

By Senator Crist

12-275-04

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29           787.025 Luring or enticing a child.--

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

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

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

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

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

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

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

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

30  
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1           (b) The person lured or enticed, or attempted to lure  
2 or entice, the child under the age of 16 ~~±2~~ into a structure,  
3 dwelling, or conveyance for a lawful purpose.

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

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

12           435.03 Level 1 screening standards.--

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

19           (j) Section 787.01, relating to kidnapping.

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

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

26           435.04 Level 2 screening standards.--

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

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

3 (k) Section 787.01, relating to kidnapping.

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

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

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

13 (4) SEXUAL PREDATOR CRITERIA.--

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

19 1. The felony is:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

25 (3) OFFENSE SEVERITY RANKING CHART

26			
27	Florida	Felony	
28	Statute	Degree	Description
29			
30			

31 (f) LEVEL 6

1	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
2			conviction.
3	499.0051(3)	2nd	Forgery of pedigree papers.
4	499.0051(4)	2nd	Purchase or receipt of legend
5			drug from unauthorized person.
6	499.0051(5)	2nd	Sale of legend drug to
7			unauthorized person.
8	775.0875(1)	3rd	Taking firearm from law
9			enforcement officer.
10	775.21(10)	3rd	Sexual predators; failure to
11			register; failure to renew
12			driver's license or
13			identification card.
14	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
15			without intent to kill.
16	784.021(1)(b)	3rd	Aggravated assault; intent to
17			commit felony.
18	784.041	3rd	Felony battery.
19	784.048(3)	3rd	Aggravated stalking; credible
20			threat.
21	784.048(5)	3rd	Aggravated stalking of person
22			under 16.
23	784.07(2)(c)	2nd	Aggravated assault on law
24			enforcement officer.
25	784.074(1)(b)	2nd	Aggravated assault on sexually
26			violent predators facility staff.
27	784.08(2)(b)	2nd	Aggravated assault on a person 65
28			years of age or older.
29	784.081(2)	2nd	Aggravated assault on specified
30			official or employee.
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1	784.082(2)	2nd	Aggravated assault by detained
2			person on visitor or other
3			detainee.
4	784.083(2)	2nd	Aggravated assault on code
5			inspector.
6	787.02(2)	3rd	False imprisonment; restraining
7			with purpose other than those in
8			s. 787.01.
9	790.115(2)(d)	2nd	Discharging firearm or weapon on
10			school property.
11	790.161(2)	2nd	Make, possess, or throw
12			destructive device with intent to
13			do bodily harm or damage
14			property.
15	790.164(1)	2nd	False report of deadly explosive,
16			weapon of mass destruction, or
17			act of arson or violence to state
18			property.
19	790.19	2nd	Shooting or throwing deadly
20			missiles into dwellings, vessels,
21			or vehicles.
22	794.011(8)(a)	3rd	Solicitation of minor to
23			participate in sexual activity by
24			custodial adult.
25	794.05(1)	2nd	Unlawful sexual activity with
26			specified minor.
27	800.04(5)(d)	3rd	Lewd or lascivious molestation;
28			victim 12 years of age or older
29			but less than 16 years; offender
30			less than 18 years.
31			

1	800.04(6)(b)	2nd	Lewd or lascivious conduct;
2			offender 18 years of age or
3			older.
4	806.031(2)	2nd	Arson resulting in great bodily
5			harm to firefighter or any other
6			person.
7	810.02(3)(c)	2nd	Burglary of occupied structure;
8			unarmed; no assault or battery.
9	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
10			but less than \$100,000, grand
11			theft in 2nd degree.
12	812.014(2)(b)2.	2nd	Property stolen; cargo valued at
13			less than \$50,000, grand theft in
14			2nd degree.
15	812.015(9)	2nd	Retail theft; property stolen
16			\$300 or more; second or
17			subsequent conviction.
18	812.13(2)(c)	2nd	Robbery, no firearm or other
19			weapon (strong-arm robbery).
20	817.034(4)(a)1.	1st	Communications fraud, value
21			greater than \$50,000.
22	817.4821(5)	2nd	Possess cloning paraphernalia
23			with intent to create cloned
24			cellular telephones.
25	825.102(1)	3rd	Abuse of an elderly person or
26			disabled adult.
27	825.102(3)(c)	3rd	Neglect of an elderly person or
28			disabled adult.
29	825.1025(3)	3rd	Lewd or lascivious molestation of
30			an elderly person or disabled
31			adult.

1	825.103(2)(c)	3rd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at less than \$20,000.
4	827.03(1)	3rd	Abuse of a child.
5	827.03(3)(c)	3rd	Neglect of a child.
6	827.071(2)&(3)	2nd	Use or induce a child in a sexual
7			performance, or promote or direct
8			such performance.
9	836.05	2nd	Threats; extortion.
10	836.10	2nd	Written threats to kill or do
11			bodily injury.
12	843.12	3rd	Aids or assists person to escape.
13	847.0135(3)	3rd	Solicitation of a child, via a
14			computer service, to commit an
15			unlawful sex act.
16	914.23	2nd	Retaliation against a witness,
17			victim, or informant, with bodily
18			injury.
19	943.0435(9)	3rd	Sex offenders; failure to comply
20			with reporting requirements.
21	944.35(3)(a)2.	3rd	Committing malicious battery upon
22			or inflicting cruel or inhuman
23			treatment on an inmate or
24			offender on community
25			supervision, resulting in great
26			bodily harm.
27	944.40	2nd	Escapes.
28	944.46	3rd	Harboring, concealing, aiding
29			escaped prisoners.
30			
31			

1	944.47(1)(a)5.	2nd	Introduction of contraband
2			(firearm, weapon, or explosive)
3			into correctional facility.
4	951.22(1)	3rd	Intoxicating drug, firearm, or
5			weapon introduced into county
6			facility.
7			(i) LEVEL 9
8	316.193		
9	(3)(c)3.b.	1st	DUI manslaughter; failing to
10			render aid or give information.
11	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
12			render aid or give information.
13	499.0053	1st	Sale or purchase of contraband
14			legend drugs resulting in great
15			bodily harm.
16	560.123(8)(b)3.	1st	Failure to report currency or
17			payment instruments totaling or
18			exceeding \$100,000 by money
19			transmitter.
20	560.125(5)(c)	1st	Money transmitter business by
21			unauthorized person, currency, or
22			payment instruments totaling or
23			exceeding \$100,000.
24	655.50(10)(b)3.	1st	Failure to report financial
25			transactions totaling or
26			exceeding \$100,000 by financial
27			institution.
28	775.0844	1st	Aggravated white collar crime.
29	782.04(1)	1st	Attempt, conspire, or solicit to
30			commit premeditated murder.
31			

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



1	794.011(2)	1st	Attempted sexual battery; victim
2			less than 12 years of age.
3	794.011(2)	Life	Sexual battery; offender younger
4			than 18 years and commits sexual
5			battery on a person less than 12
6			years.
7	794.011(4)	1st	Sexual battery; victim 12 years
8			or older, certain circumstances.
9	794.011(8)(b)	1st	Sexual battery; engage in sexual
10			conduct with minor 12 to 18 years
11			by person in familial or
12			custodial authority.
13	800.04(5)(b)	1st	Lewd or lascivious molestation;
14			victim less than 12 years;
15			offender 18 years or older.
16	812.13(2)(a)	1st,PBL	Robbery with firearm or other
17			deadly weapon.
18	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
19			deadly weapon.
20	817.568(7)	2nd,PBL	Fraudulent use of personal
21			identification information of an
22			individual under the age of 18 by
23			his or her parent, legal
24			guardian, or person exercising
25			custodial authority.
26	827.03(2)	1st	Aggravated child abuse.
27	847.0145(1)	1st	Selling, or otherwise
28			transferring custody or control,
29			of a minor.
30			
31			

1	847.0145(2)	1st	Purchasing, or otherwise
2			obtaining custody or control, of
3			a minor.
4	859.01	1st	Poisoning or introducing
5			bacteria, radioactive materials,
6			viruses, or chemical compounds
7			into food, drink, medicine, or
8			water with intent to kill or
9			injure another person.
10	893.135	1st	Attempted capital trafficking
11			offense.
12	893.135(1)(a)3.	1st	Trafficking in cannabis, more
13			than 10,000 lbs.
14	893.135		
15	(1)(b)1.c.	1st	Trafficking in cocaine, more than
16			400 grams, less than 150
17			kilograms.
18	893.135		
19	(1)(c)1.c.	1st	Trafficking in illegal drugs,
20			more than 28 grams, less than 30
21			kilograms.
22	893.135		
23	(1)(d)1.c.	1st	Trafficking in phencyclidine,
24			more than 400 grams.
25	893.135		
26	(1)(e)1.c.	1st	Trafficking in methaqualone, more
27			than 25 kilograms.
28	893.135		
29	(1)(f)1.c.	1st	Trafficking in amphetamine, more
30			than 200 grams.
31			

1	893.135		
2	(1)(h)1.c.	1st	Trafficking in
3			gamma-hydroxybutyric acid (GHB),
4			10 kilograms or more.
5	893.135		
6	(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10
7			kilograms or more.
8	893.135		
9	(1)(k)2.c.	1st	Trafficking in Phenethylamines,
10			400 grams or more.
11	896.101(5)(c)	1st	Money laundering, financial
12			instruments totaling or exceeding
13			\$100,000.
14	896.104(4)(a)3.	1st	Structuring transactions to evade
15			reporting or registration
16			requirements, financial
17			transactions totaling or
18			exceeding \$100,000.
19			(j) LEVEL 10
20	499.0054	1st	Sale or purchase of contraband
21			legend drugs resulting in death.
22	782.04(2)	1st,PBL	Unlawful killing of human; act is
23			homicide, unpremeditated.
24	787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm
25			upon or terrorize victim.
26	787.01(3)(a)	Life	Kidnapping; child under age <u>16</u>
27			<del>13</del> , perpetrator also commits
28			aggravated child abuse, sexual
29			battery, or lewd or lascivious
30			battery, molestation, conduct, or
31			exhibition.

1 782.07(3) 1st Aggravated manslaughter of a  
2 child.  
3 794.011(3) Life Sexual battery; victim 12 years  
4 or older, offender uses or  
5 threatens to use deadly weapon or  
6 physical force to cause serious  
7 injury.  
8 876.32 1st Treason against the state.  
9 Section 10. For the purpose of incorporating the  
10 amendments made by this act to sections 787.01, 787.02, and  
11 787.025, Florida Statutes, in references thereto, paragraph  
12 (a) of subsection (1) of section 943.0435, Florida Statutes,  
13 is reenacted to read:  
14 943.0435 Sexual offenders required to register with  
15 the department; penalty.--  
16 (1) As used in this section, the term:  
17 (a) "Sexual offender" means a person who:  
18 1. Has been convicted of committing, or attempting,  
19 soliciting, or conspiring to commit, any of the criminal  
20 offenses proscribed in the following statutes in this state or  
21 similar offenses in another jurisdiction: s. 787.01, s.  
22 787.02, or s. 787.025, where the victim is a minor and the  
23 defendant is not the victim's parent; chapter 794, excluding  
24 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.  
25 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;  
26 s. 847.0138; s. 847.0145; or any similar offense committed in  
27 this state which has been redesignated from a former statute  
28 number to one of those listed in this subparagraph; and  
29 2. Has been released on or after October 1, 1997, from  
30 the sanction imposed for any conviction of an offense  
31 described in subparagraph 1. For purposes of subparagraph 1.,

1 a sanction imposed in this state or in any other jurisdiction  
2 includes, but is not limited to, a fine, probation, community  
3 control, parole, conditional release, control release, or  
4 incarceration in a state prison, federal prison, private  
5 correctional facility, or local detention facility; or

6         3. Establishes or maintains a residence in this state  
7 and who has not been designated as a sexual predator by a  
8 court of this state but who has been designated as a sexual  
9 predator, as a sexually violent predator, or by another sexual  
10 offender designation in another state or jurisdiction and was,  
11 as a result of such designation, subjected to registration or  
12 community or public notification, or both, or would be if the  
13 person were a resident of that state or jurisdiction; or

14         4. Establishes or maintains a residence in this state  
15 who is in the custody or control of, or under the supervision  
16 of, any other state or jurisdiction as a result of a  
17 conviction for committing, or attempting, soliciting, or  
18 conspiring to commit, any of the criminal offenses proscribed  
19 in the following statutes or similar offense in another  
20 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the  
21 victim is a minor and the defendant is not the victim's  
22 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;  
23 s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.  
24 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or any  
25 similar offense committed in this state which has been  
26 redesignated from a former statute number to one of those  
27 listed in this subparagraph.

28         Section 11. For the purpose of incorporating the  
29 amendments made by this act to section 787.025, Florida  
30 Statutes, in references thereto, section 943.0585, Florida  
31 Statutes, is reenacted to read:

1           943.0585 Court-ordered expunction of criminal history  
2 records.--The courts of this state have jurisdiction over  
3 their own procedures, including the maintenance, expunction,  
4 and correction of judicial records containing criminal history  
5 information to the extent such procedures are not inconsistent  
6 with the conditions, responsibilities, and duties established  
7 by this section. Any court of competent jurisdiction may order  
8 a criminal justice agency to expunge the criminal history  
9 record of a minor or an adult who complies with the  
10 requirements of this section. The court shall not order a  
11 criminal justice agency to expunge a criminal history record  
12 until the person seeking to expunge a criminal history record  
13 has applied for and received a certificate of eligibility for  
14 expunction pursuant to subsection (2). A criminal history  
15 record that relates to a violation of s. 787.025, chapter 794,  
16 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,  
17 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
18 893.135, or a violation enumerated in s. 907.041 may not be  
19 expunged, without regard to whether adjudication was withheld,  
20 if the defendant was found guilty of or pled guilty or nolo  
21 contendere to the offense, or if the defendant, as a minor,  
22 was found to have committed, or pled guilty or nolo contendere  
23 to committing, the offense as a delinquent act. The court may  
24 only order expunction of a criminal history record pertaining  
25 to one arrest or one incident of alleged criminal activity,  
26 except as provided in this section. The court may, at its sole  
27 discretion, order the expunction of a criminal history record  
28 pertaining to more than one arrest if the additional arrests  
29 directly relate to the original arrest. If the court intends  
30 to order the expunction of records pertaining to such  
31 additional arrests, such intent must be specified in the

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

16 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY

17 RECORD.--Each petition to a court to expunge a criminal  
18 history record is complete only when accompanied by:

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

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

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

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

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

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

9  
10 Any person who knowingly provides false information on such  
11 sworn statement to the court commits a felony of the third  
12 degree, punishable as provided in s. 775.082, s. 775.083, or  
13 s. 775.084.

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

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

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

29           2. That an indictment, information, or other charging  
30 document, if filed or issued in the case, was dismissed or  
31



1 nolle prosequi by the state attorney or statewide prosecutor,  
2 or was dismissed by a court of competent jurisdiction.

3 3. That the criminal history record does not relate to  
4 a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04,  
5 s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133,  
6 s. 847.0135, s. 847.0145, s. 893.135, or a violation  
7 enumerated in s. 907.041, where the defendant was found guilty  
8 of, or pled guilty or nolo contendere to any such offense, or  
9 that the defendant, as a minor, was found to have committed,  
10 or pled guilty or nolo contendere to committing, such an  
11 offense as a delinquent act, without regard to whether  
12 adjudication was withheld.

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

16 (c) Has submitted to the department a certified copy  
17 of the disposition of the charge to which the petition to  
18 expunge pertains.

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

24 (e) Has not been adjudicated guilty of, or adjudicated  
25 delinquent for committing, any of the acts stemming from the  
26 arrest or alleged criminal activity to which the petition to  
27 expunge pertains.

28 (f) Has never secured a prior sealing or expunction of  
29 a criminal history record under this section, former s.  
30 893.14, former s. 901.33, or former s. 943.058.

31

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

4 (h) Is not required to wait a minimum of 10 years  
5 prior to being eligible for an expunction of such records  
6 because all charges related to the arrest or criminal activity  
7 to which the petition to expunge pertains were dismissed prior  
8 to trial, adjudication, or the withholding of adjudication.  
9 Otherwise, such criminal history record must be sealed under  
10 this section, former s. 893.14, former s. 901.33, or former s.  
11 943.058 for at least 10 years before such record is eligible  
12 for expunction.

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

14 (a) In judicial proceedings under this section, a copy  
15 of the completed petition to expunge shall be served upon the  
16 appropriate state attorney or the statewide prosecutor and  
17 upon the arresting agency; however, it is not necessary to  
18 make any agency other than the state a party. The appropriate  
19 state attorney or the statewide prosecutor and the arresting  
20 agency may respond to the court regarding the completed  
21 petition to expunge.

22 (b) If relief is granted by the court, the clerk of  
23 the court shall certify copies of the order to the appropriate  
24 state attorney or the statewide prosecutor and the arresting  
25 agency. The arresting agency is responsible for forwarding the  
26 order to any other agency to which the arresting agency  
27 disseminated the criminal history record information to which  
28 the order pertains. The department shall forward the order to  
29 expunge to the Federal Bureau of Investigation. The clerk of  
30 the court shall certify a copy of the order to any other

31

1 agency which the records of the court reflect has received the  
2 criminal history record from the court.

3 (c) For an order to expunge entered by a court prior  
4 to July 1, 1992, the department shall notify the appropriate  
5 state attorney or statewide prosecutor of an order to expunge  
6 which is contrary to law because the person who is the subject  
7 of the record has previously been convicted of a crime or  
8 comparable ordinance violation or has had a prior criminal  
9 history record sealed or expunged. Upon receipt of such  
10 notice, the appropriate state attorney or statewide prosecutor  
11 shall take action, within 60 days, to correct the record and  
12 petition the court to void the order to expunge. The  
13 department shall seal the record until such time as the order  
14 is voided by the court.

15 (d) On or after July 1, 1992, the department or any  
16 other criminal justice agency is not required to act on an  
17 order to expunge entered by a court when such order does not  
18 comply with the requirements of this section. Upon receipt of  
19 such an order, the department must notify the issuing court,  
20 the appropriate state attorney or statewide prosecutor, the  
21 petitioner or the petitioner's attorney, and the arresting  
22 agency of the reason for noncompliance. The appropriate state  
23 attorney or statewide prosecutor shall take action within 60  
24 days to correct the record and petition the court to void the  
25 order. No cause of action, including contempt of court, shall  
26 arise against any criminal justice agency for failure to  
27 comply with an order to expunge when the petitioner for such  
28 order failed to obtain the certificate of eligibility as  
29 required by this section or such order does not otherwise  
30 comply with the requirements of this section.

31

1           (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
2 criminal history record of a minor or an adult which is  
3 ordered expunged by a court of competent jurisdiction pursuant  
4 to this section must be physically destroyed or obliterated by  
5 any criminal justice agency having custody of such record;  
6 except that any criminal history record in the custody of the  
7 department must be retained in all cases. A criminal history  
8 record ordered expunged that is retained by the department is  
9 confidential and exempt from the provisions of s. 119.07(1)  
10 and s. 24(a), Art. I of the State Constitution and not  
11 available to any person or entity except upon order of a court  
12 of competent jurisdiction. A criminal justice agency may  
13 retain a notation indicating compliance with an order to  
14 expunge.

15           (a) The person who is the subject of a criminal  
16 history record that is expunged under this section or under  
17 other provisions of law, including former s. 893.14, former s.  
18 901.33, and former s. 943.058, may lawfully deny or fail to  
19 acknowledge the arrests covered by the expunged record, except  
20 when the subject of the record:

- 21           1. Is a candidate for employment with a criminal  
22 justice agency;
- 23           2. Is a defendant in a criminal prosecution;
- 24           3. Concurrently or subsequently petitions for relief  
25 under this section or s. 943.059;
- 26           4. Is a candidate for admission to The Florida Bar;
- 27           5. Is seeking to be employed or licensed by or to  
28 contract with the Department of Children and Family Services  
29 or the Department of Juvenile Justice or to be employed or  
30 used by such contractor or licensee in a sensitive position  
31 having direct contact with children, the developmentally

1 disabled, the aged, or the elderly as provided in s.  
2 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
3 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
4 985.407, or chapter 400; or

5 6. Is seeking to be employed or licensed by the Office  
6 of Teacher Education, Certification, Staff Development, and  
7 Professional Practices of the Department of Education, any  
8 district school board, or any local governmental entity that  
9 licenses child care facilities.

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

17 (c) Information relating to the existence of an  
18 expunged criminal history record which is provided in  
19 accordance with paragraph (a) is confidential and exempt from  
20 the provisions of s. 119.07(1) and s. 24(a), Art. I of the  
21 State Constitution, except that the department shall disclose  
22 the existence of a criminal history record ordered expunged to  
23 the entities set forth in subparagraphs (a)1., 4., 5., and 6.  
24 for their respective licensing and employment purposes, and to  
25 criminal justice agencies for their respective criminal  
26 justice purposes. It is unlawful for any employee of an entity  
27 set forth in subparagraph (a)1., subparagraph (a)4.,  
28 subparagraph (a)5., or subparagraph (a)6. to disclose  
29 information relating to the existence of an expunged criminal  
30 history record of a person seeking employment or licensure  
31 with such entity or contractor, except to the person to whom

1 the criminal history record relates or to persons having  
2 direct responsibility for employment or licensure decisions.  
3 Any person who violates this paragraph commits a misdemeanor  
4 of the first degree, punishable as provided in s. 775.082 or  
5 s. 775.083.

6 (5) STATUTORY REFERENCES.--Any reference to any other  
7 chapter, section, or subdivision of the Florida Statutes in  
8 this section constitutes a general reference under the  
9 doctrine of incorporation by reference.

10 Section 12. For the purpose of incorporating the  
11 amendments made by this act to section 787.025, Florida  
12 Statutes, in references thereto, section 943.059, Florida  
13 Statutes, is reenacted to read:

14 943.059 Court-ordered sealing of criminal history  
15 records.--The courts of this state shall continue to have  
16 jurisdiction over their own procedures, including the  
17 maintenance, sealing, and correction of judicial records  
18 containing criminal history information to the extent such  
19 procedures are not inconsistent with the conditions,  
20 responsibilities, and duties established by this section. Any  
21 court of competent jurisdiction may order a criminal justice  
22 agency to seal the criminal history record of a minor or an  
23 adult who complies with the requirements of this section. The  
24 court shall not order a criminal justice agency to seal a  
25 criminal history record until the person seeking to seal a  
26 criminal history record has applied for and received a  
27 certificate of eligibility for sealing pursuant to subsection  
28 (2). A criminal history record that relates to a violation of  
29 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
30 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
31 s. 847.0145, s. 893.135, or a violation enumerated in s.

1 907.041 may not be sealed, without regard to whether  
2 adjudication was withheld, if the defendant was found guilty  
3 of or pled guilty or nolo contendere to the offense, or if the  
4 defendant, as a minor, was found to have committed or pled  
5 guilty or nolo contendere to committing the offense as a  
6 delinquent act. The court may only order sealing of a criminal  
7 history record pertaining to one arrest or one incident of  
8 alleged criminal activity, except as provided in this section.  
9 The court may, at its sole discretion, order the sealing of a  
10 criminal history record pertaining to more than one arrest if  
11 the additional arrests directly relate to the original arrest.  
12 If the court intends to order the sealing of records  
13 pertaining to such additional arrests, such intent must be  
14 specified in the order. A criminal justice agency may not seal  
15 any record pertaining to such additional arrests if the order  
16 to seal does not articulate the intention of the court to seal  
17 records pertaining to more than one arrest. This section does  
18 not prevent the court from ordering the sealing of only a  
19 portion of a criminal history record pertaining to one arrest  
20 or one incident of alleged criminal activity. Notwithstanding  
21 any law to the contrary, a criminal justice agency may comply  
22 with laws, court orders, and official requests of other  
23 jurisdictions relating to sealing, correction, or confidential  
24 handling of criminal history records or information derived  
25 therefrom. This section does not confer any right to the  
26 sealing of any criminal history record, and any request for  
27 sealing a criminal history record may be denied at the sole  
28 discretion of the court.

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

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

3 (b) The petitioner's sworn statement attesting that  
4 the petitioner:

5 1. Has never, prior to the date on which the petition  
6 is filed, been adjudicated guilty of a criminal offense or  
7 comparable ordinance violation or adjudicated delinquent for  
8 committing a felony or a misdemeanor specified in s.  
9 943.051(3)(b).

10 2. Has not been adjudicated guilty of or adjudicated  
11 delinquent for committing any of the acts stemming from the  
12 arrest or alleged criminal activity to which the petition to  
13 seal pertains.

14 3. Has never secured a prior sealing or expunction of  
15 a criminal history record under this section, former s.  
16 893.14, former s. 901.33, former s. 943.058, or from any  
17 jurisdiction outside the state.

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

22  
23 Any person who knowingly provides false information on such  
24 sworn statement to the court commits a felony of the third  
25 degree, punishable as provided in s. 775.082, s. 775.083, or  
26 s. 775.084.

27 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to  
28 petitioning the court to seal a criminal history record, a  
29 person seeking to seal a criminal history record shall apply  
30 to the department for a certificate of eligibility for  
31 sealing. The department shall, by rule adopted pursuant to



1 chapter 120, establish procedures pertaining to the  
2 application for and issuance of certificates of eligibility  
3 for sealing. The department shall issue a certificate of  
4 eligibility for sealing to a person who is the subject of a  
5 criminal history record provided that such person:

6 (a) Has submitted to the department a certified copy  
7 of the disposition of the charge to which the petition to seal  
8 pertains.

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

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

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

21 (e) Has never secured a prior sealing or expunction of  
22 a criminal history record under this section, former s.  
23 893.14, former s. 901.33, or former s. 943.058.

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

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

28 (a) In judicial proceedings under this section, a copy  
29 of the completed petition to seal shall be served upon the  
30 appropriate state attorney or the statewide prosecutor and  
31 upon the arresting agency; however, it is not necessary to

1 make any agency other than the state a party. The appropriate  
2 state attorney or the statewide prosecutor and the arresting  
3 agency may respond to the court regarding the completed  
4 petition to seal.

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

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

29 (d) On or after July 1, 1992, the department or any  
30 other criminal justice agency is not required to act on an  
31 order to seal entered by a court when such order does not

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

14 (e) An order sealing a criminal history record  
15 pursuant to this section does not require that such record be  
16 surrendered to the court, and such record shall continue to be  
17 maintained by the department and other criminal justice  
18 agencies.

19 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
20 criminal history record of a minor or an adult which is  
21 ordered sealed by a court of competent jurisdiction pursuant  
22 to this section is confidential and exempt from the provisions  
23 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
24 and is available only to the person who is the subject of the  
25 record, to the subject's attorney, to criminal justice  
26 agencies for their respective criminal justice purposes, or to  
27 those entities set forth in subparagraphs (a)1., 4., 5., and  
28 6. for their respective licensing and employment purposes.

29 (a) The subject of a criminal history record sealed  
30 under this section or under other provisions of law, including  
31 former s. 893.14, former s. 901.33, and former s. 943.058, may

1 lawfully deny or fail to acknowledge the arrests covered by  
2 the sealed record, except when the subject of the record:  
3       1. Is a candidate for employment with a criminal  
4 justice agency;  
5       2. Is a defendant in a criminal prosecution;  
6       3. Concurrently or subsequently petitions for relief  
7 under this section or s. 943.0585;  
8       4. Is a candidate for admission to The Florida Bar;  
9       5. Is seeking to be employed or licensed by or to  
10 contract with the Department of Children and Family Services  
11 or the Department of Juvenile Justice or to be employed or  
12 used by such contractor or licensee in a sensitive position  
13 having direct contact with children, the developmentally  
14 disabled, the aged, or the elderly as provided in s.  
15 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
16 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
17 415.103, s. 985.407, or chapter 400; or  
18       6. Is seeking to be employed or licensed by the Office  
19 of Teacher Education, Certification, Staff Development, and  
20 Professional Practices of the Department of Education, any  
21 district school board, or any local governmental entity which  
22 licenses child care facilities.  
23       (b) Subject to the exceptions in paragraph (a), a  
24 person who has been granted a sealing under this section,  
25 former s. 893.14, former s. 901.33, or former s. 943.058 may  
26 not be held under any provision of law of this state to commit  
27 perjury or to be otherwise liable for giving a false statement  
28 by reason of such person's failure to recite or acknowledge a  
29 sealed criminal history record.  
30       (c) Information relating to the existence of a sealed  
31 criminal record provided in accordance with the provisions of

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

17 (5) STATUTORY REFERENCES.--Any reference to any other  
18 chapter, section, or subdivision of the Florida Statutes in  
19 this section constitutes a general reference under the  
20 doctrine of incorporation by reference.

21 Section 13. For the purpose of incorporating the  
22 amendments made by this act to sections 787.01, 787.02, and  
23 787.025, Florida Statutes, in references thereto, paragraph  
24 (b) of subsection (1) of section 944.606, Florida Statutes, is  
25 reenacted to read:

26 944.606 Sexual offenders; notification upon release.--

27 (1) As used in this section:

28 (b) "Sexual offender" means a person who has been  
29 convicted of committing, or attempting, soliciting, or  
30 conspiring to commit, any of the criminal offenses proscribed  
31 in the following statutes in this state or similar offenses in

1 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
2 where the victim is a minor and the defendant is not the  
3 victim's parent; chapter 794, excluding ss. 794.011(10) and  
4 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
5 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;  
6 or any similar offense committed in this state which has been  
7 redesignated from a former statute number to one of those  
8 listed in this subsection, when the department has received  
9 verified information regarding such conviction; an offender's  
10 computerized criminal history record is not, in and of itself,  
11 verified information.

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

17 944.607 Notification to Department of Law Enforcement  
18 of information on sexual offenders.--

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

20 (a) "Sexual offender" means a person who is in the  
21 custody or control of, or under the supervision of, the  
22 department or is in the custody of a private correctional  
23 facility:

24 1. On or after October 1, 1997, as a result of a  
25 conviction for committing, or attempting, soliciting, or  
26 conspiring to commit, any of the criminal offenses proscribed  
27 in the following statutes in this state or similar offenses in  
28 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
29 where the victim is a minor and the defendant is not the  
30 victim's parent; chapter 794, excluding ss. 794.011(10) and  
31 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.

1 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;  
2 or any similar offense committed in this state which has been  
3 redesignated from a former statute number to one of those  
4 listed in this paragraph; or

5         2. Who establishes or maintains a residence in this  
6 state and who has not been designated as a sexual predator by  
7 a court of this state but who has been designated as a sexual  
8 predator, as a sexually violent predator, or by another sexual  
9 offender designation in another state or jurisdiction and was,  
10 as a result of such designation, subjected to registration or  
11 community or public notification, or both, or would be if the  
12 person were a resident of that state or jurisdiction.

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

18         948.01 When court may place defendant on probation or  
19 into community control.--

20         (15) Effective for an offense committed on or after  
21 July 1, 1998, a person is ineligible for placement on  
22 administrative probation if the person is sentenced to or is  
23 serving a term of probation or community control, regardless  
24 of the conviction or adjudication, for committing, or  
25 attempting, conspiring, or soliciting to commit, any of the  
26 felony offenses described in s. 787.01 or s. 787.02, where the  
27 victim is a minor and the defendant is not the victim's  
28 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.  
29 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.  
30 847.0145.

31

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

5           948.06 Violation of probation or community control;  
6 revocation; modification; continuance; failure to pay  
7 restitution or cost of supervision.--

8           (2)(a) When any state or local law enforcement agency  
9 investigates or arrests a person for committing, or  
10 attempting, soliciting, or conspiring to commit, a violation  
11 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,  
12 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement  
13 agency shall contact the Department of Corrections to verify  
14 whether the person under investigation or under arrest is on  
15 probation, community control, parole, conditional release, or  
16 control release.

17           Section 17. This act shall take effect October 1,  
18 2004.

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21           SENATE SUMMARY

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