

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to the protection of victims of sexual
8 battery and lewd or lascivious offenses; providing a
9 popular name; creating s. 921.244, F.S.; requiring the
10 court to prohibit certain offenders from having direct or
11 indirect contact with the victims of the offenses;
12 authorizing the court to reconsider an order prohibiting
13 the contact in certain circumstances; providing criminal
14 penalties for a violation of the order; providing for a
15 consecutive sentence to previous sentences imposed for
16 convictions of certain offenses; amending s. 784.048,
17 F.S.; providing criminal penalties for willfully,
18 maliciously, and repeatedly following, harassing, or
19 cyberstalking the victim in violation of an order
20 prohibiting contact; providing for a consecutive sentence
21 to previous sentences imposed for convictions of certain
22 offenses; amending s. 921.0022, F.S.; designating the
23 offense of aggravated stalking in violation of a court

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24 | order on the offense severity ranking chart of the
 25 | Criminal Punishment Code; reenacting ss. 790.065(2)(c),
 26 | 794.056(1), 938.08, 938.085, and 960.001(1)(b), F.S.,
 27 | relating to the sale and delivery of firearms, the Rape
 28 | Crisis Program Trust Fund, additional costs to fund
 29 | programs in domestic violence, additional costs to fund
 30 | rape crisis centers, and guidelines for the fair treatment
 31 | of victims and witnesses in the criminal justice and
 32 | juvenile justice systems, respectively, for the purpose of
 33 | incorporating the amendment to s. 748.048, F.S., in
 34 | references thereto; providing applicability; providing an
 35 | effective date.

36 |
 37 | Be It Enacted by the Legislature of the State of Florida:

38 |
 39 | Section 1. This act may be known by the popular name the
 40 | "Lauren Book Protection Act."

41 | Section 2. Section 921.244, Florida Statutes, is created
 42 | to read:

43 | 921.244 Order of no contact; penalties.--

44 | (1) At the time of sentencing an offender convicted of a
 45 | violation of s. 794.011 or s. 800.04, the court shall order that
 46 | the offender be prohibited from having any contact with the
 47 | victim, directly or indirectly, including through a third
 48 | person, for the duration of the sentence imposed. The court may
 49 | reconsider the order upon the request of the victim if the
 50 | request is made at any time after the victim has attained 18
 51 | years of age. In considering the request, the court shall

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52 | conduct an evidentiary hearing to determine whether a change of
 53 | circumstances has occurred that warrants a change in the court
 54 | order prohibiting contact and whether it is in the best interest
 55 | of the victim that the court order be modified or rescinded.

56 | (2) Any offender who violates a court order issued under
 57 | this section commits a felony of the third degree, punishable as
 58 | provided in s. 775.082, s. 775.083, or s. 775.084.

59 | (3) The punishment imposed under this section shall run
 60 | consecutive to any former sentence imposed for a conviction for
 61 | any offense under s. 794.011 or s. 800.04.

62 | Section 3. Subsections (7) and (8) are added to section
 63 | 784.048, Florida Statutes, to read:

64 | 784.048 Stalking; definitions; penalties.--

65 | (7) Any person who, after having been sentenced for a
 66 | violation of s. 794.011 or s. 800.04, and prohibited from
 67 | contacting the victim of the offense under s. 921.244,
 68 | willfully, maliciously, and repeatedly follows, harasses, or
 69 | cyberstalks the victim commits the offense of aggravated
 70 | stalking, a felony of the third degree, punishable as provided
 71 | in s. 775.082, s. 775.083, or s. 775.084.

72 | (8) The punishment imposed under this section shall run
 73 | consecutive to any former sentence imposed for a conviction for
 74 | any offense under s. 794.011 or s. 800.04.

75 | Section 4. Paragraph (g) of subsection (3) of section
 76 | 921.0022, Florida Statutes, is amended to read:

77 | 921.0022 Criminal Punishment Code; offense severity
 78 | ranking chart.--

79 | (3) OFFENSE SEVERITY RANKING CHART

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	Florida Statute	Felony Degree	Description
80			(g) LEVEL 7
81	316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
82	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
83	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
84	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
85	409.920(2)	3rd	Medicaid provider fraud.
86	456.065(2)	3rd	Practicing a health care profession without a license.
87	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
88	458.327(1)	3rd	Practicing medicine without a license.

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89	459.013(1)	3rd	Practicing osteopathic medicine without a license.
90	460.411(1)	3rd	Practicing chiropractic medicine without a license.
91	461.012(1)	3rd	Practicing podiatric medicine without a license.
92	462.17	3rd	Practicing naturopathy without a license.
93	463.015(1)	3rd	Practicing optometry without a license.
94	464.016(1)	3rd	Practicing nursing without a license.
95	465.015(2)	3rd	Practicing pharmacy without a license.
96	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
97	467.201	3rd	Practicing midwifery without a license.
98	468.366	3rd	Delivering respiratory care services without a license.
99	483.828(1)	3rd	Practicing as clinical laboratory

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			personnel without a license.
100	483.901(9)	3rd	Practicing medical physics without a license.
101	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
102	484.053	3rd	Dispensing hearing aids without a license.
103	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
104	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
105	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
106	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but

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			less than \$20,000 by financial institution.
107	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
108	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
109	782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
110	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
111	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
112	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
113	784.045(1)(b)	2nd	Aggravated battery; perpetrator

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114	784.048(4)	3rd	aware victim pregnant. Aggravated stalking; violation of injunction or court order.
115	<u>784.048(7)</u>	<u>3rd</u>	<u>Aggravated stalking; violation of court order.</u>
116	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
117	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
118	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
119	784.081(1)	1st	Aggravated battery on specified official or employee.
120	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
121	784.083(1)	1st	Aggravated battery on code inspector.
122	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
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124	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
125	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
126	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
127	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
128	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
129	796.03	2nd	Procuring any person under 16 years for prostitution.
130	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older

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			but less than 16 years; offender 18 years or older.
131	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
132	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
133	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
134	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
135	812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; cargo stolen valued at \$50,000 or more; property stolen while causing other property damage; 1st degree grand theft.
136	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
137	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
138	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen

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			property.
139	812.131(2)(a)	2nd	Robbery by sudden snatching.
140	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
141	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
142	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
143	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
144	817.2341(2)(b)& (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
145	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
146	825.103(2)(b)	2nd	Exploiting an elderly person or

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			disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
147	827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
148	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
149	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
150	838.015	2nd	Bribery.
151	838.016	2nd	Unlawful compensation or reward for official behavior.
152	838.021(3)(a)	2nd	Unlawful harm to a public servant.
153	838.22	2nd	Bid tampering.
154	872.06	2nd	Abuse of a dead human body.
155	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b),

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or(2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

156 893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or(2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

157 893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a),(1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

158 893.135(1)(a)1. 1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

159 893.135(1)(b)1.a. 1st Trafficking in cocaine, more than 28 grams, less than 200 grams.

160 893.135(1)(c)1.a. 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

161 893.135(1)(d)1. 1st Trafficking in phencyclidine, more

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			than 28 grams, less than 200 grams.
162	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
163	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
164	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
165	893.135(1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
166	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
167	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
168	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
169	896.104(4)(a)1.	3rd	Structuring transactions to evade

reporting or registration
requirements, financial
transactions exceeding \$300 but
less than \$20,000.

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Section 5. For the purpose of incorporating the amendment to section 784.048, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 790.065, Florida Statutes, is reenacted to read:

790.065 Sale and delivery of firearms.--

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(4)(a) or for any of the following enumerated offenses:

- a. Criminal anarchy under ss. 876.01 and 876.02.
- b. Extortion under s. 836.05.
- c. Explosives violations under s. 552.22(1) and (2).
- d. Controlled substances violations under chapter 893.

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- 194 e. Resisting an officer with violence under s. 843.01.
- 195 f. Weapons and firearms violations under this chapter.
- 196 g. Treason under s. 876.32.
- 197 h. Assisting self-murder under s. 782.08.
- 198 i. Sabotage under s. 876.38.
- 199 j. Stalking or aggravated stalking under s. 784.048.

200
201 If the review indicates any such indictment, information, or
202 arrest, the department shall provide to the licensee a
203 conditional nonapproval number.

204 2. Within 24 working hours, the department shall determine
205 the disposition of the indictment, information, or arrest and
206 inform the licensee as to whether the potential buyer is
207 prohibited from receiving or possessing a firearm. For purposes
208 of this paragraph, "working hours" means the hours from 8 a.m.
209 to 5 p.m. Monday through Friday, excluding legal holidays.

210 3. The office of the clerk of court, at no charge to the
211 department, shall respond to any department request for data on
212 the disposition of the indictment, information, or arrest as
213 soon as possible, but in no event later than 8 working hours.

214 4. The department shall determine as quickly as possible
215 within the allotted time period whether the potential buyer is
216 prohibited from receiving or possessing a firearm.

217 5. If the potential buyer is not so prohibited, or if the
218 department cannot determine the disposition information within
219 the allotted time period, the department shall provide the
220 licensee with a conditional approval number.

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221 6. If the buyer is so prohibited, the conditional
222 nonapproval number shall become a nonapproval number.

223 7. The department shall continue its attempts to obtain
224 the disposition information and may retain a record of all
225 approval numbers granted without sufficient disposition
226 information. If the department later obtains disposition
227 information which indicates:

228 a. That the potential buyer is not prohibited from owning
229 a firearm, it shall treat the record of the transaction in
230 accordance with this section; or

231 b. That the potential buyer is prohibited from owning a
232 firearm, it shall immediately revoke the conditional approval
233 number and notify local law enforcement.

234 8. During the time that disposition of the indictment,
235 information, or arrest is pending and until the department is
236 notified by the potential buyer that there has been a final
237 disposition of the indictment, information, or arrest, the
238 conditional nonapproval number shall remain in effect.

239 Section 6. For the purpose of incorporating the amendment
240 to section 784.048, Florida Statutes, in a reference thereto,
241 subsection (1) of section 794.056, Florida Statutes, is
242 reenacted to read:

243 794.056 Rape Crisis Program Trust Fund.--

244 (1) The Rape Crisis Program Trust Fund is created within
245 the Department of Health for the purpose of providing funds for
246 rape crisis centers in this state. Trust fund moneys shall be
247 used exclusively for the purpose of providing services for
248 victims of sexual assault. Funds credited to the trust fund

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249 consist of those funds collected as an additional court
 250 assessment in each case in which a defendant pleads guilty or
 251 nolo contendere to, or is found guilty of, regardless of
 252 adjudication, an offense defined in s. 784.011, s. 784.021, s.
 253 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s.
 254 784.08, s. 784.081, s. 784.082, s. 784.083, s. 785.085, or s.
 255 794.011.

256 Section 7. For the purpose of incorporating the amendment
 257 to section 784.048, Florida Statutes, in a reference thereto,
 258 section 938.08, Florida Statutes, is reenacted to read:

259 938.08 Additional cost to fund programs in domestic
 260 violence.--In addition to any sanction imposed for a violation
 261 of s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s.
 262 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s.
 263 784.083, s. 784.085, s. 794.011, or for any offense of domestic
 264 violence described in s. 741.28, the court shall impose a
 265 surcharge of \$201. Payment of the surcharge shall be a condition
 266 of probation, community control, or any other court-ordered
 267 supervision. The sum of \$85 of the surcharge shall be deposited
 268 into the Domestic Violence Trust Fund established in s. 741.01.
 269 The clerk of the court shall retain \$1 of each surcharge that
 270 the clerk of the court collects as a service charge of the
 271 clerk's office. The remainder of the surcharge shall be provided
 272 to the governing board of the county and must be used only to
 273 defray the costs of incarcerating persons sentenced under s.
 274 741.283 and provide additional training to law enforcement
 275 personnel in combating domestic violence.

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276 Section 8. For the purpose of incorporating the amendment
277 to section 784.048, Florida Statutes, in a reference thereto,
278 section 938.085, Florida Statutes, is reenacted to read:

279 938.085 Additional cost to fund rape crisis centers.--In
280 addition to any sanction imposed when a person pleads guilty or
281 nolo contendere to, or is found guilty of, regardless of
282 adjudication, a violation of s. 784.011, s. 784.021, s. 784.03,
283 s. 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08, s.
284 784.081, s. 784.082, s. 784.083, s. 784.085, or s. 794.011, the
285 court shall impose a surcharge of \$151. Payment of the surcharge
286 shall be a condition of probation, community control, or any
287 other court-ordered supervision. The sum of \$150 of the
288 surcharge shall be deposited into the Rape Crisis Program Trust
289 Fund established within the Department of Health by chapter
290 2003-140, Laws of Florida. The clerk of the court shall retain
291 \$1 of each surcharge that the clerk of the court collects as a
292 service charge of the clerk's office.

293 Section 9. For the purpose of incorporating the amendment
294 to section 784.048, Florida Statutes, in a reference thereto,
295 paragraph (b) of subsection (1) of section 960.001, Florida
296 Statutes, is reenacted to read:

297 960.001 Guidelines for fair treatment of victims and
298 witnesses in the criminal justice and juvenile justice
299 systems.--

300 (1) The Department of Legal Affairs, the state attorneys,
301 the Department of Corrections, the Department of Juvenile
302 Justice, the Parole Commission, the State Courts Administrator
303 and circuit court administrators, the Department of Law

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304 Enforcement, and every sheriff's department, police department,
 305 or other law enforcement agency as defined in s. 943.10(4) shall
 306 develop and implement guidelines for the use of their respective
 307 agencies, which guidelines are consistent with the purposes of
 308 this act and s. 16(b), Art. I of the State Constitution and are
 309 designed to implement the provisions of s. 16(b), Art. I of the
 310 State Constitution and to achieve the following objectives:

311 (b) Information for purposes of notifying victim or
 312 appropriate next of kin of victim or other designated contact of
 313 victim.--In the case of a homicide, pursuant to chapter 782; or
 314 a sexual offense, pursuant to chapter 794; or an attempted
 315 murder or sexual offense, pursuant to chapter 777; or stalking,
 316 pursuant to s. 784.048; or domestic violence, pursuant to s.
 317 25.385:

318 1. The arresting law enforcement officer or personnel of
 319 an organization that provides assistance to a victim or to the
 320 appropriate next of kin of the victim or other designated
 321 contact must request that the victim or appropriate next of kin
 322 of the victim or other designated contact complete a victim
 323 notification card. However, the victim or appropriate next of
 324 kin of the victim or other designated contact may choose not to
 325 complete the victim notification card.

326 2. Unless the victim or the appropriate next of kin of the
 327 victim or other designated contact waives the option to complete
 328 the victim notification card, a copy of the victim notification
 329 card must be filed with the incident report or warrant in the
 330 sheriff's office of the jurisdiction in which the incident

331 report or warrant originated. The notification card shall, at a
332 minimum, consist of:

333 a. The name, address, and phone number of the victim; or

334 b. The name, address, and phone number of the appropriate
335 next of kin of the victim; or

336 c. The name, address, and phone number of a designated
337 contact other than the victim or appropriate next of kin of the
338 victim; and

339 d. Any relevant identification or case numbers assigned to
340 the case.

341 3. The chief administrator, or a person designated by the
342 chief administrator, of a county jail, municipal jail, juvenile
343 detention facility, or residential commitment facility shall
344 make a reasonable attempt to notify the alleged victim or
345 appropriate next of kin of the alleged victim or other
346 designated contact within 4 hours following the release of the
347 defendant on bail or, in the case of a juvenile offender, upon
348 the release from residential detention or commitment. If the
349 chief administrator, or designee, is unable to contact the
350 alleged victim or appropriate next of kin of the alleged victim
351 or other designated contact by telephone, the chief
352 administrator, or designee, must send to the alleged victim or
353 appropriate next of kin of the alleged victim or other
354 designated contact a written notification of the defendant's
355 release.

356 4. Unless otherwise requested by the victim or the
357 appropriate next of kin of the victim or other designated
358 contact, the information contained on the victim notification

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359 card must be sent by the chief administrator, or designee, of
360 the appropriate facility to the subsequent correctional or
361 residential commitment facility following the sentencing and
362 incarceration of the defendant, and unless otherwise requested
363 by the victim or the appropriate next of kin of the victim or
364 other designated contact, he or she must be notified of the
365 release of the defendant from incarceration as provided by law.

366 5. If the defendant was arrested pursuant to a warrant
367 issued or taken into custody pursuant to s. 985.207 in a
368 jurisdiction other than the jurisdiction in which the defendant
369 is being released, and the alleged victim or appropriate next of
370 kin of the alleged victim or other designated contact does not
371 waive the option for notification of release, the chief
372 correctional officer or chief administrator of the facility
373 releasing the defendant shall make a reasonable attempt to
374 immediately notify the chief correctional officer of the
375 jurisdiction in which the warrant was issued or the juvenile was
376 taken into custody pursuant to s. 985.207, and the chief
377 correctional officer of that jurisdiction shall make a
378 reasonable attempt to notify the alleged victim or appropriate
379 next of kin of the alleged victim or other designated contact,
380 as provided in this paragraph, that the defendant has been or
381 will be released.

382 Section 10. This act shall take effect July 1, 2004, and
383 shall apply to offenses committed on or after that date.