

1 A bill to be entitled

2 An act relating to criminal justice; amending s. 648.387,  
3 F.S.; authorizing bail bond agents to provide electronic  
4 monitoring equipment and services; authorizing bail bond  
5 agents to contract with third-party vendors to provide  
6 electronic monitoring services; authorizing bail bond  
7 agents to register with a governmental entity to provide  
8 electronic monitoring equipment and services in certain  
9 circumstances; authorizing such agents to collect a fee  
10 for electronic monitoring equipment and services;  
11 providing that failure to timely pay fees constitutes  
12 grounds to remand; providing that such fees are exempt  
13 from specified premium requirements; amending s. 775.21,  
14 F.S.; redefining the terms "permanent residence" and  
15 "temporary residence" in order to reduce the number of  
16 consecutive days and days in the aggregate that constitute  
17 the residence of a sexual predator for purposes of  
18 requirements that the predator register with the  
19 Department of Law Enforcement, the sheriff's office, or  
20 the Department of Corrections; revising provisions  
21 relating to reimbursement of specified costs by sexual  
22 predators; revising provisions relating to the residence  
23 of sexual predators; providing penalties; creating s.  
24 775.215, F.S.; specifying residency exclusions for sexual  
25 offenders or sexual predators; preempting and repealing  
26 certain local ordinances; amending s. 775.24, F.S.;  
27 revising provisions relating to residency exclusions for

28 | sexual predators and sexual offenders; amending s.  
29 | 794.065, F.S.; providing additional residency restrictions  
30 | on certain offenders; providing penalties; creating s.  
31 | 907.06, F.S.; providing for electronic monitoring of  
32 | certain defendants on pretrial release; requiring the  
33 | monitored defendant to pay fees; providing that provision  
34 | of electronic monitoring equipment and services is not an  
35 | undertaking to protect members of the public from harm  
36 | occasioned by a monitored defendant; prohibiting a  
37 | defendant being monitored from tampering with monitoring  
38 | equipment; creating s. 907.07, F.S.; requiring the chief  
39 | judge of each circuit to maintain a list of licensed bail  
40 | bond agents who are eligible private vendors for provision  
41 | of electronic monitoring equipment and services; requiring  
42 | registration of such vendors and certification of  
43 | electronic monitoring devices; providing grounds for  
44 | removal from the list; creating s. 907.08, F.S.; providing  
45 | standards for privately owned electronic monitoring  
46 | systems; creating s. 907.09, F.S.; providing criminal  
47 | penalties for tampering with electronic monitoring  
48 | devices; providing criminal penalties for cloning or  
49 | jamming the signal of an electronic monitoring device;  
50 | providing criminal penalties for the alteration or  
51 | destruction of data stored or transmitted by an electronic  
52 | monitoring device with specified intent; creating s.  
53 | 944.161, F.S.; providing for electronic monitoring of  
54 | inmates within correctional facilities; requiring

55 monitoring of certain employees and visitors to such  
56 facilities; providing system requirements; prohibiting  
57 specified actions relating to such monitoring systems and  
58 data from such systems; providing penalties; providing  
59 rulemaking authority; amending s. 947.1405, F.S.;  
60 providing additional conditional release restrictions for  
61 certain offenders; amending s. 947.141, F.S.; revising  
62 provisions relating to hearings alleging a violation of  
63 community release by specified releasees for failure to  
64 comply with specified residency exclusions; amending s.  
65 948.06, F.S.; revising provisions relating to probation or  
66 community control for sexual predators and sexual  
67 offenders; amending s. 948.063, F.S.; revising provisions  
68 relating to violations of probation or community control  
69 by designated sexual offenders and sexual predators;  
70 amending s. 948.30, F.S.; revising provisions relating to  
71 terms and conditions of probation or community control for  
72 certain sex offenses; creating s. 985.4047, F.S.;  
73 providing for electronic monitoring of juvenile offenders  
74 within juvenile facilities; requiring monitoring of  
75 certain employees and visitors to such facilities;  
76 providing system requirements; prohibiting specified  
77 actions relating to such monitoring systems and data from  
78 such systems; providing penalties; providing rulemaking  
79 authority; providing effective dates.

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

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Section 1. Subsection (6) is added to section 648.387, Florida Statutes, to read:

648.387 Primary bail bond agents; duties; provision of electronic monitoring equipment and services by licensed agents.--

(6) (a) A licensed bail bond agent qualifying under s. 907.07 may provide electronic monitoring equipment and services for defendants released from custody on a surety bond and subject to conditions including electronic monitoring. A licensed bail bond agent may subcontract with a third party to provide these services if the third party complies with the requirements under s. 907.07. A licensed bail bond agent qualifying under s. 907.07 may also register with a governmental entity to provide electronic monitoring equipment and services under contract with that entity.

(b) A licensed bail bond agent may charge a defendant subject to electronic monitoring a reasonable, nonrefundable fee for electronic monitoring equipment and services. The amount of the fee charged in each judicial circuit shall not exceed the maximum daily fee set annually by the chief judge for the judicial circuit in which the defendant is released. The failure of a defendant to pay this fee in a timely manner shall constitute grounds for the licensed bail bond agent to remand the defendant to the custody of the court or appropriate law enforcement agency. Fees charged by a bail bond agent for electronic monitoring equipment and services shall not be

109 considered part of the bail bond premium and shall be exempt  
 110 from the provisions of s. 648.33.

111 (c) Records and receipts for electronic monitoring  
 112 equipment and services provided by a licensed bail bond agent  
 113 shall be kept separate and apart from bail bond records and  
 114 shall be available for inspection by the court or the  
 115 appropriate governmental entity.

116 Section 2. Paragraphs (f) and (g) of subsection (2),  
 117 paragraph (a) of subsection (7), and paragraph (b) of subsection  
 118 (10) of section 775.21, Florida Statutes, are amended to read:

119 775.21 The Florida Sexual Predators Act.--

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

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

123 (g) "Temporary residence" means a place where the person  
 124 abides, lodges, or resides for a period of 5 ~~14~~ or more days in  
 125 the aggregate during any calendar year and which is not the  
 126 person's permanent address, or, for a person whose permanent  
 127 residence is not in this state, a place where the person is  
 128 employed, practices a vocation, or is enrolled as a student for  
 129 any period of time in this state, ~~or a place where the person~~  
 130 ~~routinely abides, lodges, or resides for a period of 4 or more~~  
 131 ~~consecutive or nonconsecutive days in any month and which is not~~  
 132 ~~the person's permanent residence, including any out of state~~  
 133 ~~address.~~

134 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

135 (a) Law enforcement agencies must inform members of the  
136 community and the public of a sexual predator's presence. Upon  
137 notification of the presence of a sexual predator, the sheriff  
138 of the county or the chief of police of the municipality where  
139 the sexual predator establishes or maintains a permanent or  
140 temporary residence shall notify members of the community and  
141 the public of the presence of the sexual predator in a manner  
142 deemed appropriate by the sheriff or the chief of police. Within  
143 48 hours after receiving notification of the presence of a  
144 sexual predator, the sheriff of the county or the chief of  
145 police of the municipality where the sexual predator temporarily  
146 or permanently resides shall notify each licensed day care  
147 center, elementary school, middle school, ~~and~~ high school, and  
148 library within a 1-mile radius of the temporary or permanent  
149 residence of the sexual predator of the presence of the sexual  
150 predator. Information provided to members of the community and  
151 the public regarding a sexual predator must include:

- 152 1. The name of the sexual predator;
- 153 2. A description of the sexual predator, including a  
154 photograph;
- 155 3. The sexual predator's current address, including the  
156 name of the county or municipality if known;
- 157 4. The circumstances of the sexual predator's offense or  
158 offenses; and
- 159 5. Whether the victim of the sexual predator's offense or  
160 offenses was, at the time of the offense, a minor or an adult.

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162 This paragraph does not authorize the release of the name of any  
163 victim of the sexual predator.

164 (10) PENALTIES.--

165 (b) A sexual predator who has been convicted of or found  
166 to have committed, or has pled nolo contendere or guilty to,  
167 regardless of adjudication, any violation, or attempted  
168 violation, of s. 787.01, s. 787.02, or s. 787.025, where the  
169 victim is a minor and the defendant is not the victim's parent;  
170 s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.  
171 800.04; s. 827.071; s. 847.0133; or s. 847.0145, or a violation  
172 of a similar law of another jurisdiction, when the victim of the  
173 offense was a minor, and who works, whether for compensation or  
174 as a volunteer, at any ~~business~~, school, day care center, park,  
175 playground, library, or business or other place where children  
176 regularly congregate, commits a felony of the third degree,  
177 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

178 Section 3. Section 775.215, Florida Statutes, is created  
179 to read:

180 775.215 Residency exclusions for sexual offenders or  
181 predators; local ordinances preempted.--

182 (1) The establishment of residency exclusions applicable  
183 to the residences of a person required to register as a sexual  
184 offender or sexual predator is expressly preempted to the state,  
185 and the provisions of ss. 794.065, 947.1405, and 948.30  
186 establishing such exclusions supersede any municipal or county  
187 ordinances imposing different exclusions.

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

193        Section 4. Subsection (2) of section 775.24, Florida  
 194 Statutes, is amended to read:

195        775.24 Duty of the court to uphold laws governing sexual  
 196 predators and sexual offenders.--

197        (2) If a person meets the criteria in this chapter for  
 198 designation as a sexual predator or meets the criteria in s.  
 199 943.0435, s. 944.606, s. 944.607, or any other law for  
 200 classification as a sexual offender, the court may not enter an  
 201 order, for the purpose of approving a plea agreement or for any  
 202 other reason, which:

203        (a) Exempts a person who meets the criteria for  
 204 designation as a sexual predator or classification as a sexual  
 205 offender from such designation or classification, ~~or~~ exempts  
 206 such person from the requirements for registration or community  
 207 and public notification imposed upon sexual predators and sexual  
 208 offenders, or exempts such person from the residency exclusions  
 209 contained in ss. 794.065, 947.1405, and 948.30;

210        (b) Restricts the compiling, reporting, or release of  
 211 public records information that relates to sexual predators or  
 212 sexual offenders; or

213        (c) Prevents any person or entity from performing its  
 214 duties or operating within its statutorily conferred authority

215 as such duty or authority relates to sexual predators or sexual  
 216 offenders.

217 Section 5. Section 794.065, Florida Statutes, is amended  
 218 to read:

219 794.065 Unlawful place of residence for persons convicted  
 220 of certain sex offenses.--

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

227 2. A person who violates this subsection ~~section~~ and whose  
 228 conviction for an offense listed in subparagraph 1. ~~under s.~~  
 229 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified  
 230 as:

231 a. A felony of the first degree or higher, commits a  
 232 felony of the third degree, punishable as provided in s. 775.082  
 233 or s. 775.083. ~~A person who violates this section and whose~~  
 234 ~~conviction under s. 794.011, s. 800.04, s. 827.071, or s.~~  
 235 ~~847.0145 was classified as~~

236 b. A felony of the second or third degree, commits a  
 237 misdemeanor of the first degree, punishable as provided in s.  
 238 775.082 or s. 775.083.

239 (b)(2) This subsection ~~section~~ applies to any person  
 240 convicted of an offense listed in subparagraph 1. if the offense

241 ~~occurred a violation of s. 794.011, s. 800.04, s. 827.071, or s.~~  
242 ~~847.0145 for offenses that occur on or after October 1, 2004.~~

243 (2)(a)1. It is unlawful for any person who has been  
244 convicted of a violation of s. 787.01(3)(a)2., 3., 4., or 5., s.  
245 787.02(3)(a)2., 3., 4., or 5., s. 794.011, s. 800.04, s.  
246 827.071, or s. 847.0145, regardless of whether adjudication has  
247 been withheld, in which the victim of the offense was less than  
248 16 years of age, to reside within 1,500 feet of any school, day  
249 care center, park, playground, library, or other business or  
250 place where children regularly congregate.

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

253 a. A felony of the first degree or higher, commits a  
254 felony of the third degree, punishable as provided in s. 775.082  
255 or s. 775.083.

256 b. A felony of the second or third degree, commits a  
257 misdemeanor of the first degree, punishable as provided in s.  
258 775.082 or s. 775.083.

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

265 (c) This subsection applies to any person convicted of an  
266 offense listed in subparagraph (a)1. if the offense occurred on  
267 or after October 1, 2006.

268 Section 6. Section 907.06, Florida Statutes, is created to  
 269 read:

270 907.06 Electronic monitoring of certain defendants;  
 271 general requirements for equipment and services.--

272 (1) (a) The court may order a defendant charged with a  
 273 forcible felony or a sexual offense, or charged with any crime  
 274 and previously convicted of a forcible felony or a sexual  
 275 offense, to be released from custody on a surety bond subject to  
 276 conditions that include, without limitation, electronic  
 277 monitoring, if electronic monitoring is available in the  
 278 jurisdiction.

279 (b) For purposes of this section, the term:

280 1. "Forcible felony" has the same meaning as in s. 776.08.

281 2. "Sexual offense" includes any of the offenses contained  
 282 in s. 943.0435(1)(a)1.

283 (2) A defendant who is released on a surety bond that  
 284 includes a condition requiring electronic monitoring shall pay a  
 285 reasonable fee for equipment use and monitoring as an additional  
 286 condition of pretrial release not to exceed the maximum daily  
 287 fee set by the chief judge of the judicial circuit in which the  
 288 defendant is released.

289 (3) (a) Electronic monitoring shall include the equipment  
 290 and services necessary to continuously receive electronic  
 291 signals from the transmitter worn by the defendant to determine  
 292 the defendant's geographic position at any time to within 10  
 293 meters, using Global Positioning Satellite (GPS) technology,

294 subject to the limitations related to the technology and to  
295 circumstances of force majeure.

296 (b) Provision of electronic monitoring equipment and  
297 services may be undertaken as a primary responsibility of a  
298 governmental entity or a licensed bail bond agent qualifying as  
299 a vendor under s. 907.07.

300 (c) A governmental entity or licensed bail bond agent may  
301 subcontract with an eligible third-party vendor for electronic  
302 monitoring equipment and services, provided the third-party  
303 vendor complies with all provisions of this subsection and s.  
304 907.08 and operates under the direction and control of the  
305 governmental entity or licensed bail bond agent. A governmental  
306 entity subcontracting for electronic monitoring equipment and  
307 services must select the third-party vendor through a  
308 competitive bidding process.

309 (4) (a) Any governmental entity or bail bond agent  
310 providing electronic monitoring services must report any known  
311 violations of the defendant's pretrial release conditions to the  
312 appropriate court, law enforcement agency, and state attorney as  
313 soon as possible. Additionally, if a third-party vendor is  
314 providing the electronic monitoring equipment and services under  
315 a subcontract, the third-party vendor must report any known  
316 violations to the governmental entity or bail bond agent with  
317 whom the third-party vendor has a subcontract.

318 (b) Notwithstanding the reporting requirements in  
319 paragraph (a), the provision of electronic monitoring services  
320 by a governmental entity or bail bond agent, or any

321 subcontractor thereof, shall not constitute a legal duty to  
322 protect members of the public from criminal acts committed by a  
323 monitored defendant. The sole purpose of electronic monitoring  
324 is to give the governmental entity, bail bond agent, or law  
325 enforcement agency, upon request, an indication of the physical  
326 location of the monitored defendant at any point in time. The  
327 governmental entity or licensed bail bond agent, or any  
328 subcontractor thereof, is not responsible to third parties for  
329 the failure of the monitoring equipment or for the criminal acts  
330 of the monitored defendant.

331 (5) A defendant released in accordance with this section  
332 shall not alter, tamper with, damage, or destroy any electronic  
333 monitoring equipment or the data recorded by such equipment. A  
334 defendant notified of a malfunction in the equipment shall  
335 immediately cooperate with the governmental entity, bail bond  
336 agent, or subcontractor thereof to restore the equipment to  
337 proper functioning. A violation of this subsection shall  
338 constitute a violation of pretrial release and be grounds for  
339 the defendant to be remanded to the court or appropriate law  
340 enforcement agency.

341 Section 7. Section 907.07, Florida Statutes, is created to  
342 read:

343 907.07 Vendors of electronic monitoring equipment and  
344 services; bail bond agent eligibility; process; standards.--

345 (1) This section shall not apply to electronic monitoring  
346 services and equipment provided directly by a governmental  
347 entity.

348       (2) The chief judge of each judicial circuit shall  
349 maintain a list of all licensed bail bond agents qualified  
350 pursuant to this section to serve as vendors of electronic  
351 monitoring equipment and services in the judicial circuit. To  
352 qualify as a vendor, a licensed bail bond agent must:

353       (a) Register the name of the licensed bail bond agent and,  
354 if applicable, the subcontractor; the name and telephone number  
355 of the individual employed by the licensed bail bond agent and,  
356 if applicable, the subcontractor that is serving as the contact  
357 person for the licensed bail bond agent and, if applicable, the  
358 subcontractor; and the address of the licensed bail bond agent  
359 and, if applicable, the subcontractor.

360       (b) Certify in writing, both initially and annually by  
361 January 1, thereafter, the following:

362       1. That the electronic monitoring equipment used by the  
363 licensed bail bond agent or subcontractor complies with the  
364 specifications for privately owned electronic monitoring devices  
365 pursuant to s. 907.08.

366       2. The maximum daily fee to be charged a defendant for  
367 electronic monitoring services in that judicial circuit.

368       3. That the licensed bail bond agent or subcontractor has  
369 not pled nolo contendere to, or been adjudicated guilty or  
370 convicted of, a felony offense.

371       (c) Promptly notify the chief judge of any changes in the  
372 registration information required under this section.

373       (3) The chief judge may remove any licensed bail bond  
374 agent from the list of eligible vendors if:

375        (a) The licensed bail bond agent fails to comply with the  
376 registration or recertification requirements of this section;

377        (b) The licensed bail bond agent or, if applicable, the  
378 subcontractor fails to properly monitor any defendant pursuant  
379 to s. 907.06;

380        (c) The licensed bail bond agent charges a defendant a fee  
381 for electronic monitoring services and equipment in excess of  
382 the maximum amount established by the chief judge for the  
383 judicial circuit in which the defendant is released; or

384        (d) The licensed bail bond agent or, if applicable, the  
385 subcontractor has pled nolo contendere to, or been adjudicated  
386 guilty or convicted of, a felony offense.

387        Section 8. Section 907.08, Florida Statutes, is created to  
388 read:

389        907.08 Standards for privately owned electronic monitoring  
390 system.--To be used for electronic monitoring of a defendant  
391 under s. 907.06, privately owned electronic monitoring systems  
392 must meet the minimum specifications set forth in subsections  
393 (1) and (2) and additionally must be consistent with the  
394 performance standards set forth in subsections (3) through (9),  
395 subject to the best commercially available technology at time of  
396 procurement. Such a system must:

397        (1) Use a transmitter unit that meets certification  
398 standards approved by the Federal Communications Commission.

399        (2) (a) Emit signal content 24 hours per day identifying  
400 the specific device being worn by the defendant and the

401 defendant's physical location using Global Positioning Satellite  
402 (GPS) technology accurate to within 10 meters; or

403 (b) Receive signal content 24 hours per day determining  
404 the defendant's physical location using GPS technology accurate  
405 to within 10 meters, recording the defendant's physical  
406 locations throughout the day, and being capable of transmitting  
407 that record of locations to the vendor at least daily.

408 (3) With respect to a unit affixed to a defendant, possess  
409 an internal power source that provides a minimum of 1 year of  
410 normal operation without having to recharge or replace the power  
411 source. The device must emit signal content indicating its power  
412 status and notifying the vendor when the power source needs to  
413 be recharged or replaced.

414 (4) Possess and emit signal content indicating whether or  
415 not the transmitter has been tampered with or removed.

416 (5) Possess encrypted signal content or another feature  
417 designed to discourage duplication.

418 (6) Be shock resistant, waterproof, and capable of  
419 reliable function under normal atmospheric and environmental  
420 conditions.

421 (7) Be capable of wear and use in a manner that does not  
422 pose a safety hazard or unduly restrict the activities of the  
423 defendant.

424 (8) Be capable of being attached to the defendant in a  
425 manner that readily reveals any efforts to tamper with or remove  
426 the transmitter upon visual inspection.

427       (9) Make use of straps or other mechanisms for attaching  
428 the transmitter to the defendant that are either capable of  
429 being adjusted to fit a defendant of any size or that are  
430 available in a variety of sizes.

431       Section 9. Section 907.09, Florida Statutes, is created to  
432 read:

433       907.09 Offenses related to electronic monitoring  
434 devices.--

435       (1) It is illegal for any person to intentionally alter,  
436 tamper with, damage, or destroy any electronic monitoring device  
437 used to monitor the location of a person pursuant to court  
438 order, unless the person is the owner of the equipment or an  
439 agent of the owner performing ordinary maintenance and repairs.  
440 A person violating this subsection commits a felony of the third  
441 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
442 775.084.

443       (2) It is illegal for any person to develop, build,  
444 create, possess, or use any device that is intended to mimic,  
445 clone, interfere with, or jam the signal of an electronic  
446 monitoring device used to monitor the location of a defendant  
447 pursuant to court order. A person violating this subsection  
448 commits a felony of the third degree, punishable as provided in  
449 s. 775.082, s. 775.083, or s. 775.084.

450       (3) It is illegal for any person to intentionally alter,  
451 tamper with, damage, or destroy any data stored or transmitted  
452 by any electronic monitoring device used to monitor the location  
453 of a defendant pursuant to court order with the intent to

454 violate the court order or to conceal a violation. A person  
455 violating this subsection commits a felony of the third degree,  
456 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

457 Section 10. Section 944.161, Florida Statutes, is created  
458 to read:

459 944.161 Electronic monitoring of inmates within  
460 correctional facilities.--

461 (1) The department is authorized to employ electronic  
462 monitoring of inmates incarcerated within state and private  
463 correctional facilities. The department must use electronic  
464 monitoring systems that meet the minimum specifications set  
465 forth in paragraphs (a) and (b) and are consistent with the  
466 performance standards set forth in paragraph (c), subject to the  
467 best commercially available technology at the time of  
468 procurement. Such a system must:

469 (a) Have the capacity to continuously receive electronic  
470 signals at a monitoring station within the correctional facility  
471 from a transmitter that continuously transmits in real time and  
472 identifies the specific geographic position within the facility  
473 at any time of the following persons who must wear a  
474 transmitter:

475 1. Inmates.

476 2. Department employees.

477 3. Employees of any private sector company contracted to  
478 operate a correctional facility.

479 4. Any visitor to a correctional facility provided access  
480 to areas designated for authorized personnel only.

481        (b) Use electronic monitoring transmitters worn by persons  
482 in any correctional facility that are capable of providing  
483 updates in at least 5-second intervals and transmit the  
484 geographical location of a person wearing a transmitter to  
485 within at least a 3-meter radius of his or her actual location  
486 or to within a radius equal to the width of a facility's average  
487 size sleeping quarters, whichever is less, subject to the  
488 limitations relating to the state of the art of the technology  
489 used and to circumstances of force majeure. Transmitters worn by  
490 persons other than inmates shall also include a panic safety  
491 button.

492        (c) Be consistent with the following technological and  
493 functional performance standards:

494        1. Be compatible with a commercially recognized wireless  
495 network access standard as designated by the department and  
496 sufficient bandwidth to support additional wireless networking  
497 devices to expand the capacity of the correctional facility to  
498 use the service.

499        2. Have the capability of issuing an alarm to an internal  
500 correctional monitoring station in an appropriate amount of time  
501 after receiving a panic alert from an employee or visitor  
502 transmitter or within an appropriate amount of time after  
503 violation of the established parameters for permissible movement  
504 of inmates, employees, and visitors within the facility.

505        3. Have the capability of maintaining a historical storage  
506 capacity sufficient to store up to at least 6 months of complete  
507 inmate, employee, and visitor tracking data for purposes of

508 followup investigations and vendor contract auditing. The system  
509 should be capable of recording the continuous uninterrupted  
510 movement of all monitored individuals by specific position,  
511 rather than solely by area or zone. All tracking data shall also  
512 be periodically archived by appropriate electronic data transfer  
513 to a permanent storage medium designated as acceptable by the  
514 department and retained for at least a 5-year period. In  
515 addition, tracking data collected from each facility shall be  
516 electronically transmitted periodically to a secure centralized  
517 offsite location designated by the department and in an  
518 appropriate storage medium designated as acceptable by the  
519 department as a supplemental backup to protect the archived data  
520 from alteration and to prevent loss due to disaster or other  
521 cause.

522 4. With respect to a transmitter affixed to an inmate, be  
523 capable of possessing an internal power source that is field  
524 rechargeable or provides at least 1 year of normal operation  
525 without the need to recharge or replace the power source.  
526 Batteries used in devices should be capable of being replaced by  
527 correctional employees. The device should emit signal content  
528 indicating the power status of the transmitter and notifying the  
529 correctional facility monitoring station of any need to recharge  
530 or replace the power source.

531 5. Possess and emit signal content indicating whether the  
532 transmitter has been tampered with or removed.

533 6. Possess encrypted signal content or another feature  
534 designed to discourage duplication.

535 7. Be shock resistant, waterproof, and capable of reliable  
536 function under normal atmospheric and environmental conditions.

537 8. Have the capability to sustain wear and use in a manner  
538 that does not pose a safety hazard or unduly restrict the  
539 activities of the inmate.

540 9. Have the capability of being attached to the inmate in  
541 a manner that readily reveals any efforts to tamper with or  
542 remove the transmitter upon visual inspection.

543 10. Either possess straps or other mechanisms for  
544 attaching the transmitter to the inmate which are capable of  
545 being adjusted to fit an inmate of any size or available in a  
546 variety of sizes.

547 11. Be designed and constructed in such a way as to resist  
548 tampering with or removal by the inmate.

549 12. Provide a backup power source in the event of a power  
550 failure.

551 (d) The provisions of this section do not apply to  
552 contracts executed pursuant to chapter 957 before July 1, 2006,  
553 between the Department of Management Services and private prison  
554 providers.

555 (2) A person shall not intentionally alter, tamper with,  
556 damage, or destroy any electronic monitoring equipment used to  
557 monitor the location of a person within a correctional facility,  
558 unless the person is the owner of the equipment or an agent of  
559 the owner performing ordinary maintenance and repairs. A person  
560 violating this subsection commits a felony of the third degree,  
561 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

562       (3) A person shall not develop, build, create, possess, or  
563 use any device that is intended to mimic, clone, interfere with,  
564 or jam the signal of an electronic monitoring device used to  
565 monitor the location of a person within a correctional facility.  
566 A person violating this subsection commits a felony of the third  
567 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
568 775.084.

569       (4) A person shall not intentionally alter, tamper with,  
570 damage, or destroy any data stored in an electronic monitoring  
571 device pursuant to subparagraph (1)(c)3. unless done so with  
572 written permission from an authorized official of the department  
573 or in compliance with a data-retention policy of the department  
574 adopted by rule. A person violating this subsection commits a  
575 felony of the third degree, punishable as provided in s.  
576 775.082, s. 775.083, or s. 775.084.

577       (5) The department is authorized to adopt rules pursuant  
578 to ss. 120.536(1) and 120.54 to implement the provisions of this  
579 section.

580       Section 11. Effective July 1, 2006, subsections (2) and  
581 (6) and paragraph (a) of subsection (7) of section 947.1405,  
582 Florida Statutes, are amended, and subsection (11) is added to  
583 that section, to read:

584       947.1405 Conditional release program.--

585       (2)(a) Any inmate who:

586       1.(a) Is convicted of a crime committed on or after  
587 October 1, 1988, and before January 1, 1994; ~~and any inmate who~~  
588 is convicted of a crime committed on or after January 1, 1994,

589 | which crime is or was contained in category 1, category 2,  
 590 | category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida  
 591 | Rules of Criminal Procedure (1993), and who has served at least  
 592 | one prior felony commitment at a state or federal correctional  
 593 | institution; or is convicted under any of the following  
 594 | statutory provisions committed on or after July 1, 2006:  
 595 |     a. Kidnapping, under s. 787.01(3)(a)2., 3., 4., or 5.;  
 596 |     b. False imprisonment, under s. 787.02(3)(a)2., 3., 4., or  
 597 | 5.;  
 598 |     c. Sexual performance by a child, under s. 827.071; or  
 599 |     d. Selling or buying of minors, under s. 847.0145;  
 600 |     2.(b) Is sentenced as a habitual or violent habitual  
 601 | offender or a violent career criminal pursuant to s. 775.084; or  
 602 |     3.(e) Is found to be a sexual predator under s. 775.21 or  
 603 | former s. 775.23,  
 604 |  
 605 | shall, upon reaching the tentative release date or provisional  
 606 | release date, whichever is earlier, as established by the  
 607 | Department of Corrections, be released under supervision subject  
 608 | to specified terms and conditions, including payment of the cost  
 609 | of supervision pursuant to s. 948.09. Such supervision shall be  
 610 | applicable to all sentences within the overall term of sentences  
 611 | if an inmate's overall term of sentences includes one or more  
 612 | sentences that are eligible for conditional release supervision  
 613 | as provided herein.  
 614 |     (b) Effective July 1, 1994, and applicable for offenses  
 615 | committed on or after that date, the commission may require, as

616 a condition of conditional release, that the releasee make  
617 payment of the debt due and owing to a county or municipal  
618 detention facility under s. 951.032 for medical care, treatment,  
619 hospitalization, or transportation received by the releasee  
620 while in that detention facility. The commission, in determining  
621 whether to order such repayment and the amount of such  
622 repayment, shall consider the amount of the debt, whether there  
623 was any fault of the institution for the medical expenses  
624 incurred, the financial resources of the releasee, the present  
625 and potential future financial needs and earning ability of the  
626 releasee, and dependents, and other appropriate factors.

627 (c) If any inmate, other than an inmate required to  
628 register as a sexual predator under s. 775.21 or as a sexual  
629 offender under s. 943.0435, placed on conditional release  
630 supervision is also subject to probation or community control,  
631 resulting from a probationary or community control split  
632 sentence within the overall term of sentences, the Department of  
633 Corrections shall supervise such person according to the  
634 conditions imposed by the court and the commission shall defer  
635 to such supervision. If the court revokes probation or community  
636 control and resentences the offender to a term of incarceration,  
637 such revocation also constitutes a sufficient basis for the  
638 revocation of the conditional release supervision on any  
639 nonprobationary or noncommunity control sentence without further  
640 hearing by the commission. If any such supervision on any  
641 nonprobationary or noncommunity control sentence is revoked,  
642 such revocation may result in a forfeiture of all gain-time, and

643 the commission may revoke the resulting deferred conditional  
644 release supervision or take other action it considers  
645 appropriate. If the term of conditional release supervision  
646 exceeds that of the probation or community control, then, upon  
647 expiration of the probation or community control, authority for  
648 the supervision shall revert to the commission and the  
649 supervision shall be subject to the conditions imposed by the  
650 commission.

651 (d) If any inmate required to register as a sexual  
652 predator under s. 775.21 or as a sexual offender under s.  
653 943.0435 is placed on conditional release supervision is also  
654 subject to probation or community control, the period of court-  
655 ordered community supervision shall not be substituted for  
656 conditional release supervision and shall follow the term of  
657 conditional release supervision.

658 (e) A panel of no fewer than two commissioners shall  
659 establish the terms and conditions of any such release. If the  
660 offense was a controlled substance violation, the conditions  
661 shall include a requirement that the offender submit to random  
662 substance abuse testing intermittently throughout the term of  
663 conditional release supervision, upon the direction of the  
664 correctional probation officer as defined in s. 943.10(3). The  
665 commission shall also determine whether the terms and conditions  
666 of such release have been violated and whether such violation  
667 warrants revocation of the conditional release.

668 (6) The commission shall review the recommendations of the  
669 department, and such other information as it deems relevant, and

670 may conduct a review of the inmate's record for the purpose of  
671 establishing the terms and conditions of the conditional  
672 release. The commission may impose any special conditions it  
673 considers warranted from its review of the release plan and  
674 recommendation. If the commission determines that the inmate is  
675 eligible for release under this section, the commission shall  
676 enter an order establishing the length of supervision and the  
677 conditions attendant thereto. However, an inmate who has been  
678 convicted of a violation of chapter 794 or found by the court to  
679 be a sexual predator is subject to the maximum level of  
680 supervision provided, with the mandatory conditions as required  
681 in subsection (7), and that supervision shall continue through  
682 the end of the releasee's original court-imposed sentence. The  
683 length of supervision must not exceed the maximum penalty  
684 imposed by the court. The commission may modify the conditions  
685 of supervision at any time as warranted in the interest of  
686 public safety.

687 (7) (a) Any inmate who is convicted of a crime committed on  
688 or after October 1, 1995, or who has been previously convicted  
689 of a crime committed on or after October 1, 1995, in violation  
690 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is  
691 subject to conditional release supervision, shall have, in  
692 addition to any other conditions imposed, the following special  
693 conditions imposed by the commission:

694 1. A mandatory curfew from 10 p.m. to 6 a.m. The  
695 commission may designate another 8-hour period if the offender's  
696 employment precludes the above specified time, and such

697 alternative is recommended by the Department of Corrections. If  
698 the commission determines that imposing a curfew would endanger  
699 the victim, the commission may consider alternative sanctions.

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

706 b. Beginning October 1, 2004, the commission or the  
707 department may not approve a residence that is located within  
708 1,000 feet of a school, day care center, park, playground,  
709 designated school bus stop, or other place where children  
710 regularly congregate for any releasee who is subject to this  
711 subparagraph. On October 1, 2004, the department shall notify  
712 each affected school district of the location of the residence  
713 of a releasee 30 days prior to release and thereafter, if the  
714 releasee relocates to a new residence, shall notify any affected  
715 school district of the residence of the releasee within 30 days  
716 after relocation. If, on October 1, 2004, any public school bus  
717 stop is located within 1,000 feet of the existing residence of  
718 such releasee, the district school board shall relocate that  
719 school bus stop. Beginning October 1, 2004, a district school  
720 board may not establish or relocate a public school bus stop  
721 within 1,000 feet of the residence of a releasee who is subject  
722 to this subparagraph. The failure of the district school board

723 to comply with this subparagraph shall not result in a violation  
724 of conditional release supervision.

725 c. Beginning October 1, 2006, neither the commission nor  
726 the department may approve a residence located within 1,500 feet  
727 of a school, day care center, park, playground, designated  
728 school bus stop, library, or other business or place where  
729 children regularly congregate for any releasee who is subject to  
730 this subparagraph. The distance provided in this sub-  
731 subparagraph shall be measured in a straight line from the  
732 offender's place of residence to the nearest boundary line of  
733 the school, day care center, park, playground, library, or other  
734 business or place where children regularly congregate. The  
735 distance may not be measured by a pedestrian route or automobile  
736 route.

737 3. Active participation in and successful completion of a  
738 sex offender treatment program with qualified practitioners  
739 specifically trained to treat sex offenders, at the releasee's  
740 own expense. If a qualified practitioner is not available within  
741 a 50-mile radius of the releasee's residence, the offender shall  
742 participate in other appropriate therapy.

743 4. A prohibition on any contact with the victim, directly  
744 or indirectly, including through a third person, unless approved  
745 by the victim, the offender's therapist, and the sentencing  
746 court.

747 5. If the victim was under the age of 18, a prohibition  
748 against contact with children under the age of 18 without review  
749 and approval by the commission. The commission may approve

750 supervised contact with a child under the age of 18 if the  
751 approval is based upon a recommendation for contact issued by a  
752 qualified practitioner who is basing the recommendation on a  
753 risk assessment. Further, the sex offender must be currently  
754 enrolled in or have successfully completed a sex offender  
755 therapy program. The commission may not grant supervised contact  
756 with a child if the contact is not recommended by a qualified  
757 practitioner and may deny supervised contact with a child at any  
758 time. When considering whether to approve supervised contact  
759 with a child, the commission must review and consider the  
760 following:

761 a. A risk assessment completed by a qualified  
762 practitioner. The qualified practitioner must prepare a written  
763 report that must include the findings of the assessment and  
764 address each of the following components:

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

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

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

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

772 (V) The sex offender's offender treatment history,  
773 including a consultation from the sex offender's treating, or  
774 most recent treating, therapist;

775 (VI) The sex offender's current mental status;

776 (VII) The sex offender's mental health and substance abuse  
777 history as provided by the Department of Corrections;

778 (VIII) The sex offender's personal, social, educational,  
779 and work history;

780 (IX) The results of current psychological testing of the  
781 sex offender if determined necessary by the qualified  
782 practitioner;

783 (X) A description of the proposed contact, including the  
784 location, frequency, duration, and supervisory arrangement;

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

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

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

793

794 The written report of the assessment must be given to the  
795 commission.

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

799 c. A written consent signed by the child's parent or legal  
800 guardian, if the parent or legal guardian is not the sex  
801 offender, agreeing to the sex offender having supervised contact  
802 with the child after receiving full disclosure of the sex

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

807 d. A safety plan prepared by the qualified practitioner,  
808 who provides treatment to the offender, in collaboration with  
809 the sex offender, the child's parent or legal guardian, and the  
810 child, when age appropriate, which details the acceptable  
811 conditions of contact between the sex offender and the child.  
812 The safety plan must be reviewed and approved by the Department  
813 of Corrections before being submitted to the commission; and

814 e. Evidence that the child's parent or legal guardian, if  
815 the parent or legal guardian is not the sex offender,  
816 understands the need for and agrees to the safety plan and has  
817 agreed to provide, or to designate another adult to provide,  
818 constant supervision any time the child is in contact with the  
819 offender.

820  
821 The commission may not appoint a person to conduct a risk  
822 assessment and may not accept a risk assessment from a person  
823 who has not demonstrated to the commission that he or she has  
824 met the requirements of a qualified practitioner as defined in  
825 this section.

826 6. If the victim was under age 18, a prohibition on  
827 working for pay or as a volunteer at any school, day care  
828 center, park, playground, library, or other business or place

829 | where children regularly congregate, as prescribed by the  
830 | commission.

831 |         7. Unless otherwise indicated in the treatment plan  
832 | provided by the sexual offender treatment program, a prohibition  
833 | on viewing, owning, or possessing any obscene, pornographic, or  
834 | sexually stimulating visual or auditory material, including  
835 | telephone, electronic media, computer programs, or computer  
836 | services that are relevant to the offender's deviant behavior  
837 | pattern.

838 |         8. Effective for a releasee whose crime is committed on or  
839 | after July 1, 2005, a prohibition on accessing the Internet or  
840 | other computer services until the offender's sex offender  
841 | treatment program, after a risk assessment is completed,  
842 | approves and implements a safety plan for the offender's  
843 | accessing or using the Internet or other computer services.

844 |         9. A requirement that the releasee must submit two  
845 | specimens of blood to the Florida Department of Law Enforcement  
846 | to be registered with the DNA database.

847 |         10. A requirement that the releasee make restitution to  
848 | the victim, as determined by the sentencing court or the  
849 | commission, for all necessary medical and related professional  
850 | services relating to physical, psychiatric, and psychological  
851 | care.

852 |         11. Submission to a warrantless search by the community  
853 | control or probation officer of the probationer's or community  
854 | controllee's person, residence, or vehicle.

855        (11) Effective for a releasee whose crime was a violation  
856 of s. 787.01(3)(a)2., 3., 4., or 5. or s. 787.02(3)(a)2., 3.,  
857 4., or 5., who committed the offense on or after October 1,  
858 2006, and who was 18 years of age or older at the time of the  
859 offense, in addition to any other provision of this section, the  
860 commission must order electronic monitoring for the duration of  
861 the releasee's supervision.

862        Section 12. Effective July 1, 2006, subsection (8) is  
863 added to section 947.141, Florida Statutes, to read:

864        947.141 Violations of conditional release, control  
865 release, or conditional medical release or addiction-recovery  
866 supervision.--

867        (8) Because of the compelling state interest in protecting  
868 the public from sexual offenders or sexual predators granted the  
869 privilege of conditional release, in any hearing alleging a  
870 violation of conditional release by a releasee for failure to  
871 comply with the residency exclusion in s. 947.1405, the  
872 inability of the releasee to locate a residence in compliance  
873 with s. 947.1405 shall not be a defense to the finding of a  
874 violation under this section.

875        Section 13. Subsection (4) of section 948.06, Florida  
876 Statutes, is amended to read:

877        948.06 Violation of probation or community control;  
878 revocation; modification; continuance; failure to pay  
879 restitution or cost of supervision.--

880        (4) Notwithstanding any other provision of this section, a  
881 probationer or an offender in community control who is arrested

882 for violating his or her probation or community control in a  
883 material respect may be taken before the court in the county or  
884 circuit in which the probationer or offender was arrested. That  
885 court shall advise him or her of such charge of a violation and,  
886 if such charge is admitted, shall cause him or her to be brought  
887 before the court which granted the probation or community  
888 control. If such violation is not admitted by the probationer or  
889 offender, the court may commit him or her or release him or her  
890 with or without bail to await further hearing. However, if the  
891 probationer or offender is under supervision for any criminal  
892 offense proscribed in chapter 794, s. 800.04(4), (5), (6), s.  
893 827.071, or s. 847.0145, or is a registered sexual predator or a  
894 registered sexual offender, or is under supervision for a  
895 criminal offense for which he or she would meet the registration  
896 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the  
897 effective date of those sections, the court must make a finding  
898 that the probationer or offender poses no ~~is not~~ a danger to the  
899 public prior to release with or without bail. In determining  
900 that the offender poses no danger to the public ~~the danger posed~~  
901 ~~by the offender's or probationer's release~~, the court may  
902 consider the nature and circumstances of the violation and any  
903 new offenses charged; the offender's or probationer's past and  
904 present conduct, including convictions of crimes; any record of  
905 arrests without conviction for crimes involving violence or  
906 sexual crimes; any other evidence of allegations of unlawful  
907 sexual conduct or the use of violence by the offender or  
908 probationer; the offender's or probationer's family ties, length

909 of residence in the community, employment history, and mental  
910 condition; his or her history and conduct during the probation  
911 or community control supervision from which the violation arises  
912 and any other previous supervisions, including disciplinary  
913 records of previous incarcerations; the likelihood that the  
914 offender or probationer will engage again in a criminal course  
915 of conduct; the weight of the evidence against the offender or  
916 probationer; whether the probationer is currently subject to  
917 electronic monitoring; and any other facts the court considers  
918 relevant. The court, as soon as is practicable, shall give the  
919 probationer or offender an opportunity to be fully heard on his  
920 or her behalf in person or by counsel. After such hearing, the  
921 court shall make findings of fact and forward the findings to  
922 the court which granted the probation or community control and  
923 to the probationer or offender or his or her attorney. The  
924 findings of fact by the hearing court are binding on the court  
925 which granted the probation or community control. Upon the  
926 probationer or offender being brought before it, the court which  
927 granted the probation or community control may revoke, modify,  
928 or continue the probation or community control or may place the  
929 probationer into community control as provided in this section.

930 Section 14. Section 948.063, Florida Statutes, is amended  
931 to read:

932 948.063 Violations of probation or community control by  
933 designated sexual offenders and sexual predators.--

934 (1) If probation or community control for any felony  
935 offense is revoked by the court pursuant to s. 948.06(2)(e) and

936 the offender is required to register ~~designated~~ as a ~~sexual~~  
937 ~~offender or~~ sexual predator under ~~pursuant to~~ s. 775.21 or as a  
938 sexual offender under s. 943.0435 or s. 944.607 for unlawful  
939 sexual activity involving a victim under 16 ~~15~~ years of age ~~or~~  
940 ~~younger~~ and the offender is 18 years of age or older, and if the  
941 court imposes a subsequent term of supervision following the  
942 revocation of probation or community control, the court must  
943 order electronic monitoring as a condition of the subsequent  
944 term of probation or community control.

945 (2) If the probationer or offender is required to register  
946 as a sexual predator under s. 775.21 or as a sexual offender  
947 under s. 943.0435 for unlawful sexual activity involving a  
948 victim under 16 years of age and the probationer or offender is  
949 18 years of age or older and has violated the conditions of his  
950 or her probation or community control, but the court does not  
951 revoke the probation or community control, the court shall  
952 nevertheless modify the probation or community control to  
953 include electronic monitoring for any probationer or offender  
954 not then subject to electronic monitoring.

955 Section 15. Effective September 1, 2006, paragraph (b) of  
956 subsection (1) and subsection (3) of section 948.30, Florida  
957 Statutes, are amended, and subsection (4) is added to that  
958 section, to read:

959 948.30 Additional terms and conditions of probation or  
960 community control for certain sex offenses.--Conditions imposed  
961 pursuant to this section do not require oral pronouncement at  
962 the time of sentencing and shall be considered standard

963 conditions of probation or community control for offenders  
964 specified in this section.

965 (1) Effective for probationers or community controllees  
966 whose crime was committed on or after October 1, 1995, and who  
967 are placed under supervision for violation of chapter 794, s.  
968 800.04, s. 827.071, or s. 847.0145, the court must impose the  
969 following conditions in addition to all other standard and  
970 special conditions imposed:

971 (b)1. Except as provided in subparagraph 2., if the victim  
972 was under the age of 18, a prohibition on living within 1,000  
973 feet of a school, day care center, park, playground, or other  
974 place where children regularly congregate, as prescribed by the  
975 court. The 1,000-foot distance shall be measured in a straight  
976 line from the offender's place of residence to the nearest  
977 boundary line of the school, day care center, park, playground,  
978 or other place where children regularly congregate. The distance  
979 may not be measured by a pedestrian route or automobile route.

980 2. For probationers or community controllees whose crime  
981 was committed on or after October 1, 2006, if the victim was  
982 under the age of 18, a prohibition on living within 1,500 feet  
983 of a school, day care center, park, playground, library, or  
984 other business or place where children regularly congregate, as  
985 prescribed by the court. This distance shall be measured in a  
986 straight line from the offender's place of residence to the  
987 nearest boundary line of the school, day care center, park,  
988 playground, library, or other business or place where children

989 | regularly congregate. The distance may not be measured by a  
 990 | pedestrian route or automobile route.

991 | (3) Effective for a probationer or community controllee  
 992 | whose felony offense ~~crime~~ was committed on or after September  
 993 | 1, 2005, and who:

994 | (a) Is placed on probation or community control for a  
 995 | violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,  
 996 | or s. 847.0145 and the unlawful sexual activity involved a  
 997 | victim under 16 ~~15~~ years of age ~~or younger~~ and the offender is  
 998 | 18 years of age or older;

999 | (b) Is designated a sexual predator pursuant to s. 775.21;  
 1000 | or

1001 | (c) Has previously been convicted of a violation of  
 1002 | chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.  
 1003 | 847.0145 and the unlawful sexual activity involved a victim  
 1004 | under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years  
 1005 | of age or older,

1006 |  
 1007 | the court must order, in addition to any other provision of this  
 1008 | section, mandatory electronic monitoring as a condition of the  
 1009 | probation or community control supervision.

1010 | (4) Effective for a probationer or community controllee  
 1011 | whose felony offense was committed on or after September 1,  
 1012 | 2006, and who:

1013 | (a) Is placed on probation or community control for a  
 1014 | violation of s. 787.01(3)(a)2., 3., 4., or 5., s.  
 1015 | 787.02(3)(a)2., 3., 4., or 5., chapter 794, s. 800.04(4), (5),

1016 or (6), s. 827.071, or s. 847.0145 and the unlawful sexual  
 1017 activity involved a victim under 16 years of age and the  
 1018 offender is 18 years of age or older;

1019 (b) Is designated a sexual predator pursuant to s. 775.21;  
 1020 or

1021 (c) Has previously been convicted of a violation of s.  
 1022 787.01(3)(a)2., 3., 4., or 5., s. 787.02(3)(a)2., 3., 4., or 5.,  
 1023 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.  
 1024 847.0145 and the unlawful sexual activity involved a victim  
 1025 under 16 years of age and the offender is 18 years of age or  
 1026 older,

1027  
 1028 the court must order, in addition to any other provision of this  
 1029 section, mandatory electronic monitoring as a condition of the  
 1030 probation or community control supervision.

1031 Section 16. Section 985.4047, Florida Statutes, is created  
 1032 to read:

1033 985.4047 Electronic monitoring of juvenile offenders  
 1034 within juvenile facilities.--

1035 (1) The department is authorized to employ electronic  
 1036 monitoring of juvenile offenders incarcerated within state and  
 1037 private juvenile offender facilities for the purpose or reducing  
 1038 offender-on-offender violence and reducing employee sexual  
 1039 misconduct as defined in s. 985.4045. The department must use  
 1040 electronic monitoring systems that meet the minimum  
 1041 specifications set forth in paragraphs (a) and (b) and are  
 1042 consistent with the performance standards set forth in paragraph

1043 (c), subject to the best commercially available technology at  
1044 the time of procurement. Such a system must:

1045 (a) Have the capacity to continuously receive electronic  
1046 signals at a monitoring station within the correctional facility  
1047 from a transmitter that continuously transmits in real time and  
1048 identifies the specific geographic position within the facility  
1049 at any time of the following persons who must wear a  
1050 transmitter:

1051 1. Juvenile offenders.

1052 2. Department employees.

1053 3. Employees of a private sector company contracted to  
1054 operate a juvenile facility.

1055 4. Any visitor to a juvenile facility provided access to  
1056 areas designated for authorized personnel only.

1057 (b) Use electronic monitoring transmitters worn by persons  
1058 in any juvenile facility that provide updates in at least 5-  
1059 second intervals and transmit the geographical location of a  
1060 person wearing a transmitter to within at least a 3-meter radius  
1061 of his or her actual location or to within a radius equal to the  
1062 width of a facility's average size sleeping quarters, whichever  
1063 is less, subject to the limitations relating to the state of the  
1064 art of the technology used and to circumstances of force  
1065 majeure. Transmitters worn by persons other than juvenile  
1066 offenders shall also include a panic safety button.

1067 (c) Be consistent with the following technological and  
1068 functional performance standards:

1069        1. Be compatible with a commercially recognized wireless  
1070 network access standard as designated by the department and  
1071 sufficient bandwidth to support additional wireless networking  
1072 devices to expand the capacity of the correctional facility to  
1073 use the service.

1074        2. Have the capability of issuing an alarm to an internal  
1075 correctional monitoring station in an appropriate amount of time  
1076 after receiving a panic alert from an employee or visitor  
1077 transmitter or within an appropriate amount of time after  
1078 violation of the established parameters for permissible movement  
1079 of inmates, employees, and visitors within the facility.

1080        3. Have the capability of maintaining a historical storage  
1081 capacity sufficient to store up to at least 6 months of complete  
1082 juvenile offender, employee, and visitor tracking data for  
1083 purposes of followup investigations and vendor contract  
1084 auditing. The system should be capable of recording the  
1085 continuous uninterrupted movement of all monitored individuals  
1086 by specific position, rather than solely by area or zone. All  
1087 tracking data shall also be periodically archived by appropriate  
1088 electronic data transfer to a permanent storage medium  
1089 designated as acceptable by the department and retained for at  
1090 least a 5-year period. In addition, tracking data collected from  
1091 each facility shall be electronically transmitted periodically  
1092 to a secure centralized offsite location designated by the  
1093 department and in an appropriate storage medium designated as  
1094 acceptable by the department as a supplemental backup to protect

1095 the archived data from alteration and to prevent loss due to  
1096 disaster or other cause.

1097 4. With respect to a unit affixed to a juvenile offender,  
1098 be capable of possessing an internal power source that is field  
1099 rechargeable or provides at least 1 year of normal operation  
1100 without the need to recharge or replace the power source.  
1101 Batteries used in devices should be capable of being replaced by  
1102 correctional employees. The device should emit signal content  
1103 indicating the power status of the transmitter and notifying the  
1104 juvenile facility monitoring station of any need to recharge or  
1105 replace the power source.

1106 5. Possess and emit signal content indicating whether the  
1107 transmitter has been tampered with or removed.

1108 6. Possess encrypted signal content or another feature  
1109 designed to discourage duplication.

1110 7. Be shock resistant, waterproof, and capable of reliable  
1111 function under normal atmospheric and environmental conditions.

1112 8. Have the capacity to sustain wear and use in a manner  
1113 that does not pose a safety hazard or unduly restrict the  
1114 activities of the offender.

1115 9. Have the capability of being attached to the offender  
1116 in a manner that readily reveals any efforts to tamper with or  
1117 remove the transmitter upon visual inspection.

1118 10. Either possess straps or other mechanisms for  
1119 attaching the transmitter to the offender which are capable of  
1120 being adjusted to fit an offender of any size or available in a  
1121 variety of sizes.

1122 11. Be designed and constructed in such a way as to resist  
1123 tampering with or removal by the offender.

1124 12. Provide a backup power source in the event of a power  
1125 failure.

1126 (2) A person shall not intentionally alter, tamper with,  
1127 damage, or destroy any electronic monitoring equipment used to  
1128 monitor the location of a person within a juvenile facility,  
1129 unless the person is the owner of the equipment or an agent of  
1130 the owner performing ordinary maintenance and repairs. A person  
1131 violating this subsection commits a felony of the third degree,  
1132 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1133 (3) A person shall not develop, build, create, possess, or  
1134 use any device that is intended to mimic, clone, interfere with,  
1135 or jam the signal of an electronic monitoring device used to  
1136 monitor the location of a person within a juvenile facility. A  
1137 person violating this subsection commits a felony of the third  
1138 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1139 775.084.

1140 (4) A person shall not intentionally alter, tamper with,  
1141 damage, or destroy any data stored in an electronic monitoring  
1142 device pursuant to subparagraph (1)(c)3. unless done so with  
1143 written permission from an authorized official of the department  
1144 or in compliance with a data-retention policy of the department  
1145 adopted by rule. A person violating this subsection commits a  
1146 felony of the third degree, punishable as provided in s.  
1147 775.082, s. 775.083, or s. 775.084.

1148           (5) The department is authorized to adopt rules pursuant  
1149 to ss. 120.536(1) and 120.54 to implement the provisions of this  
1150 section.

1151           Section 17. Except as otherwise expressly provided in this  
1152 act, this act shall take effect October 1, 2006.