 appropriate state attorney or the statewide prosecutor and upon  
523 the arresting agency; however, it is not necessary to make any  
524 agency other than the state a party. The appropriate state  
525 attorney or the statewide prosecutor and the arresting agency  
526 may respond to the court regarding the completed petition to  
527 expunge.

528 (b) If relief is granted by the court, the clerk of the  
529 court shall certify copies of the order to the appropriate state  
530 attorney or the statewide prosecutor and the arresting agency.  
531 The arresting agency is responsible for forwarding the order to  
532 any other agency to which the arresting agency disseminated the  
533 criminal history record information to which the order pertains.  
534 The department shall forward the order to expunge to the Federal  
535 Bureau of Investigation. The clerk of the court shall certify a  
536 copy of the order to any other agency which the records of the  
537 court reflect has received the criminal history record from the  
538 court.

539 (c) For an order to expunge entered by a court prior to  
540 July 1, 1992, the department shall notify the appropriate state  
541 attorney or statewide prosecutor of an order to expunge which is  
542 contrary to law because the person who is the subject of the



HB 0063

2003

543 record has previously been convicted of a crime or comparable  
 544 ordinance violation or has had a prior criminal history record  
 545 sealed or expunged. Upon receipt of such notice, the appropriate  
 546 state attorney or statewide prosecutor shall take action, within  
 547 60 days, to correct the record and petition the court to void  
 548 the order to expunge. The department shall seal the record until  
 549 such time as the order is voided by the court.

550 (d) On or after July 1, 1992, the department or any other  
 551 criminal justice agency is not required to act on an order to  
 552 expunge entered by a court when such order does not comply with  
 553 the requirements of this section. Upon receipt of such an order,  
 554 the department must notify the issuing court, the appropriate  
 555 state attorney or statewide prosecutor, the petitioner or the  
 556 petitioner's attorney, and the arresting agency of the reason  
 557 for noncompliance. The appropriate state attorney or statewide  
 558 prosecutor shall take action within 60 days to correct the  
 559 record and petition the court to void the order. No cause of  
 560 action, including contempt of court, shall arise against any  
 561 criminal justice agency for failure to comply with an order to  
 562 expunge when the petitioner for such order failed to obtain the  
 563 certificate of eligibility as required by this section or such  
 564 order does not otherwise comply with the requirements of this  
 565 section.

566 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
 567 criminal history record of a minor or an adult which is ordered  
 568 expunged by a court of competent jurisdiction pursuant to this  
 569 section must be physically destroyed or obliterated by any  
 570 criminal justice agency having custody of such record; except  
 571 that any criminal history record in the custody of the



HB 0063

2003

572 department must be retained in all cases. A criminal history  
573 record ordered expunged that is retained by the department is  
574 confidential and exempt from the provisions of s. 119.07(1) and  
575 s. 24(a), Art. I of the State Constitution and not available to  
576 any person or entity except upon order of a court of competent  
577 jurisdiction. A criminal justice agency may retain a notation  
578 indicating compliance with an order to expunge.

579 (a) The person who is the subject of a criminal history  
580 record that is expunged under this section or under other  
581 provisions of law, including former s. 893.14, former s. 901.33,  
582 and former s. 943.058, may lawfully deny or fail to acknowledge  
583 the arrests covered by the expunged record, except when the  
584 subject of the record:

585 1. Is a candidate for employment with a criminal justice  
586 agency;

587 2. Is a defendant in a criminal prosecution;

588 3. Concurrently or subsequently petitions for relief under  
589 this section or s. 943.059;

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

591 5. Is seeking to be employed or licensed by or to contract  
592 with the Department of Children and Family Services or the  
593 Department of Juvenile Justice or to be employed or used by such  
594 contractor or licensee in a sensitive position having direct  
595 contact with children, the developmentally disabled, the aged,  
596 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.  
597 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.

598 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

599 6. Is seeking to be employed or licensed by the Office of  
600 Teacher Education, Certification, Staff Development, and





HB 0063

2003

601 Professional Practices of the Department of Education, any  
602 district school board, or any local governmental entity that  
603 licenses child care facilities.

604 (b) Subject to the exceptions in paragraph (a), a person  
605 who has been granted an expunction under this section, former s.  
606 893.14, former s. 901.33, or former s. 943.058 may not be held  
607 under any provision of law of this state to commit perjury or to  
608 be otherwise liable for giving a false statement by reason of  
609 such person's failure to recite or acknowledge an expunged  
610 criminal history record.

611 (c) Information relating to the existence of an expunged  
612 criminal history record which is provided in accordance with  
613 paragraph (a) is confidential and exempt from the provisions of  
614 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
615 except that the department shall disclose the existence of a  
616 criminal history record ordered expunged to the entities set  
617 forth in subparagraphs (a)1., 4., 5., and 6. for their  
618 respective licensing and employment purposes, and to criminal  
619 justice agencies for their respective criminal justice purposes.  
620 It is unlawful for any employee of an entity set forth in  
621 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or  
622 subparagraph (a)6. to disclose information relating to the  
623 existence of an expunged criminal history record of a person  
624 seeking employment or licensure with such entity or contractor,  
625 except to the person to whom the criminal history record relates  
626 or to persons having direct responsibility for employment or  
627 licensure decisions. Any person who violates this paragraph  
628 commits a misdemeanor of the first degree, punishable as  
629 provided in s. 775.082 or s. 775.083.



HB 0063

2003

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

634 Section 12. For the purpose of incorporating the  
635 amendments made by this act to section 787.025, Florida  
636 Statutes, in references thereto, section 943.059, Florida  
637 Statutes, is reenacted to read:

638 943.059 Court-ordered sealing of criminal history  
639 records.--The courts of this state shall continue to have  
640 jurisdiction over their own procedures, including the  
641 maintenance, sealing, and correction of judicial records  
642 containing criminal history information to the extent such  
643 procedures are not inconsistent with the conditions,  
644 responsibilities, and duties established by this section. Any  
645 court of competent jurisdiction may order a criminal justice  
646 agency to seal the criminal history record of a minor or an  
647 adult who complies with the requirements of this section. The  
648 court shall not order a criminal justice agency to seal a  
649 criminal history record until the person seeking to seal a  
650 criminal history record has applied for and received a  
651 certificate of eligibility for sealing pursuant to subsection  
652 (2). A criminal history record that relates to a violation of s.  
653 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
654 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.  
655 847.0145, s. 893.135, or a violation enumerated in s. 907.041  
656 may not be sealed, without regard to whether adjudication was  
657 withheld, if the defendant was found guilty of or pled guilty or  
658 nolo contendere to the offense, or if the defendant, as a minor,



HB 0063

2003

659 was found to have committed or pled guilty or nolo contendere to  
660 committing the offense as a delinquent act. The court may only  
661 order sealing of a criminal history record pertaining to one  
662 arrest or one incident of alleged criminal activity, except as  
663 provided in this section. The court may, at its sole discretion,  
664 order the sealing of a criminal history record pertaining to  
665 more than one arrest if the additional arrests directly relate  
666 to the original arrest. If the court intends to order the  
667 sealing of records pertaining to such additional arrests, such  
668 intent must be specified in the order. A criminal justice agency  
669 may not seal any record pertaining to such additional arrests if  
670 the order to seal does not articulate the intention of the court  
671 to seal records pertaining to more than one arrest. This section  
672 does not prevent the court from ordering the sealing of only a  
673 portion of a criminal history record pertaining to one arrest or  
674 one incident of alleged criminal activity. Notwithstanding any  
675 law to the contrary, a criminal justice agency may comply with  
676 laws, court orders, and official requests of other jurisdictions  
677 relating to sealing, correction, or confidential handling of  
678 criminal history records or information derived therefrom. This  
679 section does not confer any right to the sealing of any criminal  
680 history record, and any request for sealing a criminal history  
681 record may be denied at the sole discretion of the court.

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

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



HB 0063

2003

687 (b) The petitioner's sworn statement attesting that the  
 688 petitioner:

689 1. Has never, prior to the date on which the petition is  
 690 filed, been adjudicated guilty of a criminal offense or  
 691 comparable ordinance violation or adjudicated delinquent for  
 692 committing a felony or a misdemeanor specified in s.  
 693 943.051(3)(b).

694 2. Has not been adjudicated guilty of or adjudicated  
 695 delinquent for committing any of the acts stemming from the  
 696 arrest or alleged criminal activity to which the petition to  
 697 seal pertains.

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

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

705  
 706 Any person who knowingly provides false information on such  
 707 sworn statement to the court commits a felony of the third  
 708 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 709 775.084.

710 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
 711 petitioning the court to seal a criminal history record, a  
 712 person seeking to seal a criminal history record shall apply to  
 713 the department for a certificate of eligibility for sealing. The  
 714 department shall, by rule adopted pursuant to chapter 120,  
 715 establish procedures pertaining to the application for and



HB 0063

2003

716 issuance of certificates of eligibility for sealing. The  
 717 department shall issue a certificate of eligibility for sealing  
 718 to a person who is the subject of a criminal history record  
 719 provided that such person:

720 (a) Has submitted to the department a certified copy of  
 721 the disposition of the charge to which the petition to seal  
 722 pertains.

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

726 (c) Has never, prior to the date on which the application  
 727 for a certificate of eligibility is filed, been adjudicated  
 728 guilty of a criminal offense or comparable ordinance violation  
 729 or adjudicated delinquent for committing a felony or a  
 730 misdemeanor specified in s. 943.051(3)(b).

731 (d) Has not been adjudicated guilty of or adjudicated  
 732 delinquent for committing any of the acts stemming from the  
 733 arrest or alleged criminal activity to which the petition to  
 734 seal pertains.

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

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

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

742 (a) In judicial proceedings under this section, a copy of  
 743 the completed petition to seal shall be served upon the  
 744 appropriate state attorney or the statewide prosecutor and upon



HB 0063

2003

745 the arresting agency; however, it is not necessary to make any  
 746 agency other than the state a party. The appropriate state  
 747 attorney or the statewide prosecutor and the arresting agency  
 748 may respond to the court regarding the completed petition to  
 749 seal.

750 (b) If relief is granted by the court, the clerk of the  
 751 court shall certify copies of the order to the appropriate state  
 752 attorney or the statewide prosecutor and to the arresting  
 753 agency. The arresting agency is responsible for forwarding the  
 754 order to any other agency to which the arresting agency  
 755 disseminated the criminal history record information to which  
 756 the order pertains. The department shall forward the order to  
 757 seal to the Federal Bureau of Investigation. The clerk of the  
 758 court shall certify a copy of the order to any other agency  
 759 which the records of the court reflect has received the criminal  
 760 history record from the court.

761 (c) For an order to seal entered by a court prior to July  
 762 1, 1992, the department shall notify the appropriate state  
 763 attorney or statewide prosecutor of any order to seal which is  
 764 contrary to law because the person who is the subject of the  
 765 record has previously been convicted of a crime or comparable  
 766 ordinance violation or has had a prior criminal history record  
 767 sealed or expunged. Upon receipt of such notice, the appropriate  
 768 state attorney or statewide prosecutor shall take action, within  
 769 60 days, to correct the record and petition the court to void  
 770 the order to seal. The department shall seal the record until  
 771 such time as the order is voided by the court.

772 (d) On or after July 1, 1992, the department or any other  
 773 criminal justice agency is not required to act on an order to



HB 0063

2003

774 seal entered by a court when such order does not comply with the  
 775 requirements of this section. Upon receipt of such an order, the  
 776 department must notify the issuing court, the appropriate state  
 777 attorney or statewide prosecutor, the petitioner or the  
 778 petitioner's attorney, and the arresting agency of the reason  
 779 for noncompliance. The appropriate state attorney or statewide  
 780 prosecutor shall take action within 60 days to correct the  
 781 record and petition the court to void the order. No cause of  
 782 action, including contempt of court, shall arise against any  
 783 criminal justice agency for failure to comply with an order to  
 784 seal when the petitioner for such order failed to obtain the  
 785 certificate of eligibility as required by this section or when  
 786 such order does not comply with the requirements of this  
 787 section.

788 (e) An order sealing a criminal history record pursuant to  
 789 this section does not require that such record be surrendered to  
 790 the court, and such record shall continue to be maintained by  
 791 the department and other criminal justice agencies.

792 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal  
 793 history record of a minor or an adult which is ordered sealed by  
 794 a court of competent jurisdiction pursuant to this section is  
 795 confidential and exempt from the provisions of s. 119.07(1) and  
 796 s. 24(a), Art. I of the State Constitution and is available only  
 797 to the person who is the subject of the record, to the subject's  
 798 attorney, to criminal justice agencies for their respective  
 799 criminal justice purposes, or to those entities set forth in  
 800 subparagraphs (a)1., 4., 5., and 6. for their respective  
 801 licensing and employment purposes.



HB 0063

2003

802 (a) The subject of a criminal history record sealed under  
803 this section or under other provisions of law, including former  
804 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
805 deny or fail to acknowledge the arrests covered by the sealed  
806 record, except when the subject of the record:

807 1. Is a candidate for employment with a criminal justice  
808 agency;

809 2. Is a defendant in a criminal prosecution;

810 3. Concurrently or subsequently petitions for relief under  
811 this section or s. 943.0585;

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

813 5. Is seeking to be employed or licensed by or to contract  
814 with the Department of Children and Family Services or the  
815 Department of Juvenile Justice or to be employed or used by such  
816 contractor or licensee in a sensitive position having direct  
817 contact with children, the developmentally disabled, the aged,  
818 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.  
819 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
820 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter  
821 400; or

822 6. Is seeking to be employed or licensed by the Office of  
823 Teacher Education, Certification, Staff Development, and  
824 Professional Practices of the Department of Education, any  
825 district school board, or any local governmental entity which  
826 licenses child care facilities.

827 (b) Subject to the exceptions in paragraph (a), a person  
828 who has been granted a sealing under this section, former s.  
829 893.14, former s. 901.33, or former s. 943.058 may not be held  
830 under any provision of law of this state to commit perjury or to





HB 0063

2003

831 be otherwise liable for giving a false statement by reason of  
 832 such person's failure to recite or acknowledge a sealed criminal  
 833 history record.

834 (c) Information relating to the existence of a sealed  
 835 criminal record provided in accordance with the provisions of  
 836 paragraph (a) is confidential and exempt from the provisions of  
 837 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
 838 except that the department shall disclose the sealed criminal  
 839 history record to the entities set forth in subparagraphs (a)1.,  
 840 4., 5., and 6. for their respective licensing and employment  
 841 purposes. It is unlawful for any employee of an entity set forth  
 842 in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,  
 843 or subparagraph (a)6. to disclose information relating to the  
 844 existence of a sealed criminal history record of a person  
 845 seeking employment or licensure with such entity or contractor,  
 846 except to the person to whom the criminal history record relates  
 847 or to persons having direct responsibility for employment or  
 848 licensure decisions. Any person who violates the provisions of  
 849 this paragraph commits a misdemeanor of the first degree,  
 850 punishable as provided in s. 775.082 or s. 775.083.

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

855 Section 13. For the purpose of incorporating the  
 856 amendments made by this act to sections 787.01, 787.02, and  
 857 787.025, Florida Statutes, in references thereto, paragraph (b)  
 858 of subsection (1) of section 944.606, Florida Statutes, is  
 859 reenacted to read:



HB 0063

2003

860 944.606 Sexual offenders; notification upon release.--

861 (1) As used in this section:

862 (b) "Sexual offender" means a person who has been  
 863 convicted of committing, or attempting, soliciting, or  
 864 conspiring to commit, any of the criminal offenses proscribed in  
 865 the following statutes in this state or similar offenses in  
 866 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where  
 867 the victim is a minor and the defendant is not the victim's  
 868 parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.  
 869 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.  
 870 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or any similar  
 871 offense committed in this state which has been redesignated from  
 872 a former statute number to one of those listed in this  
 873 subsection, when the department has received verified  
 874 information regarding such conviction; an offender's  
 875 computerized criminal history record is not, in and of itself,  
 876 verified information.

877 Section 14. For the purpose of incorporating the  
 878 amendments made by this act to sections 787.01, 787.02, and  
 879 787.025, Florida Statutes, in references thereto, paragraph (a)  
 880 of subsection (1) of section 944.607, Florida Statutes, is  
 881 reenacted to read:

882 944.607 Notification to Department of Law Enforcement of  
 883 information on sexual offenders.--

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

885 (a) "Sexual offender" means a person who is in the custody  
 886 or control of, or under the supervision of, the department or is  
 887 in the custody of a private correctional facility:



HB 0063

2003

888 1. On or after October 1, 1997, as a result of a  
889 conviction for committing, or attempting, soliciting, or  
890 conspiring to commit, any of the criminal offenses proscribed in  
891 the following statutes in this state or similar offenses in  
892 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where  
893 the victim is a minor and the defendant is not the victim's  
894 parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.  
895 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.  
896 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or any similar  
897 offense committed in this state which has been redesignated from  
898 a former statute number to one of those listed in this  
899 paragraph; or

900 2. Who establishes or maintains a residence in this state  
901 and who has not been designated as a sexual predator by a court  
902 of this state but who has been designated as a sexual predator,  
903 as a sexually violent predator, or by another sexual offender  
904 designation in another state or jurisdiction and was, as a  
905 result of such designation, subjected to registration or  
906 community or public notification, or both, or would be if the  
907 person were a resident of that state or jurisdiction.

908 Section 15. For the purpose of incorporating the  
909 amendments made by this act to sections 787.01, 787.02, and  
910 787.025, Florida Statutes, in references thereto, subsection  
911 (15) of section 948.01, Florida Statutes, is reenacted to read:

912 948.01 When court may place defendant on probation or into  
913 community control.--

914 (15) Effective for an offense committed on or after July  
915 1, 1998, a person is ineligible for placement on administrative  
916 probation if the person is sentenced to or is serving a term of



HB 0063

2003

917 probation or community control, regardless of the conviction or  
 918 adjudication, for committing, or attempting, conspiring, or  
 919 soliciting to commit, any of the felony offenses described in s.  
 920 787.01 or s. 787.02, where the victim is a minor and the  
 921 defendant is not the victim's parent; s. 787.025; chapter 794;  
 922 s. 796.03; s. 800.04; s. 825.1025(2)(b); s. 827.071; s.  
 923 847.0133; s. 847.0135; or s. 847.0145.

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

928 948.06 Violation of probation or community control;  
 929 revocation; modification; continuance; failure to pay  
 930 restitution or cost of supervision.--

931 (2)(a) When any state or local law enforcement agency  
 932 investigates or arrests a person for committing, or attempting,  
 933 soliciting, or conspiring to commit, a violation of s. 787.025,  
 934 chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s.  
 935 847.0135, or s. 847.0145, the law enforcement agency shall  
 936 contact the Department of Corrections to verify whether the  
 937 person under investigation or under arrest is on probation,  
 938 community control, parole, conditional release, or control  
 939 release.

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