

CHAMBER ACTION

1 The Justice Appropriations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to sexual offenders; amending ss. 947.1405
7 and 948.30, F.S.; prohibiting a sex offender from having
8 contact with a child younger than 18; providing an
9 exception; providing that the Parole Commission or a court
10 may approve a sex offender having supervised contact with
11 a child younger than 18 under specified conditions;
12 prohibiting a sex offender from accessing or using the
13 Internet or other computer services without an approved
14 safety plan; reenacting s. 775.21(3)(b), F.S., relating to
15 the threat to public safety by sexual predators, to
16 incorporate the amendments made to ss. 947.1405 and
17 948.30, F.S., in references thereto; providing an
18 effective date.

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

21
22 Section 1. Paragraph (a) of subsection (7) of section
23 947.1405, Florida Statutes, is amended to read:

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24 | 947.1405 Conditional release program.--

25 | (7)(a) Any inmate who is convicted of a crime committed on
26 | or after October 1, 1995, or who has been previously convicted
27 | of a crime committed on or after October 1, 1995, in violation
28 | of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
29 | subject to conditional release supervision, shall have, in
30 | addition to any other conditions imposed, the following special
31 | conditions imposed by the commission:

32 | 1. A mandatory curfew from 10 p.m. to 6 a.m. The
33 | commission may designate another 8-hour period if the offender's
34 | employment precludes the above specified time, and such
35 | alternative is recommended by the Department of Corrections. If
36 | the commission determines that imposing a curfew would endanger
37 | the victim, the commission may consider alternative sanctions.

38 | 2. If the victim was under the age of 18, a prohibition on
39 | living within 1,000 feet of a school, day care center, park,
40 | playground, designated public school bus stop, or other place
41 | where children regularly congregate. A releasee who is subject
42 | to this subparagraph may not relocate to a residence that is
43 | within 1,000 feet of a public school bus stop. Beginning October
44 | 1, 2004, the commission or the department may not approve a
45 | residence that is located within 1,000 feet of a school, day
46 | care center, park, playground, designated school bus stop, or
47 | other place where children regularly congregate for any releasee
48 | who is subject to this subparagraph. On October 1, 2004, the
49 | department shall notify each affected school district of the
50 | location of the residence of a releasee 30 days prior to release
51 | and thereafter, if the releasee relocates to a new residence,

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52 shall notify any affected school district of the residence of
 53 the releasee within 30 days after relocation. If, on October 1,
 54 2004, any public school bus stop is located within 1,000 feet of
 55 the existing residence of such releasee, the district school
 56 board shall relocate that school bus stop. Beginning October 1,
 57 2004, a district school board may not establish or relocate a
 58 public school bus stop within 1,000 feet of the residence of a
 59 releasee who is subject to this subparagraph. The failure of the
 60 district school board to comply with this subparagraph shall not
 61 result in a violation of conditional release supervision.

62 3. Active participation in and successful completion of a
 63 sex offender treatment program with qualified practitioners
 64 ~~therapists~~ specifically trained to treat sex offenders, at the
 65 releasee's own expense. If a qualified practitioner ~~speciallly~~
 66 ~~trained therapist~~ is not available within a 50-mile radius of
 67 the releasee's residence, the offender shall participate in
 68 other appropriate therapy.

69 4. A prohibition on any contact with the victim, directly
 70 or indirectly, including through a third person, unless approved
 71 by the victim, the qualified practitioner treating the offender
 72 ~~offender's therapist~~, and the sentencing court.

73 5. If the victim was under the age of 18, a prohibition
 74 against ~~direct~~ contact ~~or association~~ with children under the
 75 age of 18 except as provided in this subparagraph. The
 76 commission may approve supervised contact with a child under the
 77 age of 18 if ~~until all of the following conditions are met:~~

78 a. A risk assessment has been completed by a qualified
 79 practitioner at the offender's sex offender treatment program.

80 b. Before supervised contact begins, the adult who is
 81 legally responsible for the child's welfare collaborates with
 82 the qualified practitioner to develop and implement a safety
 83 plan that details the acceptable conditions of contact between
 84 the offender and the child.

85 c. Supervised contact with the child is recommended by the
 86 qualified practitioner at the offender's sex offender treatment
 87 program.

88 d. The qualified practitioner approves the adult who is
 89 legally responsible for the child's welfare and who has agreed
 90 to personally supervise the child any time the offender is with
 91 the child.

92 e. The qualified practitioner determines that the
 93 supervised contact is in the best interest of the child and does
 94 not pose an undue risk to the child.

95 f. The adult who has been approved by the qualified
 96 practitioner understands that he or she must personally
 97 supervise the child any time the offender is with the child.

98 ~~a. Successful completion of a sex offender treatment~~
 99 ~~program.~~

100 ~~g.b.~~ The adult person who is legally responsible for the
 101 child's welfare ~~of the child~~ has been advised of the nature of
 102 the crime.

103 ~~e. Such adult person is present during all contact or~~
 104 ~~association with the child.~~

105 ~~d. Such adult person has been approved by the commission.~~

106 6. If the victim was under age 18, a prohibition on
 107 working for pay or as a volunteer at any school, day care

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108 center, park, playground, or other place where children
109 regularly congregate, as prescribed by the commission.

110 7. Unless otherwise indicated in the treatment plan
111 provided by the sexual offender treatment program, a prohibition
112 on viewing, accessing, owning, or possessing any obscene,
113 pornographic, or sexually stimulating visual or auditory
114 material, including telephone, electronic media, computer
115 programs, or computer services that are relevant to the
116 offender's deviant behavior pattern.

117 8. Effective for a releasee whose crime is committed on or
118 after July 1, 2005, a prohibition on accessing the Internet or
119 other computer services until a qualified practitioner at the
120 offender's sex offender treatment program has approved a safety
121 plan for accessing or using the Internet or other computer
122 services.

123 ~~9.8.~~ A requirement that the releasee must submit two
124 specimens of blood to the Florida Department of Law Enforcement
125 to be registered with the DNA database.

126 ~~10.9.~~ A requirement that the releasee make restitution to
127 the victim, as determined by the sentencing court or the
128 commission, for all necessary medical and related professional
129 services relating to physical, psychiatric, and psychological
130 care.

131 ~~11.10.~~ Submission to a warrantless search by the community
132 control or probation officer of the probationer's or community
133 controllee's person, residence, or vehicle.

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135 As used in this paragraph, the term "qualified practitioner"
 136 means a therapist licensed under chapter 490 or chapter 491, or
 137 holding equivalent licensure in another state, who is specially
 138 trained to evaluate and treat sex offenders.

139 Section 2. Subsection (1) of section 948.30, Florida
 140 Statutes, is amended to read:

141 948.30 Additional terms and conditions of probation or
 142 community control for certain sex offenses.--Conditions imposed
 143 pursuant to this section do not require oral pronouncement at
 144 the time of sentencing and shall be considered standard
 145 conditions of probation or community control for offenders
 146 specified in this section.

147 (1) Effective for probationers or community controllees
 148 whose crime was committed on or after October 1, 1995, and who
 149 are placed under supervision for violation of chapter 794, s.
 150 800.04, s. 827.071, or s. 847.0145, the court must impose the
 151 following conditions in addition to all other standard and
 152 special conditions imposed:

153 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court
 154 may designate another 8-hour period if the offender's employment
 155 precludes the above specified time, and the ~~such~~ alternative is
 156 recommended by the Department of Corrections. If the court
 157 determines that imposing a curfew would endanger the victim, the
 158 court may consider alternative sanctions.

159 (b) If the victim was under the age of 18, a prohibition
 160 on living within 1,000 feet of a school, day care center, park,
 161 playground, or other place where children regularly congregate,
 162 as prescribed by the court. The 1,000-foot distance shall be

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163 measured in a straight line from the offender's place of
 164 residence to the nearest boundary line of the school, day care
 165 center, park, playground, or other place where children
 166 congregate. The distance may not be measured by a pedestrian
 167 route or automobile route.

168 (c) Active participation in and successful completion of a
 169 sex offender treatment program with qualified practitioners
 170 ~~therapists~~ specifically trained to treat sex offenders, at the
 171 probationer's or community controllee's own expense. If a
 172 qualified practitioner ~~specially trained therapist~~ is not
 173 available within a 50-mile radius of the probationer's or
 174 community controllee's residence, the offender shall participate
 175 in other appropriate therapy.

176 (d) A prohibition on any contact with the victim, directly
 177 or indirectly, including through a third person, unless approved
 178 by the victim, the qualified practitioner treating the offender
 179 ~~offender's therapist~~, and the sentencing court.

180 (e) If the victim was under the age of 18, a prohibition,
 181 ~~until successful completion of a sex offender treatment program,~~
 182 on ~~unsupervised~~ contact with a child under the age of 18 except
 183 as provided in this paragraph, ~~unless authorized by the~~
 184 ~~sentencing court without another adult present who is~~
 185 ~~responsible for the child's welfare, has been advised of the~~
 186 ~~crime, and is approved by the sentencing court.~~ The court may
 187 approve supervised contact with a child under the age of 18 if:

188 1. A risk assessment has been completed by the qualified
 189 practitioner at the offender's sex offender treatment program.

190 2. Before supervised contact begins, the adult who is
 191 legally responsible for the child's welfare collaborates with
 192 the qualified practitioner to develop and implement a safety
 193 plan that details the acceptable conditions of contact between
 194 the offender and the child.

195 3. Supervised contact with the child is recommended by the
 196 qualified practitioner at the offender's sex offender treatment
 197 program.

198 4. The court approves the adult who is legally responsible
 199 for the child's welfare and who has agreed to personally
 200 supervise the child any time the offender is with the child.

201 5. The court determines that the supervised contact is in
 202 the best interest of the child and does not pose an undue risk
 203 to the child.

204 6. The adult who has been approved by the court
 205 understands that he or she must personally supervise the child
 206 any time the offender is with the child.

207 7. The adult who is legally responsible for the child's
 208 welfare has been advised of the nature of the crime.

209 (f) If the victim was under age 18, a prohibition on
 210 working for pay or as a volunteer at any ~~school, day care~~
 211 ~~center, park, playground, or other~~ place where children
 212 regularly congregate, including, but not limited to, a school,
 213 day care center, park, playground, pet store, library, zoo,
 214 theme park, and mall.

215 (g) Unless otherwise indicated in the treatment plan
 216 provided by the sexual offender treatment program, a prohibition
 217 on viewing, accessing, owning, or possessing any obscene,

218 | pornographic, or sexually stimulating visual or auditory
 219 | material, including telephone, electronic media, computer
 220 | programs, or computer services that are relevant to the
 221 | offender's deviant behavior pattern.

222 | (h) Effective for probationers and community controllees
 223 | whose crime is committed on or after July 1, 2005, a prohibition
 224 | on accessing the Internet or other computer services until a
 225 | qualified practitioner at the offender's sex offender treatment
 226 | program has approved a safety plan for accessing or using the
 227 | Internet or other computer services.

228 | ~~(i)(h)~~ A requirement that the probationer or community
 229 | controllee must submit a specimen of blood or other approved
 230 | biological specimen to the Department of Law Enforcement to be
 231 | registered with the DNA data bank.

232 | ~~(j)(i)~~ A requirement that the probationer or community
 233 | controllee make restitution to the victim, as ordered by the
 234 | court under s. 775.089, for all necessary medical and related
 235 | professional services relating to physical, psychiatric, and
 236 | psychological care.

237 | ~~(k)(j)~~ Submission to a warrantless search by the community
 238 | control or probation officer of the probationer's or community
 239 | controllee's person, residence, or vehicle.

240 |
 241 | As used in this subsection, the term "qualified practitioner"
 242 | means a therapist licensed under chapter 490 or chapter 491, or
 243 | holding equivalent licensure in another state, who is specially
 244 | trained to evaluate and treat sex offenders.

245 Section 3. For the purpose of incorporating the amendments
 246 made to sections 947.1405 and 948.30, Florida Statutes, in
 247 references thereto, paragraph (b) of subsection (3) of section
 248 775.21, Florida Statutes, is reenacted to read:

249 775.21 The Florida Sexual Predators Act.--

250 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE
 251 INTENT.--

252 (b) The high level of threat that a sexual predator
 253 presents to the public safety, and the long-term effects
 254 suffered by victims of sex offenses, provide the state with
 255 sufficient justification to implement a strategy that includes:

256 1. Incarcerating sexual predators and maintaining adequate
 257 facilities to ensure that decisions to release sexual predators
 258 into the community are not made on the basis of inadequate
 259 space.

260 2. Providing for specialized supervision of sexual
 261 predators who are in the community by specially trained
 262 probation officers with low caseloads, as described in ss.
 263 947.1405(7) and 948.30. The sexual predator is subject to
 264 specified terms and conditions implemented at sentencing or at
 265 the time of release from incarceration, with a requirement that
 266 those who are financially able must pay all or part of the costs
 267 of supervision.

268 3. Requiring the registration of sexual predators, with a
 269 requirement that complete and accurate information be maintained
 270 and accessible for use by law enforcement authorities,
 271 communities, and the public.

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272 | 4. Providing for community and public notification
273 | concerning the presence of sexual predators.

274 | 5. Prohibiting sexual predators from working with
275 | children, either for compensation or as a volunteer.

276 | Section 4. This act shall take effect July 1, 2005.