

Bill No. CS for SB 640

Barcode 082238

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

1	.
2	.
3	Floor: WD/2R
4	03/23/2006 10:37 AM
5	
6	
7	
8	
9	
10	

11 Senator Miller moved the following amendment:

12
13 **Senate Amendment (with title amendment)**

14 On page 14 between lines 28 and 29,

15
16 insert:

17 Section 9. Subsection (7) of section 947.1405, Florida
18 Statutes, is amended to read:

19 947.1405 Conditional release program.--

20 (7)(a) Any inmate who is convicted of a crime
 21 committed on or after October 1, 1995, or who has been
 22 previously convicted of a crime committed on or after October
 23 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,
 24 ~~or~~ s. 847.0145, or s. 943.0435 in this state or of a similar
 25 offense in another jurisdiction and is subject to conditional
 26 release supervision, shall have, in addition to any other
 27 conditions imposed, the following special conditions imposed
 28 by the commission:

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

Bill No. CS for SB 640

Barcode 082238

1 such alternative is recommended by the Department of
2 Corrections. If the commission determines that imposing a
3 curfew would endanger the victim, the commission may consider
4 alternative sanctions.

5 2. If the releasee's current or prior offense involved
6 a victim ~~was~~ under the age of 18, a prohibition on living
7 within 1,000 feet of a school, day care center, park,
8 playground, designated public school bus stop, or other place
9 where children regularly congregate. A releasee who is subject
10 to this subparagraph may not relocate to a residence that is
11 within 1,000 feet of a public school bus stop. Beginning
12 October 1, 2004, the commission or the department may not
13 approve a residence that is located within 1,000 feet of a
14 school, day care center, park, playground, designated school
15 bus stop, or other place where children regularly congregate
16 for any releasee who is subject to this subparagraph. On
17 October 1, 2004, the department shall notify each affected
18 school district of the location of the residence of a releasee
19 30 days prior to release and thereafter, if the releasee
20 relocates to a new residence, shall notify any affected school
21 district of the residence of the releasee within 30 days after
22 relocation. If, on October 1, 2004, any public school bus stop
23 is located within 1,000 feet of the existing residence of such
24 releasee, the district school board shall relocate that school
25 bus stop. Beginning October 1, 2004, a district school board
26 may not establish or relocate a public school bus stop within
27 1,000 feet of the residence of a releasee who is subject to
28 this subparagraph. The failure of the district school board to
29 comply with this subparagraph shall not result in a violation
30 of conditional release supervision.

31 3. Active participation in and successful completion

Barcode 082238

1 of a sex offender treatment program with qualified
 2 practitioners specifically trained to treat sex offenders, at
 3 the releasee's own expense. If a qualified practitioner is not
 4 available within a 50-mile radius of the releasee's residence,
 5 the offender shall participate in other appropriate therapy.

6 4. A prohibition on any contact with the victim,
 7 directly or indirectly, including through a third person,
 8 unless approved by the victim, the offender's therapist, and
 9 the sentencing court.

10 5. If the releasee's current or prior offense involved
 11 a victim ~~was~~ under the age of 18, a prohibition against
 12 contact with children under the age of 18 without review and
 13 approval by the commission. The commission may approve
 14 supervised contact with a child under the age of 18 if the
 15 approval is based upon a recommendation for contact issued by
 16 a qualified practitioner who is basing the recommendation on a
 17 risk assessment. Further, the sex offender must be currently
 18 enrolled in or have successfully completed a sex offender
 19 therapy program. The commission may not grant supervised
 20 contact with a child if the contact is not recommended by a
 21 qualified practitioner and may deny supervised contact with a
 22 child at any time. When considering whether to approve
 23 supervised contact with a child, the commission must review
 24 and consider the following:

25 a. A risk assessment completed by a qualified
 26 practitioner. The qualified practitioner must prepare a
 27 written report that must include the findings of the
 28 assessment and address each of the following components:

- 29 (I) The sex offender's current legal status;
- 30 (II) The sex offender's history of adult charges with
- 31 apparent sexual motivation;

Bill No. CS for SB 640

Barcode 082238

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

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

5 (V) The sex offender's offender treatment history,
6 including a consultation from the sex offender's treating, or
7 most recent treating, therapist;

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

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

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

13 (IX) The results of current psychological testing of
14 the sex offender if determined necessary by the qualified
15 practitioner;

16 (X) A description of the proposed contact, including
17 the location, frequency, duration, and supervisory
18 arrangement;

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

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

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

27
28 The written report of the assessment must be given to the
29 commission.

30 b. A recommendation made as a part of the
31 risk-assessment report as to whether supervised contact with

Bill No. CS for SB 640

Barcode 082238

1 the child should be approved;

2 c. A written consent signed by the child's parent or
 3 legal guardian, if the parent or legal guardian is not the sex
 4 offender, agreeing to the sex offender having supervised
 5 contact with the child after receiving full disclosure of the
 6 sex offender's present legal status, past criminal history,
 7 and the results of the risk assessment. The commission may not
 8 approve contact with the child if the parent or legal guardian
 9 refuses to give written consent for supervised contact;

10 d. A safety plan prepared by the qualified
 11 practitioner, who provides treatment to the offender, in
 12 collaboration with the sex offender, the child's parent or
 13 legal guardian, and the child, when age appropriate, which
 14 details the acceptable conditions of contact between the sex
 15 offender and the child. The safety plan must be reviewed and
 16 approved by the Department of Corrections before being
 17 submitted to the commission; and

18 e. Evidence that the child's parent or legal guardian,
 19 if the parent or legal guardian is not the sex offender,
 20 understands the need for and agrees to the safety plan and has
 21 agreed to provide, or to designate another adult to provide,
 22 constant supervision any time the child is in contact with the
 23 offender.

24
 25 The commission may not appoint a person to conduct a risk
 26 assessment and may not accept a risk assessment from a person
 27 who has not demonstrated to the commission that he or she has
 28 met the requirements of a qualified practitioner as defined in
 29 this section.

30 6. If the releasee's current or prior offense involved
 31 a victim ~~was~~ under age 18, a prohibition on working for pay or

Bill No. CS for SB 640

Barcode 082238

1 as a volunteer at any school, day care center, park,
2 playground, or other place where children regularly
3 congregate, as prescribed by the commission.

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

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

18 9. A requirement that the releasee must submit two
19 specimens of blood to the Florida Department of Law
20 Enforcement to be registered with the DNA database.

21 10. A requirement that the releasee make restitution
22 to the victim, as determined by the sentencing court or the
23 commission, for all necessary medical and related professional
24 services relating to physical, psychiatric, and psychological
25 care.

26 11. Submission to a warrantless search by the
27 community control or probation officer of the probationer's or
28 community controllee's person, residence, or vehicle.

29 (b) For a releasee whose crime was committed on or
30 after October 1, 1997, in violation of chapter 794, s. 800.04,
31 s. 827.071, ~~or~~ s. 847.0145, or s. 943.0435 and who is subject

Bill No. CS for SB 640

Barcode 082238

1 to conditional release supervision, in addition to any other
2 provision of this subsection, the commission shall impose the
3 following additional conditions of conditional release
4 supervision:

5 1. As part of a treatment program, participation in a
6 minimum of one annual polygraph examination to obtain
7 information necessary for risk management and treatment and to
8 reduce the sex offender's denial mechanisms. The polygraph
9 examination must be conducted by a polygrapher trained
10 specifically in the use of the polygraph for the monitoring of
11 sex offenders, where available, and at the expense of the sex
12 offender. The results of the polygraph examination shall not
13 be used as evidence in a hearing to prove that a violation of
14 supervision has occurred.

15 2. Maintenance of a driving log and a prohibition
16 against driving a motor vehicle alone without the prior
17 approval of the supervising officer.

18 3. A prohibition against obtaining or using a post
19 office box without the prior approval of the supervising
20 officer.

21 4. If there was sexual contact, a submission to, at
22 the releasee's ~~probationer's or community controllee's~~
23 expense, an HIV test with the results to be released to the
24 victim or the victim's parent or guardian.

25 5. Electronic monitoring of any form when ordered by
26 the commission.

27 Section 10. Section 948.30, Florida Statutes, is
28 amended to read:

29 948.30 Additional terms and conditions of probation or
30 community control for certain sex offenses.--Conditions
31 imposed under ~~pursuant to~~ this section do not require oral

Bill No. CS for SB 640

Barcode 082238

1 pronouncement at the time of sentencing and shall be
2 considered standard conditions of probation or community
3 control for offenders specified in this section.

4 (1) Effective for probationers or community
5 controllees whose crime was committed on or after October 1,
6 1995, and who are placed under supervision for violation of
7 chapter 794, s. 800.04, s. 827.071, ~~or~~ s. 847.0145, or s.
8 943.0435, the court must impose the following conditions in
9 addition to all other standard and special conditions imposed:

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

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

27 (c) Active participation in and successful completion
28 of a sex offender treatment program with qualified
29 practitioners specifically trained to treat sex offenders, at
30 the probationer's or community controllee's own expense. If a
31 qualified practitioner is not available within a 50-mile

Barcode 082238

1 radius of the probationer's or community controllee's
2 residence, the offender shall participate in other appropriate
3 therapy.

4 (d) A prohibition on any contact with the victim,
5 directly or indirectly, including through a third person,
6 unless approved by the victim, the offender's therapist, and
7 the sentencing court.

8 (e) If a probationer's or community controllee's
9 current or prior offense involved a ~~the~~ victim ~~was~~ under the
10 age of 18, a prohibition on contact with a child under the age
11 of 18 except as provided in this paragraph. The court may
12 approve supervised contact with a child under the age of 18 if
13 the approval is based upon a recommendation for contact issued
14 by a qualified practitioner who is basing the recommendation
15 on a risk assessment. Further, the sex offender must be
16 currently enrolled in or have successfully completed a sex
17 offender therapy program. The court may not grant supervised
18 contact with a child if the contact is not recommended by a
19 qualified practitioner and may deny supervised contact with a
20 child at any time. When considering whether to approve
21 supervised contact with a child, the court must review and
22 consider the following:

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

27 a. The sex offender's current legal status;
28 b. The sex offender's history of adult charges with
29 apparent sexual motivation;

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

Bill No. CS for SB 640

Barcode 082238

1 d. The sex offender's history of juvenile charges,
2 whenever available;

3 e. The sex offender's offender treatment history,
4 including consultations with the sex offender's treating, or
5 most recent treating, therapist;

6 f. The sex offender's current mental status;

7 g. The sex offender's mental health and substance
8 abuse treatment history as provided by the Department of
9 Corrections;

10 h. The sex offender's personal, social, educational,
11 and work history;

12 i. The results of current psychological testing of the
13 sex offender if determined necessary by the qualified
14 practitioner;

15 j. A description of the proposed contact, including
16 the location, frequency, duration, and supervisory
17 arrangement;

18 k. The child's preference and relative comfort level
19 with the proposed contact, when age appropriate;

20 l. The parent's or legal guardian's preference
21 regarding the proposed contact; and

22 m. The qualified practitioner's opinion, along with
23 the basis for that opinion, as to whether the proposed contact
24 would likely pose significant risk of emotional or physical
25 harm to the child.

26
27 The written report of the assessment must be given to the
28 court;

29 2. A recommendation made as a part of the risk
30 assessment report as to whether supervised contact with the
31 child should be approved;

Bill No. CS for SB 640

Barcode 082238

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

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

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

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

28 (f) If a probationer's or community controllee's
 29 current or prior offense involved a ~~the~~ victim ~~was~~ under age
 30 18, a prohibition on working for pay or as a volunteer at any
 31 place where children regularly congregate, including, but not

Bill No. CS for SB 640

Barcode 082238

1 limited to, schools, day care centers, parks, playgrounds, pet
2 stores, libraries, zoos, theme parks, and malls.

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

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

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

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

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

29 (2) Effective for a probationer or community
30 controllee whose crime was committed on or after October 1,
31 1997, and who is placed on community control or sex offender

Bill No. CS for SB 640

Barcode 082238

1 probation for a violation of chapter 794, s. 800.04, s.
 2 827.071, ~~or~~ s. 847.0145, or s. 943.0435, in addition to any
 3 other provision of this section, the court must impose the
 4 following conditions of probation or community control:

5 (a) As part of a treatment program, participation at
 6 least annually in polygraph examinations to obtain information
 7 necessary for risk management and treatment and to reduce the
 8 sex offender's denial mechanisms. A polygraph examination must
 9 be conducted by a polygrapher trained specifically in the use
 10 of the polygraph for the monitoring of sex offenders, where
 11 available, and shall be paid for by the sex offender. The
 12 results of the polygraph examination shall not be used as
 13 evidence in court to prove that a violation of community
 14 supervision has occurred.

15 (b) Maintenance of a driving log and a prohibition
 16 against driving a motor vehicle alone without the prior
 17 approval of the supervising officer.

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

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

25 (e) Electronic monitoring when deemed necessary by the
 26 community control or probation officer and his or her
 27 supervisor, and ordered by the court at the recommendation of
 28 the Department of Corrections.

29 (3) Effective for a probationer or community
 30 controllee whose crime was committed on or after September 1,
 31 2005, and who:

Bill No. CS for SB 640

Barcode 082238

1 (a) Is placed on probation or community control for a
 2 violation of chapter 794, s. 800.04(4), (5), or (6), s.
 3 827.071, ~~or~~ s. 847.0145, or s. 943.0435 and the unlawful
 4 sexual activity involved a victim 15 years of age or younger
 5 and the offender is 18 years of age or older;

6 (b) Is designated a sexual predator pursuant to s.
 7 775.21; or

8 (c) Has previously been convicted of a violation of
 9 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
 10 847.0145 and the unlawful sexual activity involved a victim 15
 11 years of age or younger and the offender is 18 years of age or
 12 older,

13
 14 the court must order, in addition to any other provision of
 15 this section, mandatory electronic monitoring as a condition
 16 of the probation or community control supervision.

17
 18 (Redesignate subsequent sections.)

19
 20
 21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 On page 1, line 28, after the semicolon,
 24
 25 insert:

26 amending ss. 947.1405 and 948.30, F.S.;

27 providing that if a releasee on conditional

28 release, a probationer, or a community

29 controllee has a current or prior offense

30 involving a victim under the age of 18, that

31 person follow certain special conditions;