

1                                   A bill to be entitled  
2           An act relating to criminal justice; amending  
3           ss. 787.01 and 787.02, F.S.; revising the  
4           elements of the crimes of kidnapping a minor  
5           child and false imprisonment of a minor child;  
6           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 amending s. 947.06, F.S.; requiring that, prior  
5 to a meeting of the Parole Commission, the  
6 victim of the crime be given documents and  
7 evidence relating to the granting, denying, or  
8 revoking of the inmate's parole; amending s.  
9 947.16, F.S.; requiring that an inmate  
10 convicted of kidnapping whose parole release  
11 order has been vacated by the court be  
12 reinterviewed at 5-year intervals following the  
13 vacated release order; amending s. 947.174,  
14 F.S.; requiring that an inmate convicted of  
15 kidnapping whose presumptive parole release  
16 date is more than 5 years after the initial  
17 interview be reinterviewed thereafter at 5-year  
18 intervals; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Section 787.01, Florida Statutes, is  
23 amended to read:

24 787.01 Kidnapping; kidnapping of child under age 16  
25 ~~13~~, aggravating circumstances.--

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

30 1. Hold for ransom or reward or as a shield or  
31 hostage.

1           2. Commit or facilitate commission of any felony.

2           3. Inflict bodily harm upon or to terrorize the victim  
3 or another person.

4           4. Interfere with the performance of any governmental  
5 or political function.

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

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

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

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

18           2. Sexual battery, as defined in chapter 794, against  
19 the child;

20           3. Lewd or lascivious battery, lewd or lascivious  
21 molestation, lewd or lascivious conduct, or lewd or lascivious  
22 exhibition, in violation of s. 800.04;

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

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

27  
28 commits a life felony, punishable as provided in s. 775.082,  
29 s. 775.083, or s. 775.084.

30          (b) Pursuant to s. 775.021(4), nothing contained  
31 herein shall be construed to prohibit the imposition of

1 separate judgments and sentences for the life felony described  
2 in paragraph (a) and for each separate offense enumerated in  
3 subparagraphs (a)1.-5.

4 Section 2. Section 787.02, Florida Statutes, is  
5 amended to read:

6 787.02 False imprisonment; false imprisonment of child  
7 under age 16 ~~13~~, aggravating circumstances.--

8 (1)(a) The term "false imprisonment" means forcibly,  
9 by threat, or secretly confining, abducting, imprisoning, or  
10 restraining another person without lawful authority and  
11 against her or his will.

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

16 (2) A person who commits the offense of false  
17 imprisonment is guilty of a felony of the third degree,  
18 punishable as provided in s. 775.082, s. 775.083, or s.  
19 775.084.

20 (3)(a) A person who commits the offense of false  
21 imprisonment upon a child under the age of 16 ~~13~~ and who, in  
22 the course of committing the offense, commits any offense  
23 enumerated in subparagraphs 1.-5., commits a felony of the  
24 first degree, punishable by imprisonment for a term of years  
25 not exceeding life or as provided in s. 775.082, s. 775.083,  
26 or s. 775.084.

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

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1           3. Lewd or lascivious battery, lewd or lascivious  
2 molestation, lewd or lascivious conduct, or lewd or lascivious  
3 exhibition, in violation of s. 800.04;

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

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

8           (b) Pursuant to s. 775.021(4), nothing contained  
9 herein shall be construed to prohibit the imposition of  
10 separate judgments and sentences for the first degree offense  
11 described in paragraph (a) and for each separate offense  
12 enumerated in subparagraphs (a)1.-5.

13           Section 3. Section 787.025, Florida Statutes, is  
14 amended to read:

15           787.025 Luring or enticing a child.--

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

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

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

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

27           (2)(a) A person over the age of 18 who, having been  
28 previously convicted of a violation of chapter 794 or s.  
29 800.04, or a violation of a similar law of another  
30 jurisdiction, intentionally lures or entices, or attempts to  
31 lure or entice, a child under the age of 16 ~~12~~ into a

1 structure, dwelling, or conveyance for other than a lawful  
2 purpose commits a felony of the second ~~third~~ degree,  
3 punishable as provided in s. 775.082, s. 775.083, or s.  
4 775.084.

5 (b) If the defendant lured or enticed, or attempted to  
6 lure or entice, For purposes of this section, the luring or  
7 enticing, or attempted luring or enticing, of a child under  
8 the age of ~~16~~ 12 into a structure, dwelling, or conveyance  
9 without the consent of the child's parent or legal guardian,  
10 that fact does not give rise to a presumption that the  
11 defendant committed or attempted to commit such luring or  
12 enticing for shall be prima facie evidence of other than a  
13 lawful purpose, but may be considered with other competent  
14 evidence in determining whether the defendant committed or  
15 attempted to commit such luring or enticing for other than a  
16 lawful purpose.

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

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

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

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

28 Section 4. 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 (j) and  
31

1 (k) of subsection (2) of section 435.03, Florida Statutes, are  
2 reenacted to read:

3 435.03 Level 1 screening standards.--

4 (2) Any person for whom employment screening is  
5 required by statute must not have been found guilty of,  
6 regardless of adjudication, or entered a plea of nolo  
7 contendere or guilty to, any offense prohibited under any of  
8 the following provisions of the Florida Statutes or under any  
9 similar statute of another jurisdiction:

10 (j) Section 787.01, relating to kidnapping.

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

12 Section 5. For the purpose of incorporating the  
13 amendments made by this act to sections 787.01 and 787.02,  
14 Florida Statutes, in references thereto, paragraphs (k) and  
15 (l) of subsection (2) of section 435.04, Florida Statutes, are  
16 reenacted to read:

17 435.04 Level 2 screening standards.--

18 (2) The security background investigations under this  
19 section must ensure that no persons subject to the provisions  
20 of this section have been found guilty of, regardless of  
21 adjudication, or entered a plea of nolo contendere or guilty  
22 to, any offense prohibited under any of the following  
23 provisions of the Florida Statutes or under any similar  
24 statute of another jurisdiction:

25 (k) Section 787.01, relating to kidnapping.

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

27 Section 6. For the purpose of incorporating the  
28 amendments made by this act to sections 787.01, 787.02, and  
29 787.025, Florida Statutes, in references thereto, subsection  
30 (4) of section 775.21, Florida Statutes, is reenacted to read:  
31

1           775.21 The Florida Sexual Predators Act; definitions;  
2 legislative findings, purpose, and intent; criteria;  
3 designation; registration; community and public notification;  
4 immunity; penalties.--

5           (4) SEXUAL PREDATOR CRITERIA.--

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

11           1. The felony is:

12           a. A capital, life, or first-degree felony violation,  
13 or any attempt thereof, of s. 787.01 or s. 787.02, where the  
14 victim is a minor and the defendant is not the victim's  
15 parent, or of chapter 794, s. 800.04, or s. 847.0145, or a  
16 violation of a similar law of another jurisdiction; or

17           b. Any felony violation, or any attempt thereof, of s.  
18 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
19 and the defendant is not the victim's parent; chapter 794,  
20 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04;  
21 s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation  
22 of a similar law of another jurisdiction, and the offender has  
23 previously been convicted of or found to have committed, or  
24 has pled nolo contendere or guilty to, regardless of  
25 adjudication, any violation of s. 787.01, s. 787.02, or s.  
26 787.025, where the victim is a minor and the defendant is not  
27 the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s.  
28 794.05; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
29 847.0133; s. 847.0135; or s. 847.0145, or a violation of a  
30 similar law of another jurisdiction;

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

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

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

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

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

25           2. The offender was administratively registered as a  
26 sexual predator because the Department of Corrections, the  
27 department, or any other law enforcement agency obtained  
28 information that indicated that the offender met the criteria  
29 for designation as a sexual predator based on a violation of a  
30 similar law in another jurisdiction,  
31

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

22           Section 7. For the purpose of incorporating the  
23 amendments made by this act to section 787.01, Florida  
24 Statutes, in references thereto, section 903.133, Florida  
25 Statutes, is reenacted to read:

26           903.133 Bail on appeal; prohibited for certain felony  
27 convictions.--Notwithstanding the provisions of s. 903.132, no  
28 person adjudged guilty of a felony of the first degree for a  
29 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
30 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
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1 violation of s. 794.011(2) or (3), shall be admitted to bail  
 2 pending review either by posttrial motion or appeal.

3 Section 8. For the purpose of incorporating the  
 4 amendments made by this act to sections 787.01 and 787.02,  
 5 Florida Statutes, in references thereto, section 910.14,  
 6 Florida Statutes, is reenacted to read:

7 910.14 Kidnapping.--A person who commits an offense  
 8 provided for in s. 787.01 or s. 787.02 may be tried in any  
 9 county in which the person's victim has been taken or confined  
 10 during the course of the offense.

11 Section 9. For the purpose of incorporating the  
 12 amendments made by this act to sections 787.01 and 787.02,  
 13 Florida Statutes, in references thereto, paragraphs (f), (i),  
 14 and (j) of subsection (3) of section 921.0022, Florida  
 15 Statutes, are reenacted and amended to read:

16 921.0022 Criminal Punishment Code; offense severity  
 17 ranking chart.--

18 (3) OFFENSE SEVERITY RANKING CHART

19

Florida	Felony	Description
Statute	Degree	
		(f) LEVEL 6
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Forgery of pedigree papers.
499.0051(4)	2nd	Purchase or receipt of legend drug from unauthorized person.
499.0051(5)	2nd	Sale of legend drug to unauthorized person.

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1	775.0875(1)	3rd	Taking firearm from law
2			enforcement officer.
3	775.21(10)	3rd	Sexual predators; failure to
4			register; failure to renew
5			driver's license or
6			identification card.
7	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
8			without intent to kill.
9	784.021(1)(b)	3rd	Aggravated assault; intent to
10			commit felony.
11	784.041	3rd	Felony battery.
12	784.048(3)	3rd	Aggravated stalking; credible
13			threat.
14	784.048(5)	3rd	Aggravated stalking of person
15			under 16.
16	784.07(2)(c)	2nd	Aggravated assault on law
17			enforcement officer.
18	784.074(1)(b)	2nd	Aggravated assault on sexually
19			violent predators facility staff.
20	784.08(2)(b)	2nd	Aggravated assault on a person 65
21			years of age or older.
22	784.081(2)	2nd	Aggravated assault on specified
23			official or employee.
24	784.082(2)	2nd	Aggravated assault by detained
25			person on visitor or other
26			detainee.
27	784.083(2)	2nd	Aggravated assault on code
28			inspector.
29	787.02(2)	3rd	False imprisonment; restraining
30			with purpose other than those in
31			s. 787.01.

1	790.115(2)(d)	2nd	Discharging firearm or weapon on
2			school property.
3	790.161(2)	2nd	Make, possess, or throw
4			destructive device with intent to
5			do bodily harm or damage
6			property.
7	790.164(1)	2nd	False report of deadly explosive,
8			weapon of mass destruction, or
9			act of arson or violence to state
10			property.
11	790.19	2nd	Shooting or throwing deadly
12			missiles into dwellings, vessels,
13			or vehicles.
14	794.011(8)(a)	3rd	Solicitation of minor to
15			participate in sexual activity by
16			custodial adult.
17	794.05(1)	2nd	Unlawful sexual activity with
18			specified minor.
19	800.04(5)(d)	3rd	Lewd or lascivious molestation;
20			victim 12 years of age or older
21			but less than 16 years; offender
22			less than 18 years.
23	800.04(6)(b)	2nd	Lewd or lascivious conduct;
24			offender 18 years of age or
25			older.
26	806.031(2)	2nd	Arson resulting in great bodily
27			harm to firefighter or any other
28			person.
29	810.02(3)(c)	2nd	Burglary of occupied structure;
30			unarmed; no assault or battery.
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1	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
2			but less than \$100,000, grand
3			theft in 2nd degree.
4	812.014(2)(b)2.	2nd	Property stolen; cargo valued at
5			less than \$50,000, grand theft in
6			2nd degree.
7	812.015(9)	2nd	Retail theft; property stolen
8			\$300 or more; second or
9			subsequent conviction.
10	812.13(2)(c)	2nd	Robbery, no firearm or other
11			weapon (strong-arm robbery).
12	817.034(4)(a)1.	1st	Communications fraud, value
13			greater than \$50,000.
14	817.4821(5)	2nd	Possess cloning paraphernalia
15			with intent to create cloned
16			cellular telephones.
17	825.102(1)	3rd	Abuse of an elderly person or
18			disabled adult.
19	825.102(3)(c)	3rd	Neglect of an elderly person or
20			disabled adult.
21	825.1025(3)	3rd	Lewd or lascivious molestation of
22			an elderly person or disabled
23			adult.
24	825.103(2)(c)	3rd	Exploiting an elderly person or
25			disabled adult and property is
26			valued at less than \$20,000.
27	827.03(1)	3rd	Abuse of a child.
28	827.03(3)(c)	3rd	Neglect of a child.
29	827.071(2)&(3)	2nd	Use or induce a child in a sexual
30			performance, or promote or direct
31			such performance.

1	836.05	2nd	Threats; extortion.
2	836.10	2nd	Written threats to kill or do
3			bodily injury.
4	843.12	3rd	Aids or assists person to escape.
5	847.0135(3)	3rd	Solicitation of a child, via a
6			computer service, to commit an
7			unlawful sex act.
8	914.23	2nd	Retaliation against a witness,
9			victim, or informant, with bodily
10			injury.
11	943.0435(9)	3rd	Sex offenders; failure to comply
12			with reporting requirements.
13	944.35(3)(a)2.	3rd	Committing malicious battery upon
14			or inflicting cruel or inhuman
15			treatment on an inmate or
16			offender on community
17			supervision, resulting in great
18			bodily harm.
19	944.40	2nd	Escapes.
20	944.46	3rd	Harboring, concealing, aiding
21			escaped prisoners.
22	944.47(1)(a)5.	2nd	Introduction of contraband
23			(firearm, weapon, or explosive)
24			into correctional facility.
25	951.22(1)	3rd	Intoxicating drug, firearm, or
26			weapon introduced into county
27			facility.
28			(i) LEVEL 9
29	316.193		
30	(3)(c)3.b.	1st	DUI manslaughter; failing to
31			render aid or give information.

1	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
2			render aid or give information.
3	499.0053	1st	Sale or purchase of contraband
4			legend drugs resulting in great
5			bodily harm.
6	560.123(8)(b)3.	1st	Failure to report currency or
7			payment instruments totaling or
8			exceeding \$100,000 by money
9			transmitter.
10	560.125(5)(c)	1st	Money transmitter business by
11			unauthorized person, currency, or
12			payment instruments totaling or
13			exceeding \$100,000.
14	655.50(10)(b)3.	1st	Failure to report financial
15			transactions totaling or
16			exceeding \$100,000 by financial
17			institution.
18	775.0844	1st	Aggravated white collar crime.
19	782.04(1)	1st	Attempt, conspire, or solicit to
20			commit premeditated murder.
21	782.04(3)	1st,PBL	Accomplice to murder in
22			connection with arson, sexual
23			battery, robbery, burglary, and
24			other specified felonies.
25	782.051(1)	1st	Attempted felony murder while
26			perpetrating or attempting to
27			perpetrate a felony enumerated in
28			s. 782.04(3).
29	782.07(2)	1st	Aggravated manslaughter of an
30			elderly person or disabled adult.
31			



1	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
2			reward or as a shield or hostage.
3	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
4			or facilitate commission of any
5			felony.
6	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
7			interfere with performance of any
8			governmental or political
9			function.
10	787.02(3)(a)	1st	False imprisonment; child under
11			age <u>16</u> <del>13</del> ; perpetrator also
12			commits aggravated child abuse,
13			sexual battery, or lewd or
14			lascivious battery, molestation,
15			conduct, or exhibition.
16	790.161	1st	Attempted capital destructive
17			device offense.
18	790.166(2)	1st,PBL	Possessing, selling, using, or
19			attempting to use a weapon of
20			mass destruction.
21	794.011(2)	1st	Attempted sexual battery; victim
22			less than 12 years of age.
23	794.011(2)	Life	Sexual battery; offender younger
24			than 18 years and commits sexual
25			battery on a person less than 12
26			years.
27	794.011(4)	1st	Sexual battery; victim 12 years
28			or older, certain circumstances.
29			
30			
31			

1	794.011(8)(b)	1st	Sexual battery; engage in sexual
2			conduct with minor 12 to 18 years
3			by person in familial or
4			custodial authority.
5	800.04(5)(b)	1st	Lewd or lascivious molestation;
6			victim less than 12 years;
7			offender 18 years or older.
8	812.13(2)(a)	1st,PBL	Robbery with firearm or other
9			deadly weapon.
10	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
11			deadly weapon.
12	817.568(7)	2nd,PBL	Fraudulent use of personal
13			identification information of an
14			individual under the age of 18 by
15			his or her parent, legal
16			guardian, or person exercising
17			custodial authority.
18	827.03(2)	1st	Aggravated child abuse.
19	847.0145(1)	1st	Selling, or otherwise
20			transferring custody or control,
21			of a minor.
22	847.0145(2)	1st	Purchasing, or otherwise
23			obtaining custody or control, of
24			a minor.
25	859.01	1st	Poisoning or introducing
26			bacteria, radioactive materials,
27			viruses, or chemical compounds
28			into food, drink, medicine, or
29			water with intent to kill or
30			injure another person.
31			

1	893.135	1st	Attempted capital trafficking
2			offense.
3	893.135(1)(a)3.	1st	Trafficking in cannabis, more
4			than 10,000 lbs.
5	893.135		
6	(1)(b)1.c.	1st	Trafficking in cocaine, more than
7			400 grams, less than 150
8			kilograms.
9	893.135		
10	(1)(c)1.c.	1st	Trafficking in illegal drugs,
11			more than 28 grams, less than 30
12			kilograms.
13	893.135		
14	(1)(d)1.c.	1st	Trafficking in phencyclidine,
15			more than 400 grams.
16	893.135		
17	(1)(e)1.c.	1st	Trafficking in methaqualone, more
18			than 25 kilograms.
19	893.135		
20	(1)(f)1.c.	1st	Trafficking in amphetamine, more
21			than 200 grams.
22	893.135		
23	(1)(h)1.c.	1st	Trafficking in
24			gamma-hydroxybutyric acid (GHB),
25			10 kilograms or more.
26	893.135		
27	(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10
28			kilograms or more.
29	893.135		
30	(1)(k)2.c.	1st	Trafficking in Phenethylamines,
31			400 grams or more.

1	896.101(5)(c)	1st	Money laundering, financial
2			instruments totaling or exceeding
3			\$100,000.
4	896.104(4)(a)3.	1st	Structuring transactions to evade
5			reporting or registration
6			requirements, financial
7			transactions totaling or
8			exceeding \$100,000.
9			(j) LEVEL 10
10	499.0054	1st	Sale or purchase of contraband
11			legend drugs resulting in death.
12	782.04(2)	1st,PBL	Unlawful killing of human; act is
13			homicide, unpremeditated.
14	787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm
15			upon or terrorize victim.
16	787.01(3)(a)	Life	Kidnapping; child under age <u>16</u>
17			<del>13</del> , perpetrator also commits
18			aggravated child abuse, sexual
19			battery, or lewd or lascivious
20			battery, molestation, conduct, or
21			exhibition.
22	782.07(3)	1st	Aggravated manslaughter of a
23			child.
24	794.011(3)	Life	Sexual battery; victim 12 years
25			or older, offender uses or
26			threatens to use deadly weapon or
27			physical force to cause serious
28			injury.
29	876.32	1st	Treason against the state.
30	Section 10. For the purpose of incorporating the		
31	amendments made by this act to sections 787.01, 787.02, and		

1 787.025, Florida Statutes, in references thereto, paragraph  
2 (a) of subsection (1) of section 943.0435, Florida Statutes,  
3 is reenacted to read:

4 943.0435 Sexual offenders required to register with  
5 the department; penalty.--

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

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

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

19 2. Has been released on or after October 1, 1997, from  
20 the sanction imposed for any conviction of an offense  
21 described in subparagraph 1. For purposes of subparagraph 1.,  
22 a sanction imposed in this state or in any other jurisdiction  
23 includes, but is not limited to, a fine, probation, community  
24 control, parole, conditional release, control release, or  
25 incarceration in a state prison, federal prison, private  
26 correctional facility, or local detention facility; or

27 3. Establishes or maintains a residence in this state  
28 and who has not been designated as a sexual predator by a  
29 court of this state but who has been designated as a sexual  
30 predator, as a sexually violent predator, or by another sexual  
31 offender designation in another state or jurisdiction and was,

1 as a result of such designation, subjected to registration or  
2 community or public notification, or both, or would be if the  
3 person were a resident of that state or jurisdiction; or

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

18 Section 11. For the purpose of incorporating the  
19 amendments made by this act to section 787.025, Florida  
20 Statutes, in references thereto, section 943.0585, Florida  
21 Statutes, is reenacted to read:

22 943.0585 Court-ordered expunction of criminal history  
23 records.--The courts of this state have jurisdiction over  
24 their own procedures, including the maintenance, expunction,  
25 and correction of judicial records containing criminal history  
26 information to the extent such procedures are not inconsistent  
27 with the conditions, responsibilities, and duties established  
28 by this section. Any court of competent jurisdiction may order  
29 a criminal justice agency to expunge the criminal history  
30 record of a minor or an adult who complies with the  
31 requirements of this section. The court shall not order a

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

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

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

9 (a) A certificate of eligibility for expunction issued  
10 by 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  
21 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, or former s. 943.058, or from any  
25 jurisdiction outside the state.

26 4. Is eligible for such an expunction to the best of  
27 his or her knowledge or belief and does not have any other  
28 petition to expunge or any petition to seal 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 EXPUNCTION.--Prior  
6 to petitioning the court to expunge a criminal history record,  
7 a person seeking to expunge a criminal history record shall  
8 apply to the department for a certificate of eligibility for  
9 expunction. 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 expunction. The department shall issue a certificate of  
13 eligibility for expunction to a person who is the subject of a  
14 criminal history record if that person:

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

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

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

24 3. That the criminal history record does not relate to  
25 a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04,  
26 s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133,  
27 s. 847.0135, s. 847.0145, s. 893.135, or a violation  
28 enumerated in s. 907.041, where the defendant was found guilty  
29 of, or pled guilty or nolo contendere to any such offense, or  
30 that the defendant, as a minor, was found to have committed,  
31 or pled guilty or nolo contendere to committing, such an

1 offense as a delinquent act, without regard to whether  
2 adjudication was withheld.

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

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

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

14 (e) Has not been adjudicated guilty of, or adjudicated  
15 delinquent for committing, any of the acts stemming from the  
16 arrest or alleged criminal activity to which the petition to  
17 expunge pertains.

18 (f) Has never secured a prior sealing or expunction of  
19 a criminal history record under this section, former s.  
20 893.14, former s. 901.33, or former s. 943.058.

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

24 (h) Is not required to wait a minimum of 10 years  
25 prior to being eligible for an expunction of such records  
26 because all charges related to the arrest or criminal activity  
27 to which the petition to expunge pertains were dismissed prior  
28 to trial, adjudication, or the withholding of adjudication.  
29 Otherwise, such criminal history record must be sealed under  
30 this section, former s. 893.14, former s. 901.33, or former s.  
31

1 943.058 for at least 10 years before such record is eligible  
2 for expunction.

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

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

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

23 (c) For an order to expunge entered by a court prior  
24 to July 1, 1992, the department shall notify the appropriate  
25 state attorney or statewide prosecutor of an order to expunge  
26 which is contrary to law because the person who is the subject  
27 of the record has previously been convicted of a crime or  
28 comparable ordinance violation or has had a prior criminal  
29 history record sealed or expunged. Upon receipt of such  
30 notice, the appropriate state attorney or statewide prosecutor  
31 shall take action, within 60 days, to correct the record and

1 petition the court to void the order to expunge. The  
2 department shall seal the record until such time as the order  
3 is voided by the court.

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

20 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
21 criminal history record of a minor or an adult which is  
22 ordered expunged by a court of competent jurisdiction pursuant  
23 to this section must be physically destroyed or obliterated by  
24 any criminal justice agency having custody of such record;  
25 except that any criminal history record in the custody of the  
26 department must be retained in all cases. A criminal history  
27 record ordered expunged that is retained by the department is  
28 confidential and exempt from the provisions of s. 119.07(1)  
29 and s. 24(a), Art. I of the State Constitution and not  
30 available to any person or entity except upon order of a court  
31 of competent jurisdiction. A criminal justice agency may

1 retain a notation indicating compliance with an order to  
2 expunge.

3 (a) The person who is the subject of a criminal  
4 history record that is expunged under this section or under  
5 other provisions of law, including former s. 893.14, former s.  
6 901.33, and former s. 943.058, may lawfully deny or fail to  
7 acknowledge the arrests covered by the expunged record, except  
8 when the subject of the record:

9 1. Is a candidate for employment with a criminal  
10 justice agency;

11 2. Is a defendant in a criminal prosecution;

12 3. Concurrently or subsequently petitions for relief  
13 under this section or s. 943.059;

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

15 5. Is seeking to be employed or licensed by or to  
16 contract with the Department of Children and Family Services  
17 or the Department of Juvenile Justice or to be employed or  
18 used by such contractor or licensee in a sensitive position  
19 having direct contact with children, the developmentally  
20 disabled, the aged, or the elderly as provided in s.  
21 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
22 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
23 985.407, or chapter 400; or

24 6. Is seeking to be employed or licensed by the Office  
25 of Teacher Education, Certification, Staff Development, and  
26 Professional Practices of the Department of Education, any  
27 district school board, or any local governmental entity that  
28 licenses child care facilities.

29 (b) Subject to the exceptions in paragraph (a), a  
30 person who has been granted an expunction under this section,  
31 former s. 893.14, former s. 901.33, or former s. 943.058 may

1 not be held under any provision of law of this state to commit  
2 perjury or to be otherwise liable for giving a false statement  
3 by reason of such person's failure to recite or acknowledge an  
4 expunged criminal history record.

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

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

29 Section 12. For the purpose of incorporating the  
30 amendments made by this act to section 787.025, Florida  
31

1 Statutes, in references thereto, section 943.059, Florida  
2 Statutes, is reenacted to read:  
3           943.059 Court-ordered sealing of criminal history  
4 records.--The courts of this state shall continue to have  
5 jurisdiction over their own procedures, including the  
6 maintenance, sealing, and correction of judicial records  
7 containing criminal history information to the extent such  
8 procedures are not inconsistent with the conditions,  
9 responsibilities, and duties established by this section. Any  
10 court of competent jurisdiction may order a criminal justice  
11 agency to seal the criminal history record of a minor or an  
12 adult who complies with the requirements of this section. The  
13 court shall not order a criminal justice agency to seal a  
14 criminal history record until the person seeking to seal a  
15 criminal history record has applied for and received a  
16 certificate of eligibility for sealing pursuant to subsection  
17 (2). A criminal history record that relates to a violation of  
18 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
19 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,  
20 s. 847.0145, s. 893.135, or a violation enumerated in s.  
21 907.041 may not be sealed, without regard to whether  
22 adjudication was withheld, if the defendant was found guilty  
23 of or pled guilty or nolo contendere to the offense, or if the  
24 defendant, as a minor, was found to have committed or pled  
25 guilty or nolo contendere to committing the offense as a  
26 delinquent act. The court may only order sealing of a criminal  
27 history record pertaining to one arrest or one incident of  
28 alleged criminal activity, except as provided in this section.  
29 The court may, at its sole discretion, order the sealing of a  
30 criminal history record pertaining to more than one arrest if  
31 the additional arrests directly relate to the original arrest.

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

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

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

23 (b) The petitioner's sworn statement attesting that  
24 the petitioner:

25 1. Has never, prior to the date on which the petition  
26 is filed, been adjudicated guilty of a criminal offense or  
27 comparable ordinance violation or adjudicated delinquent for  
28 committing a felony or a misdemeanor specified in s.  
29 943.051(3)(b).

30 2. Has not been adjudicated guilty of or adjudicated  
31 delinquent for committing any of the acts stemming from the



1 | arrest or alleged criminal activity to which the petition to  
2 | seal pertains.

3 |           3. Has never secured a prior sealing or expunction of  
4 | a criminal history record under this section, former s.  
5 | 893.14, former s. 901.33, former s. 943.058, or from any  
6 | jurisdiction outside the state.

7 |           4. Is eligible for such a sealing to the best of his  
8 | or her knowledge or belief and does not have any other  
9 | petition to seal or any petition to expunge pending before any  
10 | court.

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

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

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

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

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

6 (d) Has not been adjudicated guilty of or adjudicated  
7 delinquent for committing any of the acts stemming from the  
8 arrest or alleged criminal activity to which the petition to  
9 seal pertains.

10 (e) Has never secured a prior sealing or expunction of  
11 a criminal history record under this section, former s.  
12 893.14, former s. 901.33, or former s. 943.058.

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

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

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

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

1 forward the order to seal to the Federal Bureau of  
2 Investigation. The clerk of the court shall certify a copy of  
3 the order to any other agency which the records of the court  
4 reflect has received the criminal history record from the  
5 court.

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

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

1 required by this section or when such order does not comply  
2 with the requirements of this section.

3 (e) An order sealing a criminal history record  
4 pursuant to this section does not require that such record be  
5 surrendered to the court, and such record shall continue to be  
6 maintained by the department and other criminal justice  
7 agencies.

8 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
9 criminal history record of a minor or an adult which is  
10 ordered sealed by a court of competent jurisdiction pursuant  
11 to this section is confidential and exempt from the provisions  
12 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
13 and is available only to the person who is the subject of the  
14 record, to the subject's attorney, to criminal justice  
15 agencies for their respective criminal justice purposes, or to  
16 those entities set forth in subparagraphs (a)1., 4., 5., and  
17 6. for their respective licensing and employment purposes.

18 (a) The subject of a criminal history record sealed  
19 under this section or under other provisions of law, including  
20 former s. 893.14, former s. 901.33, and former s. 943.058, may  
21 lawfully deny or fail to acknowledge the arrests covered by  
22 the sealed record, except when the subject of the record:

- 23 1. Is a candidate for employment with a criminal  
24 justice agency;
- 25 2. Is a defendant in a criminal prosecution;
- 26 3. Concurrently or subsequently petitions for relief  
27 under this section or s. 943.0585;
- 28 4. Is a candidate for admission to The Florida Bar;
- 29 5. Is seeking to be employed or licensed by or to  
30 contract with the Department of Children and Family Services  
31 or the Department of Juvenile Justice or to be employed or

1 used by such contractor or licensee in a sensitive position  
2 having direct contact with children, the developmentally  
3 disabled, the aged, or the elderly as provided in s.  
4 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
5 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
6 415.103, s. 985.407, or chapter 400; or

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

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

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

1 to whom the criminal history record relates or to persons  
2 having direct responsibility for employment or licensure  
3 decisions. Any person who violates the provisions of this  
4 paragraph commits a misdemeanor of the first degree,  
5 punishable as provided in s. 775.082 or 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 13. For the purpose of incorporating the  
11 amendments made by this act to sections 787.01, 787.02, and  
12 787.025, Florida Statutes, in references thereto, paragraph  
13 (b) of subsection (1) of section 944.606, Florida Statutes, is  
14 reenacted to read:

15 944.606 Sexual offenders; notification upon release.--

16 (1) As used in this section:

17 (b) "Sexual offender" means a person who has been  
18 convicted of committing, or attempting, soliciting, or  
19 conspiring to commit, any of the criminal offenses proscribed  
20 in the following statutes in this state or similar offenses in  
21 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
22 where the victim is a minor and the defendant is not the  
23 victim's parent; chapter 794, excluding ss. 794.011(10) and  
24 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
25 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;  
26 or any similar offense committed in this state which has been  
27 redesignated from a former statute number to one of those  
28 listed in this subsection, when the department has received  
29 verified information regarding such conviction; an offender's  
30 computerized criminal history record is not, in and of itself,  
31 verified information.

1           Section 14. 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 (a) of subsection (1) of section 944.607, Florida Statutes, is  
5 reenacted to read:

6           944.607 Notification to Department of Law Enforcement  
7 of information on sexual offenders.--

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

9           (a) "Sexual offender" means a person who is in the  
10 custody or control of, or under the supervision of, the  
11 department or is in the custody of a private correctional  
12 facility:

13           1. On or after October 1, 1997, as a result of a  
14 conviction for committing, or attempting, soliciting, or  
15 conspiring to commit, any of the criminal offenses proscribed  
16 in the following statutes in this state or similar offenses in  
17 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
18 where the victim is a minor and the defendant is not the  
19 victim's parent; chapter 794, excluding ss. 794.011(10) and  
20 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
21 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;  
22 or any similar offense committed in this state which has been  
23 redesignated from a former statute number to one of those  
24 listed in this paragraph; or

25           2. Who establishes or maintains a residence in this  
26 state and who has not been designated as a sexual predator by  
27 a court of this state but who has been designated as a sexual  
28 predator, as a sexually violent predator, or by another sexual  
29 offender designation in another state or jurisdiction and was,  
30 as a result of such designation, subjected to registration or  
31

1 community or public notification, or both, or would be if the  
2 person were a resident of that state or jurisdiction.

3 Section 15. For the purpose of incorporating the  
4 amendments made by this act to sections 787.01, 787.02, and  
5 787.025, Florida Statutes, in references thereto, subsection  
6 (15) of section 948.01, Florida Statutes, is reenacted to  
7 read:

8 948.01 When court may place defendant on probation or  
9 into community control.--

10 (15) Effective for an offense committed on or after  
11 July 1, 1998, a person is ineligible for placement on  
12 administrative probation if the person is sentenced to or is  
13 serving a term of probation or community control, regardless  
14 of the conviction or adjudication, for committing, or  
15 attempting, conspiring, or soliciting to commit, any of the  
16 felony offenses described in s. 787.01 or s. 787.02, where the  
17 victim is a minor and the defendant is not the victim's  
18 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.  
19 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.  
20 847.0145.

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

25 948.06 Violation of probation or community control;  
26 revocation; modification; continuance; failure to pay  
27 restitution or cost of supervision.--

28 (2)(a) When any state or local law enforcement agency  
29 investigates or arrests a person for committing, or  
30 attempting, soliciting, or conspiring to commit, a violation  
31 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,



1 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement  
2 agency shall contact the Department of Corrections to verify  
3 whether the person under investigation or under arrest is on  
4 probation, community control, parole, conditional release, or  
5 control release.

6 Section 17. Section 947.06, Florida Statutes, is  
7 amended to read:

8 947.06 Meeting; when commission may act.--The  
9 commission shall meet at regularly scheduled intervals and  
10 from time to time as may otherwise be determined by the chair.  
11 The making of recommendations to the Governor and Cabinet in  
12 matters relating to modifications of acts and decisions of the  
13 chair as provided in s. 947.04(1) shall be by a majority vote  
14 of the commission. No prisoner shall be placed on parole  
15 except as provided in ss. 947.172 and 947.174 by a panel of no  
16 fewer than two commissioners appointed by the chair. All  
17 matters relating to the granting, denying, or revoking of  
18 parole shall be decided in a meeting at which the public shall  
19 have the right to be present. Prior to the meeting, each  
20 victim of the crime committed by the inmate, or the victim's  
21 next of kin, shall be presented with a copy of all documents,  
22 findings, and evidence relating to the granting, denying, or  
23 revoking of parole. Victims of the crime committed by the  
24 inmate shall be permitted to make an oral statement or submit  
25 a written statement regarding their views as to the granting,  
26 denying, or revoking of parole. Persons not members or  
27 employees of the commission or victims of the crime committed  
28 by the inmate may be permitted to participate in deliberations  
29 concerning the granting and revoking of paroles only upon the  
30 prior written approval of the chair of the commission. To  
31 facilitate the ability of victims and other persons to attend

1 | commission meetings, the commission shall meet in various  
2 | counties including, but not limited to, Broward, Dade, Duval,  
3 | Escambia, Hillsborough, Leon, Orange, and Palm Beach, with the  
4 | location chosen being as close as possible to the location  
5 | where the parole-eligible inmate committed the offense for  
6 | which the parole-eligible inmate was sentenced. The  
7 | commission shall adopt rules governing the oral participation  
8 | of victims and the submission of written statements by  
9 | victims.

10 |         Section 18. Paragraph (g) of subsection (4) of section  
11 | 947.16, Florida Statutes, is amended to read:

12 |             947.16 Eligibility for parole; initial parole  
13 | interviews; powers and duties of commission.--

14 |             (4) A person who has become eligible for an initial  
15 | parole interview and who may, according to the objective  
16 | parole guidelines of the commission, be granted parole shall  
17 | be placed on parole in accordance with the provisions of this  
18 | law; except that, in any case of a person convicted of murder,  
19 | robbery, burglary of a dwelling or burglary of a structure or  
20 | conveyance in which a human being is present, aggravated  
21 | assault, aggravated battery, kidnapping, sexual battery or  
22 | attempted sexual battery, incest or attempted incest, an  
23 | unnatural and lascivious act or an attempted unnatural and  
24 | lascivious act, lewd and lascivious behavior, assault or  
25 | aggravated assault when a sexual act is completed or  
26 | attempted, battery or aggravated battery when a sexual act is  
27 | completed or attempted, arson, or any felony involving the use  
28 | of a firearm or other deadly weapon or the use of intentional  
29 | violence, at the time of sentencing the judge may enter an  
30 | order retaining jurisdiction over the offender for review of a  
31 | commission release order. This jurisdiction of the trial

1 court judge is limited to the first one-third of the maximum  
2 sentence imposed. When any person is convicted of two or more  
3 felonies and concurrent sentences are imposed, then the  
4 jurisdiction of the trial court judge as provided herein  
5 applies to the first one-third of the maximum sentence imposed  
6 for the highest felony of which the person was convicted. When  
7 any person is convicted of two or more felonies and  
8 consecutive sentences are imposed, then the jurisdiction of  
9 the trial court judge as provided herein applies to one-third  
10 of the total consecutive sentences imposed.

11 (g) The decision of the original sentencing judge or,  
12 in her or his absence, the chief judge of the circuit to  
13 vacate any parole release order as provided in this section is  
14 not appealable. Each inmate whose parole release order has  
15 been vacated by the court shall be reinterviewed within 2  
16 years after the date of receipt of the vacated release order  
17 and every 2 years thereafter, or earlier by order of the court  
18 retaining jurisdiction. However, each inmate whose parole  
19 release order has been vacated by the court and who has been:

- 20 1. Convicted of murder or attempted murder;
- 21 2. Convicted of sexual battery or attempted sexual  
22 battery; ~~or~~
- 23 3. Sentenced to a 25-year minimum mandatory sentence  
24 previously provided in s. 775.082; ~~or~~
- 25 4. Convicted of kidnapping,

26  
27 shall be reinterviewed once within 5 years after the date of  
28 receipt of the vacated release order and once every 5 years  
29 thereafter, if the commission finds that it is not reasonable  
30 to expect that parole would be granted during the following  
31 years and states the bases for the finding in writing. For

1 any inmate who is within 7 years of his or her tentative  
2 release date, the commission may establish a reinterview date  
3 prior to the 5-year schedule.

4 Section 19. Paragraph (b) of subsection (1) of section  
5 947.174, Florida Statutes, is amended to read:

6 947.174 Subsequent interviews.--

7 (1)

8 (b) For any inmate convicted of murder, attempted  
9 murder, sexual battery, attempted sexual battery, or  
10 kidnapping, or who has been sentenced to a 25-year minimum  
11 mandatory sentence previously provided in s. 775.082, and  
12 whose presumptive parole release date is more than 5 years  
13 after the date of the initial interview, a hearing examiner  
14 shall schedule an interview for review of the presumptive  
15 parole release date. Such interview shall take place once  
16 within 5 years after the initial interview and once every 5  
17 years thereafter if the commission finds that it is not  
18 reasonable to expect that parole will be granted at a hearing  
19 during the following years and states the bases for the  
20 finding in writing. For any inmate who is within 7 years of  
21 his or her tentative release date, the commission may  
22 establish an interview date prior to the 5-year schedule.

23 Section 20. This act shall take effect October 1,  
24 2004.

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