

CHAMBER ACTION

1 The Judiciary 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 public safety; amending s. 775.21,
7 F.S.; redefining the terms "permanent residence" and
8 "temporary residence" in order to reduce the number of
9 consecutive days and days in the aggregate which
10 constitute the residence of a sexual predator for purposes
11 of requirements that the predator register with the
12 Department of Law Enforcement, the sheriff's office, or
13 the Department of Corrections; revising provisions
14 relating to reimbursement of specified costs by sexual
15 predators; revising provisions relating to the residence
16 of sexual predators; providing penalties; creating s.
17 775.215, F.S.; specifying residency exclusions for sexual
18 offenders or sexual predators; preempting certain local
19 ordinances; amending s. 775.24, F.S.; revising provisions
20 relating to residency exclusions for sexual predators and
21 sexual offenders; amending s. 794.065, F.S.; providing
22 additional residency restrictions on certain offenders;
23 providing penalties; amending s. 947.1405, F.S.; providing

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24 additional conditional release restrictions for certain
 25 offenders; amending s. 947.141, F.S.; revising provisions
 26 relating to hearings alleging a violation of community
 27 release by specified releasees for failure to comply with
 28 specified residency exclusions; amending s. 948.06, F.S.;
 29 revising provisions relating to probation or community
 30 control for sexual predators and sexual offenders;
 31 amending s. 948.063, F.S.; revising provisions relating to
 32 violations of probation or community control by designated
 33 sexual offenders and sexual predators; amending s. 948.30,
 34 F.S.; revising provisions relating to terms and conditions
 35 of probation or community control for certain sex
 36 offenses; providing an effective date.

37

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

39

40 Section 1. Paragraphs (f) and (g) of subsection (2),
 41 paragraph (b) of subsection (3), paragraph (a) of subsection
 42 (7), and paragraph (b) of subsection (10) of section 775.21,
 43 Florida Statutes, are amended to read:

44 775.21 The Florida Sexual Predators Act.--

45 (2) DEFINITIONS.--As used in this section, the term:

46 (f) "Permanent residence" means a place where the person
 47 abides, lodges, or resides for 5 ~~14~~ or more consecutive days.

48 (g) "Temporary residence" means a place where the person
 49 abides, lodges, or resides for a period of 5 ~~14~~ or more days in
 50 the aggregate during any calendar year and which is not the
 51 person's permanent address, or, for a person whose permanent

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52 residence is not in this state, a place where the person is
53 employed, practices a vocation, or is enrolled as a student for
54 any period of time in this state, ~~or a place where the person~~
55 ~~routinely abides, lodges, or resides for a period of 4 or more~~
56 ~~consecutive or nonconsecutive days in any month and which is not~~
57 ~~the person's permanent residence, including any out-of-state~~
58 ~~address.~~

59 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE
60 INTENT.--

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

65 1. Incarcerating sexual predators and maintaining adequate
66 facilities to ensure that decisions to release sexual predators
67 into the community are not made on the basis of inadequate
68 space.

69 2. Providing for specialized supervision of sexual
70 predators who are in the community by specially trained
71 probation officers with low caseloads, as described in ss.
72 947.1405(7) and 948.30. The sexual predator is subject to
73 specified terms and conditions implemented at sentencing or at
74 the time of release from incarceration, with a requirement that
75 those sexual predators found to be indigent may defer payment
76 pursuant to s. 28.246 of all or part of the costs in accordance
77 with the provisions of that section ~~who are financially able~~
78 ~~must pay all or part of the costs of supervision.~~

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79 | 3. Requiring the registration of sexual predators, with a
80 | requirement that complete and accurate information be maintained
81 | and accessible for use by law enforcement authorities,
82 | communities, and the public.

83 | 4. Providing for community and public notification
84 | concerning the presence of sexual predators.

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

87 | (7) COMMUNITY AND PUBLIC NOTIFICATION.--

88 | (a) Law enforcement agencies must inform members of the
89 | community and the public of a sexual predator's presence. Upon
90 | notification of the presence of a sexual predator, the sheriff
91 | of the county or the chief of police of the municipality where
92 | the sexual predator establishes or maintains a permanent or
93 | temporary residence shall notify members of the community and
94 | the public of the presence of the sexual predator in a manner
95 | deemed appropriate by the sheriff or the chief of police. Within
96 | 48 hours after receiving notification of the presence of a
97 | sexual predator, the sheriff of the county or the chief of
98 | police of the municipality where the sexual predator temporarily
99 | or permanently resides shall notify each licensed day care
100 | center, elementary school, middle school, ~~and~~ high school, and
101 | library within a 1-mile radius of the temporary or permanent
102 | residence of the sexual predator of the presence of the sexual
103 | predator. Information provided to members of the community and
104 | the public regarding a sexual predator must include:

105 | 1. The name of the sexual predator;

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106 2. A description of the sexual predator, including a
107 photograph;

108 3. The sexual predator's current address, including the
109 name of the county or municipality if known;

110 4. The circumstances of the sexual predator's offense or
111 offenses; and

112 5. Whether the victim of the sexual predator's offense or
113 offenses was, at the time of the offense, a minor or an adult.

114

115 This paragraph does not authorize the release of the name of any
116 victim of the sexual predator.

117 (10) PENALTIES.--

118 (b) A sexual predator who has been convicted of or found
119 to have committed, or has pled nolo contendere or guilty to,
120 regardless of adjudication, any violation, or attempted
121 violation, of s. 787.01, s. 787.02, or s. 787.025, where the
122 victim is a minor and the defendant is not the victim's parent;
123 s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.
124 800.04; s. 827.071; s. 847.0133; or s. 847.0145, or a violation
125 of a similar law of another jurisdiction, when the victim of the
126 offense was a minor, and who works, whether for compensation or
127 as a volunteer, at any ~~business~~, school, day care center, park,
128 playground, library, or business or other place where children
129 regularly congregate, commits a felony of the third degree,
130 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

131 Section 2. Section 775.215, Florida Statutes, is created
132 to read:

133 775.215 Residency exclusions for sexual offenders or
 134 predators; local ordinances preempted.--

135 (1) The establishment of residency exclusions applicable
 136 to the residences of a person required to register as a sexual
 137 offender or sexual predator is expressly preempted to the state,
 138 and the provisions of ss. 794.065, 947.1405, and 948.30
 139 establishing such exclusions supersede any municipal or county
 140 ordinances imposing different exclusions.

141 (2) A provision of any ordinance adopted by a county or
 142 municipality prior to October 1, 2006, imposing residency
 143 exclusions for the residences of persons subject to the
 144 provisions of s. 794.065, s. 947.1405, or s. 948.30 is hereby
 145 repealed and abolished as of October 1, 2006.

146 Section 3. Subsection (2) of section 775.24, Florida
 147 Statutes, is amended to read:

148 775.24 Duty of the court to uphold laws governing sexual
 149 predators and sexual offenders.--

150 (2) If a person meets the criteria in this chapter for
 151 designation as a sexual predator or meets the criteria in s.
 152 943.0435, s. 944.606, s. 944.607, or any other law for
 153 classification as a sexual offender, the court may not enter an
 154 order, for the purpose of approving a plea agreement or for any
 155 other reason, which:

156 (a) Exempts a person who meets the criteria for
 157 designation as a sexual predator or classification as a sexual
 158 offender from such designation or classification, ~~or~~ exempts
 159 such person from the requirements for registration or community
 160 and public notification imposed upon sexual predators and sexual

161 offenders, or exempts such person from the residency exclusions
 162 contained in ss. 794.065, 947.1405, and 948.30;

163 (b) Restricts the compiling, reporting, or release of
 164 public records information that relates to sexual predators or
 165 sexual offenders; or

166 (c) Prevents any person or entity from performing its
 167 duties or operating within its statutorily conferred authority
 168 as such duty or authority relates to sexual predators or sexual
 169 offenders.

170 Section 4. Section 794.065, Florida Statutes, is amended
 171 to read:

172 794.065 Unlawful place of residence for persons convicted
 173 of certain sex offenses.--

174 (1) (a)1. It is unlawful for any person who has been
 175 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,
 176 or s. 847.0145, regardless of whether adjudication has been
 177 withheld, in which the victim of the offense was less than 16
 178 years of age, to reside within 1,000 feet of any school, day
 179 care center, park, or playground.

180 2. A person who violates this section and whose conviction
 181 for an offense listed in subparagraph 1. ~~under s. 794.011, s.~~
 182 ~~800.04, s. 827.071, or s. 847.0145~~ was classified as:

183 a. A felony of the first degree or higher, commits a
 184 felony of the third degree, punishable as provided in s. 775.082
 185 or s. 775.083. ~~A person who violates this section and whose~~
 186 ~~conviction under s. 794.011, s. 800.04, s. 827.071, or s.~~
 187 ~~847.0145 was classified as~~

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188 b. A felony of the second or third degree, commits a
189 misdemeanor of the first degree, punishable as provided in s.
190 775.082 or s. 775.083.

191 ~~(b)(2)~~ This subsection ~~section~~ applies to any person
192 convicted of an offense listed in subparagraph 1. if the offense
193 occurred a violation of s. 794.011, s. 800.04, s. 827.071, or s.
194 847.0145 for offenses that occur on or after October 1, 2004.

195 (2)(a)1. It is unlawful for any person who has been
196 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
197 800.04, s. 827.071, or s. 847.0145, regardless of whether
198 adjudication has been withheld, in which the victim of the
199 offense was less than 16 years of age, to reside within 1,500
200 feet of any school, day care center, park, playground, library,
201 or other business or place where children regularly congregate.

202 2. A person violating this subsection whose conviction of
203 an offense listed in subparagraph 1. was classified as:

204 a. A felony of the first degree or higher, commits a
205 felony of the third degree, punishable as provided in s. 775.082
206 or s. 775.083.

207 b. A felony of the second or third degree, commits a
208 misdemeanor of the first degree, punishable as provided in s.
209 775.082 or s. 775.083.

210 (b) The distances in this subsection shall be measured in
211 a straight line from the offender's place of residence to the
212 nearest boundary line of the school, day care center, park,
213 playground, library, or other business or place where children
214 regularly congregate. The distance may not be measured by a
215 pedestrian route or automobile route.

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216 (c) This subsection applies to any person convicted of an
217 offense listed in subparagraph 1. if the offense occurred on or
218 after October 1, 2006.

219 Section 5. Subsections (2) and (6) and paragraph (a) of
220 subsection (7) of section 947.1405, Florida Statutes, are
221 amended, and subsection (11) is added to that section, to read:

222 947.1405 Conditional release program.--

223 (2) (a) Any inmate who:

224 1.(a) Is convicted of a crime committed on or after
225 October 1, 1988, and before January 1, 1994; ~~and any inmate who~~
226 is convicted of a crime committed on or after January 1, 1994,
227 which crime is or was contained in category 1, category 2,
228 category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida
229 Rules of Criminal Procedure (1993), and who has served at least
230 one prior felony commitment at a state or federal correctional
231 institution; or is convicted of any of the following offenses
232 committed on or after October 1, 2006:

233 a. Kidnapping, under s. 787.01(1)(b);

234 b. False imprisonment, under s. 787.02(1)(b);

235 c. Sexual performance by a child, under s. 827.071; or

236 d. Selling or buying of minors, under s. 847.0145;

237 2.(b) Is sentenced as a habitual or violent habitual
238 offender or a violent career criminal pursuant to s. 775.084; or

239 3.(e) Is found to be a sexual predator under s. 775.21 or
240 former s. 775.23,

241
242 shall, upon reaching the tentative release date or provisional
243 release date, whichever is earlier, as established by the

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244 Department of Corrections, be released under supervision subject
245 to specified terms and conditions, including payment of the cost
246 of supervision pursuant to s. 948.09. Such supervision shall be
247 applicable to all sentences within the overall term of sentences
248 if an inmate's overall term of sentences includes one or more
249 sentences that are eligible for conditional release supervision
250 as provided herein.

251 (b) Effective July 1, 1994, and applicable for offenses
252 committed on or after that date, the commission may require, as
253 a condition of conditional release, that the releasee make
254 payment of the debt due and owing to a county or municipal
255 detention facility under s. 951.032 for medical care, treatment,
256 hospitalization, or transportation received by the releasee
257 while in that detention facility. The commission, in determining
258 whether to order such repayment and the amount of such
259 repayment, shall consider the amount of the debt, whether there
260 was any fault of the institution for the medical expenses
261 incurred, the financial resources of the releasee, the present
262 and potential future financial needs and earning ability of the
263 releasee, and dependents, and other appropriate factors.

264 (c) If any inmate, other than an inmate required to
265 register as a sexual predator under s. 775.21 or as a sexual
266 offender under s. 943.0435, placed on conditional release
267 supervision is also subject to probation or community control,
268 resulting from a probationary or community control split
269 sentence within the overall term of sentences, the Department of
270 Corrections shall supervise such person according to the
271 conditions imposed by the court and the commission shall defer

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272 to such supervision. If the court revokes probation or community
273 control and resentences the offender to a term of incarceration,
274 such revocation also constitutes a sufficient basis for the
275 revocation of the conditional release supervision on any
276 nonprobationary or noncommunity control sentence without further
277 hearing by the commission. If any such supervision on any
278 nonprobationary or noncommunity control sentence is revoked,
279 such revocation may result in a forfeiture of all gain-time, and
280 the commission may revoke the resulting deferred conditional
281 release supervision or take other action it considers
282 appropriate. If the term of conditional release supervision
283 exceeds that of the probation or community control, then, upon
284 expiration of the probation or community control, authority for
285 the supervision shall revert to the commission and the
286 supervision shall be subject to the conditions imposed by the
287 commission.

288 (d) If any inmate required to register as a sexual
289 predator under s. 775.21 or as a sexual offender under s.
290 943.0435 is placed on conditional release supervision is also
291 subject to probation or community supervision, the period of
292 court-ordered community supervision shall not be substituted for
293 conditional release supervision and shall follow the term of
294 conditional release supervision.

295 (e) A panel of no fewer than two commissioners shall
296 establish the terms and conditions of any such release. If the
297 offense was a controlled substance violation, the conditions
298 shall include a requirement that the offender submit to random
299 substance abuse testing intermittently throughout the term of

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300 conditional release supervision, upon the direction of the
301 correctional probation officer as defined in s. 943.10(3). The
302 commission shall also determine whether the terms and conditions
303 of such release have been violated and whether such violation
304 warrants revocation of the conditional release.

305 (6) The commission shall review the recommendations of the
306 department, and such other information as it deems relevant, and
307 may conduct a review of the inmate's record for the purpose of
308 establishing the terms and conditions of the conditional
309 release. The commission may impose any special conditions it
310 considers warranted from its review of the release plan and
311 recommendation. If the commission determines that the inmate is
312 eligible for release under this section, the commission shall
313 enter an order establishing the length of supervision and the
314 conditions attendant thereto. However, an inmate who has been
315 convicted of a violation of chapter 794 or found by the court to
316 be a sexual predator is subject to the maximum level of
317 supervision provided, with the mandatory conditions as required
318 in subsection (7), and that supervision shall continue through
319 the end of the releasee's original court-imposed sentence. The
320 length of supervision must not exceed the maximum penalty
321 imposed by the court. The commission may modify the conditions
322 of supervision at any time.

323 (7) (a) Any inmate who is convicted of a crime committed on
324 or after October 1, 1995, or who has been previously convicted
325 of a crime committed on or after October 1, 1995, in violation
326 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
327 subject to conditional release supervision, shall have, in

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328 addition to any other conditions imposed, the following special
329 conditions imposed by the commission:

330 1. A mandatory curfew from 10 p.m. to 6 a.m. The
331 commission may designate another 8-hour period if the offender's
332 employment precludes the above specified time, and such
333 alternative is recommended by the Department of Corrections. If
334 the commission determines that imposing a curfew would endanger
335 the victim, the commission may consider alternative sanctions.

336 2.a. If the victim was under the age of 18, a prohibition
337 on living within 1,000 feet of a school, day care center, park,
338 playground, designated public school bus stop, or other place
339 where children regularly congregate. A releasee who is subject
340 to this subparagraph may not relocate to a residence that is
341 within 1,000 feet of a public school bus stop.

342 b. Beginning October 1, 2004, the commission or the
343 department may not approve a residence that is located within
344 1,000 feet of a school, day care center, park, playground,
345 designated school bus stop, or other place where children
346 regularly congregate for any releasee who is subject to this
347 subparagraph. On October 1, 2004, the department shall notify
348 each affected school district of the location of the residence
349 of a releasee 30 days prior to release and thereafter, if the
350 releasee relocates to a new residence, shall notify any affected
351 school district of the residence of the releasee within 30 days
352 after relocation. If, on October 1, 2004, any public school bus
353 stop is located within 1,000 feet of the existing residence of
354 such releasee, the district school board shall relocate that
355 school bus stop. Beginning October 1, 2004, a district school

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356 board may not establish or relocate a public school bus stop
357 within 1,000 feet of the residence of a releasee who is subject
358 to this subparagraph. The failure of the district school board
359 to comply with this subparagraph shall not result in a violation
360 of conditional release supervision.

361 c. Beginning October 1, 2006, neither the commission nor
362 the department may approve a residence located within 1,500 feet
363 of a school, day care center, park, playground, designated
364 school bus stop, library, or other business or place where
365 children regularly congregate for any releasee who is subject to
366 this subparagraph. The distance provided in this sub-
367 subparagraph shall be measured in a straight line from the
368 offender's place of residence to the nearest boundary line of
369 the school, day care center, park, playground, library, or other
370 business or place where children regularly congregate. The
371 distance may not be measured by a pedestrian route or automobile
372 route.

373 3. Active participation in and successful completion of a
374 sex offender treatment program with qualified practitioners
375 specifically trained to treat sex offenders, at the releasee's
376 own expense. If a qualified practitioner is not available within
377 a 50-mile radius of the releasee's residence, the offender shall
378 participate in other appropriate therapy.

379 4. A prohibition on any contact with the victim, directly
380 or indirectly, including through a third person, unless approved
381 by the victim, the offender's therapist, and the sentencing
382 court.

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383 5. If the victim was under the age of 18, a prohibition
384 against contact with children under the age of 18 without review
385 and approval by the commission. The commission may approve
386 supervised contact with a child under the age of 18 if the
387 approval is based upon a recommendation for contact issued by a
388 qualified practitioner who is basing the recommendation on a
389 risk assessment. Further, the sex offender must be currently
390 enrolled in or have successfully completed a sex offender
391 therapy program. The commission may not grant supervised contact
392 with a child if the contact is not recommended by a qualified
393 practitioner and may deny supervised contact with a child at any
394 time. When considering whether to approve supervised contact
395 with a child, the commission must review and consider the
396 following:

397 a. A risk assessment completed by a qualified
398 practitioner. The qualified practitioner must prepare a written
399 report that must include the findings of the assessment and
400 address each of the following components:

401 (I) The sex offender's current legal status;

402 (II) The sex offender's history of adult charges with
403 apparent sexual motivation;

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

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

408 (V) The sex offender's offender treatment history,
409 including a consultation from the sex offender's treating, or
410 most recent treating, therapist;

411 (VI) The sex offender's current mental status;
 412 (VII) The sex offender's mental health and substance abuse
 413 history as provided by the Department of Corrections;
 414 (VIII) The sex offender's personal, social, educational,
 415 and work history;
 416 (IX) The results of current psychological testing of the
 417 sex offender if determined necessary by the qualified
 418 practitioner;
 419 (X) A description of the proposed contact, including the
 420 location, frequency, duration, and supervisory arrangement;
 421 (XI) The child's preference and relative comfort level
 422 with the proposed contact, when age-appropriate;
 423 (XII) The parent's or legal guardian's preference
 424 regarding the proposed contact; and
 425 (XIII) The qualified practitioner's opinion, along with
 426 the basis for that opinion, as to whether the proposed contact
 427 would likely pose significant risk of emotional or physical harm
 428 to the child.
 429
 430 The written report of the assessment must be given to the
 431 commission.
 432 b. A recommendation made as a part of the risk-assessment
 433 report as to whether supervised contact with the child should be
 434 approved;
 435 c. A written consent signed by the child's parent or legal
 436 guardian, if the parent or legal guardian is not the sex
 437 offender, agreeing to the sex offender having supervised contact
 438 with the child after receiving full disclosure of the sex

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439 offender's present legal status, past criminal history, and the
440 results of the risk assessment. The commission may not approve
441 contact with the child if the parent or legal guardian refuses
442 to give written consent for supervised contact;

443 d. A safety plan prepared by the qualified practitioner,
444 who provides treatment to the offender, in collaboration with
445 the sex offender, the child's parent or legal guardian, and the
446 child, when age appropriate, which details the acceptable
447 conditions of contact between the sex offender and the child.
448 The safety plan must be reviewed and approved by the Department
449 of Corrections before being submitted to the commission; and

450 e. Evidence that the child's parent or legal guardian, if
451 the parent or legal guardian is not the sex offender,
452 understands the need for and agrees to the safety plan and has
453 agreed to provide, or to designate another adult to provide,
454 constant supervision any time the child is in contact with the
455 offender.

456
457 The commission may not appoint a person to conduct a risk
458 assessment and may not accept a risk assessment from a person
459 who has not demonstrated to the commission that he or she has
460 met the requirements of a qualified practitioner as defined in
461 this section.

462 6. If the victim was under age 18, a prohibition on
463 working for pay or as a volunteer at any school, day care
464 center, park, playground, library, or other business or place
465 where children regularly congregate, as prescribed by the
466 commission.

467 7. Unless otherwise indicated in the treatment plan
468 provided by the sexual offender treatment program, a prohibition
469 on viewing, owning, or possessing any obscene, pornographic, or
470 sexually stimulating visual or auditory material, including
471 telephone, electronic media, computer programs, or computer
472 services that are relevant to the offender's deviant behavior
473 pattern.

474 8. Effective for a releasee whose crime is committed on or
475 after July 1, 2005, a prohibition on accessing the Internet or
476 other computer services until the offender's sex offender
477 treatment program, after a risk assessment is completed,
478 approves and implements a safety plan for the offender's
479 accessing or using the Internet or other computer services.

480 9. A requirement that the releasee must submit two
481 specimens of blood to the Florida Department of Law Enforcement
482 to be registered with the DNA database.

483 10. A requirement that the releasee make restitution to
484 the victim, as determined by the sentencing court or the
485 commission, for all necessary medical and related professional
486 services relating to physical, psychiatric, and psychological
487 care.

488 11. Submission to a warrantless search by the community
489 control or probation officer of the probationer's or community
490 controllee's person, residence, or vehicle. Such warrantless
491 search includes the use of electronic monitoring or other means
492 in the case of a person convicted of an offense under s.
493 775.21(4)(a)1.

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494 (11) Effective for a releasee whose crime was a violation
495 of s. 787.01(1)(b) or s. 787.02(1)(b) committed on or after
496 October 1, 2006, and whose crime involved a victim less than 16
497 years of age and an offender 18 years of age or older, in
498 addition to any other provision of this section, the commission
499 must order electronic monitoring for the duration of the
500 releasee's supervision.

501 Section 6. Subsection (8) is added to section 947.141,
502 Florida Statutes, to read:

503 947.141 Violations of conditional release, control
504 release, or conditional medical release or addiction-recovery
505 supervision.--

506 (8) Because of the compelling state interest in protecting
507 the public from sexual offenders or sexual predators granted the
508 privilege of conditional release, in any hearing alleging a
509 violation of community release by a releasee for failure to
510 comply with the residency exclusion in s. 947.1405, the
511 inability of the releasee to locate a residence in compliance
512 with s. 947.1405 shall not be a defense to the finding of a
513 violation under this section.

514 Section 7. Subsection (4) of section 948.06, Florida
515 Statutes, is amended to read:

516 948.06 Violation of probation or community control;
517 revocation; modification; continuance; failure to pay
518 restitution or cost of supervision.--

519 (4) Notwithstanding any other provision of this section, a
520 probationer or an offender in community control who is arrested
521 for violating his or her probation or community control in a

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522 material respect may be taken before the court in the county or
523 circuit in which the probationer or offender was arrested. That
524 court shall advise him or her of such charge of a violation and,
525 if such charge is admitted, shall cause him or her to be brought
526 before the court which granted the probation or community
527 control. If such violation is not admitted by the probationer or
528 offender, the court may commit him or her or release him or her
529 with or without bail to await further hearing. However, if the
530 probationer or offender is under supervision for any criminal
531 offense proscribed in chapter 794, s. 800.04(4), (5), (6), s.
532 827.071, or s. 847.0145, or is a registered sexual predator or a
533 registered sexual offender, or is under supervision for a
534 criminal offense for which he or she would meet the registration
535 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the
536 effective date of those sections, the court must make a finding
537 that the probationer or offender poses no ~~is not a~~ danger to the
538 public prior to release with or without bail. In determining
539 that the offender poses no danger to the public ~~the danger posed~~
540 ~~by the offender's or probationer's release~~, the court may
541 consider the nature and circumstances of the violation and any
542 new offenses charged; the offender's or probationer's past and
543 present conduct, including convictions of crimes; any record of
544 arrests without conviction for crimes involving violence or
545 sexual crimes; any other evidence of allegations of unlawful
546 sexual conduct or the use of violence by the offender or
547 probationer; the offender's or probationer's family ties, length
548 of residence in the community, employment history, and mental
549 condition; his or her history and conduct during the probation

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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550 or community control supervision from which the violation arises
551 and any other previous supervisions, including disciplinary
552 records of previous incarcerations; the likelihood that the
553 offender or probationer will engage again in a criminal course
554 of conduct; the weight of the evidence against the offender or
555 probationer; whether or not the probationer is currently subject
556 to electronic monitoring; and any other facts the court
557 considers relevant. The court, as soon as is practicable, shall
558 give the probationer or offender an opportunity to be fully
559 heard on his or her behalf in person or by counsel. After such
560 hearing, the court shall make findings of fact and forward the
561 findings to the court which granted the probation or community
562 control and to the probationer or offender or his or her
563 attorney. The findings of fact by the hearing court are binding
564 on the court which granted the probation or community control.
565 Upon the probationer or offender being brought before it, the
566 court which granted the probation or community control may
567 revoke, modify, or continue the probation or community control
568 or may place the probationer into community control as provided
569 in this section.

570 Section 8. Section 948.063, Florida Statutes, is amended
571 to read:

572 948.063 Violations of probation or community control by
573 designated sexual offenders and sexual predators.--

574 (1) If probation or community control is revoked by the
575 court pursuant to s. 948.06(2)(e) and the offender is required
576 to register ~~designated~~ as a ~~sexual offender~~ or sexual predator
577 under pursuant to s. 775.21 or as a sexual offender under s.

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578 943.0435 for unlawful sexual activity involving a victim under
579 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years of
580 age or older, and if the court imposes a subsequent term of
581 supervision following the revocation of probation or community
582 control, the court must order electronic monitoring as a
583 condition of the subsequent term of probation or community
584 control.

585 (2) If the probationer or offender is required to register
586 as a sexual predator under s. 775.21 or as a sexual offender
587 under s. 943.0435 for unlawful sexual activity involving a
588 victim under 16 years of age and the probationer or offender is
589 18 years of age or older and has violated the conditions of his
590 or her probation or community control, but the court does not
591 revoke the probation or community control, the court shall
592 nevertheless modify the probation or community control to
593 include electronic monitoring for any probationer or offender
594 not then subject to electronic monitoring.

595 (3) Because of the compelling state interest in protecting
596 the public from sexual predators or sexual offenders on
597 probation, in any hearing alleging a violation of probation by a
598 releasee for failure to comply with the residency exclusion in
599 s. 948.30, the inability of the probationer to locate a
600 residence in compliance with s. 948.30 shall not be a defense to
601 the finding of a violation under this section.

602 Section 9. Paragraphs (b) and (k) of subsection (1) and
603 subsection (3) of section 948.30, Florida Statutes, are amended,
604 and subsection (4) is added to that section, to read:

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605 948.30 Additional terms and conditions of probation or
606 community control for certain sex offenses.--Conditions imposed
607 pursuant to this section do not require oral pronouncement at
608 the time of sentencing and shall be considered standard
609 conditions of probation or community control for offenders
610 specified in this section.

611 (1) Effective for probationers or community controllees
612 whose crime was committed on or after October 1, 1995, and who
613 are placed under supervision for violation of chapter 794, s.
614 800.04, s. 827.071, or s. 847.0145, the court must impose the
615 following conditions in addition to all other standard and
616 special conditions imposed:

617 (b) 1. Except as provided in subparagraph 2., if the victim
618 was under the age of 18, a prohibition on living within 1,000
619 feet of a school, day care center, park, playground, or other
620 place where children regularly congregate, as prescribed by the
621 court. The 1,000-foot distance shall be measured in a straight
622 line from the offender's place of residence to the nearest
623 boundary line of the school, day care center, park, playground,
624 or other place where children regularly congregate. The distance
625 may not be measured by a pedestrian route or automobile route.

626 2. For probationers or community controllees whose crime
627 was committed on or after October 1, 2006, if the victim was
628 under the age of 18, a prohibition on living within 1,500 feet
629 of a school, day care center, park, playground, library, or
630 other business or place where children regularly congregate, as
631 prescribed by the court. This distance shall be measured in a
632 straight line from the offender's place of residence to the

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633 | nearest boundary line of the school, day care center, park,
634 | playground, library, or other business or place where children
635 | regularly congregate. The distance may not be measured by a
636 | pedestrian route or automobile route.

637 | (k) Submission to a warrantless search by the community
638 | control or probation officer of the probationer's or community
639 | controllee's person, residence, or vehicle. Such a warrantless
640 | search includes the use of electronic monitoring or other means
641 | in the case of a person convicted of an offense under s.
642 | 775.21(4)(a)1.

643 | (3) Effective for a probationer or community controllee
644 | whose crime was committed on or after September 1, 2005, and
645 | who:

646 | (a) Is placed on probation or community control for a
647 | violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
648 | or s. 847.0145 and the unlawful sexual activity involved a
649 | victim under 16 ~~15~~ years of age ~~or younger~~ and the offender is
650 | 18 years of age or older;

651 | (b) Is designated a sexual predator pursuant to s. 775.21;
652 | or

653 | (c) Has previously been convicted of a violation of
654 | chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
655 | 847.0145 and the unlawful sexual activity involved a victim
656 | under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years
657 | of age or older,
658 |

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659 | the court must order, in addition to any other provision of this
660 | section, mandatory electronic monitoring as a condition of the
661 | probation or community control supervision.

662 | (4) Effective for a probationer or community controllee
663 | whose crime was committed on or after October 1, 2006, who has
664 | previously been convicted of a violation of s. 787.01(1)(b) or
665 | s. 787.02(1)(b), and the unlawful sexual activity involved a
666 | victim under 16 years of age and the offender is 18 years of age
667 | or older, the court must order, in addition to any other
668 | provision of this section, mandatory electronic monitoring as a
669 | condition of the probation or community control supervision.

670 | Section 10. This act shall take effect October 1, 2006.