

By the Committee on Criminal Justice; and Senator Crist

307-960-04

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

1 offender," and probation and community control,
2 to incorporate the amendments to ss. 787.01,
3 787.02, 787.025, F.S., in references thereto;
4 providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

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

10 787.01 Kidnapping; kidnapping of child under age 16
11 ~~13~~, aggravating circumstances.--

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

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

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

27 (2) A person who kidnaps a person is guilty of a
28 felony of the first degree, punishable by imprisonment for a
29 term of years not exceeding life or as provided in s. 775.082,
30 s. 775.083, or s. 775.084.
31

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

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

5 2. Sexual battery, as defined in chapter 794, against
6 the child;

7 3. Lewd or lascivious battery, lewd or lascivious
8 molestation, lewd or lascivious conduct, or lewd or lascivious
9 exhibition, in violation of s. 800.04;

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

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

14

15 commits a life felony, punishable as provided in s. 775.082,
16 s. 775.083, or s. 775.084.

17 (b) Pursuant to s. 775.021(4), nothing contained
18 herein shall be construed to prohibit the imposition of
19 separate judgments and sentences for the life felony described
20 in paragraph (a) and for each separate offense enumerated in
21 subparagraphs (a)1.-5.

22 Section 2. Section 787.02, Florida Statutes, is
23 amended to read:

24 787.02 False imprisonment; false imprisonment of child
25 under age 16 ~~13~~, aggravating circumstances.--

26 (1)(a) The term "false imprisonment" means forcibly,
27 by threat, or secretly confining, abducting, imprisoning, or
28 restraining another person without lawful authority and
29 against her or his will.

30 (b) Confinement of a child under the age of 16 ~~13~~ is
31 against her or his will within the meaning of this section if

1 such confinement is without the consent of her or his parent
2 or legal guardian.

3 (2) A person who commits the offense of false
4 imprisonment is guilty of a felony of the third degree,
5 punishable as provided in s. 775.082, s. 775.083, or s.
6 775.084.

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

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

15 2. Sexual battery, as defined in chapter 794, against
16 the child;

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

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

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

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

29 Section 3. Section 787.025, Florida Statutes, is
30 amended to read:

31 787.025 Luring or enticing a child.--

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

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

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

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

12 (2)(a) A person over the age of 18 who, having been
13 previously convicted of a violation of chapter 794 or s.
14 800.04, or a violation of a similar law of another
15 jurisdiction, intentionally lures or entices, or attempts to
16 lure or entice, a child under the age of 16 ~~12~~ into a
17 structure, dwelling, or conveyance for other than a lawful
18 purpose commits a felony of the second ~~third~~ degree,
19 punishable as provided in s. 775.082, s. 775.083, or s.
20 775.084.

21 (b) If the defendant lured or enticed, or attempted to
22 lure or entice, For purposes of this section, the luring or
23 enticing, or attempted luring or enticing, of a child under
24 the age of 16 ~~12~~ into a structure, dwelling, or conveyance
25 without the consent of the child's parent or legal guardian,
26 that fact does not give rise to a presumption that the
27 defendant committed or attempted to commit such luring or
28 enticing for shall be prima facie evidence of other than a
29 lawful purpose, but may be considered with other competent
30 evidence in determining whether the defendant committed or
31

1 attempted to commit such luring or enticing for other than a
2 lawful purpose.

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

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

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

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

14 Section 4. For the purpose of incorporating the
15 amendments made by this act to sections 787.01 and 787.02,
16 Florida Statutes, in references thereto, paragraphs (j) and
17 (k) of subsection (2) of section 435.03, Florida Statutes, are
18 reenacted to read:

19 435.03 Level 1 screening standards.--

20 (2) Any person for whom employment screening is
21 required by statute must not have been found guilty of,
22 regardless of adjudication, or entered a plea of nolo
23 contendere or guilty to, any offense prohibited under any of
24 the following provisions of the Florida Statutes or under any
25 similar statute of another jurisdiction:

26 (j) Section 787.01, relating to kidnapping.

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

28 Section 5. For the purpose of incorporating the
29 amendments made by this act to sections 787.01 and 787.02,
30 Florida Statutes, in references thereto, paragraphs (k) and
31

1 (1) of subsection (2) of section 435.04, Florida Statutes, are
2 reenacted to read:

3 435.04 Level 2 screening standards.--

4 (2) The security background investigations under this
5 section must ensure that no persons subject to the provisions
6 of this section have been found guilty of, regardless of
7 adjudication, or entered a plea of nolo contendere or guilty
8 to, any offense prohibited under any of the following
9 provisions of the Florida Statutes or under any similar
10 statute of another jurisdiction:

11 (k) Section 787.01, relating to kidnapping.

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

13 Section 6. 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 (4) of section 775.21, Florida Statutes, is reenacted to read:

17 775.21 The Florida Sexual Predators Act; definitions;
18 legislative findings, purpose, and intent; criteria;
19 designation; registration; community and public notification;
20 immunity; penalties.--

21 (4) SEXUAL PREDATOR CRITERIA.--

22 (a) For a current offense committed on or after
23 October 1, 1993, upon conviction, an offender shall be
24 designated as a "sexual predator" under subsection (5), and
25 subject to registration under subsection (6) and community and
26 public notification under subsection (7) if:

27 1. The felony is:

28 a. A capital, life, or first-degree felony violation,
29 or any attempt thereof, of s. 787.01 or s. 787.02, where the
30 victim is a minor and the defendant is not the victim's
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1 parent, or of chapter 794, s. 800.04, or s. 847.0145, or a
2 violation of a similar law of another jurisdiction; or
3 b. Any felony violation, or any attempt thereof, of s.
4 787.01, s. 787.02, or s. 787.025, where the victim is a minor
5 and the defendant is not the victim's parent; chapter 794,
6 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04;
7 s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation
8 of a similar law of another jurisdiction, and the offender has
9 previously been convicted of or found to have committed, or
10 has pled nolo contendere or guilty to, regardless of
11 adjudication, any violation of s. 787.01, s. 787.02, or s.
12 787.025, where the victim is a minor and the defendant is not
13 the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s.
14 794.05; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
15 847.0133; s. 847.0135; or s. 847.0145, or a violation of a
16 similar law of another jurisdiction;
17 2. The offender has not received a pardon for any
18 felony or similar law of another jurisdiction that is
19 necessary for the operation of this paragraph; and
20 3. A conviction of a felony or similar law of another
21 jurisdiction necessary to the operation of this paragraph has
22 not been set aside in any postconviction proceeding.
23 (b) In order to be counted as a prior felony for
24 purposes of this subsection, the felony must have resulted in
25 a conviction sentenced separately, or an adjudication of
26 delinquency entered separately, prior to the current offense
27 and sentenced or adjudicated separately from any other felony
28 conviction that is to be counted as a prior felony. If the
29 offender's prior enumerated felony was committed more than 10
30 years before the primary offense, it shall not be considered a
31 prior felony under this subsection if the offender has not

1 | been convicted of any other crime for a period of 10
2 | consecutive years from the most recent date of release from
3 | confinement, supervision, or sanction, whichever is later.

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

7 | 1. The court did not, for whatever reason, make a
8 | written finding at the time of sentencing that the offender
9 | was a sexual predator; or

10 | 2. The offender was administratively registered as a
11 | sexual predator because the Department of Corrections, the
12 | department, or any other law enforcement agency obtained
13 | information that indicated that the offender met the criteria
14 | for designation as a sexual predator based on a violation of a
15 | similar law in another jurisdiction,

16 |
17 | the department shall remove that offender from the
18 | department's list of sexual predators and, for an offender
19 | described under subparagraph 1., shall notify the state
20 | attorney who prosecuted the offense that met the criteria for
21 | administrative designation as a sexual predator, and, for an
22 | offender described under this subparagraph, shall notify the
23 | state attorney of the county where the offender establishes or
24 | maintains a permanent or temporary residence. The state
25 | attorney shall bring the matter to the court's attention in
26 | order to establish that the offender meets the criteria for
27 | designation as a sexual predator. If the court makes a written
28 | finding that the offender is a sexual predator, the offender
29 | must be designated as a sexual predator, must register or be
30 | registered as a sexual predator with the department as
31 | provided in subsection (6), and is subject to the community

1 and public notification as provided in subsection (7). If the
2 court does not make a written finding that the offender is a
3 sexual predator, the offender may not be designated as a
4 sexual predator with respect to that offense and is not
5 required to register or be registered as a sexual predator
6 with the department.

7 Section 7. For the purpose of incorporating the
8 amendments made by this act to section 787.01, Florida
9 Statutes, in references thereto, section 903.133, Florida
10 Statutes, is reenacted to read:

11 903.133 Bail on appeal; prohibited for certain felony
12 convictions.--Notwithstanding the provisions of s. 903.132, no
13 person adjudged guilty of a felony of the first degree for a
14 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
15 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
16 violation of s. 794.011(2) or (3), shall be admitted to bail
17 pending review either by posttrial motion or appeal.

18 Section 8. 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, section 910.14,
21 Florida Statutes, is reenacted to read:

22 910.14 Kidnapping.--A person who commits an offense
23 provided for in s. 787.01 or s. 787.02 may be tried in any
24 county in which the person's victim has been taken or confined
25 during the course of the offense.

26 Section 9. For the purpose of incorporating the
27 amendments made by this act to sections 787.01 and 787.02,
28 Florida Statutes, in references thereto, paragraphs (f), (i),
29 and (j) of subsection (3) of section 921.0022, Florida
30 Statutes, are reenacted and amended to read:

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1	921.0022	Criminal Punishment Code; offense severity	
2	ranking chart.--		
3	(3)	OFFENSE SEVERITY RANKING CHART	
4			
5	Florida	Felony	
6	Statute	Degree	Description
7			
8			
9			(f) LEVEL 6
10	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
11			conviction.
12	499.0051(3)	2nd	Forgery of pedigree papers.
13	499.0051(4)	2nd	Purchase or receipt of legend
14			drug from unauthorized person.
15	499.0051(5)	2nd	Sale of legend drug to
16			unauthorized person.
17	775.0875(1)	3rd	Taking firearm from law
18			enforcement officer.
19	775.21(10)	3rd	Sexual predators; failure to
20			register; failure to renew
21			driver's license or
22			identification card.
23	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
24			without intent to kill.
25	784.021(1)(b)	3rd	Aggravated assault; intent to
26			commit felony.
27	784.041	3rd	Felony battery.
28	784.048(3)	3rd	Aggravated stalking; credible
29			threat.
30	784.048(5)	3rd	Aggravated stalking of person
31			under 16.

1	784.07(2)(c)	2nd	Aggravated assault on law
2			enforcement officer.
3	784.074(1)(b)	2nd	Aggravated assault on sexually
4			violent predators facility staff.
5	784.08(2)(b)	2nd	Aggravated assault on a person 65
6			years of age or older.
7	784.081(2)	2nd	Aggravated assault on specified
8			official or employee.
9	784.082(2)	2nd	Aggravated assault by detained
10			person on visitor or other
11			detainee.
12	784.083(2)	2nd	Aggravated assault on code
13			inspector.
14	787.02(2)	3rd	False imprisonment; restraining
15			with purpose other than those in
16			s. 787.01.
17	790.115(2)(d)	2nd	Discharging firearm or weapon on
18			school property.
19	790.161(2)	2nd	Make, possess, or throw
20			destructive device with intent to
21			do bodily harm or damage
22			property.
23	790.164(1)	2nd	False report of deadly explosive,
24			weapon of mass destruction, or
25			act of arson or violence to state
26			property.
27	790.19	2nd	Shooting or throwing deadly
28			missiles into dwellings, vessels,
29			or vehicles.
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1	794.011(8)(a)	3rd	Solicitation of minor to
2			participate in sexual activity by
3			custodial adult.
4	794.05(1)	2nd	Unlawful sexual activity with
5			specified minor.
6	800.04(5)(d)	3rd	Lewd or lascivious molestation;
7			victim 12 years of age or older
8			but less than 16 years; offender
9			less than 18 years.
10	800.04(6)(b)	2nd	Lewd or lascivious conduct;
11			offender 18 years of age or
12			older.
13	806.031(2)	2nd	Arson resulting in great bodily
14			harm to firefighter or any other
15			person.
16	810.02(3)(c)	2nd	Burglary of occupied structure;
17			unarmed; no assault or battery.
18	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
19			but less than \$100,000, grand
20			theft in 2nd degree.
21	812.014(2)(b)2.	2nd	Property stolen; cargo valued at
22			less than \$50,000, grand theft in
23			2nd degree.
24	812.015(9)	2nd	Retail theft; property stolen
25			\$300 or more; second or
26			subsequent conviction.
27	812.13(2)(c)	2nd	Robbery, no firearm or other
28			weapon (strong-arm robbery).
29	817.034(4)(a)1.	1st	Communications fraud, value
30			greater than \$50,000.
31			

1	817.4821(5)	2nd	Possess cloning paraphernalia
2			with intent to create cloned
3			cellular telephones.
4	825.102(1)	3rd	Abuse of an elderly person or
5			disabled adult.
6	825.102(3)(c)	3rd	Neglect of an elderly person or
7			disabled adult.
8	825.1025(3)	3rd	Lewd or lascivious molestation of
9			an elderly person or disabled
10			adult.
11	825.103(2)(c)	3rd	Exploiting an elderly person or
12			disabled adult and property is
13			valued at less than \$20,000.
14	827.03(1)	3rd	Abuse of a child.
15	827.03(3)(c)	3rd	Neglect of a child.
16	827.071(2)&(3)	2nd	Use or induce a child in a sexual
17			performance, or promote or direct
18			such performance.
19	836.05	2nd	Threats; extortion.
20	836.10	2nd	Written threats to kill or do
21			bodily injury.
22	843.12	3rd	Aids or assists person to escape.
23	847.0135(3)	3rd	Solicitation of a child, via a
24			computer service, to commit an
25			unlawful sex act.
26	914.23	2nd	Retaliation against a witness,
27			victim, or informant, with bodily
28			injury.
29	943.0435(9)	3rd	Sex offenders; failure to comply
30			with reporting requirements.
31			

1	944.35(3)(a)2.	3rd	Committing malicious battery upon
2			or inflicting cruel or inhuman
3			treatment on an inmate or
4			offender on community
5			supervision, resulting in great
6			bodily harm.
7	944.40	2nd	Escapes.
8	944.46	3rd	Harboring, concealing, aiding
9			escaped prisoners.
10	944.47(1)(a)5.	2nd	Introduction of contraband
11			(firearm, weapon, or explosive)
12			into correctional facility.
13	951.22(1)	3rd	Intoxicating drug, firearm, or
14			weapon introduced into county
15			facility.
16			(i) LEVEL 9
17	316.193		
18	(3)(c)3.b.	1st	DUI manslaughter; failing to
19			render aid or give information.
20	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
21			render aid or give information.
22	499.0053	1st	Sale or purchase of contraband
23			legend drugs resulting in great
24			bodily harm.
25	560.123(8)(b)3.	1st	Failure to report currency or
26			payment instruments totaling or
27			exceeding \$100,000 by money
28			transmitter.
29			
30			
31			

1	560.125(5)(c)	1st	Money transmitter business by
2			unauthorized person, currency, or
3			payment instruments totaling or
4			exceeding \$100,000.
5	655.50(10)(b)3.	1st	Failure to report financial
6			transactions totaling or
7			exceeding \$100,000 by financial
8			institution.
9	775.0844	1st	Aggravated white collar crime.
10	782.04(1)	1st	Attempt, conspire, or solicit to
11			commit premeditated murder.
12	782.04(3)	1st,PBL	Accomplice to murder in
13			connection with arson, sexual
14			battery, robbery, burglary, and
15			other specified felonies.
16	782.051(1)	1st	Attempted felony murder while
17			perpetrating or attempting to
18			perpetrate a felony enumerated in
19			s. 782.04(3).
20	782.07(2)	1st	Aggravated manslaughter of an
21			elderly person or disabled adult.
22	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
23			reward or as a shield or hostage.
24	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
25			or facilitate commission of any
26			felony.
27	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
28			interfere with performance of any
29			governmental or political
30			function.
31			

1	787.02(3)(a)	1st	False imprisonment; child under
2			age <u>16</u> 13 ; perpetrator also
3			commits aggravated child abuse,
4			sexual battery, or lewd or
5			lascivious battery, molestation,
6			conduct, or exhibition.
7	790.161	1st	Attempted capital destructive
8			device offense.
9	790.166(2)	1st,PBL	Possessing, selling, using, or
10			attempting to use a weapon of
11			mass destruction.
12	794.011(2)	1st	Attempted sexual battery; victim
13			less than 12 years of age.
14	794.011(2)	Life	Sexual battery; offender younger
15			than 18 years and commits sexual
16			battery on a person less than 12
17			years.
18	794.011(4)	1st	Sexual battery; victim 12 years
19			or older, certain circumstances.
20	794.011(8)(b)	1st	Sexual battery; engage in sexual
21			conduct with minor 12 to 18 years
22			by person in familial or
23			custodial authority.
24	800.04(5)(b)	1st	Lewd or lascivious molestation;
25			victim less than 12 years;
26			offender 18 years or older.
27	812.13(2)(a)	1st,PBL	Robbery with firearm or other
28			deadly weapon.
29	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
30			deadly weapon.
31			

1	817.568(7)	2nd,PBL	Fraudulent use of personal
2			identification information of an
3			individual under the age of 18 by
4			his or her parent, legal
5			guardian, or person exercising
6			custodial authority.
7	827.03(2)	1st	Aggravated child abuse.
8	847.0145(1)	1st	Selling, or otherwise
9			transferring custody or control,
10			of a minor.
11	847.0145(2)	1st	Purchasing, or otherwise
12			obtaining custody or control, of
13			a minor.
14	859.01	1st	Poisoning or introducing
15			bacteria, radioactive materials,
16			viruses, or chemical compounds
17			into food, drink, medicine, or
18			water with intent to kill or
19			injure another person.
20	893.135	1st	Attempted capital trafficking
21			offense.
22	893.135(1)(a)3.	1st	Trafficking in cannabis, more
23			than 10,000 lbs.
24	893.135		
25	(1)(b)1.c.	1st	Trafficking in cocaine, more than
26			400 grams, less than 150
27			kilograms.
28	893.135		
29	(1)(c)1.c.	1st	Trafficking in illegal drugs,
30			more than 28 grams, less than 30
31			kilograms.

1	893.135		
2	(1)(d)1.c.	1st	Trafficking in phencyclidine,
3			more than 400 grams.
4	893.135		
5	(1)(e)1.c.	1st	Trafficking in methaqualone, more
6			than 25 kilograms.
7	893.135		
8	(1)(f)1.c.	1st	Trafficking in amphetamine, more
9			than 200 grams.
10	893.135		
11	(1)(h)1.c.	1st	Trafficking in
12			gamma-hydroxybutyric acid (GHB),
13			10 kilograms or more.
14	893.135		
15	(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10
16			kilograms or more.
17	893.135		
18	(1)(k)2.c.	1st	Trafficking in Phenethylamines,
19			400 grams or more.
20	896.101(5)(c)	1st	Money laundering, financial
21			instruments totaling or exceeding
22			\$100,000.
23	896.104(4)(a)3.	1st	Structuring transactions to evade
24			reporting or registration
25			requirements, financial
26			transactions totaling or
27			exceeding \$100,000.
28			(j) LEVEL 10
29	499.0054	1st	Sale or purchase of contraband
30			legend drugs resulting in death.
31			

1 782.04(2) 1st,PBL Unlawful killing of human; act is
2 homicide, unpremeditated.
3 787.01(1)(a)3. 1st,PBL Kidnapping; inflict bodily harm
4 upon or terrorize victim.
5 787.01(3)(a) Life Kidnapping; child under age 16
6 ~~13~~, perpetrator also commits
7 aggravated child abuse, sexual
8 battery, or lewd or lascivious
9 battery, molestation, conduct, or
10 exhibition.
11 782.07(3) 1st Aggravated manslaughter of a
12 child.
13 794.011(3) Life Sexual battery; victim 12 years
14 or older, offender uses or
15 threatens to use deadly weapon or
16 physical force to cause serious
17 injury.
18 876.32 1st Treason against the state.

19 Section 10. For the purpose of incorporating the
20 amendments made by this act to sections 787.01, 787.02, and
21 787.025, Florida Statutes, in references thereto, paragraph
22 (a) of subsection (1) of section 943.0435, Florida Statutes,
23 is reenacted to read:

24 943.0435 Sexual offenders required to register with
25 the department; penalty.--

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

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

28 1. Has been convicted of committing, or attempting,
29 soliciting, or conspiring to commit, any of the criminal
30 offenses proscribed in the following statutes in this state or
31 similar offenses in another jurisdiction: s. 787.01, s.

1 787.02, or s. 787.025, where the victim is a minor and the
2 defendant is not the victim's parent; chapter 794, excluding
3 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.
4 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;
5 s. 847.0138; s. 847.0145; or any similar offense committed in
6 this state which has been redesignated from a former statute
7 number to one of those listed in this subparagraph; and

8 2. Has been released on or after October 1, 1997, from
9 the sanction imposed for any conviction of an offense
10 described in subparagraph 1. For purposes of subparagraph 1.,
11 a sanction imposed in this state or in any other jurisdiction
12 includes, but is not limited to, a fine, probation, community
13 control, parole, conditional release, control release, or
14 incarceration in a state prison, federal prison, private
15 correctional facility, or local detention facility; or

16 3. Establishes or maintains a residence in this state
17 and who has not been designated as a sexual predator by a
18 court of this state but who has been designated as a sexual
19 predator, as a sexually violent predator, or by another sexual
20 offender designation in another state or jurisdiction and was,
21 as a result of such designation, subjected to registration or
22 community or public notification, or both, or would be if the
23 person were a resident of that state or jurisdiction; or

24 4. Establishes or maintains a residence in this state
25 who is in the custody or control of, or under the supervision
26 of, any other state or jurisdiction as a result of a
27 conviction for committing, or attempting, soliciting, or
28 conspiring to commit, any of the criminal offenses proscribed
29 in the following statutes or similar offense in another
30 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the
31 victim is a minor and the defendant is not the victim's

1 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;
2 s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
3 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or any
4 similar offense committed in this state which has been
5 redesignated from a former statute number to one of those
6 listed in this subparagraph.

7 Section 11. For the purpose of incorporating the
8 amendments made by this act to section 787.025, Florida
9 Statutes, in references thereto, section 943.0585, Florida
10 Statutes, is reenacted to read:

11 943.0585 Court-ordered expunction of criminal history
12 records.--The courts of this state have jurisdiction over
13 their own procedures, including the maintenance, expunction,
14 and correction of judicial records containing criminal history
15 information to the extent such procedures are not inconsistent
16 with the conditions, responsibilities, and duties established
17 by this section. Any court of competent jurisdiction may order
18 a criminal justice agency to expunge the criminal history
19 record of a minor or an adult who complies with the
20 requirements of this section. The court shall not order a
21 criminal justice agency to expunge a criminal history record
22 until the person seeking to expunge a criminal history record
23 has applied for and received a certificate of eligibility for
24 expunction pursuant to subsection (2). A criminal history
25 record that relates to a violation of s. 787.025, chapter 794,
26 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
27 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
28 893.135, or a violation enumerated in s. 907.041 may not be
29 expunged, without regard to whether adjudication was withheld,
30 if the defendant was found guilty of or pled guilty or nolo
31 contendere to the offense, or if the defendant, as a minor,

1 was found to have committed, or pled guilty or nolo contendere
2 to committing, the offense as a delinquent act. The court may
3 only order expunction of a criminal history record pertaining
4 to one arrest or one incident of alleged criminal activity,
5 except as provided in this section. The court may, at its sole
6 discretion, order the expunction of a criminal history record
7 pertaining to more than one arrest if the additional arrests
8 directly relate to the original arrest. If the court intends
9 to order the expunction of records pertaining to such
10 additional arrests, such intent must be specified in the
11 order. A criminal justice agency may not expunge any record
12 pertaining to such additional arrests if the order to expunge
13 does not articulate the intention of the court to expunge a
14 record pertaining to more than one arrest. This section does
15 not prevent the court from ordering the expunction of only a
16 portion of a criminal history record pertaining to one arrest
17 or one incident of alleged criminal activity. Notwithstanding
18 any law to the contrary, a criminal justice agency may comply
19 with laws, court orders, and official requests of other
20 jurisdictions relating to expunction, correction, or
21 confidential handling of criminal history records or
22 information derived therefrom. This section does not confer
23 any right to the expunction of any criminal history record,
24 and any request for expunction of a criminal history record
25 may be denied at the sole discretion of the court.

26 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY
27 RECORD.--Each petition to a court to expunge a criminal
28 history record is complete only when accompanied by:
29 (a) A certificate of eligibility for expunction issued
30 by the department pursuant to subsection (2).

31

1 (b) The petitioner's sworn statement attesting that
2 the petitioner:

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

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

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

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

20
21 Any person who knowingly provides false information on such
22 sworn statement to the court commits a felony of the third
23 degree, punishable as provided in s. 775.082, s. 775.083, or
24 s. 775.084.

25 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
26 to petitioning the court to expunge a criminal history record,
27 a person seeking to expunge a criminal history record shall
28 apply to the department for a certificate of eligibility for
29 expunction. The department shall, by rule adopted pursuant to
30 chapter 120, establish procedures pertaining to the
31 application for and issuance of certificates of eligibility

1 for expunction. The department shall issue a certificate of
2 eligibility for expunction to a person who is the subject of a
3 criminal history record if that person:

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

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

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

13 3. That the criminal history record does not relate to
14 a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04,
15 s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133,
16 s. 847.0135, s. 847.0145, s. 893.135, or a violation
17 enumerated in s. 907.041, where the defendant was found guilty
18 of, or pled guilty or nolo contendere to any such offense, or
19 that the defendant, as a minor, was found to have committed,
20 or pled guilty or nolo contendere to committing, such an
21 offense as a delinquent act, without regard to whether
22 adjudication was withheld.

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

26 (c) Has submitted to the department a certified copy
27 of the disposition of the charge to which the petition to
28 expunge pertains.

29 (d) Has never, prior to the date on which the
30 application for a certificate of eligibility is filed, been
31 adjudicated guilty of a criminal offense or comparable

1 ordinance violation or adjudicated delinquent for committing a
2 felony or a misdemeanor specified in s. 943.051(3)(b).

3 (e) Has not been adjudicated guilty of, or adjudicated
4 delinquent for committing, any of the acts stemming from the
5 arrest or alleged criminal activity to which the petition to
6 expunge pertains.

7 (f) Has never secured a prior sealing or expunction of
8 a criminal history record under this section, former s.
9 893.14, former s. 901.33, or former s. 943.058.

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

13 (h) Is not required to wait a minimum of 10 years
14 prior to being eligible for an expunction of such records
15 because all charges related to the arrest or criminal activity
16 to which the petition to expunge pertains were dismissed prior
17 to trial, adjudication, or the withholding of adjudication.
18 Otherwise, such criminal history record must be sealed under
19 this section, former s. 893.14, former s. 901.33, or former s.
20 943.058 for at least 10 years before such record is eligible
21 for expunction.

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

23 (a) In judicial proceedings under this section, a copy
24 of the completed petition to expunge shall be served upon the
25 appropriate state attorney or the statewide prosecutor and
26 upon the arresting agency; however, it is not necessary to
27 make any agency other than the state a party. The appropriate
28 state attorney or the statewide prosecutor and the arresting
29 agency may respond to the court regarding the completed
30 petition to expunge.

31

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

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

24 (d) On or after July 1, 1992, the department or any
25 other criminal justice agency is not required to act on an
26 order to expunge entered by a court when such order does not
27 comply with the requirements of this section. Upon receipt of
28 such an order, the department must notify the issuing court,
29 the appropriate state attorney or statewide prosecutor, the
30 petitioner or the petitioner's attorney, and the arresting
31 agency of the reason for noncompliance. The appropriate state

1 attorney or statewide prosecutor shall take action within 60
2 days to correct the record and petition the court to void the
3 order. No cause of action, including contempt of court, shall
4 arise against any criminal justice agency for failure to
5 comply with an order to expunge when the petitioner for such
6 order failed to obtain the certificate of eligibility as
7 required by this section or such order does not otherwise
8 comply with the requirements of this section.

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

23 (a) The person who is the subject of a criminal
24 history record that is expunged under this section or under
25 other provisions of law, including former s. 893.14, former s.
26 901.33, and former s. 943.058, may lawfully deny or fail to
27 acknowledge the arrests covered by the expunged record, except
28 when the subject of the record:

- 29 1. Is a candidate for employment with a criminal
30 justice agency;
31 2. Is a defendant in a criminal prosecution;

1 3. Concurrently or subsequently petitions for relief
2 under this section or s. 943.059;

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

4 5. Is seeking to be employed or licensed by or to
5 contract with the Department of Children and Family Services
6 or the Department of Juvenile Justice or to be employed or
7 used by such contractor or licensee in a sensitive position
8 having direct contact with children, the developmentally
9 disabled, the aged, or the elderly as provided in s.
10 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
11 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
12 985.407, or chapter 400; or

13 6. Is seeking to be employed or licensed by the Office
14 of Teacher Education, Certification, Staff Development, and
15 Professional Practices of the Department of Education, any
16 district school board, or any local governmental entity that
17 licenses child care facilities.

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

25 (c) Information relating to the existence of an
26 expunged criminal history record which is provided in
27 accordance with paragraph (a) is confidential and exempt from
28 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
29 State Constitution, except that the department shall disclose
30 the existence of a criminal history record ordered expunged to
31 the entities set forth in subparagraphs (a)1., 4., 5., and 6.

1 for their respective licensing and employment purposes, and to
2 criminal justice agencies for their respective criminal
3 justice purposes. It is unlawful for any employee of an entity
4 set forth in subparagraph (a)1., subparagraph (a)4.,
5 subparagraph (a)5., or subparagraph (a)6. to disclose
6 information relating to the existence of an expunged criminal
7 history record of a person seeking employment or licensure
8 with such entity or contractor, except to the person to whom
9 the criminal history record relates or to persons having
10 direct responsibility for employment or licensure decisions.
11 Any person who violates this paragraph commits a misdemeanor
12 of the first degree, punishable as provided in s. 775.082 or
13 s. 775.083.

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

18 Section 12. For the purpose of incorporating the
19 amendments made by this act to section 787.025, Florida
20 Statutes, in references thereto, section 943.059, Florida
21 Statutes, is reenacted to read:

22 943.059 Court-ordered sealing of criminal history
23 records.--The courts of this state shall continue to have
24 jurisdiction over their own procedures, including the
25 maintenance, sealing, and correction of judicial records
26 containing criminal history information to the extent such
27 procedures are not inconsistent with the conditions,
28 responsibilities, and duties established by this section. Any
29 court of competent jurisdiction may order a criminal justice
30 agency to seal the criminal history record of a minor or an
31 adult who complies with the requirements of this section. The

1 court shall not order a criminal justice agency to seal a
2 criminal history record until the person seeking to seal a
3 criminal history record has applied for and received a
4 certificate of eligibility for sealing pursuant to subsection
5 (2). A criminal history record that relates to a violation of
6 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
7 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
8 s. 847.0145, s. 893.135, or a violation enumerated in s.
9 907.041 may not be sealed, without regard to whether
10 adjudication was withheld, if the defendant was found guilty
11 of or pled guilty or nolo contendere to the offense, or if the
12 defendant, as a minor, was found to have committed or pled
13 guilty or nolo contendere to committing the offense as a
14 delinquent act. The court may only order sealing of a criminal
15 history record pertaining to one arrest or one incident of
16 alleged criminal activity, except as provided in this section.
17 The court may, at its sole discretion, order the sealing of a
18 criminal history record pertaining to more than one arrest if
19 the additional arrests directly relate to the original arrest.
20 If the court intends to order the sealing of records
21 pertaining to such additional arrests, such intent must be
22 specified in the order. A criminal justice agency may not seal
23 any record pertaining to such additional arrests if the order
24 to seal does not articulate the intention of the court to seal
25 records pertaining to more than one arrest. This section does
26 not prevent the court from ordering the sealing of only a
27 portion of a criminal history record pertaining to one arrest
28 or one incident of alleged criminal activity. Notwithstanding
29 any law to the contrary, a criminal justice agency may comply
30 with laws, court orders, and official requests of other
31 jurisdictions relating to sealing, correction, or confidential

1 handling of criminal history records or information derived
2 therefrom. This section does not confer any right to the
3 sealing of any criminal history record, and any request for
4 sealing a criminal history record may be denied at the sole
5 discretion of the court.

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

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

11 (b) The petitioner's sworn statement attesting that
12 the petitioner:

13 1. Has never, prior to the date on which the petition
14 is filed, been adjudicated guilty of a criminal offense or
15 comparable ordinance violation or adjudicated delinquent for
16 committing a felony or a misdemeanor specified in s.
17 943.051(3)(b).

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

22 3. Has never secured a prior sealing or expunction of
23 a criminal history record under this section, former s.
24 893.14, former s. 901.33, former s. 943.058, or from any
25 jurisdiction outside the state.

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

30
31

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

5 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
6 petitioning the court to seal a criminal history record, a
7 person seeking to seal a criminal history record shall apply
8 to the department for a certificate of eligibility for
9 sealing. The department shall, by rule adopted pursuant to
10 chapter 120, establish procedures pertaining to the
11 application for and issuance of certificates of eligibility
12 for sealing. The department shall issue a certificate of
13 eligibility for sealing to a person who is the subject of a
14 criminal history record provided that such person:

15 (a) Has submitted to the department a certified copy
16 of the disposition of the charge to which the petition to seal
17 pertains.

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

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

26 (d) Has not been adjudicated guilty of or adjudicated
27 delinquent for committing any of the acts stemming from the
28 arrest or alleged criminal activity to which the petition to
29 seal pertains.

30
31

1 (e) 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.

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

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

8 (a) In judicial proceedings under this section, a copy
9 of the completed petition to seal shall be served upon the
10 appropriate state attorney or the statewide prosecutor and
11 upon the arresting agency; however, it is not necessary to
12 make any agency other than the state a party. The appropriate
13 state attorney or the statewide prosecutor and the arresting
14 agency may respond to the court regarding the completed
15 petition to seal.

16 (b) If relief is granted by the court, the clerk of
17 the court shall certify copies of the order to the appropriate
18 state attorney or the statewide prosecutor and to the
19 arresting agency. The arresting agency is responsible for
20 forwarding the order to any other agency to which the
21 arresting agency disseminated the criminal history record
22 information to which the order pertains. The department shall
23 forward the order to seal to the Federal Bureau of
24 Investigation. The clerk of the court shall certify a copy of
25 the order to any other agency which the records of the court
26 reflect has received the criminal history record from the
27 court.

28 (c) For an order to seal entered by a court prior to
29 July 1, 1992, the department shall notify the appropriate
30 state attorney or statewide prosecutor of any order to seal
31 which is contrary to law because the person who is the subject

1 of the record has previously been convicted of a crime or
2 comparable ordinance violation or has had a prior criminal
3 history record sealed or expunged. Upon receipt of such
4 notice, the appropriate state attorney or statewide prosecutor
5 shall take action, within 60 days, to correct the record and
6 petition the court to void the order to seal. The department
7 shall seal the record until such time as the order is voided
8 by the court.

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

25 (e) An order sealing a criminal history record
26 pursuant to this section does not require that such record be
27 surrendered to the court, and such record shall continue to be
28 maintained by the department and other criminal justice
29 agencies.

30 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
31 criminal history record of a minor or an adult which is

1 ordered sealed by a court of competent jurisdiction pursuant
2 to this section is confidential and exempt from the provisions
3 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
4 and is available only to the person who is the subject of the
5 record, to the subject's attorney, to criminal justice
6 agencies for their respective criminal justice purposes, or to
7 those entities set forth in subparagraphs (a)1., 4., 5., and
8 6. for their respective licensing and employment purposes.

9 (a) The subject of a criminal history record sealed
10 under this section or under other provisions of law, including
11 former s. 893.14, former s. 901.33, and former s. 943.058, may
12 lawfully deny or fail to acknowledge the arrests covered by
13 the sealed record, except when the subject of the record:

- 14 1. Is a candidate for employment with a criminal
15 justice agency;
- 16 2. Is a defendant in a criminal prosecution;
- 17 3. Concurrently or subsequently petitions for relief
18 under this section or s. 943.0585;
- 19 4. Is a candidate for admission to The Florida Bar;
- 20 5. Is seeking to be employed or licensed by or to
21 contract with the Department of Children and Family Services
22 or the Department of Juvenile Justice or to be employed or
23 used by such contractor or licensee in a sensitive position
24 having direct contact with children, the developmentally
25 disabled, the aged, or the elderly as provided in s.
26 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
27 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
28 415.103, s. 985.407, or chapter 400; or
- 29 6. Is seeking to be employed or licensed by the Office
30 of Teacher Education, Certification, Staff Development, and
31 Professional Practices of the Department of Education, any

1 district school board, or any local governmental entity which
2 licenses child care facilities.

3 (b) Subject to the exceptions in paragraph (a), a
4 person who has been granted a sealing under this section,
5 former s. 893.14, former s. 901.33, or former s. 943.058 may
6 not be held under any provision of law of this state to commit
7 perjury or to be otherwise liable for giving a false statement
8 by reason of such person's failure to recite or acknowledge a
9 sealed criminal history record.

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

28 (5) STATUTORY REFERENCES.--Any reference to any other
29 chapter, section, or subdivision of the Florida Statutes in
30 this section constitutes a general reference under the
31 doctrine of incorporation by reference.

1 Section 13. For the purpose of incorporating the
2 amendments made by this act to sections 787.01, 787.02, and
3 787.025, Florida Statutes, in references thereto, paragraph
4 (b) of subsection (1) of section 944.606, Florida Statutes, is
5 reenacted to read:

6 944.606 Sexual offenders; notification upon release.--

7 (1) As used in this section:

8 (b) "Sexual offender" means a person who has been
9 convicted of committing, or attempting, soliciting, or
10 conspiring to commit, any of the criminal offenses proscribed
11 in the following statutes in this state or similar offenses in
12 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
13 where the victim is a minor and the defendant is not the
14 victim's parent; chapter 794, excluding ss. 794.011(10) and
15 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
16 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;
17 or any similar offense committed in this state which has been
18 redesignated from a former statute number to one of those
19 listed in this subsection, when the department has received
20 verified information regarding such conviction; an offender's
21 computerized criminal history record is not, in and of itself,
22 verified information.

23 Section 14. For the purpose of incorporating the
24 amendments made by this act to sections 787.01, 787.02, and
25 787.025, Florida Statutes, in references thereto, paragraph
26 (a) of subsection (1) of section 944.607, Florida Statutes, is
27 reenacted to read:

28 944.607 Notification to Department of Law Enforcement
29 of information on sexual offenders.--

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

31

1 (a) "Sexual offender" means a person who is in the
2 custody or control of, or under the supervision of, the
3 department or is in the custody of a private correctional
4 facility:

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

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

25 Section 15. For the purpose of incorporating the
26 amendments made by this act to sections 787.01, 787.02, and
27 787.025, Florida Statutes, in references thereto, subsection
28 (15) of section 948.01, Florida Statutes, is reenacted to
29 read:

30 948.01 When court may place defendant on probation or
31 into community control.--

1 (15) Effective for an offense committed on or after
2 July 1, 1998, a person is ineligible for placement on
3 administrative probation if the person is sentenced to or is
4 serving a term of probation or community control, regardless
5 of the conviction or adjudication, for committing, or
6 attempting, conspiring, or soliciting to commit, any of the
7 felony offenses described in s. 787.01 or s. 787.02, where the
8 victim is a minor and the defendant is not the victim's
9 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
10 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.
11 847.0145.

12 Section 16. For the purpose of incorporating the
13 amendments made by this act to section 787.025, Florida
14 Statutes, in references thereto, paragraph (a) of subsection
15 (2) of section 948.06, Florida Statutes, is reenacted to read:
16 948.06 Violation of probation or community control;
17 revocation; modification; continuance; failure to pay
18 restitution or cost of supervision.--

19 (2)(a) When any state or local law enforcement agency
20 investigates or arrests a person for committing, or
21 attempting, soliciting, or conspiring to commit, a violation
22 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,
23 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement
24 agency shall contact the Department of Corrections to verify
25 whether the person under investigation or under arrest is on
26 probation, community control, parole, conditional release, or
27 control release.

28 Section 17. This act shall take effect October 1,
29 2004.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 218

Provides that luring or attempted luring of the child without the consent of the child's parent or legal guardian may be considered with other competent evidence in determining whether the luring or attempted luring was done for other than a lawful purpose.