

1 A bill to be entitled
2 An act relating to sexual offenders; amending
3 ss. 947.005 and 948.001, F.S.; defining terms;
4 amending ss. 947.1405 and 948.30, F.S.;
5 prohibiting a sex offender from having contact
6 with a child younger than 18; providing an
7 exception; providing that the Parole Commission
8 or a court may approve a sex offender having
9 supervised contact with a child younger than 18
10 under specified conditions; directing the
11 Department of Health to prepare and maintain a
12 list of "qualified practitioners"; requiring a
13 court and the commission to use qualified
14 practitioners on the department list to prepare
15 risk assessments; specifying that qualified
16 practitioners must meet the rule requirements
17 specified by their respective licensing boards;
18 prohibiting a sex offender from accessing or
19 using the Internet or other computer services
20 without an approved safety plan; reenacting s.
21 775.21(3)(b), F.S., relating to the threat to
22 public safety by sexual offenders, to
23 incorporate the amendments made to s. 947.1405,
24 F.S., in a reference thereto; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Section 947.005, Florida Statutes, is
30 amended to read:
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1 947.005 Definitions.--As used in this chapter, unless
2 the context clearly indicates otherwise:

3 (1) "Commission" means the Parole Commission.

4 (2) "Department" means the Department of Corrections.

5 (3) "Secretary" means the Secretary of Corrections.

6 (4) "Presumptive parole release date" means the
7 tentative parole release date as determined by objective
8 parole guidelines.

9 (5) "Effective parole release date" means the actual
10 parole release date as determined by the presumptive parole
11 release date, satisfactory institutional conduct, and an
12 acceptable parole plan.

13 (6) "Tentative release date" means the date projected
14 for the prisoner's release from custody by virtue of gain-time
15 granted or forfeited pursuant to s. 944.275(3)(a).

16 (7) "Provisional release date" means the date
17 projected for the prisoner's release from custody as
18 determined pursuant to s. 944.277.

19 (8) "Authority" means the Control Release Authority.

20 (9) "Qualified practitioner" means a psychiatrist
21 licensed under chapter 458 or chapter 459, a psychologist
22 licensed under chapter 490, or a social worker, a mental
23 health counselor, or a marriage and family therapist licensed
24 under chapter 491 who, as determined by rule of the respective
25 boards, has the coursework, training, qualifications, and
26 experience to evaluate and treat sex offenders.

27 (10) "Risk assessment" means an assessment completed
28 by an independent qualified practitioner to evaluate the level
29 of risk associated when a sex offender has contact with a
30 child.

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1 (11) "Safety plan" means a written document prepared
2 by the qualified practitioner, in collaboration with the sex
3 offender, the child's parent or legal guardian, and, when
4 appropriate, the child, which establishes clear roles and
5 responsibilities for each individual involved in any contact
6 between the child and the sex offender.

7 Section 2. Paragraph (a) of subsection (7) of section
8 947.1405, Florida Statutes, is amended to read:

9 947.1405 Conditional release program.--

10 (7)(a) Any inmate who is convicted of a crime
11 committed on or after October 1, 1995, or who has been
12 previously convicted of a crime committed on or after October
13 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,
14 or s. 847.0145, and is subject to conditional release
15 supervision, shall have, in addition to any other conditions
16 imposed, the following special conditions imposed by the
17 commission:

18 1. A mandatory curfew from 10 p.m. to 6 a.m. The
19 commission may designate another 8-hour period if the
20 offender's employment precludes the above specified time, and
21 such alternative is recommended by the Department of
22 Corrections. If the commission determines that imposing a
23 curfew would endanger the victim, the commission may consider
24 alternative sanctions.

25 2. If the victim was under the age of 18, a
26 prohibition on living within 1,000 feet of a school, day care
27 center, park, playground, designated public school bus stop,
28 or other place where children regularly congregate. A releasee
29 who is subject to this subparagraph may not relocate to a
30 residence that is within 1,000 feet of a public school bus
31 stop. Beginning October 1, 2004, the commission or the

1 department may not approve a residence that is located within
2 1,000 feet of a school, day care center, park, playground,
3 designated school bus stop, or other place where children
4 regularly congregate for any releasee who is subject to this
5 subparagraph. On October 1, 2004, the department shall notify
6 each affected school district of the location of the residence
7 of a releasee 30 days prior to release and thereafter, if the
8 releasee relocates to a new residence, shall notify any
9 affected school district of the residence of the releasee
10 within 30 days after relocation. If, on October 1, 2004, any
11 public school bus stop is located within 1,000 feet of the
12 existing residence of such releasee, the district school board
13 shall relocate that school bus stop. Beginning October 1,
14 2004, a district school board may not establish or relocate a
15 public school bus stop within 1,000 feet of the residence of a
16 releasee who is subject to this subparagraph. The failure of
17 the district school board to comply with this subparagraph
18 shall not result in a violation of conditional release
19 supervision.

20 3. Active participation in and successful completion
21 of a sex offender treatment program with qualified
22 practitioners ~~therapists~~ specifically trained to treat sex
23 offenders, at the releasee's own expense. If a qualified
24 practitioner ~~specialized therapist~~ is not available
25 within a 50-mile radius of the releasee's residence, the
26 offender shall participate in other appropriate therapy.

27 4. A prohibition on any contact with the victim,
28 directly or indirectly, including through a third person,
29 unless approved by the victim, the offender's therapist, and
30 the sentencing court.

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1 5. If the victim was under the age of 18, a
2 prohibition against ~~direct~~ contact ~~or association~~ with
3 children under the age of 18 without review and approval by
4 the commission. The commission may approve supervised contact
5 with a child under the age of 18 if the approval is based upon
6 a recommendation for contact issued by a qualified
7 practitioner who is basing the recommendation on a risk
8 assessment. Further, the sex offender must be currently
9 enrolled in or have successfully completed a sex offender
10 therapy program. The commission may not grant supervised
11 contact with a child if the contact is not recommended by a
12 qualified practitioner and may deny supervised contact with a
13 child at any time. When considering whether to approve
14 supervised contact with a child, the commission must review
15 and consider the following:

16 a. A risk assessment completed by a qualified
17 practitioner. The qualified practitioner must prepare a
18 written report that must include the findings of the
19 assessment and address each of the following components:

20 (I) The sex offender's current legal status;
21 (II) The sex offender's history of adult charges with
22 apparent sexual motivation;

23 (III) The sex offender's history of adult charges
24 without apparent sexual motivation;

25 (IV) The sex offender's history of juvenile charges,
26 whenever available;

27 (V) The sex offender's offender treatment history,
28 including a consultation from the sex offender's treating, or
29 most recent treating, therapist;

30 (VI) The sex offender's current mental status;
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1 (VII) The sex offender's mental health and
2 substance-abuse history as provided by the Department of
3 Corrections;

4 (VIII) The sex offender's personal, social, education,
5 and work history;

6 (IX) The results of current psychological testing of
7 the sex offender if determined necessary by the qualified
8 practitioner;

9 (X) A description of the proposed contact, including
10 the location, frequency, duration, and supervisory
11 arrangement;

12 (XI) The child's preference and relative comfort level
13 with the proposed contact, when age-appropriate;

14 (XII) The parent's or legal guardian's preference
15 regarding the proposed contact; and

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

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21 The written report of the assessment must be given to the
22 commission.

23 b. A recommendation made as a part of the
24 risk-assessment report as to whether supervised contact with
25 the child should be approved;

26 c. A written consent signed by the child's parent or
27 legal guardian, if the parent or legal guardian is not the sex
28 offender, agreeing to the sex offender having supervised
29 contact with the child after receiving full disclosure of the
30 sex offender's present legal status, past criminal history,
31 and the results of the risk assessment. The commission may not

1 approve contact with the child if the parent or legal guardian
2 refuses to give written consent for supervised contact;

3 d. A safety plan prepared by the qualified
4 practitioner, who provides treatment to the offender, in
5 collaboration with the sex offender, the child's parent or
6 legal guardian, and the child, when age appropriate, which
7 details the acceptable conditions of contact between the sex
8 offender and the child. The safety plan must be reviewed and
9 approved by the Department of Corrections before being
10 submitted to the commission; and

11 e. Evidence that the child's parent or legal guardian,
12 if the parent or legal guardian is not the sex offender,
13 understands the need for and agrees to the safety plan and has
14 agreed to provide, or to designate another adult to provide,
15 constant supervision any time the child is in contact with the
16 offender. ~~until all of the following conditions are met:~~

17 ~~a. Successful completion of a sex offender treatment~~
18 ~~program.~~

19 ~~b. The adult person who is legally responsible for the~~
20 ~~welfare of the child has been advised of the nature of the~~
21 ~~crime.~~

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

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

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28 The commission may not appoint a person to conduct a risk
29 assessment and may not accept a risk assessment from a person
30 who has not demonstrated to the commission that he or she has
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1 met the requirements of a qualified practitioner as defined in
2 this section.

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

7 7. Unless otherwise indicated in the treatment plan
8 provided by the sexual offender treatment program, a
9 prohibition on viewing, owning, or possessing any obscene,
10 pornographic, or sexually stimulating visual or auditory
11 material, including telephone, electronic media, computer
12 programs, or computer services that are relevant to the
13 offender's deviant behavior pattern.

14 8. Effective for a releasee whose crime is committed
15 on or after July 1, 2005, a prohibition on accessing the
16 Internet or other computer services until the offender's sex
17 offender treatment program, after a risk assessment is
18 completed, approves and implements a safety plan for the
19 offender's accessing or using the Internet or other computer
20 services.

21 ~~9.8.~~ A requirement that the releasee must submit two
22 specimens of blood to the Florida Department of Law
23 Enforcement to be registered with the DNA database.

24 ~~10.9.~~ A requirement that the releasee make restitution
25 to the victim, as determined by the sentencing court or the
26 commission, for all necessary medical and related professional
27 services relating to physical, psychiatric, and psychological
28 care.

29 ~~11.10.~~ Submission to a warrantless search by the
30 community control or probation officer of the probationer's or
31 community controllee's person, residence, or vehicle.

1 Section 3. Present subsections (6) and (7) of section
2 948.001, Florida Statutes, are redesignated as subsections (9)
3 and (10), respectively, and new subsections (6), (7), and (8)
4 are added to that section, to read:

5 948.001 Definitions.--As used in this chapter, the
6 term:

7 (6) "Qualified practitioner" means a psychiatrist
8 licensed under chapter 458 or chapter 459, a psychologist
9 licensed under chapter 490, or a social worker, a mental
10 health counselor, or a marriage and family therapist licensed
11 under chapter 491 who, as determined by rule of the respective
12 boards, has the coursework, training, qualifications, and
13 experience to evaluate and treat sex offenders.

14 (7) "Risk assessment" means an assessment completed by
15 an independent qualified practitioner to evaluate the level of
16 risk associated when a sex offender has contact with a child.

17 (8) "Safety plan" means a written document prepared by
18 the qualified practitioner, in collaboration with the sex
19 offender, the child's parent or legal guardian, and, when
20 appropriate, the child which establishes clear roles and
21 responsibilities for each individual involved in any contact
22 between the child and the sex offender.

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

25 948.30 Additional terms and conditions of probation or
26 community control for certain sex offenses.--Conditions
27 imposed pursuant to this section do not require oral
28 pronouncement at the time of sentencing and shall be
29 considered standard conditions of probation or community
30 control for offenders specified in this section.

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1 (1) Effective for probationers or community
2 controllees whose crime was committed on or after October 1,
3 1995, and who are placed under supervision for violation of
4 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court
5 must impose the following conditions in addition to all other
6 standard and special conditions imposed:

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

13 (b) If the victim was under the age of 18, a
14 prohibition on living within 1,000 feet of a school, day care
15 center, park, playground, or other place where children
16 regularly congregate, as prescribed by the court. The
17 1,000-foot distance shall be measured in a straight line from
18 the offender's place of residence to the nearest boundary line
19 of the school, day care center, park, playground, or other
20 place where children congregate. The distance may not be
21 measured by a pedestrian route or automobile route.

22 (c) Active participation in and successful completion
23 of a sex offender treatment program with qualified
24 practitioners ~~therapists~~ specifically trained to treat sex
25 offenders, at the probationer's or community controllee's own
26 expense. If a qualified practitioner ~~specially trained~~
27 ~~therapist~~ is not available within a 50-mile radius of the
28 probationer's or community controllee's residence, the
29 offender shall participate in other appropriate therapy.

30 (d) A prohibition on any contact with the victim,
31 directly or indirectly, including through a third person,

1 unless approved by the victim, the offender's therapist, and
2 the sentencing court.

3 (e) If the victim was under the age of 18, a
4 ~~prohibition, until successful completion of a sex offender~~
5 ~~treatment program, on unsupervised~~ contact with a child under
6 the age of 18 except as provided in this paragraph, unless
7 ~~authorized by the sentencing court without another adult~~
8 ~~present who is responsible for the child's welfare, has been~~
9 ~~advised of the crime, and is approved by the sentencing court.~~

10 The court may approve supervised contact with a child under
11 the age of 18 if the approval is based upon a recommendation
12 for contact issued by a qualified practitioner who is basing
13 the recommendation on a risk assessment. Further, the sex
14 offender must be currently enrolled in or have successfully
15 completed a sex offender therapy program. The court may not
16 grant supervised contact with a child if the contact is not
17 recommended by a qualified practitioner and may deny
18 supervised contact with a child at any time. When considering
19 whether to approve supervised contact with a child, the court
20 must review and consider the following:

21 1. A risk assessment completed by a qualified
22 practitioner. The qualified practitioner must prepare a
23 written report that must include the findings of the
24 assessment and address each of the following components:

25 a. The sex offender's current legal status;

26 b. The sex offender's history of adult charges with
27 apparent sexual motivation;

28 c. The sex offender's history of adult charges without
29 apparent sexual motivation;

30 d. The sex offender's history of juvenile charges,
31 whenever available;

- 1 e. The sex offender's offender treatment history,
2 including consultations with the sex offender's treating, or
3 most recent treating, therapist;
- 4 f. The sex offender's current mental status;
- 5 g. The sex offender's mental health and
6 substance-abuse-treatment history as provided by the
7 Department of Corrections;
- 8 h. The sex offender's personal, social, education, and
9 work history;
- 10 i. The results of current psychological testing of the
11 sex offender if determined necessary by the qualified
12 practitioner;
- 13 j. A description of the proposed contact, including
14 the location, frequency, duration, and supervisory
15 arrangement;
- 16 k. The child's preference and relative comfort level
17 with the proposed contact, when age-appropriate;
- 18 l. The parent's or legal guardian's preference
19 regarding the proposed contact; and
- 20 m. The qualified practitioner's opinion, along with
21 the basis for that opinion, as to whether the proposed contact
22 would likely pose significant risk of emotional or physical
23 harm to the child.
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- 25 The written report of the assessment must be given to the
26 court.
- 27 2. A recommendation made as a part of the risk
28 assessment report as to whether supervised contact with the
29 child should be approved;
- 30 3. A written consent signed by the child's parent or
31 legal guardian, if the parent or legal guardian is not the sex

1 offender, agreeing to the sex offender having supervised
2 contact with the child after receiving full disclosure of the
3 sex offender's present legal status, past criminal history,
4 and the results of the risk assessment. The court may not
5 approve contact with the child if the parent or legal guardian
6 refuses to give written consent for supervised contact.

7 4. A safety plan prepared by the qualified
8 practitioner, who provides treatment to the offender, in
9 collaboration with the sex offender, the child's parent or
10 legal guardian, if the parent or legal guardian is not the sex
11 offender, and the child, when age appropriate, which details
12 the acceptable conditions of contact between the sex offender
13 and the child. The safety plan must be reviewed and approved
14 by the court; and

15 5. Evidence that the child's parent or legal guardian
16 understands the need for and agrees to the safety plan and has
17 agreed to provide, or to designate another adult to provide,
18 constant supervision any time the child is in contact with the
19 offender.

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21 The court may not appoint a person to conduct a risk
22 assessment and may not accept a risk assessment from a person
23 who has not demonstrated to the court that he or she has met
24 the requirements of a qualified practitioner as defined in
25 this section.

26 (f) If the victim was under age 18, a prohibition on
27 working for pay or as a volunteer at any ~~school, day care~~
28 ~~center, park, playground, or other~~ place where children
29 regularly congregate, including, but not limited to, schools,
30 day care centers, parks, playgrounds, pet stores, libraries,
31 zoos, theme parks, and malls.

1 (g) Unless otherwise indicated in the treatment plan
2 provided by the sexual offender treatment program, a
3 prohibition on viewing, accessing, owning, or possessing any
4 obscene, pornographic, or sexually stimulating visual or
5 auditory material, including telephone, electronic media,
6 computer programs, or computer services that are relevant to
7 the offender's deviant behavior pattern.

8 (h) Effective for probationers and community
9 controllees whose crime is committed on or after July 1, 2005,
10 a prohibition on accessing the Internet or other computer
11 services until the offender's sex offender treatment program,
12 after a risk assessment is completed, approves and implements
13 a safety plan for the offender's accessing or using the
14 Internet or other computer services.

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

19 ~~(j)(i)~~ A requirement that the probationer or community
20 controllee make restitution to the victim, as ordered by the
21 court under s. 775.089, for all necessary medical and related
22 professional services relating to physical, psychiatric, and
23 psychological care.

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

27 Section 5. For the purpose of incorporating the
28 amendments made to section 947.1405, Florida Statutes, in a
29 reference thereto, paragraph (b) of subsection (3) of section
30 775.21, Florida Statutes, is reenacted to read:

31 775.21 The Florida Sexual Predators Act.--

1 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE
2 INTENT.--

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

8 1. Incarcerating sexual predators and maintaining
9 adequate facilities to ensure that decisions to release sexual
10 predators into the community are not made on the basis of
11 inadequate space.

12 2. Providing for specialized supervision of sexual
13 predators who are in the community by specially trained
14 probation officers with low caseloads, as described in ss.
15 947.1405(7) and 948.30. The sexual predator is subject to
16 specified terms and conditions implemented at sentencing or at
17 the time of release from incarceration, with a requirement
18 that those who are financially able must pay all or part of
19 the costs of supervision.

20 3. Requiring the registration of sexual predators,
21 with a requirement that complete and accurate information be
22 maintained and accessible for use by law enforcement
23 authorities, communities, and the public.

24 4. Providing for community and public notification
25 concerning the presence of sexual predators.

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

28 Section 6. This act shall take effect January 1, 2006.
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