

CHAMBER ACTION

1 The Justice Council 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. 947.005
7 and 948.001, F.S.; providing definitions; amending ss.
8 947.1405 and 948.30, F.S.; prohibiting a sex offender from
9 having contact with a child younger than 18; providing an
10 exception; providing that the Parole Commission or a court
11 may approve a sex offender having supervised contact with
12 a child younger than 18 under specified conditions;
13 prohibiting a sex offender from accessing or using the
14 Internet or other computer services without an approved
15 safety plan; amending s. 112.011, F.S.; disqualifying
16 certain offenders from state employment; reenacting s.
17 775.21(3)(b), F.S., relating to the threat to public
18 safety by sexual offenders, to incorporate the amendment
19 made to s. 947.1405, F.S., in a reference thereto;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

24 Section 1. Subsections (9), (10), and (11) are added to
25 section 947.005, Florida Statutes, to read:

26 947.005 Definitions.--As used in this chapter, unless the
27 context clearly indicates otherwise:

28 (9) "Qualified practitioner" means a psychiatrist licensed
29 under chapter 458 or chapter 459, a psychologist licensed under
30 chapter 490, or a social worker, mental health counselor, or
31 marriage and family therapist licensed under chapter 491 who, as
32 determined by rule of the practitioner's respective board, has
33 the coursework, training, qualifications, and experience to
34 evaluate and treat sex offenders.

35 (10) "Risk assessment" means an assessment completed by an
36 independent qualified practitioner to evaluate the level of risk
37 associated with a sex offender's contact with a child.

38 (11) "Safety plan" means a written document prepared by
39 the qualified practitioner, in collaboration with the sex
40 offender, the child's parent or legal guardian, and, when
41 appropriate, the child, which establishes clear roles and
42 responsibilities for each individual involved in any contact
43 between the child and the sex offender.

44 Section 2. Paragraph (a) of subsection (7) of section
45 947.1405, Florida Statutes, is amended to read:

46 947.1405 Conditional release program.--

47 (7)(a) Any inmate who is convicted of a crime committed on
48 or after October 1, 1995, or who has been previously convicted
49 of a crime committed on or after October 1, 1995, in violation
50 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
51 subject to conditional release supervision, shall have, in

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52 | addition to any other conditions imposed, the following special
53 | conditions imposed by the commission:

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

60 | 2. If the victim was under the age of 18, a prohibition on
61 | living within 1,000 feet of a school, day care center, park,
62 | playground, designated public school bus stop, or other place
63 | where children regularly congregate. A releasee who is subject
64 | to this subparagraph may not relocate to a residence that is
65 | within 1,000 feet of a public school bus stop. Beginning October
66 | 1, 2004, the commission or the department may not approve a
67 | residence that is located within 1,000 feet of a school, day
68 | care center, park, playground, designated school bus stop, or
69 | other place where children regularly congregate for any releasee
70 | who is subject to this subparagraph. On October 1, 2004, the
71 | department shall notify each affected school district of the
72 | location of the residence of a releasee 30 days prior to release
73 | and thereafter, if the releasee relocates to a new residence,
74 | shall notify any affected school district of the residence of
75 | the releasee within 30 days after relocation. If, on October 1,
76 | 2004, any public school bus stop is located within 1,000 feet of
77 | the existing residence of such releasee, the district school
78 | board shall relocate that school bus stop. Beginning October 1,
79 | 2004, a district school board may not establish or relocate a

80 public school bus stop within 1,000 feet of the residence of a
 81 releasee who is subject to this subparagraph. The failure of the
 82 district school board to comply with this subparagraph shall not
 83 result in a violation of conditional release supervision.

84 3. Active participation in and successful completion of a
 85 sex offender treatment program with qualified practitioners
 86 ~~therapists~~ specifically trained to treat sex offenders, at the
 87 releasee's own expense. If a qualified practitioner ~~speciallly~~
 88 ~~trained therapist~~ is not available within a 50-mile radius of
 89 the releasee's residence, the offender shall participate in
 90 other appropriate therapy.

91 4. A prohibition on any contact with the victim, directly
 92 or indirectly, including through a third person, unless approved
 93 by the victim, the offender's therapist, and the sentencing
 94 court.

95 5. If the victim was under the age of 18, a prohibition
 96 against ~~direct contact or association~~ with children under the
 97 age of 18 without review and approval by the commission. The
 98 commission may approve supervised contact with a child under the
 99 age of 18 if the approval is based upon recommendation for
 100 contact issued by a qualified practitioner who is basing the
 101 recommendation on a risk assessment. Further, the sex offender
 102 must be currently enrolled in or have successfully completed a
 103 sex offender therapy program. The commission may not grant
 104 supervised contact with a child if the contact is not
 105 recommended by a qualified practitioner and may deny supervised
 106 contact with a child at any time. When considering whether to
 107 approve supervised contact with a child, the commission must

108 review and consider the following ~~until all of the following~~
 109 ~~conditions are met:~~

110 a. A risk assessment completed by a qualified
 111 practitioner. The qualified practitioner must prepare a written
 112 report that must include the findings of the assessment and
 113 address each of the following components:

114 (I) The sex offender's current legal status.

115 (II) The sex offender's history of adult charges with
 116 apparent sexual motivation.

117 (III) The sex offender's history of adult charges without
 118 apparent sexual motivation.

119 (IV) The sex offender's history of juvenile charges,
 120 whenever available.

121 (V) The sex offender's offender treatment history,
 122 including consultation with the sex offender's treating, or most
 123 recent treating, therapist.

124 (VI) The sex offender's current mental status.

125 (VII) The sex offender's mental health and substance abuse
 126 treatment history, as provided by the Department of Corrections.

127 (VIII) The sex offender's personal, social, educational,
 128 and work history.

129 (IX) The results of current psychological testing of the
 130 sex offender, if determined necessary by the qualified
 131 practitioner.

132 (X) A description of the proposed contact, including the
 133 location, frequency, duration, and supervisory arrangement.

134 (XI) The child's preference and relative comfort level
 135 with the proposed contact, when age appropriate.

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136 (XII) The parent's or legal guardian's preference
137 regarding the proposed contact.

138 (XIII) The qualified practitioner's opinion, along with
139 the basis for that opinion, as to whether the proposed contact
140 would likely pose significant risk of emotional or physical harm
141 to the child.

142
143 The written report of the assessment must be given to the
144 commission.

145 b. A recommendation made as a part of the risk-assessment
146 report as to whether supervised contact with the child should be
147 approved.

148 c. A written consent signed by the child's parent or legal
149 guardian, if the parent or legal guardian is not the sex
150 offender, agreeing to the sex offender's having supervised
151 contact with the child after receiving full disclosure of the
152 sex offender's present legal status, past criminal history, and
153 the results of the risk assessment. The commission may not
154 approve contact with the child if the parent or legal guardian
155 refuses to give written consent for supervised contact.

156 d. A safety plan prepared by the qualified practitioner
157 who provides treatment to the offender, in collaboration with
158 the sex offender, the child's parent or legal guardian, and the
159 child, when age appropriate, which details the acceptable
160 conditions of contact between the sex offender and the child.
161 The safety plan must be reviewed and approved by the Department
162 of Corrections before being submitted to the commission.

163 e. Evidence that the child's parent or legal guardian, if
 164 the parent or legal guardian is not the sex offender,
 165 understands the need for and agrees to the safety plan and has
 166 agreed to provide, or to designate another adult to provide,
 167 constant supervision any time the child is in contact with the
 168 offender.

169
 170 The commission may not appoint a person to conduct a risk
 171 assessment and may not accept a risk assessment from a person
 172 who has not demonstrated to the commission that he or she has
 173 met the requirements of a qualified practitioner as defined in
 174 this chapter.

175 ~~a. Successful completion of a sex offender treatment~~
 176 ~~program.~~

177 ~~b. The adult person who is legally responsible for the~~
 178 ~~welfare of the child has been advised of the nature of the~~
 179 ~~crime.~~

180 ~~c. Such adult person is present during all contact or~~
 181 ~~association with the child.~~

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

183 6. If the victim was under age 18, a prohibition on
 184 working for pay or as a volunteer at any school, day care
 185 center, park, playground, or other place where children
 186 regularly congregate, as prescribed by the commission.

187 7. Unless otherwise indicated in the treatment plan
 188 provided by the sexual offender treatment program, a prohibition
 189 on viewing, owning, or possessing any obscene, pornographic, or
 190 sexually stimulating visual or auditory material, including

191 telephone, electronic media, computer programs, or computer
192 services that are relevant to the offender's deviant behavior
193 pattern.

194 8. Effective for a releasee whose crime is committed on or
195 after July 1, 2005, a prohibition on accessing the Internet or
196 other computer services until the offender's sex offender
197 treatment program, after a risk assessment is completed,
198 approves and implements a safety plan for the offender's
199 accessing or using the Internet or other computer services.

200 ~~9.8.~~ A requirement that the releasee must submit two
201 specimens of blood to the Florida Department of Law Enforcement
202 to be registered with the DNA database.

203 ~~10.9.~~ A requirement that the releasee make restitution to
204 the victim, as determined by the sentencing court or the
205 commission, for all necessary medical and related professional
206 services relating to physical, psychiatric, and psychological
207 care.

208 ~~11.10.~~ Submission to a warrantless search by the community
209 control or probation officer of the probationer's or community
210 controllee's person, residence, or vehicle.

211 Section 3. Subsections (6) and (7) of section 948.001,
212 Florida Statutes, are renumbered as subsections (9) and (10),
213 respectively, and new subsections (6), (7), and (8) are added to
214 said section to read:

215 948.001 Definitions.--As used in this chapter, the term:

216 (6) "Qualified practitioner" means a psychiatrist licensed
217 under chapter 458 or chapter 459, a psychologist licensed under
218 chapter 490, or a social worker, mental health counselor, or

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219 marriage and family therapist licensed under chapter 491 who, as
 220 determined by rule of the practitioner's respective board, has
 221 the coursework, training, qualifications, and experience to
 222 evaluate and treat sex offenders.

223 (7) "Risk assessment" means an assessment completed by an
 224 independent qualified practitioner to evaluate the level of risk
 225 associated with a sex offender's contact with a child.

226 (8) "Safety plan" means a written document prepared by the
 227 qualified practitioner, in collaboration with the sex offender,
 228 the child's parent or legal guardian, and, when appropriate, the
 229 child which establishes clear roles and responsibilities for
 230 each individual involved in any contact between the child and
 231 the sex offender.

232 Section 4. Subsection (1) of section 948.30, Florida
 233 Statutes, is amended to read:

234 948.30 Additional terms and conditions of probation or
 235 community control for certain sex offenses.--Conditions imposed
 236 pursuant to this section do not require oral pronouncement at
 237 the time of sentencing and shall be considered standard
 238 conditions of probation or community control for offenders
 239 specified in this section.

240 (1) Effective for probationers or community controllees
 241 whose crime was committed on or after October 1, 1995, and who
 242 are placed under supervision for violation of chapter 794, s.
 243 800.04, s. 827.071, or s. 847.0145, the court must impose the
 244 following conditions in addition to all other standard and
 245 special conditions imposed:

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

252 (b) If the victim was under the age of 18, a prohibition
 253 on living within 1,000 feet of a school, day care center, park,
 254 playground, or other place where children regularly congregate,
 255 as prescribed by the court. The 1,000-foot distance shall be
 256 measured in a straight line from the offender's place of
 257 residence to the nearest boundary line of the school, day care
 258 center, park, playground, or other place where children
 259 congregate. The distance may not be measured by a pedestrian
 260 route or automobile route.

261 (c) Active participation in and successful completion of a
 262 sex offender treatment program with qualified practitioners
 263 ~~therapists~~ specifically trained to treat sex offenders, at the
 264 probationer's or community controllee's own expense. If a
 265 qualified practitioner ~~specially trained therapist~~ is not
 266 available within a 50-mile radius of the probationer's or
 267 community controllee's residence, the offender shall participate
 268 in other appropriate therapy.

269 (d) A prohibition on any contact with the victim, directly
 270 or indirectly, including through a third person, unless approved
 271 by the victim, the offender's therapist, and the sentencing
 272 court.

273 (e) If the victim was under the age of 18, a prohibition,

274 ~~until successful completion of a sex offender treatment program,~~
 275 on ~~unsupervised~~ contact with a child under the age of 18 except
 276 as provided in this paragraph, ~~unless authorized by the~~
 277 ~~sentencing court without another adult present who is~~
 278 ~~responsible for the child's welfare, has been advised of the~~
 279 ~~crime, and is approved by the sentencing court. The court may~~
 280 approve supervised contact with a child under the age of 18 if
 281 the approval is based upon a recommendation for contact issued
 282 by a qualified practitioner who is basing the recommendation on
 283 a risk assessment. Further, the sex offender must be currently
 284 enrolled in or have successfully completed a sex offender
 285 therapy program. The court may not grant supervised contact with
 286 a child if the contact is not recommended by a qualified
 287 practitioner and may deny supervised contact with a child at any
 288 time. When considering whether to approve supervised contact
 289 with a child, the court must review and consider the following:
 290 1. A risk assessment completed by a qualified
 291 practitioner. The qualified practitioner must prepare a written
 292 report that must include the findings of the assessment and
 293 address each of the following components:
 294 a. The sex offender's current legal status.
 295 b. The sex offender's history of adult charges with
 296 apparent sexual motivation.
 297 c. The sex offender's history of adult charges without
 298 apparent sexual motivation.
 299 d. The sex offender's history of juvenile charges,
 300 whenever available.
 301 e. The sex offender's offender treatment history,

302 including consultation with the sex offender's treating, or most
 303 recent treating, therapist.

304 f. The sex offender's current mental status.

305 g. The sex offender's mental health and substance abuse
 306 treatment history, as provided by the Department of Corrections.

307 h. The sex offender's personal, social, educational, and
 308 work history.

309 i. The results of current psychological testing of the sex
 310 offender if determined necessary by the qualified practitioner.

311 j. A description of the proposed contact, including the
 312 location, frequency, duration, and supervisory arrangement.

313 k. The child's preference and relative comfort level with
 314 the proposed contact, when age appropriate.

315 l. The parent's or legal guardian's preference regarding
 316 the proposed contact.

317 m. The qualified practitioner's opinion, along with the
 318 basis for that opinion, as to whether the proposed contact would
 319 likely pose significant risk of emotional or physical harm to
 320 the child.

322 The written report of the assessment must be given to the court.

323 2. A recommendation made as a part of the risk assessment
 324 report as to whether supervised contact with the child should be
 325 approved.

326 3. A written consent signed by the child's parent or legal
 327 guardian, if the parent or legal guardian is not the sex
 328 offender, agreeing to the sex offender's having supervised
 329 contact with the child after receiving full disclosure of the

330 sex offender's present legal status, past criminal history, and
 331 the results of the risk assessment. The court may not approve
 332 contact with the child if the parent or legal guardian refuses
 333 to give written consent for supervised contact.

334 4. A safety plan prepared by the qualified practitioner
 335 who provides treatment to the offender, in collaboration with
 336 the sex offender, the child's parent or legal guardian, if the
 337 parent or legal guardian is not the sex offender, and the child,
 338 when age appropriate, which details the acceptable conditions of
 339 contact between the sex offender and the child. The safety plan
 340 must be reviewed and approved by the court.

341 5. Evidence that the child's parent or legal guardian
 342 understands the need for and agrees to the safety plan and has
 343 agreed to provide, or to designate another adult to provide,
 344 constant supervision any time the child is in contact with the
 345 offender.

346
 347 The court may not appoint a person to conduct a risk assessment
 348 and may not accept a risk assessment from a person who has not
 349 demonstrated to the court that he or she has met the
 350 requirements of a qualified practitioner as defined in this
 351 chapter.

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

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358 (g) Unless otherwise indicated in the treatment plan
359 provided by the sexual offender treatment program, a prohibition
360 on viewing, accessing, owning, or possessing any obscene,
361 pornographic, or sexually stimulating visual or auditory
362 material, including telephone, electronic media, computer
363 programs, or computer services that are relevant to the
364 offender's deviant behavior pattern.

365 (h) Effective for probationers and community controllees
366 whose crime is committed on or after July 1, 2005, a prohibition
367 on accessing the Internet or other computer services until the
368 offender's sex offender treatment program, after a risk
369 assessment is completed, approves and implements a safety plan
370 for the offender's accessing or using the Internet or other
371 computer services.

372 ~~(i)(h)~~ A requirement that the probationer or community
373 controllee must submit a specimen of blood or other approved
374 biological specimen to the Department of Law Enforcement to be
375 registered with the DNA data bank.

376 ~~(j)(i)~~ A requirement that the probationer or community
377 controllee make restitution to the victim, as ordered by the
378 court under s. 775.089, for all necessary medical and related
379 professional services relating to physical, psychiatric, and
380 psychological care.

381 ~~(k)(j)~~ Submission to a warrantless search by the community
382 control or probation officer of the probationer's or community
383 controllee's person, residence, or vehicle.

384 Section 5. Paragraph (a) of subsection (1) of section
385 112.011, Florida Statutes, is amended to read:

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386 112.011 Felons; removal of disqualifications for
387 employment, exceptions.--

388 (1)(a) Except as provided in s. 775.16, a person shall not
389 be disqualified from employment by the state, any of its
390 agencies or political subdivisions, or any municipality solely
391 because of a prior conviction for a crime. However, a person may
392 be denied employment by the state, any of its agencies or
393 political subdivisions, or any municipality by reason of the
394 prior conviction for a crime if the crime was a felony or first
395 degree misdemeanor and directly related to the position of
396 employment sought. However, any person convicted of, or who had
397 adjudication withheld for, any violation of s. 794.011 or s.
398 800.04 or a violation of a similar law of another jurisdiction
399 shall not be employed by the state.

400 Section 6. For the purpose of incorporating the amendment
401 made to section 947.1405, Florida Statutes, in a reference
402 thereto, paragraph (b) of subsection (3) of section 775.21,
403 Florida Statutes, is reenacted to read:

404 775.21 The Florida Sexual Predators Act.--

405 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE
406 INTENT.--

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

411 1. Incarcerating sexual predators and maintaining adequate
412 facilities to ensure that decisions to release sexual predators

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413 into the community are not made on the basis of inadequate
414 space.

415 2. Providing for specialized supervision of sexual
416 predators who are in the community by specially trained
417 probation officers with low caseloads, as described in ss.
418 947.1405(7) and 948.30. The sexual predator is subject to
419 specified terms and conditions implemented at sentencing or at
420 the time of release from incarceration, with a requirement that
421 those who are financially able must pay all or part of the costs
422 of supervision.

423 3. Requiring the registration of sexual predators, with a
424 requirement that complete and accurate information be maintained
425 and accessible for use by law enforcement authorities,
426 communities, and the public.

427 4. Providing for community and public notification
428 concerning the presence of sexual predators.

429 5. Prohibiting sexual predators from working with
430 children, either for compensation or as a volunteer.

431 Section 7. This act shall take effect January 1, 2006.