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A bill to be entitled
 An act relating to sexual predators and sexual offenders;
 providing a popular name; amending s. 775.21, F.S.;
 revising criteria for sexual predator designation,
 extending period for petition to remove sexual predator
 designation; creating s. 775.235, F.S.; prohibiting the
 harboring of a sexual predator or sexual offender;
 providing criminal penalties; amending s. 921.141, F.S.;
 creating an aggravating circumstance pertaining to sexual
 predators for purposes of imposing the death penalty;
 amending s. 947.1405, F.S.; requiring sexual offenders and
 sexual predators on conditional release to be placed on
 electronic monitoring; creating s. 947.1406, F.S.;
 providing requirements for electronic monitoring of sexual
 offenders and sexual predators on conditional release;
 amending s. 948.30, F.S.; requiring sexual offenders and
 sexual predators on community control or probation to be
 placed on electronic monitoring; amending s. 948.11, F.S.;
 providing requirements for electronic monitoring of sexual
 offenders and sexual predators on community control or
 probation; providing an effective date.

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

Section 1. This act may be cited as the "Jessica Lunsford
 Act."

27 Section 2. Paragraph (b) of subsection (4) and paragraph
 28 (1) of subsection (6) of section 775.21, Florida Statutes, are
 29 amended to read:

30 775.21 The Florida Sexual Predators Act.--

31 (4) SEXUAL PREDATOR CRITERIA.--

32 (b) In order to be counted as a prior felony for purposes
 33 of this subsection, the felony must have resulted in a
 34 conviction ~~sentenced separately,~~ or an adjudication of
 35 delinquency for an offense committed ~~entered separately,~~ prior
 36 to the current offense ~~and sentenced or adjudicated separately~~
 37 ~~from any other felony conviction that is to be counted as a~~
 38 ~~prior felony. If the offender's prior enumerated felony was~~
 39 ~~committed more than 10 years before the primary offense, it~~
 40 ~~shall not be considered a prior felony under this subsection if~~
 41 ~~the offender has not been convicted of any other crime for a~~
 42 ~~period of 10 consecutive years from the most recent date of~~
 43 ~~release from confinement, supervision, or sanction, whichever is~~
 44 ~~later.~~

45 (6) REGISTRATION.--

46 (1) A sexual predator must maintain registration with the
 47 department for the duration of his or her life, unless the
 48 sexual predator has received a full pardon or has had a
 49 conviction set aside in a postconviction proceeding for any
 50 offense that met the criteria for the sexual predator
 51 designation. However, a sexual predator who was designated as a
 52 sexual predator by a court before October 1, 1998, and who has
 53 been lawfully released from confinement, supervision, or
 54 sanction, whichever is later, for at least 10 years and has not

55 | been arrested for any felony or misdemeanor offense since
56 | release, may petition the criminal division of the circuit court
57 | in the circuit in which the sexual predator resides for the
58 | purpose of removing the sexual predator designation. A sexual
59 | predator who was designated a sexual predator by a court on or
60 | after October 1, 1998, who has been lawfully released from
61 | confinement, supervision, or sanction, whichever is later, for
62 | at least 20 years, and who has not been arrested for any felony
63 | or misdemeanor offense since release may petition the criminal
64 | division of the circuit court in the circuit in which the sexual
65 | predator resides for the purpose of removing the sexual predator
66 | designation. A sexual predator who was designated a sexual
67 | predator by a court on or after October 1, 2005, who has been
68 | lawfully released from confinement, supervision, or sanction,
69 | whichever is later, for at least 30 years and who has not been
70 | arrested for any felony or misdemeanor offense since release may
71 | petition the criminal division of the circuit court in the
72 | circuit in which the sexual predator resides for the purpose of
73 | removing the sexual predator designation. The court may grant or
74 | deny such relief if the petitioner demonstrates to the court
75 | that he or she has not been arrested for any crime since
76 | release, the requested relief complies with the provisions of
77 | the federal Jacob Wetterling Act, as amended, and any other
78 | federal standards applicable to the removal of the designation
79 | as a sexual predator or required to be met as a condition for
80 | the receipt of federal funds by the state, and the court is
81 | otherwise satisfied that the petitioner is not a current or
82 | potential threat to public safety. The state attorney in the

83 circuit in which the petition is filed must be given notice of
 84 the petition at least 3 weeks before the hearing on the matter.
 85 The state attorney may present evidence in opposition to the
 86 requested relief or may otherwise demonstrate the reasons why
 87 the petition should be denied. If the court denies the petition,
 88 the court may set a future date at which the sexual predator may
 89 again petition the court for relief, subject to the standards
 90 for relief provided in this paragraph. Unless specified in the
 91 order, a sexual predator who is granted relief under this
 92 paragraph must comply with the requirements for registration as
 93 a sexual offender and other requirements provided under s.
 94 943.0435 or s. 944.607. If a petitioner obtains an order from
 95 the court that imposed the order designating the petitioner as a
 96 sexual predator which removes such designation, the petitioner
 97 shall forward a certified copy of the written findings or order
 98 to the department in order to have the sexual predator
 99 designation removed from the sexual predator registry.

100

101 The sheriff shall promptly provide to the department the
 102 information received from the sexual predator.

103 Section 3. Section 775.235, Florida Statutes, is created
 104 to read:

105 775.235 Harboring sexual predator or sexual offender.--Any
 106 person who permits a sexual predator or sexual offender to
 107 reside with that person knowing that the sexual predator or
 108 sexual offender has failed to comply with requirements of s.
 109 775.21, s. 943.0435, or s. 944.607 commits a felony of the third
 110 degree, punishable as provided in s. 775.082 or s. 775.083.

111 Section 4. Paragraph (o) is added to subsection (5) of
 112 section 921.141, Florida Statutes, to read:

113 921.141 Sentence of death or life imprisonment for capital
 114 felonies; further proceedings to determine sentence.--

115 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating circumstances
 116 shall be limited to the following:

117 (o) The capital felony was committed by a person
 118 designated a sexual predator pursuant to s. 775.21 or a person
 119 previously designated a sexual predator whose sexual predator
 120 designation had been removed.

121 Section 5. Paragraph (b) of subsection (7) of section
 122 947.1405, Florida Statutes, is amended, subsection (9) is
 123 renumbered as subsection (10), and a new subsection (9) is added
 124 to said section, to read:

125 947.1405 Conditional release program.--

126 (7)

127 (b) For a releasee whose crime was committed on or after
 128 October 1, 1997, in violation of chapter 794, s. 800.04, s.
 129 827.071, or s. 847.0145, and who is subject to conditional
 130 release supervision, in addition to any other provision of this
 131 ~~section subsection~~, the commission shall impose the following
 132 additional conditions of conditional release supervision:

133 1. As part of a treatment program, participation in a
 134 minimum of one annual polygraph examination to obtain
 135 information necessary for risk management and treatment and to
 136 reduce the sex offender's denial mechanisms. The polygraph
 137 examination must be conducted by a polygrapher trained
 138 specifically in the use of the polygraph for the monitoring of

139 sex offenders, where available, and at the expense of the sex
 140 offender. The results of the polygraph examination shall not be
 141 used as evidence in a hearing to prove that a violation of
 142 supervision has occurred.

143 2. Maintenance of a driving log and a prohibition against
 144 driving a motor vehicle alone without the prior approval of the
 145 supervising officer.

146 3. A prohibition against obtaining or using a post office
 147 box without the prior approval of the supervising officer.

148 4. If there was sexual contact, a submission to, at the
 149 probationer's or community controllee's expense, an HIV test
 150 with the results to be released to the victim or the victim's
 151 parent or guardian.

152 5. Electronic monitoring of any form when ordered by the
 153 commission.

154 (9) Effective for a releasee whose crime was committed on
 155 or after July 1, 2005, in violation of chapter 794, s. 800.04,
 156 s. 827.071, or s. 847.0145, or who is designated a sexual
 157 predator pursuant to s. 775.21, in addition to any other
 158 provision of this section, the court shall order electronic
 159 monitoring as provided in s. 947.1406.

160 Section 6. Section 947.1406, Florida Statutes, is created
 161 to read:

162 947.1406 Electronic monitoring for certain sex offenders
 163 and sexual predators.--For any conditional releasee placed on
 164 electronic monitoring pursuant to s. 947.1405(9), the department
 165 shall use a system of active electronic monitoring that
 166 identifies the location of a monitored offender and that can

167 produce upon request reports or records of the offender's
 168 presence near or within a crime scene or prohibited area or the
 169 offender's departure from specified geographic limitations.

170 Section 7. Subsection (2) of section 948.30, Florida
 171 Statutes, is amended, and subsection (3) is added to said
 172 section, to read:

173 948.30 Additional terms and conditions of probation or
 174 community control for certain sex offenses.--Conditions imposed
 175 pursuant to this section do not require oral pronouncement at
 176 the time of sentencing and shall be considered standard
 177 conditions of probation or community control for offenders
 178 specified in this section.

179 (2) Effective for a probationer or community controllee
 180 whose crime was committed on or after October 1, 1997, and who
 181 is placed on sex offender probation for a violation of chapter
 182 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any
 183 other provision of this section ~~subsection~~, the court must
 184 impose the following conditions of probation or community
 185 control:

186 (a) As part of a treatment program, participation at least
 187 annually in polygraph examinations to obtain information
 188 necessary for risk management and treatment and to reduce the
 189 sex offender's denial mechanisms. A polygraph examination must
 190 be conducted by a polygrapher trained specifically in the use of
 191 the polygraph for the monitoring of sex offenders, where
 192 available, and shall be paid for by the sex offender. The
 193 results of the polygraph examination shall not be used as

194 evidence in court to prove that a violation of community
 195 supervision has occurred.

196 (b) Maintenance of a driving log and a prohibition against
 197 driving a motor vehicle alone without the prior approval of the
 198 supervising officer.

199 (c) A prohibition against obtaining or using a post office
 200 box without the prior approval of the supervising officer.

201 (d) If there was sexual contact, a submission to, at the
 202 probationer's or community controllee's expense, an HIV test
 203 with the results to be released to the victim or the victim's
 204 parent or guardian.

205 (e) Electronic monitoring when deemed necessary by the
 206 community control or probation officer and his or her
 207 supervisor, and ordered by the court at the recommendation of
 208 the Department of Corrections.

209 (3) Effective for a probationer or community controllee
 210 whose crime was committed on or after July 1, 2005, and who is
 211 placed on sex offender probation for a violation of chapter 794,
 212 s. 800.04, s. 827.071, or s. 847.0145, or who is designated a
 213 sexual predator pursuant to s. 775.21, in addition to any other
 214 provision of this section, the court shall order electronic
 215 monitoring as provided in s. 948.11(6).

216 Section 8. Subsection (6) is added to section 948.11,
 217 Florida Statutes, to read:

218 948.11 Electronic monitoring devices.--

219 (6) For any probationer or community controllee placed on
 220 electronic monitoring pursuant to s. 948.30(3), the Department
 221 of Corrections shall use a system of active electronic

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222 monitoring that identifies the location of a monitored offender
223 and that can produce, upon request, reports or records of the
224 offender's presence near or within a crime scene or prohibited
225 area or the offender's departure from specified geographic
226 limitations.

227 Section 9. This act shall take effect July 1, 2005.