

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Rivera offered the following:

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. This act may be cited as the "Cybercrimes
6 Against Children Act of 2007."

7 Section 2. Subsection (1) of section 16.56, Florida
8 Statutes, is amended to read:

9 16.56 Office of Statewide Prosecution.--

10 (1) There is created in the Department of Legal Affairs an
11 Office of Statewide Prosecution. The office shall be a separate
12 "budget entity" as that term is defined in chapter 216. The
13 office may:

14 (a) Investigate and prosecute the offenses of:

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15 1. Bribery, burglary, criminal usury, extortion, gambling,
16 kidnapping, larceny, murder, prostitution, perjury, robbery,
17 carjacking, and home-invasion robbery;

18 2. Any crime involving narcotic or other dangerous drugs;

19 3. Any violation of the provisions of the Florida RICO
20 (Racketeer Influenced and Corrupt Organization) Act, including
21 any offense listed in the definition of racketeering activity in
22 s. 895.02(1)(a), providing such listed offense is investigated
23 in connection with a violation of s. 895.03 and is charged in a
24 separate count of an information or indictment containing a
25 count charging a violation of s. 895.03, the prosecution of
26 which listed offense may continue independently if the
27 prosecution of the violation of s. 895.03 is terminated for any
28 reason;

29 4. Any violation of the provisions of the Florida Anti-
30 Fencing Act;

31 5. Any violation of the provisions of the Florida
32 Antitrust Act of 1980, as amended;

33 6. Any crime involving, or resulting in, fraud or deceit
34 upon any person;

35 7. Any violation of s. 847.0135, relating to computer
36 pornography and child exploitation prevention, or any offense
37 related to a violation of s. 847.0135 or any violation of
38 chapter 827 where the crime is facilitated by or connected to
39 the use of the Internet or any device capable of electronic data
40 storage or transmission;

41 8. Any violation of the provisions of chapter 815;

42 9. Any criminal violation of part I of chapter 499;

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43 10. Any violation of the provisions of the Florida Motor
44 Fuel Tax Relief Act of 2004;

45 11. Any criminal violation of s. 409.920 or s. 409.9201;
46 or

47 12. Any crime involving voter registration, voting, or
48 candidate or issue petition activities;

49
50 or any attempt, solicitation, or conspiracy to commit any of the
51 crimes specifically enumerated above. The office shall have such
52 power only when any such offense is occurring, or has occurred,
53 in two or more judicial circuits as part of a related
54 transaction, or when any such offense is connected with an
55 organized criminal conspiracy affecting two or more judicial
56 circuits.

57 (b) Investigate and prosecute any crime facilitated by or
58 connected to the use of the Internet. Any such crime is a crime
59 occurring in every judicial circuit within the state.

60 (c) ~~(b)~~ Upon request, cooperate with and assist state
61 attorneys and state and local law enforcement officials in their
62 efforts against organized crimes.

63 (d) ~~(e)~~ Request and receive from any department, division,
64 board, bureau, commission, or other agency of the state, or of
65 any political subdivision thereof, cooperation and assistance in
66 the performance of its duties.

67 Section 3. Section 775.0847, Florida Statutes, is created
68 to read:

69 775.0847 Possession or promotion of certain images of
70 child pornography; reclassification.--

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71 (1) For purposes of this section:

72 (a) "Child" means any person, whose identity is known or
73 unknown, less than 18 years of age.

74 (b) "Child pornography" means any image depicting a minor
75 engaged in sexual conduct.

76 (c) "Sadomasochistic abuse" means flagellation or torture
77 by or upon a person or the condition of being fettered, bound,
78 or otherwise physically restrained, for the purpose of deriving
79 sexual satisfaction, or satisfaction brought about as a result
80 of sadistic violence, from inflicting harm on another or
81 receiving such harm oneself.

82 (d) "Sexual battery" means oral, anal, or vaginal
83 penetration by, or union with, the sexual organ of another or
84 the anal or vaginal penetration of another by any other object;
85 however, sexual battery does not include an act done for a bona
86 fide medical purpose.

87 (e) "Sexual bestiality" means any sexual act, actual or
88 simulated, between a person and an animal involving the sex
89 organ of the one and the mouth, anus, or vagina of the other.

90 (f) "Sexual conduct" means actual or simulated sexual
91 intercourse, deviate sexual intercourse, sexual bestiality,
92 masturbation, or sadomasochistic abuse; actual lewd exhibition
93 of the genitals; actual physical contact with a person's clothed
94 or unclothed genitals, pubic area, buttocks, or, if such person
95 is a female, breast with the intent to arouse or gratify the
96 sexual desire of either party; or any act or conduct which
97 constitutes sexual battery or simulates that sexual battery is

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98 being or will be committed. A mother's breastfeeding of her baby
99 does not under any circumstance constitute "sexual conduct."

100 (2) A violation of s. 827.071, s. 847.0135, s. 847.0137,
101 or s. 847.0138 shall be reclassified to the next higher degree
102 as provided in subsection (3) if:

103 (a) The offender possesses 10 or more images of any form
104 of child pornography regardless of content; and

105 (b) The content of at least one image contains one or more
106 of the following:

107 1. A child who is younger than the age of 5.

108 2. Sadomasochistic abuse involving a child.

109 3. Sexual battery involving a child.

110 4. Sexual bestiality involving a child.

111 5. Any movie involving a child, regardless of length and
112 regardless of whether the movie contains sound.

113 (3) (a) In the case of a felony of the third degree, the
114 offense is reclassified to a felony of the second degree.

115 (b) In the case of a felony of the second degree, the
116 offense is reclassified to a felony of the first degree.

117
118 For purposes of sentencing under chapter 921 and determining
119 incentive gain-time eligibility under chapter 944, a felony
120 offense that is reclassified under this section is ranked one
121 level above the ranking under s. 921.0022 or s. 921.0023 of the
122 offense committed.

123 Section 4. Subsection (6) is added to section 827.071,
124 Florida Statutes, to read:

125 827.071 Sexual performance by a child; penalties.--

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126 (6) Prosecution of any person for an offense under this
127 section shall not prohibit prosecution of that person in this
128 state for a violation of any law of this state, including a law
129 providing for greater penalties than prescribed in this section
130 or any other crime punishing the sexual performance or the
131 sexual exploitation of children.

132 Section 5. Section 847.0135, Florida Statutes, is amended
133 to read:

134 847.0135 Computer pornography; traveling to meet minor;
135 penalties.--

136 (1) SHORT TITLE.--This section shall be known and may be
137 cited as the "Computer Pornography and Child Exploitation
138 Prevention Act ~~of 1986~~."

139 (2) COMPUTER PORNOGRAPHY.--A person who:

140 (a) Knowingly compiles, enters into, or transmits by use
141 of computer;

142 (b) Makes, prints, publishes, or reproduces by other
143 computerized means;

144 (c) Knowingly causes or allows to be entered into or
145 transmitted by use of computer; or

146 (d) Buys, sells, receives, exchanges, or disseminates,
147
148 any notice, statement, or advertisement of any minor's name,
149 telephone number, place of residence, physical characteristics,
150 or other descriptive or identifying information for purposes of
151 facilitating, encouraging, offering, or soliciting sexual
152 conduct of or with any minor, or the visual depiction of such
153 conduct, commits a felony of the third degree, punishable as
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154 provided in s. 775.082, s. 775.083, or s. 775.084. The fact that
155 an undercover operative or law enforcement officer was involved
156 in the detection and investigation of an offense under this
157 section shall not constitute a defense to a prosecution under
158 this section.

159 (3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES
160 PROHIBITED.--Any person who knowingly uses ~~utilizes~~ a computer
161 on-line service, Internet service, ~~or~~ local bulletin board
162 service, or any other device capable of electronic data storage
163 or transmission to:

164 (a) Seduce, solicit, lure, or entice, or attempt to
165 seduce, solicit, lure, or entice, a child or another person
166 believed by the person to be a child, to commit any illegal act
167 described in chapter 794, ~~relating to sexual battery,~~ chapter
168 800, ~~relating to lewdness and indecent exposure,~~ or chapter 827,
169 or to otherwise engage in any unlawful sexual conduct with a
170 child or with another person believed by the person to be a
171 child; or

172 (b) Solicit, lure, or entice, or attempt to solicit, lure,
173 or entice a parent, legal guardian, or custodian of a child or a
174 person believed to be a parent, legal guardian, or custodian of
175 a child to consent to the participation of such child in any act
176 described in chapter 794, chapter 800, or chapter 827, or to
177 otherwise engage in any sexual conduct,

178
179 ~~relating to child abuse,~~ commits a felony of the third degree,
180 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
181 Any person who, in violating this subsection, misrepresents his
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182 or her age, commits a felony of the second degree, punishable as
183 provided in s. 775.082, s. 775.083, or s. 775.084. Each separate
184 use of a computer on-line service, Internet service, local
185 bulletin board service, or any other device capable of
186 electronic data storage or transmission wherein an offense
187 described in this section is committed may be charged as a
188 separate offense.

189 (4) TRAVELING TO MEET A MINOR.--Any person who travels any
190 distance either within this state, to this state, or from this
191 state by any means, who attempts to do so, or who causes another
192 to do so or to attempt to do so for the purpose of engaging in
193 any illegal act described in chapter 794, chapter 800, or
194 chapter 827, or to otherwise engage in other unlawful sexual
195 conduct with a child or with another person believed by the
196 person to be a child after using a computer on-line service,
197 Internet service, local bulletin board service, or any other
198 device capable of electronic data storage or transmission to:

199 (a) Seduce, solicit, lure, or entice or attempt to seduce,
200 solicit, lure, or entice a child or another person believed by
201 the person to be a child, to engage in any illegal act described
202 in chapter 794, chapter 800, or chapter 827, or to otherwise
203 engage in other unlawful sexual conduct with a child; or

204 (b) Solicit, lure, or entice or attempt to solicit, lure,
205 or entice a parent, legal guardian, or custodian of a child or a
206 person believed to be a parent, legal guardian, or custodian of
207 a child to consent to the participation of such child in any act
208 described in chapter 794, chapter 800, or chapter 827, or to
209 otherwise engage in any sexual conduct,

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211 commits a felony of the second degree, punishable as provided in
212 s. 775.082, s. 775.083, or s. 775.084.

213 (5)(4) OWNERS OR OPERATORS OF COMPUTER SERVICES
214 LIABLE.--It is unlawful for any owner or operator of a computer
215 on-line service, Internet service, or local bulletin board
216 service knowingly to permit a subscriber to use ~~utilize~~ the
217 service to commit a violation of this section. Any person who
218 violates this section commits a misdemeanor of the first degree,
219 punishable by a fine not exceeding \$2,000.

220 (6)(5) STATE CRIMINAL JURISDICTION.--A person is subject
221 to prosecution in this state pursuant to chapter 910 for any
222 conduct proscribed by this section which the person engages in,
223 while either within or outside this state, if by such conduct
224 the person commits a violation of this section involving a child
225 residing in this state, a child's guardian, or another person
226 believed by the person to be a child or a child's guardian
227 residing in this state.

228 (7) EFFECT OF PROSECUTION.--Prosecution of any person for
229 an offense under this section shall not prohibit prosecution of
230 that person in this state or another jurisdiction for a
231 violation of any law of this state, including a law providing
232 for greater penalties than prescribed in this section or any
233 other crime punishing the sexual performance or the sexual
234 exploitation of children.

235 Section 6. Subsection (8) of section 905.34, Florida
236 Statutes, is amended to read:

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237 905.34 Powers and duties; law applicable.--The
238 jurisdiction of a statewide grand jury impaneled under this
239 chapter shall extend throughout the state. The subject matter
240 jurisdiction of the statewide grand jury shall be limited to the
241 offenses of:

242 (8) Any violation of s. 847.0135, s. 847.0137, or s.
243 847.0138 relating to computer pornography and child exploitation
244 prevention, or any offense related to a violation of s.
245 847.0135, s. 847.0137, or s. 847.0138 or any violation of
246 chapter 827 where the crime is facilitated by or connected to
247 the use of the Internet or any device capable of electronic data
248 storage or transmission;

249
250 or any attempt, solicitation, or conspiracy to commit any
251 violation of the crimes specifically enumerated above, when any
252 such offense is occurring, or has occurred, in two or more
253 judicial circuits as part of a related transaction or when any
254 such offense is connected with an organized criminal conspiracy
255 affecting two or more judicial circuits. The statewide grand
256 jury may return indictments and presentments irrespective of the
257 county or judicial circuit where the offense is committed or
258 triable. If an indictment is returned, it shall be certified and
259 transferred for trial to the county where the offense was
260 committed. The powers and duties of, and law applicable to,
261 county grand juries shall apply to a statewide grand jury except
262 when such powers, duties, and law are inconsistent with the
263 provisions of ss. 905.31-905.40.

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264 Section 7. Subsection (1) of section 910.15, Florida
265 Statutes, is amended to read:

266 910.15 Crimes facilitated by ~~Theft and fraudulent~~
267 ~~practices concerning~~ communication systems.--

268 (1) A person charged with committing a crime facilitated
269 by communication through use of the mail, telephone, or
270 newspaper or by radio, television, Internet, or another means of
271 electronic data communication may be tried in the county in
272 which the dissemination originated, in which the dissemination
273 was made, or in which any act necessary to consummate the
274 offense occurred. +

275 ~~(a) A fraudulent practice in a manner in which it may~~
276 ~~reasonably be assumed that a communication made to facilitate~~
277 ~~the fraudulent practice, or a false or misleading~~
278 ~~representation, could or would be disseminated across~~
279 ~~jurisdictional lines; or~~

280 ~~(b) A theft involving the use of the mail, telephone,~~
281 ~~newspaper, radio, television, or other means of communication,~~
282
283 ~~may be tried in the county in which the dissemination~~
284 ~~originated, in which the dissemination was made, or in which any~~
285 ~~act necessary to consummate the offense occurred.~~

286 Section 8. Paragraph (g) of subsection (3) of section
287 921.0022, Florida Statutes, is amended to read:

288 921.0022 Criminal Punishment Code; offense severity
289 ranking chart.--

290 (3) OFFENSE SEVERITY RANKING CHART

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	Florida Statute	Felony Degree	Description
292			(g) LEVEL 7
293	316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
294	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
295	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
296	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
297	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent

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disability, or death.

298

409.920 (2) 3rd Medicaid provider fraud.

299

456.065 (2) 3rd Practicing a health care profession without a license.

300

456.065 (2) 2nd Practicing a health care profession without a license which results in serious bodily injury.

301

458.327 (1) 3rd Practicing medicine without a license.

302

459.013 (1) 3rd Practicing osteopathic medicine without a license.

303

460.411 (1) 3rd Practicing chiropractic medicine without a license.

304

461.012 (1) 3rd Practicing podiatric medicine without a license.

305

462.17 3rd Practicing naturopathy without a license.

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307	463.015 (1)	3rd	Practicing optometry without a license.
308	464.016 (1)	3rd	Practicing nursing without a license.
309	465.015 (2)	3rd	Practicing pharmacy without a license.
310	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
311	467.201	3rd	Practicing midwifery without a license.
312	468.366	3rd	Delivering respiratory care services without a license.
313	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
314	483.901 (9)	3rd	Practicing medical physics without a license.
315	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.

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316	484.053	3rd	Dispensing hearing aids without a license.
317	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
318	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
319	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
320	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew

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driver's license or
identification card; other
registration violations.

321

775.21(10)(b) 3rd Sexual predator working where
children regularly congregate.

322

775.21(10)(g) 3rd Failure to report or providing
false information about a sexual
predator; harbor or conceal a
sexual predator.

323

782.051(3) 2nd Attempted felony murder of a
person by a person other than
the perpetrator or the
perpetrator of an attempted
felony.

324

782.07(1) 2nd Killing of a human being by the
act, procurement, or culpable
negligence of another
(manslaughter).

325

782.071 2nd Killing of human being or viable
fetus by the operation of a
motor vehicle in a reckless
manner (vehicular homicide).

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327	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
328	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
329	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
330	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
331	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
332	784.048 (7)	3rd	Aggravated stalking; violation of court order.
333	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
334	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.

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335	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
336	784.081 (1)	1st	Aggravated battery on specified official or employee.
337	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
338	784.083 (1)	1st	Aggravated battery on code inspector.
339	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
340	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
341	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting

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to commit a felony.

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790.166 (3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

343

790.166 (4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.

344

796.03 2nd Procuring any person under 16 years for prostitution.

345

800.04 (5) (c) 1. 2nd Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

346

800.04 (5) (c) 2. 2nd Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.

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806.01 (2) 2nd Maliciously damage structure by fire or explosive.

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349	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
350	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
351	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
352	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
353	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
354	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
355	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.

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356	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
357	812.131 (2) (a)	2nd	Robbery by sudden snatching.
358	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
359	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
360	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
361	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the

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insolvency of that entity.

362

825.102 (3) (b) 2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

363

825.103 (2) (b) 2nd Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.

364

827.03 (3) (b) 2nd Neglect of a child causing great bodily harm, disability, or disfigurement.

365

827.04 (3) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.

366

837.05 (2) 3rd Giving false information about alleged capital felony to a law enforcement officer.

367

838.015 2nd Bribery.

368

838.016 2nd Unlawful compensation or reward

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for official behavior.

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838.021(3)(a) 2nd Unlawful harm to a public servant.

370

838.22 2nd Bid tampering.

371

847.0135(3) 3rd Solicitation of a child, via a computer service, to commit an unlawful sex act.

372

847.0135(4) 2nd Traveling to meet a minor to commit an unlawful sex act.

373

872.06 2nd Abuse of a dead human body.

374

893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

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376	893.13 (1) (e) 1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4., within 1,000 feet of property used for religious services or a specified business site.
377	893.13 (4) (a)	1st	Deliver to minor cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
378	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
379	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
380	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine,

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more than 28 grams, less than
200 grams.

381

893.135(1)(e)1. 1st Trafficking in methaqualone,
more than 200 grams, less than 5
kilograms.

382

893.135(1)(f)1. 1st Trafficking in amphetamine, more
than 14 grams, less than 28
grams.

383

893.135(1)(g)1.a. 1st Trafficking in flunitrazepam, 4
grams or more, less than 14
grams.

384

893.135(1)(h)1.a. 1st Trafficking in gamma-
hydroxybutyric acid (GHB), 1
kilogram or more, less than 5
kilograms.

385

893.135(1)(j)1.a. 1st Trafficking in 1,4-Butanediol, 1
kilogram or more, less than 5
kilograms.

386

893.135(1)(k)2.a. 1st Trafficking in Phenethylamines,
10 grams or more, less than 200
grams.

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388	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
389	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
390	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
391	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
392	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a

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sexual offender.

393

943.0435(14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

394

944.607(9) 3rd Sexual offender; failure to comply with reporting requirements.

395

944.607(10)(a) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

396

944.607(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

397

944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

398

399 Section 9. Paragraphs (j) and (k) are added to subsection
400 (2) of section 775.21, Florida Statutes, and paragraphs (a),

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401 (e), and (g) of subsection (6), subsection (8), and paragraph
402 (a) of subsection (10) of that section are amended, to read:

403 775.21 The Florida Sexual Predators Act.--

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

405 (j) "Electronic mail address" has the same meaning as
406 provided in s. 668.602.

407 (k) "Instant message name" means an identifier that allows
408 a person to communicate in real time with another person using
409 the Internet.

410 (6) REGISTRATION.--

411 (a) A sexual predator must register with the department by
412 providing the following information to the department:

413 1. Name, social security number, age, race, sex, date of
414 birth, height, weight, hair and eye color, photograph, address
415 of legal residence and address of any current temporary
416 residence, within the state or out of state, including a rural
417 route address and a post office box, any electronic mail address
418 and any instant message name required to be provided pursuant to
419 subparagraph (g)4., date and place of any employment, date and
420 place of each conviction, fingerprints, and a brief description
421 of the crime or crimes committed by the offender. A post office
422 box shall not be provided in lieu of a physical residential
423 address.

424 a. If the sexual predator's place of residence is a motor
425 vehicle, trailer, mobile home, or manufactured home, as defined
426 in chapter 320, the sexual predator shall also provide to the
427 department written notice of the vehicle identification number;
428 the license tag number; the registration number; and a

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429 description, including color scheme, of the motor vehicle,
430 trailer, mobile home, or manufactured home. If a sexual
431 predator's place of residence is a vessel, live-aboard vessel,
432 or houseboat, as defined in chapter 327, the sexual predator
433 shall also provide to the department written notice of the hull
434 identification number; the manufacturer's serial number; the
435 name of the vessel, live-aboard vessel, or houseboat; the
436 registration number; and a description, including color scheme,
437 of the vessel, live-aboard vessel, or houseboat.

438 b. If the sexual predator is enrolled, employed, or
439 carrying on a vocation at an institution of higher education in
440 this state, the sexual predator shall also provide to the
441 department the name, address, and county of each institution,
442 including each campus attended, and the sexual predator's
443 enrollment or employment status. Each change in enrollment or
444 employment status shall be reported in person at the sheriff's
445 office, or the Department of Corrections if the sexual predator
446 is in the custody or control of or under the supervision of the
447 Department of Corrections, within 48 hours after any change in
448 status. The sheriff or the Department of Corrections shall
449 promptly notify each institution of the sexual predator's
450 presence and any change in the sexual predator's enrollment or
451 employment status.

452 2. Any other information determined necessary by the
453 department, including criminal and corrections records;
454 nonprivileged personnel and treatment records; and evidentiary
455 genetic markers when available.

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456 (e) If the sexual predator is not in the custody or
457 control of, or under the supervision of, the Department of
458 Corrections, or is not in the custody of a private correctional
459 facility, and establishes or maintains a residence in the state,
460 the sexual predator shall register in person at the sheriff's
461 office in the county in which the predator establishes or
462 maintains a residence, within 48 hours after establishing
463 permanent or temporary residence in this state. Any change in
464 the sexual predator's permanent or temporary residence, ~~or~~ name,
465 or any electronic mail address and any instant message name
466 required to be provided pursuant to subparagraph (g)4., after
467 the sexual predator registers in person at the sheriff's office,
468 shall be accomplished in the manner provided in paragraphs (g),
469 (i), and (j). When a sexual predator registers with the
470 sheriff's office, the sheriff shall take a photograph and a set
471 of fingerprints of the predator and forward the photographs and
472 fingerprints to the department, along with the information that
473 the predator is required to provide pursuant to this section.

474 (g)1. Each time a sexual predator's driver's license or
475 identification card is subject to renewal, and, without regard
476 to the status of the predator's driver's license or
477 identification card, within 48 hours after any change of the
478 predator's residence or change in the predator's name by reason
479 of marriage or other legal process, the predator shall report in
480 person to a driver's license office and shall be subject to the
481 requirements specified in paragraph (f). The Department of
482 Highway Safety and Motor Vehicles shall forward to the
483 department and to the Department of Corrections all photographs

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484 and information provided by sexual predators. Notwithstanding
485 the restrictions set forth in s. 322.142, the Department of
486 Highway Safety and Motor Vehicles is authorized to release a
487 reproduction of a color-photograph or digital-image license to
488 the Department of Law Enforcement for purposes of public
489 notification of sexual predators as provided in this section.

490 2. A sexual predator who vacates a permanent residence and
491 fails to establish or maintain another permanent or temporary
492 residence shall, within 48 hours after vacating the permanent
493 residence, report in person to the sheriff's office of the
494 county in which he or she is located. The sexual predator shall
495 specify the date upon which he or she intends to or did vacate
496 such residence. The sexual predator must provide or update all
497 of the registration information required under paragraph (a).
498 The sexual predator must provide an address for the residence or
499 other location that he or she is or will be occupying during the
500 time in which he or she fails to establish or maintain a
501 permanent or temporary residence.

502 3. A sexual predator who remains at a permanent residence
503 after reporting his or her intent to vacate such residence
504 shall, within 48 hours after the date upon which the predator
505 indicated he or she would or did vacate such residence, report
506 in person to the sheriff's office to which he or she reported
507 pursuant to subparagraph 2. for the purpose of reporting his or
508 her address at such residence. When the sheriff receives the
509 report, the sheriff shall promptly convey the information to the
510 department. An offender who makes a report as required under
511 subparagraph 2. but fails to make a report as required under
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512 this subparagraph commits a felony of the second degree,
513 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

514 4. A sexual predator must register any electronic mail
515 address or instant message name with the department prior to
516 using such electronic mail address or instant message name on or
517 after October 1, 2007. The department shall establish an online
518 system through which sexual predators may securely access and
519 update all electronic mail address and instant message name
520 information.

521 (8) VERIFICATION.--The department and the Department of
522 Corrections shall implement a system for verifying the addresses
523 of sexual predators. The system must be consistent with the
524 provisions of the federal Jacob Wetterling Act, as amended, and
525 any other federal standards applicable to such verification or
526 required to be met as a condition for the receipt of federal
527 funds by the state. The Department of Corrections shall verify
528 the addresses of sexual predators who are not incarcerated but
529 who reside in the community under the supervision of the
530 Department of Corrections. County and local law enforcement
531 agencies, in conjunction with the department, shall verify the
532 addresses of sexual predators who are not under the care,
533 custody, control, or supervision of the Department of
534 Corrections.

535 (a) A sexual predator must report in person each year
536 during the month of the sexual predator's birthday and during
537 the sixth month following the sexual predator's birth month to
538 the sheriff's office in the county in which he or she resides or
539 is otherwise located to reregister. The sheriff's office may
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540 determine the appropriate times and days for reporting by the
541 sexual predator, which shall be consistent with the reporting
542 requirements of this paragraph. Reregistration shall include any
543 changes to the following information:

544 1. Name; social security number; age; race; sex; date of
545 birth; height; weight; hair and eye color; address of any
546 permanent residence and address of any current temporary
547 residence, within the state or out of state, including a rural
548 route address and a post office box; any electronic mail address
549 and any instant message name required to be provided pursuant to
550 subparagraph (6) (g) 4.; date and place of any employment; vehicle
551 make, model, color, and license tag number; fingerprints; and
552 photograph. A post office box shall not be provided in lieu of a
553 physical residential address.

554 2. If the sexual predator is enrolled, employed, or
555 carrying on a vocation at an institution of higher education in
556 this state, the sexual predator shall also provide to the
557 department the name, address, and county of each institution,
558 including each campus attended, and the sexual predator's
559 enrollment or employment status.

560 3. If the sexual predator's place of residence is a motor
561 vehicle, trailer, mobile home, or manufactured home, as defined
562 in chapter 320, the sexual predator shall also provide the
563 vehicle identification number; the license tag number; the
564 registration number; and a description, including color scheme,
565 of the motor vehicle, trailer, mobile home, or manufactured
566 home. If the sexual predator's place of residence is a vessel,
567 live-aboard vessel, or houseboat, as defined in chapter 327, the

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568 sexual predator shall also provide the hull identification
569 number; the manufacturer's serial number; the name of the
570 vessel, live-aboard vessel, or houseboat; the registration
571 number; and a description, including color scheme, of the
572 vessel, live-aboard vessel, or houseboat.

573 (b) The sheriff's office shall, within 2 working days,
574 electronically submit and update all information provided by the
575 sexual predator to the department in a manner prescribed by the
576 department. ~~This procedure shall be implemented by December 1,~~
577 ~~2005.~~

578 (10) PENALTIES.--

579 (a) Except as otherwise specifically provided, a sexual
580 predator who fails to register; who fails, after registration,
581 to maintain, acquire, or renew a driver's license or
582 identification card; who fails to provide required location
583 information, electronic mail address information, instant
584 message name information, or change-of-name information; who
585 fails to make a required report in connection with vacating a
586 permanent residence; who fails to reregister as required; who
587 fails to respond to any address verification correspondence from
588 the department within 3 weeks of the date of the correspondence;
589 or who otherwise fails, by act or omission, to comply with the
590 requirements of this section, commits a felony of the third
591 degree, punishable as provided in s. 775.082, s. 775.083, or s.
592 775.084.

593 Section 10. Paragraphs (f) and (g) are added to subsection
594 (1) and paragraph (d) is added to subsection (4) of section

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595 943.0435, Florida Statutes, and subsections (2) and (14) of that
596 section are amended, to read:

597 943.0435 Sexual offenders required to register with the
598 department; penalty.--

599 (1) As used in this section, the term:

600 (f) "Electronic mail address" has the same meaning as
601 provided in s. 668.602.

602 (g) "Instant message name" means an identifier that allows
603 a person to communicate in real time with another person using
604 the Internet.

605 (2) A sexual offender shall:

606 (a) Report in person at the sheriff's office in the county
607 in which the offender establishes or maintains a permanent or
608 temporary residence, within 48 hours after establishing
609 permanent or temporary residence in this state or within 48
610 hours after being released from the custody, control, or
611 supervision of the Department of Corrections or from the custody
612 of a private correctional facility. Any change in the sexual
613 offender's permanent or temporary residence, ~~or~~ name, any
614 electronic mail address and any instant message name required to
615 be provided pursuant to paragraph (4) (d), after the sexual
616 offender reports in person at the sheriff's office, shall be
617 accomplished in the manner provided in subsections (4), (7), and
618 (8).

619 (b) Provide his or her name, date of birth, social
620 security number, race, sex, height, weight, hair and eye color,
621 tattoos or other identifying marks, occupation and place of
622 employment, address of permanent or legal residence or address
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623 of any current temporary residence, within the state and out of
624 state, including a rural route address and a post office box,
625 any electronic mail address and any instant message name
626 required to be provided pursuant to paragraph (4)(d), date and
627 place of each conviction, and a brief description of the crime
628 or crimes committed by the offender. A post office box shall not
629 be provided in lieu of a physical residential address.

630 1. If the sexual offender's place of residence is a motor
631 vehicle, trailer, mobile home, or manufactured home, as defined
632 in chapter 320, the sexual offender shall also provide to the
633 department written notice of the vehicle identification number;
634 the license tag number; the registration number; and a
635 description, including color scheme, of the motor vehicle,
636 trailer, mobile home, or manufactured home. If the sexual
637 offender's place of residence is a vessel, live-aboard vessel,
638 or houseboat, as defined in chapter 327, the sexual offender
639 shall also provide to the department written notice of the hull
640 identification number; the manufacturer's serial number; the
641 name of the vessel, live-aboard vessel, or houseboat; the
642 registration number; and a description, including color scheme,
643 of the vessel, live-aboard vessel, or houseboat.

644 2. If the sexual offender is enrolled, employed, or
645 carrying on a vocation at an institution of higher education in
646 this state, the sexual offender shall also provide to the
647 department the name, address, and county of each institution,
648 including each campus attended, and the sexual offender's
649 enrollment or employment status. Each change in enrollment or
650 employment status shall be reported in person at the sheriff's
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651 office, within 48 hours after any change in status. The sheriff
652 shall promptly notify each institution of the sexual offender's
653 presence and any change in the sexual offender's enrollment or
654 employment status.

655

656 When a sexual offender reports at the sheriff's office, the
657 sheriff shall take a photograph and a set of fingerprints of the
658 offender and forward the photographs and fingerprints to the
659 department, along with the information provided by the sexual
660 offender. The sheriff shall promptly provide to the department
661 the information received from the sexual offender.

662 (4)

663 (d) A sexual offender must register any electronic mail
664 address or instant message name with the department prior to
665 using such electronic mail address or instant message name on or
666 after October 1, 2007. The department shall establish an online
667 system through which sexual offenders may securely access and
668 update all electronic mail address and instant message name
669 information.

670 (14) (a) A sexual offender must report in person each year
671 during the month of the sexual offender's birthday and during
672 the sixth month following the sexual offender's birth month to
673 the sheriff's office in the county in which he or she resides or
674 is otherwise located to reregister. The sheriff's office may
675 determine the appropriate times and days for reporting by the
676 sexual offender, which shall be consistent with the reporting
677 requirements of this paragraph. Reregistration shall include any
678 changes to the following information:

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679 1. Name; social security number; age; race; sex; date of
680 birth; height; weight; hair and eye color; address of any
681 permanent residence and address of any current temporary
682 residence, within the state or out of state, including a rural
683 route address and a post office box; any electronic mail address
684 and any instant message name required to be provided pursuant to
685 paragraph (4) (d); date and place of any employment; vehicle
686 make, model, color, and license tag number; fingerprints; and
687 photograph. A post office box shall not be provided in lieu of a
688 physical residential address.

689 2. If the sexual offender is enrolled, employed, or
690 carrying on a vocation at an institution of higher education in
691 this state, the sexual offender shall also provide to the
692 department the name, address, and county of each institution,
693 including each campus attended, and the sexual offender's
694 enrollment or employment status.

695 3. If the sexual offender's place of residence is a motor
696 vehicle, trailer, mobile home, or manufactured home, as defined
697 in chapter 320, the sexual offender shall also provide the
698 vehicle identification number; the license tag number; the
699 registration number; and a description, including color scheme,
700 of the motor vehicle, trailer, mobile home, or manufactured
701 home. If the sexual offender's place of residence is a vessel,
702 live-aboard vessel, or houseboat, as defined in chapter 327, the
703 sexual offender shall also provide the hull identification
704 number; the manufacturer's serial number; the name of the
705 vessel, live-aboard vessel, or houseboat; the registration

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706 number; and a description, including color scheme, of the
707 vessel, live-aboard vessel or houseboat.

708 4. Any sexual offender who fails to report in person as
709 required at the sheriff's office, or who fails to respond to any
710 address verification correspondence from the department within 3
711 weeks of the date of the correspondence or who fails to report
712 electronic mail addresses or instant message names, commits a
713 felony of the third degree, punishable as provided in s.
714 775.082, s. 775.083, or s. 775.084.

715 (b) The sheriff's office shall, within 2 working days,
716 electronically submit and update all information provided by the
717 sexual offender to the department in a manner prescribed by the
718 department. ~~This procedure shall be implemented by December 1,~~
719 ~~2005.~~

720 Section 11. Paragraphs (c) and (d) are added to subsection
721 (1) of section 944.606, Florida Statutes, and paragraph (a) of
722 subsection (3) of that section is amended, to read:

723 944.606 Sexual offenders; notification upon release.--

724 (1) As used in this section:

725 (c) "Electronic mail address" has the same meaning as
726 provided in s. 668.602.

727 (d) "Instant message name" means an identifier that allows
728 a person to communicate in real time with another person using
729 the Internet.

730 (3) (a) The department must provide information regarding
731 any sexual offender who is being released after serving a period
732 of incarceration for any offense, as follows:

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733 1. The department must provide: the sexual offender's
734 name, any change in the offender's name by reason of marriage or
735 other legal process, and any alias, if known; the correctional
736 facility from which the sexual offender is released; the sexual
737 offender's social security number, race, sex, date of birth,
738 height, weight, and hair and eye color; date and county of
739 sentence and each crime for which the offender was sentenced; a
740 copy of the offender's fingerprints and a digitized photograph
741 taken within 60 days before release; the date of release of the
742 sexual offender; any electronic mail address and any instant
743 message name required to be provided pursuant to s.

744 943.0435(4)(d); and the offender's intended residence address,
745 if known. The department shall notify the Department of Law
746 Enforcement if the sexual offender escapes, absconds, or dies.
747 If the sexual offender is in the custody of a private
748 correctional facility, the facility shall take the digitized
749 photograph of the sexual offender within 60 days before the
750 sexual offender's release and provide this photograph to the
751 Department of Corrections and also place it in the sexual
752 offender's file. If the sexual offender is in the custody of a
753 local jail, the custodian of the local jail shall notify the
754 Department of Law Enforcement of the sexual offender's release
755 and provide to the Department of Law Enforcement the information
756 specified in this paragraph and any information specified in
757 subparagraph 2. that the Department of Law Enforcement requests.

758 2. The department may provide any other information deemed
759 necessary, including criminal and corrections records,
760 nonprivileged personnel and treatment records, when available.

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761 Section 12. Paragraphs (e) and (f) are added to subsection
762 (1) of section 944.607, Florida Statutes, and paragraph (a) of
763 subsection (4) and subsection (13) of that section are amended,
764 to read:

765 944.607 Notification to Department of Law Enforcement of
766 information on sexual offenders.--

767 (1) As used in this section, the term:

768 (e) "Electronic mail address" has the same meaning as
769 provided in s. 668.602.

770 (f) "Instant message name" means an identifier that allows
771 a person to communicate in real time with another person using
772 the Internet.

773 (4) A sexual offender, as described in this section, who
774 is under the supervision of the Department of Corrections but is
775 not incarcerated must register with the Department of
776 Corrections and provide information as required by this
777 subsection.

778 (a) The sexual offender shall provide his or her name;
779 date of birth; social security number; race; sex; height;
780 weight; hair and eye color; tattoos or other identifying marks;
781 any electronic mail address and any instant message name
782 required to be provided pursuant to s. 943.0435(4)(d); and
783 permanent or legal residence and address of temporary residence
784 within the state or out of state while the sexual offender is
785 under supervision in this state, including any rural route
786 address or post office box. The Department of Corrections shall
787 verify the address of each sexual offender in the manner
788 described in ss. 775.21 and 943.0435.

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789 (13) (a) A sexual offender must report in person each year
790 during the month of the sexual offender's birthday and during
791 the sixth month following the sexual offender's birth month to
792 the sheriff's office in the county in which he or she resides or
793 is otherwise located to reregister. The sheriff's office may
794 determine the appropriate times and days for reporting by the
795 sexual offender, which shall be consistent with the reporting
796 requirements of this paragraph. Reregistration shall include any
797 changes to the following information:

798 1. Name; social security number; age; race; sex; date of
799 birth; height; weight; hair and eye color; address of any
800 permanent residence and address of any current temporary
801 residence, within the state or out of state, including a rural
802 route address and a post office box; any electronic mail address
803 and any instant message name required to be provided pursuant to
804 s. 943.0435(4)(d), date and place of any employment; vehicle
805 make, model, color, and license tag number; fingerprints; and
806 photograph. A post office box shall not be provided in lieu of a
807 physical residential address.

808 2. If the sexual offender is enrolled, employed, or
809 carrying on a vocation at an institution of higher education in
810 this state, the sexual offender shall also provide to the
811 department the name, address, and county of each institution,
812 including each campus attended, and the sexual offender's
813 enrollment or employment status.

814 3. If the sexual offender's place of residence is a motor
815 vehicle, trailer, mobile home, or manufactured home, as defined
816 in chapter 320, the sexual offender shall also provide the
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817 vehicle identification number; the license tag number; the
818 registration number; and a description, including color scheme,
819 of the motor vehicle, trailer, mobile home, or manufactured
820 home. If the sexual offender's place of residence is a vessel,
821 live-aboard vessel, or houseboat, as defined in chapter 327, the
822 sexual offender shall also provide the hull identification
823 number; the manufacturer's serial number; the name of the
824 vessel, live-aboard vessel, or houseboat; the registration
825 number; and a description, including color scheme, of the
826 vessel, live-aboard vessel, or houseboat.

827 4. Any sexual offender who fails to report in person as
828 required at the sheriff's office, or who fails to respond to any
829 address verification correspondence from the department within 3
830 weeks of the date of the correspondence or who fails to report
831 electronic mail addresses or instant message names, commits a
832 felony of the third degree, punishable as provided in s.
833 775.082, s. 775.083, and s. 775.084.

834 (b) The sheriff's office shall, within 2 working days,
835 electronically submit and update all information provided by the
836 sexual offender to the ~~Florida~~ Department of Law Enforcement in
837 a manner prescribed by that ~~the Florida~~ department ~~of Law~~
838 ~~Enforcement. This procedure shall be implemented by December 1,~~
839 ~~2005.~~

840 Section 13. In the express interest of the protection of
841 citizens, particularly children, who use the Internet, it is the
842 intent of the Legislature that the collection and distribution
843 of the electronic mail address and instant message name
844 information of sexual predators and sexual offenders be

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845 maintained and distributed in a manner to maximize public safety
846 benefits while minimizing and avoiding to the greatest extent
847 possible any use of this information for any illegal purposes
848 including harassment and networking among individuals for
849 illegal purposes. Additionally, care should be taken in the
850 distribution of this information to avoid circumstances which
851 allow ready access to such information by minors.

852 Section 14. Section 943.0437, Florida Statutes, is created
853 to read:

854 943.0437 Commercial social networking websites.--

855 (1) For the purpose of this section, the term "commercial
856 social networking website" means a commercially operated
857 Internet website that allows users to create web pages or
858 profiles that provide information about themselves and are
859 available publicly or to other users and that offers a mechanism
860 for communication with other users, such as a forum, chat room,
861 electronic mail, or instant messenger.

862 (2) The department may provide information relating to
863 electronic mail addresses and instant message names maintained
864 as part of the sexual offender registry to commercial social
865 networking websites or third parties designated by commercial
866 social networking websites. The commercial social networking
867 website may use this information for the purpose of comparing
868 registered users and screening potential users of the commercial
869 social networking website against the list of electronic mail
870 addresses and instant message names provided by the department.

871 (3) This section shall not be construed to impose any
872 civil liability on a commercial social networking website for:

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901 providing criminal penalties; revising a provision
902 relating to state criminal jurisdiction; providing for
903 effect of certain prosecutions; amending s. 905.34, F.S.;
904 providing additional subject matter jurisdiction for the
905 statewide grand jury; amending s. 910.15, F.S.; revising
906 provisions relating to offenses facilitated by
907 communication systems; amending s. 921.0022, F.S.;
908 conforming the Criminal Punishment Code offense severity
909 ranking chart; amending s. 775.21, F.S.; providing
910 definitions; requiring sexual predators to include certain
911 information during the registration process; requiring
912 sexual predators to report changes in certain information;
913 requiring sexual predators to include certain information
914 during the reregistration process; providing penalties for
915 failing to provide certain information; amending s.
916 943.0435, F.S.; providing definitions; requiring sexual
917 offenders to include certain information during the
918 registration process; requiring sexual offenders to report
919 changes in certain information; requiring sexual offenders
920 to include certain information during the reregistration
921 process; amending s. 944.606, F.S.; providing definitions;
922 requiring the Department of Corrections to provide certain
923 information regarding sexual offenders who are being
924 released after serving a period of incarceration to
925 certain entities; amending s. 944.607, F.S.; providing
926 definitions; requiring sexual offenders under the
927 supervision of the Department of Corrections to include
928 certain information during the registration process;

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HOUSE AMENDMENT

Bill No. CS/SB 1004

Amendment No.

929 requiring sexual offenders to include certain information
930 during the reregistration process; providing legislative
931 intent; creating s. 943.0437, F.S.; providing definitions;
932 providing penalties for sexual offenders who fail to
933 report certain information; permitting the Department of
934 Law Enforcement to provide electronic mail address and
935 instant message information in the sexual offender
936 registry to commercial social networking websites and
937 certain others; providing that certain statutory
938 provisions do not impose civil liability on commercial
939 social networking websites for specified actions;
940 providing an effective date.

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