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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; specifying an evidentiary fact that may be considered by the court in determining whether the defendant committed or attempted to commit such offense; increasing the penalty imposed for committing that offense; 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, 787.025, F.S., in references thereto; reenacting and amending s. 921.0022(3)(f), (i), and (j), F.S., relating to the offense severity ranking chart of the Criminal Punishment Code, to incorporate the amendments to s. 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, 787.025, F.S., in references thereto; providing an effective date.

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

31

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

34 787.01 Kidnapping; kidnapping of child under age 16 ~~13~~,  
35 aggravating circumstances.--

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

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

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

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

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

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

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58 2. Sexual battery, as defined in chapter 794, against the  
59 child;

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

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

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

67  
68 commits a life felony, punishable as provided in s. 775.082, s.  
69 775.083, or s. 775.084.

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

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

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

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

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

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

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

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

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

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

113 787.025 Luring or enticing a child.--

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

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

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

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

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

132 (b) If the defendant lured or enticed, or attempted to  
 133 lure or entice, For purposes of this section, the luring or  
 134 enticing, or attempted luring or enticing, of a child under the  
 135 age of 16 12 into a structure, dwelling, or conveyance without  
 136 the consent of the child's parent or legal guardian, that fact  
 137 does not give rise to a presumption that the defendant committed  
 138 or attempted to commit such luring or enticing for shall be  
 139 prima facie evidence of other than a lawful purpose, but may be  
 140 considered with other competent evidence in determining whether  
 141 the defendant committed or attempted to commit such luring or  
 142 enticing for other than a lawful purpose.

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

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

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

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

153 Section 4. For the purpose of incorporating the amendments  
 154 made by this act to sections 787.01 and 787.02, Florida  
 155 Statutes, in references thereto, paragraphs (j) and(k) of  
 156 subsection (2) of section 435.03, Florida Statutes, are  
 157 reenacted to read:

158 435.03 Level 1 screening standards.--

159 (2) Any person for whom employment screening is required  
 160 by statute must not have been found guilty of, regardless of  
 161 adjudication, or entered a plea of nolo contendere or guilty to,  
 162 any offense prohibited under any of the following provisions of  
 163 the Florida Statutes or under any similar statute of another  
 164 jurisdiction:

165 (j) Section 787.01, relating to kidnapping.

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

167 Section 5. For the purpose of incorporating the amendments  
 168 made by this act to sections 787.01 and 787.02, Florida  
 169 Statutes, in references thereto, paragraphs (k) and(l) of  
 170 subsection (2) of section 435.04, Florida Statutes, are  
 171 reenacted to read:

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172 435.04 Level 2 screening standards.--

173 (2) The security background investigations under this  
 174 section must ensure that no persons subject to the provisions of  
 175 this section have been found guilty of, regardless of  
 176 adjudication, or entered a plea of nolo contendere or guilty to,  
 177 any offense prohibited under any of the following provisions of  
 178 the Florida Statutes or under any similar statute of another  
 179 jurisdiction:

180 (k) Section 787.01, relating to kidnapping.

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

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

186 775.21 The Florida Sexual Predators Act; definitions;  
 187 legislative findings, purpose, and intent; criteria;  
 188 designation; registration; community and public notification;  
 189 immunity; penalties.--

190 (4) SEXUAL PREDATOR CRITERIA.--

191 (a) For a current offense committed on or after October 1,  
 192 1993, upon conviction, an offender shall be designated as a  
 193 "sexual predator" under subsection (5), and subject to  
 194 registration under subsection (6) and community and public  
 195 notification under subsection (7) if:

196 1. The felony is:

197 a. A capital, life, or first-degree felony violation, or  
 198 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
 199 is a minor and the defendant is not the victim's parent, or of

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200 chapter 794, s. 800.04, or s. 847.0145, or a violation of a  
 201 similar law of another jurisdiction; or

202 b. Any felony violation, or any attempt thereof, of s.  
 203 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
 204 and the defendant is not the victim's parent; chapter 794,  
 205 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.  
 206 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation of a  
 207 similar law of another jurisdiction, and the offender has  
 208 previously been convicted of or found to have committed, or has  
 209 pled nolo contendere or guilty to, regardless of adjudication,  
 210 any violation of s. 787.01, s. 787.02, or s. 787.025, where the  
 211 victim is a minor and the defendant is not the victim's parent;  
 212 s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.  
 213 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; or s.  
 214 847.0145, or a violation of a similar law of another  
 215 jurisdiction;

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

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

222 (b) In order to be counted as a prior felony for purposes  
 223 of this subsection, the felony must have resulted in a  
 224 conviction sentenced separately, or an adjudication of  
 225 delinquency entered separately, prior to the current offense and  
 226 sentenced or adjudicated separately from any other felony  
 227 conviction that is to be counted as a prior felony. If the  
 228 offender's prior enumerated felony was committed more than 10

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229 years before the primary offense, it shall not be considered a  
 230 prior felony under this subsection if the offender has not been  
 231 convicted of any other crime for a period of 10 consecutive  
 232 years from the most recent date of release from confinement,  
 233 supervision, or sanction, whichever is later.

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

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

240 2. The offender was administratively registered as a  
 241 sexual predator because the Department of Corrections, the  
 242 department, or any other law enforcement agency obtained  
 243 information that indicated that the offender met the criteria  
 244 for designation as a sexual predator based on a violation of a  
 245 similar law in another jurisdiction,

246  
 247 the department shall remove that offender from the department's  
 248 list of sexual predators and, for an offender described under  
 249 subparagraph 1., shall notify the state attorney who prosecuted  
 250 the offense that met the criteria for administrative designation  
 251 as a sexual predator, and, for an offender described under this  
 252 subparagraph, shall notify the state attorney of the county  
 253 where the offender establishes or maintains a permanent or  
 254 temporary residence. The state attorney shall bring the matter  
 255 to the court's attention in order to establish that the offender  
 256 meets the criteria for designation as a sexual predator. If the  
 257 court makes a written finding that the offender is a sexual

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258 predator, the offender must be designated as a sexual predator,  
 259 must register or be registered as a sexual predator with the  
 260 department as provided in subsection (6), and is subject to the  
 261 community and public notification as provided in subsection (7).  
 262 If the court does not make a written finding that the offender  
 263 is a sexual predator, the offender may not be designated as a  
 264 sexual predator with respect to that offense and is not required  
 265 to register or be registered as a sexual predator with the  
 266 department.

267 Section 7. For the purpose of incorporating the amendments  
 268 made by this act to section 787.01, Florida Statutes, in  
 269 references thereto, section 903.133, Florida Statutes, is  
 270 reenacted to read:

271 903.133 Bail on appeal; prohibited for certain felony  
 272 convictions.--Notwithstanding the provisions of s. 903.132, no  
 273 person adjudged guilty of a felony of the first degree for a  
 274 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
 275 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
 276 violation of s. 794.011(2) or (3), shall be admitted to bail  
 277 pending review either by posttrial motion or appeal.

278 Section 8. For the purpose of incorporating the amendments  
 279 made by this act to sections 787.01 and 787.02, Florida  
 280 Statutes, in references thereto, section 910.14, Florida  
 281 Statutes, is reenacted to read:

282 910.14 Kidnapping.--A person who commits an offense  
 283 provided for in s. 787.01 or s. 787.02 may be tried in any  
 284 county in which the person's victim has been taken or confined  
 285 during the course of the offense.

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286 Section 9. For the purpose of incorporating the amendments  
 287 made by this act to sections 787.01 and 787.02, Florida  
 288 Statutes, in references thereto, paragraphs (f),(i), and (j) of  
 289 subsection (3) of section 921.0022, Florida Statutes, are  
 290 reenacted and amended to read:

291 921.0022 Criminal Punishment Code; offense severity  
 292 ranking chart.--

293 (3) OFFENSE SEVERITY RANKING CHART

294

Florida	Felony	
Statute	Degree	Description
		(f) LEVEL 6
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Forgery of pedigree papers.
499.0051(4)	2nd	Purchase or receipt of legend drug from unauthorized person.
499.0051(5)	2nd	Sale of legend drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
775.21(10)	3rd	Sexual predators; failure to

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			register; failure to renew driver's license or identification card.
304	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
305	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
306	784.041	3rd	Felony battery.
307	784.048(3)	3rd	Aggravated stalking; credible threat.
308	784.048(5)	3rd	Aggravated stalking of person under 16.
309	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
310	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
311	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
312	784.081(2)	2nd	Aggravated assault on specified official or employee.
313	784.082(2)	2nd	Aggravated assault by detained

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			person on visitor or other detainee.
314	784.083(2)	2nd	Aggravated assault on code inspector.
315	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
316	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
317	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
318	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
319	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
320	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
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322	794.05(1)	2nd	Unlawful sexual activity with specified minor.
323	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
324	800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
325	806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
326	810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
327	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
328	812.014(2)(b)2.	2nd	Property stolen; cargo valued at less than \$50,000, grand theft in 2nd degree.
329	812.015(9)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.

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330	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
331	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
332	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
333	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
334	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
335	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
336	825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
337	827.03(1)	3rd	Abuse of a child.
338	827.03(3)(c)	3rd	Neglect of a child.
339	827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.

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340	836.05	2nd	Threats; extortion.
341	836.10	2nd	Written threats to kill or do bodily injury.
342	843.12	3rd	Aids or assists person to escape.
343	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
344	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
345	943.0435(9)	3rd	Sex offenders; failure to comply with reporting requirements.
346	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
347	944.40	2nd	Escapes.
348	944.46	3rd	Harboring, concealing, aiding escaped prisoners.

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349	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
350	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
351			(i) LEVEL 9
352	316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
353	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
354	499.0053	1st	Sale or purchase of contraband legend drugs resulting in great bodily harm.
355	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
356	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
	655.50(10)(b)3.	1st	Failure to report financial

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transactions totaling or exceeding \$100,000 by financial institution.

357

775.0844 1st Aggravated white collar crime.

358

782.04(1) 1st Attempt, conspire, or solicit to commit premeditated murder.

359

782.04(3) 1st,PBL Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.

360

782.051(1) 1st Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).

361

782.07(2) 1st Aggravated manslaughter of an elderly person or disabled adult.

362

787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or reward or as a shield or hostage.

363

787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or facilitate commission of any felony.

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365	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
366	787.02(3)(a)	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.
367	790.161	1st	Attempted capital destructive device offense.
368	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
369	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
370	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
	794.011(4)	1st	Sexual battery; victim 12 years or older, certain

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circumstances.

371

794.011(8)(b)

1st

Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.

372

800.04(5)(b)

1st

Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.

373

812.13(2)(a)

1st,PBL

Robbery with firearm or other deadly weapon.

374

812.133(2)(a)

1st,PBL

Carjacking; firearm or other deadly weapon.

375

817.568(7)

2nd,PBL

Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.

376

827.03(2)

1st

Aggravated child abuse.

377

847.0145(1)

1st

Selling, or otherwise transferring custody or control, of a minor.

378

847.0145(2)

1st

Purchasing, or otherwise

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379			obtaining custody or control, of a minor.
	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
380	893.135	1st	Attempted capital trafficking offense.
381	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
382	893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
383	893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
384	893.135(1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
385	893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
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387	893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
388	893.135(1)(h)1.c.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.
389	893.135(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
390	893.135(1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
391	896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
392	896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.
393	499.0054	1st	(j) LEVEL 10 Sale or purchase of contraband legend drugs resulting in death.
394	782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
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396 787.01(1)(a)3.                    1st,PBL            Kidnapping; inflict bodily harm  
upon or terrorize victim.

397 787.01(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.

398 782.07(3)                        1st                Aggravated manslaughter of a  
child.

399 794.011(3)                       Life                Sexual battery; victim 12 years  
or older, offender uses or  
threatens to use deadly weapon  
or physical force to cause  
serious injury.

400 876.32                            1st                Treason against the state.

401            Section 10. For the purpose of incorporating the  
402 amendments made by this act to sections 787.01, 787.02, and  
403 787.025, Florida Statutes, in references thereto, paragraph (a)  
404 of subsection (1) of section 943.0435, Florida Statutes, is  
405 reenacted to read:

406            943.0435 Sexual offenders required to register with the  
407 department; penalty.--

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

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

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410 1. Has been convicted of committing, or attempting,  
411 soliciting, or conspiring to commit, any of the criminal  
412 offenses proscribed in the following statutes in this state or  
413 similar offenses in another jurisdiction: s. 787.01, s. 787.02,  
414 or s. 787.025, where the victim is a minor and the defendant is  
415 not the victim's parent; chapter 794, excluding ss. 794.011(10)  
416 and 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
417 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or  
418 any similar offense committed in this state which has been  
419 redesignated from a former statute number to one of those listed  
420 in this subparagraph; and

421 2. Has been released on or after October 1, 1997, from the  
422 sanction imposed for any conviction of an offense described in  
423 subparagraph 1. For purposes of subparagraph 1., a sanction  
424 imposed in this state or in any other jurisdiction includes, but  
425 is not limited to, a fine, probation, community control, parole,  
426 conditional release, control release, or incarceration in a  
427 state prison, federal prison, private correctional facility, or  
428 local detention facility; or

429 3. Establishes or maintains a residence in this state and  
430 who has not been designated as a sexual predator by a court of  
431 this state but who has been designated as a sexual predator, as  
432 a sexually violent predator, or by another sexual offender  
433 designation in another state or jurisdiction and was, as a  
434 result of such designation, subjected to registration or  
435 community or public notification, or both, or would be if the  
436 person were a resident of that state or jurisdiction; or

437 4. Establishes or maintains a residence in this state who  
438 is in the custody or control of, or under the supervision of,

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439 any other state or jurisdiction as a result of a conviction for  
 440 committing, or attempting, soliciting, or conspiring to commit,  
 441 any of the criminal offenses proscribed in the following  
 442 statutes or similar offense in another jurisdiction: s. 787.01,  
 443 s. 787.02, or s. 787.025, where the victim is a minor and the  
 444 defendant is not the victim's parent; chapter 794, excluding ss.  
 445 794.011(10) and 794.0235; s. 796.03; s. 800.04; s. 825.1025; s.  
 446 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.  
 447 847.0145; or any similar offense committed in this state which  
 448 has been redesignated from a former statute number to one of  
 449 those listed in this subparagraph.

450 Section 11. For the purpose of incorporating the  
 451 amendments made by this act to section 787.025, Florida  
 452 Statutes, in references thereto, section 943.0585, Florida  
 453 Statutes, is reenacted to read:

454 943.0585 Court-ordered expunction of criminal history  
 455 records.--The courts of this state have jurisdiction over their  
 456 own procedures, including the maintenance, expunction, and  
 457 correction of judicial records containing criminal history  
 458 information to the extent such procedures are not inconsistent  
 459 with the conditions, responsibilities, and duties established by  
 460 this section. Any court of competent jurisdiction may order a  
 461 criminal justice agency to expunge the criminal history record  
 462 of a minor or an adult who complies with the requirements of  
 463 this section. The court shall not order a criminal justice  
 464 agency to expunge a criminal history record until the person  
 465 seeking to expunge a criminal history record has applied for and  
 466 received a certificate of eligibility for expunction pursuant to  
 467 subsection (2). A criminal history record that relates to a

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468 violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s.  
 469 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.  
 470 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in  
 471 s. 907.041 may not be expunged, without regard to whether  
 472 adjudication was withheld, if the defendant was found guilty of  
 473 or pled guilty or nolo contendere to the offense, or if the  
 474 defendant, as a minor, was found to have committed, or pled  
 475 guilty or nolo contendere to committing, the offense as a  
 476 delinquent act. The court may only order expunction of a  
 477 criminal history record pertaining to one arrest or one incident  
 478 of alleged criminal activity, except as provided in this  
 479 section. The court may, at its sole discretion, order the  
 480 expunction of a criminal history record pertaining to more than  
 481 one arrest if the additional arrests directly relate to the  
 482 original arrest. If the court intends to order the expunction of  
 483 records pertaining to such additional arrests, such intent must  
 484 be specified in the order. A criminal justice agency may not  
 485 expunge any record pertaining to such additional arrests if the  
 486 order to expunge does not articulate the intention of the court  
 487 to expunge a record pertaining to more than one arrest. This  
 488 section does not prevent the court from ordering the expunction  
 489 of only a portion of a criminal history record pertaining to one  
 490 arrest or one incident of alleged criminal activity.  
 491 Notwithstanding any law to the contrary, a criminal justice  
 492 agency may comply with laws, court orders, and official requests  
 493 of other jurisdictions relating to expunction, correction, or  
 494 confidential handling of criminal history records or information  
 495 derived therefrom. This section does not confer any right to the  
 496 expunction of any criminal history record, and any request for

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497 expunction of a criminal history record may be denied at the  
 498 sole discretion of the court.

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

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

504 (b) The petitioner's sworn statement attesting that the  
 505 petitioner:

506 1. Has never, prior to the date on which the petition is  
 507 filed, been adjudicated guilty of a criminal offense or  
 508 comparable ordinance violation or adjudicated delinquent for  
 509 committing a felony or a misdemeanor specified in s.  
 510 943.051(3)(b).

511 2. Has not been adjudicated guilty of, or adjudicated  
 512 delinquent for committing, any of the acts stemming from the  
 513 arrest or alleged criminal activity to which the petition  
 514 pertains.

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

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

522  
 523 Any person who knowingly provides false information on such  
 524 sworn statement to the court commits a felony of the third

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525 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 526 775.084.

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

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

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

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

546 3. That the criminal history record does not relate to a  
 547 violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s.  
 548 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.  
 549 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in  
 550 s. 907.041, where the defendant was found guilty of, or pled  
 551 guilty or nolo contendere to any such offense, or that the  
 552 defendant, as a minor, was found to have committed, or pled  
 553 guilty or nolo contendere to committing, such an offense as a

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554 delinquent act, without regard to whether adjudication was  
555 withheld.

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

559 (c) Has submitted to the department a certified copy of  
560 the disposition of the charge to which the petition to expunge  
561 pertains.

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

567 (e) Has not been adjudicated guilty of, or adjudicated  
568 delinquent for committing, any of the acts stemming from the  
569 arrest or alleged criminal activity to which the petition to  
570 expunge pertains.

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

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

577 (h) Is not required to wait a minimum of 10 years prior to  
578 being eligible for an expunction of such records because all  
579 charges related to the arrest or criminal activity to which the  
580 petition to expunge pertains were dismissed prior to trial,  
581 adjudication, or the withholding of adjudication. Otherwise,  
582 such criminal history record must be sealed under this section,

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583 former s. 893.14, former s. 901.33, or former s. 943.058 for at  
 584 least 10 years before such record is eligible for expunction.

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

586 (a) In judicial proceedings under this section, a copy of  
 587 the completed petition to expunge shall be served upon the  
 588 appropriate state attorney or the statewide prosecutor and upon  
 589 the arresting agency; however, it is not necessary to make any  
 590 agency other than the state a party. The appropriate state  
 591 attorney or the statewide prosecutor and the arresting agency  
 592 may respond to the court regarding the completed petition to  
 593 expunge.

594 (b) If relief is granted by the court, the clerk of the  
 595 court shall certify copies of the order to the appropriate state  
 596 attorney or the statewide prosecutor and the arresting agency.  
 597 The arresting agency is responsible for forwarding the order to  
 598 any other agency to which the arresting agency disseminated the  
 599 criminal history record information to which the order pertains.  
 600 The department shall forward the order to expunge to the Federal  
 601 Bureau of Investigation. The clerk of the court shall certify a  
 602 copy of the order to any other agency which the records of the  
 603 court reflect has received the criminal history record from the  
 604 court.

605 (c) For an order to expunge entered by a court prior to  
 606 July 1, 1992, the department shall notify the appropriate state  
 607 attorney or statewide prosecutor of an order to expunge which is  
 608 contrary to law because the person who is the subject of the  
 609 record has previously been convicted of a crime or comparable  
 610 ordinance violation or has had a prior criminal history record  
 611 sealed or expunged. Upon receipt of such notice, the appropriate

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612 state attorney or statewide prosecutor shall take action, within  
 613 60 days, to correct the record and petition the court to void  
 614 the order to expunge. The department shall seal the record until  
 615 such time as the order is voided by the court.

616 (d) On or after July 1, 1992, the department or any other  
 617 criminal justice agency is not required to act on an order to  
 618 expunge entered by a court when such order does not comply with  
 619 the requirements of this section. Upon receipt of such an order,  
 620 the department must notify the issuing court, the appropriate  
 621 state attorney or statewide prosecutor, the petitioner or the  
 622 petitioner's attorney, and the arresting agency of the reason  
 623 for noncompliance. The appropriate state attorney or statewide  
 624 prosecutor shall take action within 60 days to correct the  
 625 record and petition the court to void the order. No cause of  
 626 action, including contempt of court, shall arise against any  
 627 criminal justice agency for failure to comply with an order to  
 628 expunge when the petitioner for such order failed to obtain the  
 629 certificate of eligibility as required by this section or such  
 630 order does not otherwise comply with the requirements of this  
 631 section.

632 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
 633 criminal history record of a minor or an adult which is ordered  
 634 expunged by a court of competent jurisdiction pursuant to this  
 635 section must be physically destroyed or obliterated by any  
 636 criminal justice agency having custody of such record; except  
 637 that any criminal history record in the custody of the  
 638 department must be retained in all cases. A criminal history  
 639 record ordered expunged that is retained by the department is  
 640 confidential and exempt from the provisions of s. 119.07(1) and

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641 s. 24(a), Art. I of the State Constitution and not available to  
 642 any person or entity except upon order of a court of competent  
 643 jurisdiction. A criminal justice agency may retain a notation  
 644 indicating compliance with an order to expunge.

645 (a) The person who is the subject of a criminal history  
 646 record that is expunged under this section or under other  
 647 provisions of law, including former s. 893.14, former s. 901.33,  
 648 and former s. 943.058, may lawfully deny or fail to acknowledge  
 649 the arrests covered by the expunged record, except when the  
 650 subject of the record:

651 1. Is a candidate for employment with a criminal justice  
 652 agency;

653 2. Is a defendant in a criminal prosecution;

654 3. Concurrently or subsequently petitions for relief under  
 655 this section or s. 943.059;

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

657 5. Is seeking to be employed or licensed by or to contract  
 658 with the Department of Children and Family Services or the  
 659 Department of Juvenile Justice or to be employed or used by such  
 660 contractor or licensee in a sensitive position having direct  
 661 contact with children, the developmentally disabled, the aged,  
 662 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.  
 663 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
 664 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

665 6. Is seeking to be employed or licensed by the Office of  
 666 Teacher Education, Certification, Staff Development, and  
 667 Professional Practices of the Department of Education, any  
 668 district school board, or any local governmental entity that  
 669 licenses child care facilities.

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670 (b) Subject to the exceptions in paragraph (a), a person  
671 who has been granted an expunction under this section, former s.  
672 893.14, former s. 901.33, or former s. 943.058 may not be held  
673 under any provision of law of this state to commit perjury or to  
674 be otherwise liable for giving a false statement by reason of  
675 such person's failure to recite or acknowledge an expunged  
676 criminal history record.

677 (c) Information relating to the existence of an expunged  
678 criminal history record which is provided in accordance with  
679 paragraph (a) is confidential and exempt from the provisions of  
680 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
681 except that the department shall disclose the existence of a  
682 criminal history record ordered expunged to the entities set  
683 forth in subparagraphs (a)1., 4., 5., and 6. for their  
684 respective licensing and employment purposes, and to criminal  
685 justice agencies for their respective criminal justice purposes.  
686 It is unlawful for any employee of an entity set forth in  
687 subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or  
688 subparagraph (a)6. to disclose information relating to the  
689 existence of an expunged criminal history record of a person  
690 seeking employment or licensure with such entity or contractor,  
691 except to the person to whom the criminal history record relates  
692 or to persons having direct responsibility for employment or  
693 licensure decisions. Any person who violates this paragraph  
694 commits a misdemeanor of the first degree, punishable as  
695 provided in s. 775.082 or s. 775.083.

696 (5) STATUTORY REFERENCES.--Any reference to any other  
697 chapter, section, or subdivision of the Florida Statutes in this

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698 section constitutes a general reference under the doctrine of  
 699 incorporation by reference.

700 Section 12. For the purpose of incorporating the  
 701 amendments made by this act to section 787.025, Florida  
 702 Statutes, in references thereto, section 943.059, Florida  
 703 Statutes, is reenacted to read:

704 943.059 Court-ordered sealing of criminal history  
 705 records.--The courts of this state shall continue to have  
 706 jurisdiction over their own procedures, including the  
 707 maintenance, sealing, and correction of judicial records  
 708 containing criminal history information to the extent such  
 709 procedures are not inconsistent with the conditions,  
 710 responsibilities, and duties established by this section. Any  
 711 court of competent jurisdiction may order a criminal justice  
 712 agency to seal the criminal history record of a minor or an  
 713 adult who complies with the requirements of this section. The  
 714 court shall not order a criminal justice agency to seal a  
 715 criminal history record until the person seeking to seal a  
 716 criminal history record has applied for and received a  
 717 certificate of eligibility for sealing pursuant to subsection  
 718 (2). A criminal history record that relates to a violation of s.  
 719 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
 720 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.  
 721 847.0145, s. 893.135, or a violation enumerated in s. 907.041  
 722 may not be sealed, without regard to whether adjudication was  
 723 withheld, if the defendant was found guilty of or pled guilty or  
 724 nolo contendere to the offense, or if the defendant, as a minor,  
 725 was found to have committed or pled guilty or nolo contendere to  
 726 committing the offense as a delinquent act. The court may only

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727 order sealing of a criminal history record pertaining to one  
 728 arrest or one incident of alleged criminal activity, except as  
 729 provided in this section. The court may, at its sole discretion,  
 730 order the sealing of a criminal history record pertaining to  
 731 more than one arrest if the additional arrests directly relate  
 732 to the original arrest. If the court intends to order the  
 733 sealing of records pertaining to such additional arrests, such  
 734 intent must be specified in the order. A criminal justice agency  
 735 may not seal any record pertaining to such additional arrests if  
 736 the order to seal does not articulate the intention of the court  
 737 to seal records pertaining to more than one arrest. This section  
 738 does not prevent the court from ordering the sealing of only a  
 739 portion of a criminal history record pertaining to one arrest or  
 740 one incident of alleged criminal activity. Notwithstanding any  
 741 law to the contrary, a criminal justice agency may comply with  
 742 laws, court orders, and official requests of other jurisdictions  
 743 relating to sealing, correction, or confidential handling of  
 744 criminal history records or information derived therefrom. This  
 745 section does not confer any right to the sealing of any criminal  
 746 history record, and any request for sealing a criminal history  
 747 record may be denied at the sole discretion of the court.

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

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

753 (b) The petitioner's sworn statement attesting that the  
 754 petitioner:

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755 1. Has never, prior to the date on which the petition is  
 756 filed, been adjudicated guilty of a criminal offense or  
 757 comparable ordinance violation or adjudicated delinquent for  
 758 committing a felony or a misdemeanor specified in s.  
 759 943.051(3)(b).

760 2. Has not been adjudicated guilty of or adjudicated  
 761 delinquent for committing any of the acts stemming from the  
 762 arrest or alleged criminal activity to which the petition to  
 763 seal pertains.

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

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

771  
 772 Any person who knowingly provides false information on such  
 773 sworn statement to the court commits a felony of the third  
 774 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 775 775.084.

776 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
 777 petitioning the court to seal a criminal history record, a  
 778 person seeking to seal a criminal history record shall apply to  
 779 the department for a certificate of eligibility for sealing. The  
 780 department shall, by rule adopted pursuant to chapter 120,  
 781 establish procedures pertaining to the application for and  
 782 issuance of certificates of eligibility for sealing. The  
 783 department shall issue a certificate of eligibility for sealing

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784 to a person who is the subject of a criminal history record  
785 provided that such person:

786 (a) Has submitted to the department a certified copy of  
787 the disposition of the charge to which the petition to seal  
788 pertains.

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

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

797 (d) Has not been adjudicated guilty of or adjudicated  
798 delinquent for committing any of the acts stemming from the  
799 arrest or alleged criminal activity to which the petition to  
800 seal pertains.

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

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

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

808 (a) In judicial proceedings under this section, a copy of  
809 the completed petition to seal shall be served upon the  
810 appropriate state attorney or the statewide prosecutor and upon  
811 the arresting agency; however, it is not necessary to make any  
812 agency other than the state a party. The appropriate state

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813 attorney or the statewide prosecutor and the arresting agency  
814 may respond to the court regarding the completed petition to  
815 seal.

816 (b) If relief is granted by the court, the clerk of the  
817 court shall certify copies of the order to the appropriate state  
818 attorney or the statewide prosecutor and to the arresting  
819 agency. The arresting agency is responsible for forwarding the  
820 order to any other agency to which the arresting agency  
821 disseminated the criminal history record information to which  
822 the order pertains. The department shall forward the order to  
823 seal to the Federal Bureau of Investigation. The clerk of the  
824 court shall certify a copy of the order to any other agency  
825 which the records of the court reflect has received the criminal  
826 history record from the court.

827 (c) For an order to seal entered by a court prior to July  
828 1, 1992, the department shall notify the appropriate state  
829 attorney or statewide prosecutor of any order to seal which is  
830 contrary to law because the person who is the subject of the  
831 record has previously been convicted of a crime or comparable  
832 ordinance violation or has had a prior criminal history record  
833 sealed or expunged. Upon receipt of such notice, the appropriate  
834 state attorney or statewide prosecutor shall take action, within  
835 60 days, to correct the record and petition the court to void  
836 the order to seal. The department shall seal the record until  
837 such time as the order is voided by the court.

838 (d) On or after July 1, 1992, the department or any other  
839 criminal justice agency is not required to act on an order to  
840 seal entered by a court when such order does not comply with the  
841 requirements of this section. Upon receipt of such an order, the

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842 department must notify the issuing court, the appropriate state  
 843 attorney or statewide prosecutor, the petitioner or the  
 844 petitioner's attorney, and the arresting agency of the reason  
 845 for noncompliance. The appropriate state attorney or statewide  
 846 prosecutor shall take action within 60 days to correct the  
 847 record and petition the court to void the order. No cause of  
 848 action, including contempt of court, shall arise against any  
 849 criminal justice agency for failure to comply with an order to  
 850 seal when the petitioner for such order failed to obtain the  
 851 certificate of eligibility as required by this section or when  
 852 such order does not comply with the requirements of this  
 853 section.

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

858 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal  
 859 history record of a minor or an adult which is ordered sealed by  
 860 a court of competent jurisdiction pursuant to this section is  
 861 confidential and exempt from the provisions of s. 119.07(1) and  
 862 s. 24(a), Art. I of the State Constitution and is available only  
 863 to the person who is the subject of the record, to the subject's  
 864 attorney, to criminal justice agencies for their respective  
 865 criminal justice purposes, or to those entities set forth in  
 866 subparagraphs (a)1., 4., 5., and 6. for their respective  
 867 licensing and employment purposes.

868 (a) The subject of a criminal history record sealed under  
 869 this section or under other provisions of law, including former  
 870 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully

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871 deny or fail to acknowledge the arrests covered by the sealed  
872 record, except when the subject of the record:

873 1. Is a candidate for employment with a criminal justice  
874 agency;

875 2. Is a defendant in a criminal prosecution;

876 3. Concurrently or subsequently petitions for relief under  
877 this section or s. 943.0585;

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

879 5. Is seeking to be employed or licensed by or to contract  
880 with the Department of Children and Family Services or the  
881 Department of Juvenile Justice or to be employed or used by such  
882 contractor or licensee in a sensitive position having direct  
883 contact with children, the developmentally disabled, the aged,  
884 or the elderly as provided in s. 110.1127(3), s. 393.063(15), s.  
885 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.  
886 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter  
887 400; or

888 6. Is seeking to be employed or licensed by the Office of  
889 Teacher Education, Certification, Staff Development, and  
890 Professional Practices of the Department of Education, any  
891 district school board, or any local governmental entity which  
892 licenses child care facilities.

893 (b) Subject to the exceptions in paragraph (a), a person  
894 who has been granted a sealing under this section, former s.  
895 893.14, former s. 901.33, or former s. 943.058 may not be held  
896 under any provision of law of this state to commit perjury or to  
897 be otherwise liable for giving a false statement by reason of  
898 such person's failure to recite or acknowledge a sealed criminal  
899 history record.

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900 (c) Information relating to the existence of a sealed  
 901 criminal record provided in accordance with the provisions of  
 902 paragraph (a) is confidential and exempt from the provisions of  
 903 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
 904 except that the department shall disclose the sealed criminal  
 905 history record to the entities set forth in subparagraphs (a)1.,  
 906 4., 5., and 6. for their respective licensing and employment  
 907 purposes. It is unlawful for any employee of an entity set forth  
 908 in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5.,  
 909 or subparagraph (a)6. to disclose information relating to the  
 910 existence of a sealed criminal history record of a person  
 911 seeking employment or licensure with such entity or contractor,  
 912 except to the person to whom the criminal history record relates  
 913 or to persons having direct responsibility for employment or  
 914 licensure decisions. Any person who violates the provisions of  
 915 this paragraph commits a misdemeanor of the first degree,  
 916 punishable as provided in s. 775.082 or s. 775.083.

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

921 Section 13. For the purpose of incorporating the  
 922 amendments made by this act to sections 787.01, 787.02, and  
 923 787.025, Florida Statutes, in references thereto, paragraph (b)  
 924 of subsection (1) of section 944.606, Florida Statutes, is  
 925 reenacted to read:

926 944.606 Sexual offenders; notification upon release.--

927 (1) As used in this section:

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928 (b) "Sexual offender" means a person who has been  
 929 convicted of committing, or attempting, soliciting, or  
 930 conspiring to commit, any of the criminal offenses proscribed in  
 931 the following statutes in this state or similar offenses in  
 932 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
 933 where the victim is a minor and the defendant is not the  
 934 victim's parent; chapter 794, excluding ss. 794.011(10) and  
 935 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
 936 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or  
 937 any similar offense committed in this state which has been  
 938 redesignated from a former statute number to one of those listed  
 939 in this subsection, when the department has received verified  
 940 information regarding such conviction; an offender's  
 941 computerized criminal history record is not, in and of itself,  
 942 verified information.

943 Section 14. For the purpose of incorporating the  
 944 amendments made by this act to sections 787.01, 787.02, and  
 945 787.025, Florida Statutes, in references thereto, paragraph (a)  
 946 of subsection (1) of section 944.607, Florida Statutes, is  
 947 reenacted to read:

948 944.607 Notification to Department of Law Enforcement of  
 949 information on sexual offenders.--

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

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

954 1. On or after October 1, 1997, as a result of a  
 955 conviction for committing, or attempting, soliciting, or  
 956 conspiring to commit, any of the criminal offenses proscribed in

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957 the following statutes in this state or similar offenses in  
 958 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
 959 where the victim is a minor and the defendant is not the  
 960 victim's parent; chapter 794, excluding ss. 794.011(10) and  
 961 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
 962 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or  
 963 any similar offense committed in this state which has been  
 964 redesignated from a former statute number to one of those listed  
 965 in this paragraph; or

966 2. Who establishes or maintains a residence in this state  
 967 and who has not been designated as a sexual predator by a court  
 968 of this state but who has been designated as a sexual predator,  
 969 as a sexually violent predator, or by another sexual offender  
 970 designation in another state or jurisdiction and was, as a  
 971 result of such designation, subjected to registration or  
 972 community or public notification, or both, or would be if the  
 973 person were a resident of that state or jurisdiction.

974 Section 15. For the purpose of incorporating the  
 975 amendments made by this act to sections 787.01, 787.02, and  
 976 787.025, Florida Statutes, in references thereto, subsection  
 977 (15) of section 948.01, Florida Statutes, is reenacted to read:

978 948.01 When court may place defendant on probation or into  
 979 community control.--

980 (15) Effective for an offense committed on or after July  
 981 1, 1998, a person is ineligible for placement on administrative  
 982 probation if the person is sentenced to or is serving a term of  
 983 probation or community control, regardless of the conviction or  
 984 adjudication, for committing, or attempting, conspiring, or  
 985 soliciting to commit, any of the felony offenses described in s.

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986 787.01 or s. 787.02, where the victim is a minor and the  
 987 defendant is not the victim's parent; s. 787.025; chapter 794;  
 988 s. 796.03; s. 800.04; s. 825.1025(2)(b); s. 827.071; s.  
 989 847.0133; s. 847.0135; or s. 847.0145.

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

994 948.06 Violation of probation or community control;  
 995 revocation; modification; continuance; failure to pay  
 996 restitution or cost of supervision.--

997 (2)(a) When any state or local law enforcement agency  
 998 investigates or arrests a person for committing, or attempting,  
 999 soliciting, or conspiring to commit, a violation of s. 787.025,  
 1000 chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s.  
 1001 847.0135, or s. 847.0145, the law enforcement agency shall  
 1002 contact the Department of Corrections to verify whether the  
 1003 person under investigation or under arrest is on probation,  
 1004 community control, parole, conditional release, or control  
 1005 release.

1006 Section 17. This act shall take effect October 1, 2004.