

1 | monitored defendant to pay fees; providing that
2 | provision of electronic monitoring equipment
3 | and services is not an undertaking to protect
4 | members of the public from harm occasioned by a
5 | monitored defendant; prohibiting a defendant
6 | being monitored from tampering with monitoring
7 | equipment; creating s. 907.07, F.S.; requiring
8 | the chief judge of each circuit to maintain a
9 | list of licensed bail bond agents who are
10 | eligible private vendors for provision of
11 | electronic monitoring equipment and services;
12 | requiring registration of such vendors and
13 | certification of electronic monitoring devices;
14 | providing grounds for removal from the list;
15 | creating s. 907.08, F.S.; providing standards
16 | for privately owned electronic monitoring
17 | systems; creating s. 907.09, F.S.; providing
18 | criminal penalties for tampering with
19 | electronic monitoring devices; providing
20 | criminal penalties for cloning or jamming the
21 | signal of an electronic monitoring device;
22 | providing criminal penalties for the alteration
23 | or destruction of data stored or transmitted by
24 | an electronic monitoring device with specified
25 | intent; amending ss. 916.145 and 916.303, F.S.;
26 | providing that certain developmentally disabled
27 | and mentally ill defendants who do not meet the
28 | criteria for involuntary residential commitment
29 | may be placed on electronic monitoring while
30 | residing in the community; requiring the
31 | Department of Children and Family Services and

1 the Agency for Persons with Disabilities to
2 monitor such mentally ill and developmentally
3 disabled defendants respectively; requiring the
4 department and the agency to prepare reports
5 concerning the defendants' incompetency to
6 proceed and to deliver a copy of the report to
7 the appropriate state attorney; creating s.
8 944.161, F.S.; providing for electronic
9 monitoring of inmates within correctional
10 facilities; requiring monitoring of certain
11 employees and visitors to such facilities;
12 providing system requirements; prohibiting
13 specified actions relating to such monitoring
14 systems and data from such systems; providing
15 penalties; providing rulemaking authority;
16 providing for applicability of specified
17 provisions to certain existing contracts;
18 amending s. 947.1405, F.S.; providing
19 additional conditional release restrictions for
20 certain offenders; amending s. 947.141, F.S.;
21 revising provisions relating to hearings
22 alleging a violation of community release by
23 specified releasees for failure to comply with
24 specified residency exclusions; amending s.
25 948.06, F.S.; revising provisions relating to
26 probation or community control for sexual
27 predators and sexual offenders; amending s.
28 948.30, F.S.; providing additional probation or
29 community control restrictions for certain
30 offenders; creating s. 985.6012, F.S.;
31 providing for electronic monitoring of juvenile

1 offenders within juvenile facilities; requiring
2 monitoring of certain employees and visitors to
3 such facilities; providing system requirements;
4 prohibiting specified actions relating to such
5 monitoring systems and data from such systems;
6 providing penalties; providing an effective
7 date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 648.387, Florida Statutes, is
12 amended to read:

13 648.387 Primary bail bond agents; duties; provision of
14 electronic monitoring equipment and services by licensed
15 agents.--

16 (1) The owner or operator of a bail bond agency shall
17 designate a primary bail bond agent for each location, and
18 shall file with the department the name and license number of
19 the person and the address of the location on a form approved
20 by the department. The designation of the primary bail bond
21 agent may be changed if the department is notified
22 immediately. Failure to notify the department within 10
23 working days after such change is grounds for disciplinary
24 action pursuant to s. 648.45.

25 (2) The primary bail bond agent is responsible for the
26 overall operation and management of a bail bond agency
27 location, whose responsibilities may include, without
28 limitations, hiring and supervising of all individuals within
29 the location, whether they deal with the public in the
30 solicitation or negotiation of bail bond contracts or in the
31

1 collection or accounting of moneys. A person may be designated
2 as primary bail bond agent for only one location.

3 (3) The department may suspend or revoke the license
4 of the owner, operator, and primary bail bond agent if a bail
5 bond agency employs, contracts with, or uses the services of a
6 person who has had a license denied or whose license is
7 currently suspended or revoked. However, a person who has been
8 denied a license for failure to pass a required examination
9 may be employed to perform clerical or administrative
10 functions for which licensure is not required.

11 (4) An owner, operator, or primary agent may not
12 employ, contract with, or use the services of any person in a
13 bail bond agency who has been charged with, found guilty of,
14 or pled guilty or nolo contendere to a felony or a crime
15 punishable by imprisonment of 1 year or more under the law of
16 any jurisdiction, without regard to whether judgment was
17 entered or withheld by the court.

18 (5) A bail bond agency location may not conduct surety
19 business unless a primary bail bond agent is designated at all
20 times. The failure to designate a primary agent on a form
21 prescribed by the department, within 10 working days after an
22 agency's inception or a change of primary agent, is a
23 violation of this chapter, punishable as provided in s.
24 648.45.

25 (6)(a) A licensed bail bond agent qualifying under s.
26 907.07 may provide electronic monitoring equipment and
27 services for defendants released from custody on a surety bond
28 and subject to conditions including electronic monitoring. A
29 licensed bail bond agent may subcontract with a third party to
30 provide these services if the third party complies with the
31 requirements under s. 907.07. A licensed bail bond agent

1 qualifying under s. 907.07 may also register with a
2 governmental entity to provide electronic monitoring equipment
3 and services under contract with that entity.

4 (b) A licensed bail bond agent may charge a defendant
5 subject to electronic monitoring a reasonable, nonrefundable
6 fee for electronic monitoring equipment and services. The
7 amount of the fee charged in each judicial circuit shall not
8 exceed the maximum daily fee set annually by the chief judge
9 for the judicial circuit in which the defendant is released.
10 The failure of a defendant to pay this fee in a timely manner
11 shall constitute grounds for the licensed bail bond agent to
12 remand the defendant to the custody of the court or
13 appropriate law enforcement agency. Fees charged by a bail
14 bond agent for electronic monitoring equipment and services
15 shall not be considered part of the bail bond premium and
16 shall be exempt from the provisions of s. 648.33.

17 (c) Records and receipts for electronic monitoring
18 equipment and services provided by a licensed bail bond agent
19 shall be kept separate and apart from bail bond records and
20 shall be available for inspection by the court or the
21 appropriate governmental entity.

22 Section 2. Paragraph (a) of subsection (7) and
23 paragraph (b) of subsection (10) of section 775.21, Florida
24 Statutes, are amended to read:

25 775.21 The Florida Sexual Predators Act.--

26 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

27 (a) Law enforcement agencies must inform members of
28 the community and the public of a sexual predator's presence.
29 Upon notification of the presence of a sexual predator, the
30 sheriff of the county or the chief of police of the
31 municipality where the sexual predator establishes or

1 maintains a permanent or temporary residence shall notify
2 members of the community and the public of the presence of the
3 sexual predator in a manner deemed appropriate by the sheriff
4 or the chief of police. Within 48 hours after receiving
5 notification of the presence of a sexual predator, the sheriff
6 of the county or the chief of police of the municipality where
7 the sexual predator temporarily or permanently resides shall
8 notify each licensed day care center, elementary school,
9 middle school, ~~and~~ high school, and library within a 1-mile
10 radius of the temporary or permanent residence of the sexual
11 predator of the presence of the sexual predator. Information
12 provided to members of the community and the public regarding
13 a sexual predator must include:

- 14 1. The name of the sexual predator;
- 15 2. A description of the sexual predator, including a
16 photograph;
- 17 3. The sexual predator's current address, including
18 the name of the county or municipality if known;
- 19 4. The circumstances of the sexual predator's offense
20 or offenses; and
- 21 5. Whether the victim of the sexual predator's offense
22 or offenses was, at the time of the offense, a minor or an
23 adult.

24
25 This paragraph does not authorize the release of the name of
26 any victim of the sexual predator.

27 (10) PENALTIES.--

28 (b) A sexual predator who has been convicted of or
29 found to have committed, or has pled nolo contendere or guilty
30 to, regardless of adjudication, any violation, or attempted
31 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where

1 | the victim is a minor and the defendant is not the victim's
2 | parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.
3 | 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s.
4 | 847.0145; or s. 985.701(1); or a violation of a similar law of
5 | another jurisdiction when the victim of the offense was a
6 | minor, and who works, whether for compensation or as a
7 | volunteer, at any ~~business~~, school, day care center, park,
8 | playground, library, or business or other place where children
9 | regularly congregate, commits a felony of the third degree,
10 | punishable as provided in s. 775.082, s. 775.083, or s.
11 | 775.084.

12 | Section 3. Section 775.215, Florida Statutes, is
13 | created to read:

14 | 775.215 Residency exclusions for sexual offenders or
15 | predators; local ordinances preempted.--

16 | (1) The establishment of residency exclusions
17 | applicable to the residences of a person required to register
18 | as a sexual offender or sexual predator is expressly preempted
19 | to the state, and the provisions of ss. 794.065, 947.1405, and
20 | 948.30 establishing such exclusions supersede any municipal or
21 | county ordinances imposing different exclusions.

22 | (2) A provision of any ordinance adopted by a county
23 | or municipality prior to October 1, 2007, imposing residency
24 | exclusions for the residences of persons subject to the
25 | provisions of s. 794.065, s. 947.1405, or s. 948.30 is
26 | repealed and abolished as of October 1, 2007.

27 | Section 4. Subsection (2) of section 775.24, Florida
28 | Statutes, is amended to read:

29 | 775.24 Duty of the court to uphold laws governing
30 | sexual predators and sexual offenders.--

31 |

1 (2) If a person meets the criteria in this chapter for
2 designation as a sexual predator or meets the criteria in s.
3 943.0435, s. 944.606, s. 944.607, or any other law for
4 classification as a sexual offender, the court may not enter
5 an order, for the purpose of approving a plea agreement or for
6 any other reason, which:

7 (a) Exempts a person who meets the criteria for
8 designation as a sexual predator or classification as a sexual
9 offender from such designation or classification, ~~or~~ exempts
10 such person from the requirements for registration or
11 community and public notification imposed upon sexual
12 predators and sexual offenders, or exempts such person from
13 the residency exclusions contained in ss. 794.065, 947.1405,
14 and 948.30;

15 (b) Restricts the compiling, reporting, or release of
16 public records information that relates to sexual predators or
17 sexual offenders; or

18 (c) Prevents any person or entity from performing its
19 duties or operating within its statutorily conferred authority
20 as such duty or authority relates to sexual predators or
21 sexual offenders.

22 Section 5. Section 794.065, Florida Statutes, is
23 amended to read:

24 794.065 Unlawful place of residence for persons
25 convicted of certain sex offenses.--

26 (1)(a) It is unlawful for any person who has been
27 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,
28 or s. 847.0145 committed on or after October 1, 2004,
29 regardless of whether adjudication has been withheld, in which
30 the victim of the offense was less than 16 years of age, to
31

1 reside within 1,000 feet of any school, day care center, park,
2 or playground.

3 (b) A person who violates this subsection ~~section~~ and
4 whose conviction for an offense listed in paragraph (a) ~~under~~
5 ~~s. 794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was
6 classified as:

7 1. A felony of the first degree or higher, commits a
8 felony of the third degree, punishable as provided in s.
9 775.082 or s. 775.083. ~~A person who violates this section and~~
10 ~~whose conviction under s. 794.011, s. 800.04, s. 827.071, or~~
11 ~~s. 847.0145 was classified as~~

12 2. A felony of the second or third degree, commits a
13 misdemeanor of the first degree, punishable as provided in s.
14 775.082 or s. 775.083.

15 (2)(a) It is unlawful for any person who has been
16 convicted of a violation of s. 787.01(3)(a)2., 3., 4., or 5.,
17 s. 787.02(3)(a)2., 3., 4., or 5., s. 794.011, s. 800.04, s.
18 827.071, or s. 847.0145 committed on or after October 1, 2007,
19 regardless of whether adjudication has been withheld, in which
20 the victim of the offense was less than 16 years of age, to
21 reside within 1,500 feet of any school, day care center, park,
22 playground, library, or business or other place where children
23 regularly congregate.

24 (b) A person violating this subsection whose
25 conviction of an offense listed in paragraph (a) was
26 classified as:

27 1. A felony of the first degree or higher, commits a
28 felony of the third degree, punishable as provided in s.
29 775.082 or s. 775.083.

30
31

1 2. A felony of the second or third degree, commits a
2 misdemeanor of the first degree, punishable as provided in s.
3 775.082 or s. 775.083.

4 (c) For purposes of this subsection, distances shall
5 be measured in a straight line from the offender's place of
6 residence to the nearest boundary line of the school, day care
7 center, park, playground, library, or business or other place
8 where children regularly congregate. Distances may not be
9 measured by a pedestrian route or automobile route.

10 ~~(2) This section applies to any person convicted of a~~
11 ~~violation of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145~~
12 ~~for offenses that occur on or after October 1, 2004.~~

13 Section 6. Section 907.06, Florida Statutes, is
14 created to read:

15 907.06 Electronic monitoring of certain defendants;
16 general requirements for equipment and services.--

17 (1)(a) The court may order a defendant charged with a
18 forcible felony or a sexual offense, or charged with any crime
19 and previously convicted of a forcible felony or a sexual
20 offense, to be released from custody on a surety bond subject
21 to conditions that include, without limitation, electronic
22 monitoring, if electronic monitoring is available in the
23 jurisdiction.

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

25 1. "Forcible felony" has the same meaning as in s.
26 776.08.

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

29 (2) A defendant who is released on a surety bond that
30 includes a condition requiring electronic monitoring shall pay
31 a reasonable fee for equipment use and monitoring as an

1 additional condition of pretrial release not to exceed the
2 maximum daily fee set by the chief judge of the judicial
3 circuit in which the defendant is released.

4 (3)(a) Electronic monitoring shall include the
5 equipment and services necessary to continuously receive
6 electronic signals from the transmitter worn by the defendant
7 to determine the defendant's geographic position at any time
8 to within 10 meters, using global positioning satellite (GPS)
9 technology, subject to the limitations related to the
10 technology and to circumstances of force majeure.

11 (b) Provision of electronic monitoring equipment and
12 services may be undertaken as a primary responsibility of a
13 governmental entity or a licensed bail bond agent qualifying
14 as a vendor under s. 907.07.

15 (c) A governmental entity or licensed bail bond agent
16 may subcontract with an eligible third-party vendor for
17 electronic monitoring equipment and services, provided the
18 third-party vendor complies with all provisions of this
19 subsection and s. 907.08 and operates under the direction and
20 control of the governmental entity or licensed bail bond
21 agent. A governmental entity subcontracting for electronic
22 monitoring equipment and services must select the third-party
23 vendor through a competitive bidding process.

24 (4)(a) Any governmental entity or bail bond agent
25 providing electronic monitoring services must report any known
26 violations of the defendant's pretrial release conditions to
27 the appropriate court, law enforcement agency, and state
28 attorney as soon as possible. Additionally, if a third-party
29 vendor is providing the electronic monitoring equipment and
30 services under a subcontract, the third-party vendor must
31

1 report any known violations to the governmental entity or bail
2 bond agent with whom the third-party vendor has a subcontract.

3 (b) Notwithstanding the reporting requirements in
4 paragraph (a), the provision of electronic monitoring services
5 by a governmental entity or bail bond agent, or any
6 subcontractor thereof, shall not constitute a legal duty to
7 protect members of the public from criminal acts committed by
8 a monitored defendant. The sole purpose of electronic
9 monitoring is to give the governmental entity, bail bond
10 agent, or law enforcement agency, upon request, an indication
11 of the physical location of the monitored defendant at any
12 point in time. The governmental entity or licensed bail bond
13 agent, or any subcontractor thereof, is not responsible to
14 third parties for the failure of the monitoring equipment or
15 for the criminal acts of the monitored defendant.

16 (5) A defendant released in accordance with this
17 section shall not alter, tamper with, damage, or destroy any
18 electronic monitoring equipment or the data recorded by such
19 equipment. A defendant notified of a malfunction in the
20 equipment shall immediately cooperate with the governmental
21 entity, bail bond agent, or subcontractor thereof to restore
22 the equipment to proper functioning. A violation of this
23 subsection shall constitute a violation of pretrial release
24 and be grounds for the defendant to be remanded to the court
25 or appropriate law enforcement agency.

26 Section 7. Section 907.07, Florida Statutes, is
27 created to read:

28 907.07 Vendors of electronic monitoring equipment and
29 services; bail bond agent eligibility; process; standards.--
30
31

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

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

9 (a) Register the name of the licensed bail bond agent
10 and, if applicable, the subcontractor; the name and telephone
11 number of the individual employed by the licensed bail bond
12 agent and, if applicable, the subcontractor that is serving as
13 the contact person for the licensed bail bond agent and, if
14 applicable, the subcontractor; and the address of the licensed
15 bail bond agent and, if applicable, the subcontractor.

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

18 1. That the electronic monitoring equipment used by
19 the licensed bail bond agent or subcontractor complies with
20 the specifications for privately owned electronic monitoring
21 devices pursuant to s. 907.08.

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

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

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

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

31

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

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

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

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

14 Section 8. Section 907.08, Florida Statutes, is
15 created to read:

16 907.08 Standards for privately owned electronic
17 monitoring system.--To be eligible for use for electronic
18 monitoring of a defendant under s. 907.06, a privately owned
19 electronic monitoring system must meet the minimum
20 specifications in subsections (1) and (2) and must be
21 consistent with the performance standards in subsections
22 (3)-(9), subject to the best commercially available technology
23 at time of procurement. Such a system must:

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

26 (2)(a) Emit signal content 24 hours per day
27 identifying the specific device being worn by the defendant
28 and the defendant's physical location using global positioning
29 satellite (GPS) technology accurate to within 10 meters; or

30 (b) Receive signal content 24 hours per day
31 determining the defendant's physical location using GPS

1 technology accurate to within 10 meters, recording the
2 defendant's physical locations throughout the day, and being
3 capable of transmitting that record of locations to the vendor
4 at least daily.

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

11 (4) Possess and emit signal content indicating whether
12 the transmitter has been tampered with or removed.

13 (5) Possess encrypted signal content or another
14 feature designed to discourage duplication.

15 (6) Be shock resistant, waterproof, and capable of
16 reliable function under normal atmospheric and environmental
17 conditions.

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

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

24 (9) Make use of straps or other mechanisms for
25 attaching the transmitter to the defendant that are capable of
26 being adjusted to fit a defendant of any size or are available
27 in a variety of sizes.

28 Section 9. Section 907.09, Florida Statutes, is
29 created to read:

30 907.09 Offenses related to electronic monitoring
31 devices.--It is a felony of the third degree, punishable as

1 provided in s. 775.082, s. 775.083, or s. 775.084, for a
2 person to:

3 (1) Intentionally alter, tamper with, damage, or
4 destroy any electronic monitoring device used to monitor the
5 location of a person pursuant to court order, unless the
6 person is the owner of the equipment or an agent of the owner
7 performing ordinary maintenance and repairs.

8 (2) Develop, build, create, possess, or use any device
9 that is intended to mimic, clone, interfere with, or jam the
10 signal of an electronic monitoring device used to monitor the
11 location of a defendant pursuant to court order.

12 (3) Intentionally alter, tamper with, damage, or
13 destroy any data stored or transmitted by any electronic
14 monitoring device used to monitor the location of a defendant
15 pursuant to court order with the intent to violate the court
16 order or to conceal a violation.

17 Section 10. Section 916.145, Florida Statutes, is
18 amended to read:

19 916.145 Dismissal of charges; community monitoring.--

20 (1) The charges against any defendant adjudicated
21 incompetent to proceed due to the defendant's mental illness
22 shall be dismissed without prejudice to the state if the
23 defendant remains incompetent to proceed 5 years after such
24 determination, unless the court in its order specifies its
25 reasons for believing that the defendant will become competent
26 to proceed within the foreseeable future and specifies the
27 time within which the defendant is expected to become
28 competent to proceed. The charges against the defendant are
29 dismissed without prejudice to the state to refile the charges
30 ~~if should~~ the defendant ~~is~~ be declared competent to proceed in
31 the future.

1 (2) A defendant who is charged with a capital or life
2 felony and who has been adjudicated incompetent to proceed due
3 to the defendant's mental illness, whose charges have been
4 dismissed without prejudice to the state, and who does not
5 meet the criteria for involuntary hospitalization or
6 residential services may be placed on electronic monitoring 24
7 hours per day. The department shall supervise the electronic
8 monitoring for 24 months. The department shall reevaluate the
9 defendant 6 months after the defendant is released from
10 involuntary commitment, and once every 6 months thereafter, in
11 order to determine whether the defendant remains incompetent
12 to proceed. The department shall prepare a report of its
13 findings and deliver a copy of the report to the office of the
14 state attorney of the judicial circuit in which the defendant
15 was involuntarily committed.

16 Section 11. Section 916.303, Florida Statutes, is
17 amended to read:

18 916.303 Determination of incompetency due to
19 retardation or autism; dismissal of charges; community
20 monitoring.--

21 (1) The charges against any defendant found to be
22 incompetent to proceed due to retardation or autism shall be
23 dismissed without prejudice to the state if the defendant
24 remains incompetent to proceed within a reasonable time after
25 such determination, not to exceed 2 years, unless the court in
26 its order specifies its reasons for believing that the
27 defendant will become competent to proceed within the
28 foreseeable future and specifies the time within which the
29 defendant is expected to become competent to proceed. The
30 charges may be refiled by the state if the defendant is
31 declared competent to proceed in the future.

1 (2) If the charges are dismissed and if the defendant
2 is considered to lack sufficient capacity to give express and
3 informed consent to a voluntary application for services and
4 lacks the basic survival and self-care skills to provide for
5 his or her well-being or is likely to physically injure
6 himself or herself or others if allowed to remain at liberty,
7 the agency, the state attorney, or the defendant's attorney
8 shall apply to the committing court to involuntarily admit the
9 defendant to residential services pursuant to s. 393.11.

10 (3) If the defendant is considered to need involuntary
11 residential services for reasons described in subsection (2)
12 and, further, there is a substantial likelihood that the
13 defendant will injure another person or continues to present a
14 danger of escape, and all available less restrictive
15 alternatives, including services in community residential
16 facilities or other community settings, which would offer an
17 opportunity for improvement of the condition have been judged
18 to be inappropriate, the agency, the state attorney, or the
19 defendant's counsel may request the committing court to
20 continue the defendant's placement in a secure facility
21 pursuant to this part. Any placement so continued under this
22 subsection must be reviewed by the court at least annually at
23 a hearing. The annual review and hearing shall determine
24 whether the defendant continues to meet the criteria described
25 in this subsection and, if so, whether the defendant still
26 requires involuntary placement in a secure facility and
27 whether the defendant is receiving adequate care, treatment,
28 habilitation, and rehabilitation, including psychotropic
29 medication and behavioral programming. Notice of the annual
30 review and review hearing shall be given to the state attorney
31 and the defendant's attorney. In no instance may a defendant's

1 placement in a secure facility exceed the maximum sentence for
2 the crime for which the defendant was charged.

3 (4) A defendant who is charged with a capital or life
4 felony and who has been adjudicated incompetent to proceed due
5 to the defendant's retardation or autism, whose charges have
6 been dismissed without prejudice to the state, and who does
7 not meet the criteria for involuntary admission to residential
8 services under s. 393.11 may be placed on electronic
9 monitoring 24 hours per day. The agency shall supervise the
10 electronic monitoring for 24 months. The agency shall
11 reevaluate the defendant 6 months after the release of the
12 defendant from involuntary commitment, and once every 6 months
13 thereafter, in order to determine whether the defendant
14 remains incompetent to proceed. The agency shall prepare a
15 report of its findings and deliver a copy of the report to the
16 office of the state attorney of the judicial circuit in which
17 the defendant was involuntarily committed.

18 Section 12. Section 944.161, Florida Statutes, is
19 created to read:

20 944.161 Electronic monitoring of inmates within
21 correctional facilities.--

22 (1) The department is authorized to employ electronic
23 monitoring of inmates incarcerated within state and private
24 correctional facilities. The department must use electronic
25 monitoring systems that meet the minimum specifications in
26 paragraphs (a) and (b) and are consistent with the performance
27 standards in paragraph (c), subject to the best commercially
28 available technology at the time of procurement. Such a system
29 must:

30 (a) Have the capacity to continuously receive
31 electronic signals at a monitoring station within the

1 correctional facility from a transmitter that continuously
2 transmits in real time and identifies the specific geographic
3 position within the facility at any time of the following
4 persons who must wear a transmitter:

5 1. Inmates.

6 2. Department employees.

7 3. Employees of any private-sector company contracted
8 to operate a correctional facility.

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

11 (b) Use electronic monitoring transmitters worn by
12 persons in any correctional facility that are capable of
13 providing updates in at least 5-second intervals and transmit
14 the geographical location of a person wearing a transmitter to
15 within at least a 3-meter radius of his or her actual location
16 or to within a radius equal to the width of a facility's
17 average size sleeping quarters, whichever is less, subject to
18 the limitations relating to the state of the art of the
19 technology used and to circumstances of force majeure.
20 Transmitters worn by persons other than inmates shall also
21 include a panic safety button.

22 (c) Be consistent with the following technological and
23 functional performance standards:

24 1. Be compatible with a commercially recognized
25 wireless network access standard as designated by the
26 department and have sufficient bandwidth to support additional
27 wireless networking devices to expand the capacity of the
28 correctional facility to use the service.

29 2. Be capable of issuing an alarm to an internal
30 correctional monitoring station in an appropriate amount of
31 time after receiving a panic alert from an employee or visitor

1 transmitter or within an appropriate amount of time after
2 violation of the established parameters for permissible
3 movement of inmates, employees, and visitors within the
4 facility.

5 3. Be capable of maintaining a historical storage
6 capacity sufficient to store up to at least 6 months of
7 complete inmate, employee, and visitor tracking data for
8 purposes of followup investigations and vendor contract
9 auditing. The system should be capable of recording the
10 continuous uninterrupted movement of all monitored individuals
11 by specific position, rather than solely by area or zone. All
12 tracking data shall also be periodically archived by
13 appropriate electronic data transfer to a permanent storage
14 medium designated as acceptable by the department and retained
15 for at least a 5-year period. In addition, tracking data
16 collected from each facility shall be electronically
17 transmitted periodically to a secure centralized offsite
18 location designated by the department and in an appropriate
19 storage medium designated as acceptable by the department as a
20 supplemental backup to protect the archived data from
21 alteration and to prevent loss due to disaster or other cause.

22 4. With respect to a transmitter affixed to an inmate,
23 possess an internal power source that is field rechargeable or
24 provides at least 1 year of normal operation without the need
25 to recharge or replace the power source. Batteries used in
26 devices should be capable of being replaced by correctional
27 employees. The device should emit signal content indicating
28 the power status of the transmitter and notifying the
29 correctional facility monitoring station of any need to
30 recharge or replace the power source.

31

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

3 6. Possess encrypted signal content or another feature
4 designed to discourage duplication.

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

8 8. Be capable of sustaining wear and use in a manner
9 that does not pose a safety hazard or unduly restrict the
10 activities of the inmate.

11 9. Be capable of being attached to the inmate in a
12 manner that readily reveals any efforts to tamper with or
13 remove the transmitter upon visual inspection.

14 10. Possess straps or other mechanisms for attaching
15 the transmitter to the inmate that are capable of being
16 adjusted to fit an inmate of any size or are available in a
17 variety of sizes.

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

20 12. Provide a backup power source in the event of a
21 power failure.

22 (2) It is a felony of the third degree, punishable as
23 provided in s. 775.082, s. 775.083, or s. 775.084, for a
24 person to:

25 (a) Intentionally alter, tamper with, damage, or
26 destroy any electronic monitoring equipment used to monitor
27 the location of a person within a correctional facility,
28 unless the person is the owner of the equipment or an agent of
29 the owner performing ordinary maintenance and repairs.

30 (b) Develop, build, create, possess, or use any device
31 that is intended to mimic, clone, interfere with, or jam the

1 signal of an electronic monitoring device used to monitor the
2 location of a person within a correctional facility.

3 (c) Intentionally alter, tamper with, damage, or
4 destroy any data stored in an electronic monitoring device
5 pursuant to subparagraph (1)(c)3. unless done so with written
6 permission from an authorized official of the department or in
7 compliance with a data-retention policy of the department
8 adopted by rule.

9 (3) The department is authorized to adopt rules
10 pursuant to ss. 120.536(1) and 120.54 to implement the
11 provisions of this section.

12 Section 13. The provisions of section 944.161(1),
13 Florida Statutes, as created by this act, do not apply to
14 contracts executed pursuant to chapter 957, Florida Statutes,
15 before July 1, 2007, between the Department of Management
16 Services and private prison providers.

17 Section 14. Effective July 1, 2007, subsections (2)
18 and (6) and paragraph (a) of subsection (7) of section
19 947.1405, Florida Statutes, are amended, and subsection (11)
20 is added to that section, to read:

21 947.1405 Conditional release program.--

22 (2)(a) Any inmate who:

23 1.(a) Is convicted of a crime committed on or after
24 October 1, 1988, and before January 1, 1994;~~and any inmate~~
25 ~~who~~ is convicted of a crime committed on or after January 1,
26 1994, which crime is or was contained in category 1, category
27 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,
28 Florida Rules of Criminal Procedure (1993), and ~~who~~ has served
29 at least one prior felony commitment at a state or federal
30 correctional institution; or is convicted of a violation of
31

1 any of the following statutory provisions committed on or
2 after July 1, 2007:

3 a. Kidnapping, under s. 787.01(3)(a)2., 3., 4., or 5.;

4 b. False imprisonment, under s. 787.02(3)(a)2., 3.,
5 4., or 5.;

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

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

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

11 3.(c) Is found to be a sexual predator under s. 775.21
12 or former s. 775.23,

13

14 shall, upon reaching the tentative release date or provisional
15 release date, whichever is earlier, as established by the
16 Department of Corrections, be released under supervision
17 subject to specified terms and conditions, including payment
18 of the cost of supervision pursuant to s. 948.09. Such
19 supervision shall be applicable to all sentences within the
20 overall term of sentences if an inmate's overall term of
21 sentences includes one or more sentences that are eligible for
22 conditional release supervision as provided herein.

23 (b) Effective July 1, 1994, and applicable for
24 offenses committed on or after that date, the commission may
25 require, as a condition of conditional release, that the
26 releasee make payment of the debt due and owing to a county or
27 municipal detention facility under s. 951.032 for medical
28 care, treatment, hospitalization, or transportation received
29 by the releasee while in that detention facility. The
30 commission, in determining whether to order such repayment and
31 the amount of such repayment, shall consider the amount of the

1 debt, whether there was any fault of the institution for the
2 medical expenses incurred, the financial resources of the
3 releasee, the present and potential future financial needs and
4 earning ability of the releasee, and dependents, and other
5 appropriate factors.

6 (c) If any inmate, other than an inmate required to
7 register as a sexual predator under s. 775.21 or as a sexual
8 offender under s. 943.0435, placed on conditional release
9 supervision is also subject to probation or community control,
10 resulting from a probationary or community control split
11 sentence within the overall term of sentences, the Department
12 of Corrections shall supervise such person according to the
13 conditions imposed by the court and the commission shall defer
14 to such supervision. If the court revokes probation or
15 community control and resentences the offender to a term of
16 incarceration, such revocation also constitutes a sufficient
17 basis for the revocation of the conditional release
18 supervision on any nonprobationary or noncommunity control
19 sentence without further hearing by the commission. If any
20 such supervision on any nonprobationary or noncommunity
21 control sentence is revoked, such revocation may result in a
22 forfeiture of all gain-time, and the commission may revoke the
23 resulting deferred conditional release supervision or take
24 other action it considers appropriate. If the term of
25 conditional release supervision exceeds that of the probation
26 or community control, then, upon expiration of the probation
27 or community control, authority for the supervision shall
28 revert to the commission and the supervision shall be subject
29 to the conditions imposed by the commission.

30 (d) If any inmate required to register as a sexual
31 predator under s. 775.21 or as a sexual offender under s.

1 943.0435 is placed on conditional release supervision and is
2 also subject to probation or community control, the period of
3 court-ordered community supervision shall not be substituted
4 for conditional release supervision and shall follow the term
5 of conditional release supervision.

6 (e) A panel of no fewer than two commissioners shall
7 establish the terms and conditions of any such release. If the
8 offense was a controlled substance violation, the conditions
9 shall include a requirement that the offender submit to random
10 substance abuse testing intermittently throughout the term of
11 conditional release supervision, upon the direction of the
12 correctional probation officer as defined in s. 943.10(3). The
13 commission shall also determine whether the terms and
14 conditions of such release have been violated and whether such
15 violation warrants revocation of the conditional release.

16 (6) The commission shall review the recommendations of
17 the department, and such other information as it deems
18 relevant, and may conduct a review of the inmate's record for
19 the purpose of establishing the terms and conditions of the
20 conditional release. The commission may impose any special
21 conditions it considers warranted from its review of the
22 release plan and recommendation. If the commission determines
23 that the inmate is eligible for release under this section,
24 the commission shall enter an order establishing the length of
25 supervision and the conditions attendant thereto. However, an
26 inmate who has been convicted of a violation of chapter 794 or
27 found by the court to be a sexual predator is subject to the
28 maximum level of supervision provided, with the mandatory
29 conditions as required in subsection (7), and that supervision
30 shall continue through the end of the releasee's original
31 court-imposed sentence. The length of supervision must not

1 exceed the maximum penalty imposed by the court. The
2 commission may modify the conditions of supervision at any
3 time as warranted in the interest of public safety.

4 (7)(a) Any inmate who is convicted of a crime
5 committed on or after October 1, 1995, or who has been
6 previously convicted of a crime committed on or after October
7 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,
8 or s. 847.0145, and is subject to conditional release
9 supervision, shall have, in addition to any other conditions
10 imposed, the following special conditions imposed by the
11 commission:

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

19 2.a. If the victim was under the age of 18, a
20 prohibition on living within 1,000 feet of a school, day care
21 center, park, playground, designated public school bus stop,
22 or other place where children regularly congregate. A releasee
23 who is subject to this subparagraph may not relocate to a
24 residence that is within 1,000 feet of a public school bus
25 stop.

26 b. Beginning October 1, 2004, the commission or the
27 department may not approve a residence that is located within
28 1,000 feet of a school, day care center, park, playground,
29 designated school bus stop, or other place where children
30 regularly congregate for any releasee who is subject to this
31 subparagraph. On October 1, 2004, the department shall notify

1 each affected school district of the location of the residence
2 of a releasee 30 days prior to release and thereafter, if the
3 releasee relocates to a new residence, shall notify any
4 affected school district of the residence of the releasee
5 within 30 days after relocation. If, on October 1, 2004, any
6 public school bus stop is located within 1,000 feet of the
7 existing residence of such releasee, the district school board
8 shall relocate that school bus stop. Beginning October 1,
9 2004, a district school board may not establish or relocate a
10 public school bus stop within 1,000 feet of the residence of a
11 releasee who is subject to this subparagraph. The failure of
12 the district school board to comply with this subparagraph
13 shall not result in a violation of conditional release
14 supervision.

15 c. Beginning October 1, 2007, neither the commission
16 nor the department may approve a residence located within
17 1,500 feet of a school, day care center, park, playground,
18 designated school bus stop, library, or business or other
19 place where children regularly congregate for any releasee who
20 is subject to this subparagraph. The distance provided in this
21 sub-subparagraph shall be measured in a straight line from the
22 offender's place of residence to the nearest boundary line of
23 the school, day care center, park, playground, library, or
24 other business or place where children regularly congregate.
25 The distance may not be measured by a pedestrian route or
26 automobile route.

27 3. 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 releasee's own expense. If a qualified practitioner is not
31

1 available within a 50-mile radius of the releasee's residence,
2 the offender shall participate in other appropriate therapy.

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

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

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

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

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

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

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

1 (V) The sex offender's offender treatment history,
2 including a consultation from the sex offender's treating, or
3 most recent treating, therapist;

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

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

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

9 (IX) The results of current psychological testing of
10 the sex offender if determined necessary by the qualified
11 practitioner;

12 (X) A description of the proposed contact, including
13 the location, frequency, duration, and supervisory
14 arrangement;

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

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

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

23
24 The written report of the assessment must be given to the
25 commission.

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

29 c. A written consent signed by the child's parent or
30 legal guardian, if the parent or legal guardian is not the sex
31 offender, agreeing to the sex offender having supervised

1 | contact with the child after receiving full disclosure of the
2 | sex offender's present legal status, past criminal history,
3 | and the results of the risk assessment. The commission may not
4 | approve contact with the child if the parent or legal guardian
5 | refuses to give written consent for supervised contact;

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

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

20 |
21 | The commission may not appoint a person to conduct a risk
22 | assessment and may not accept a risk assessment from a person
23 | who has not demonstrated to the commission that he or she has
24 | met the requirements of a qualified practitioner as defined in
25 | this section.

26 | 6. If the victim was under age 18, a prohibition on
27 | working for pay or as a volunteer at any school, day care
28 | center, park, playground, library, or business or other place
29 | where children regularly congregate, as prescribed by the
30 | commission.

31 |

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

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

15 9. A requirement that the releasee must submit two
16 specimens of blood to the Florida Department of Law
17 Enforcement to be registered with the DNA database.

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

23 11. Submission to a warrantless search by the
24 community control or probation officer of the probationer's or
25 community controllee's person, residence, or vehicle.

26 (11) Effective for a releasee whose crime was a
27 violation of s. 787.01(3)(a)2., 3., 4., or 5. or s.
28 787.02(3)(a)2., 3., 4., or 5., committed on or after October
29 1, 2007, and who was 18 years of age or older at the time of
30 the offense, in addition to any other provision of this
31

1 section, the commission must order electronic monitoring for
2 the duration of the releasee's supervision.

3 Section 15. Effective July 1, 2007, subsection (8) is
4 added to section 947.141, Florida Statutes, to read:

5 947.141 Violations of conditional release, control
6 release, or conditional medical release or addiction-recovery
7 supervision.--

8 (8) Because of the compelling state interest in
9 protecting the public from sexual offenders or sexual
10 predators granted the privilege of conditional release, in any
11 hearing alleging a violation of conditional release by a
12 releasee for failure to comply with the residency exclusion in
13 s. 947.1405, the inability of the releasee to locate a
14 residence in compliance with s. 947.1405 shall not be a
15 defense to the finding of a violation under this section.

16 Section 16. Subsection (4) of section 948.06, Florida
17 Statutes, is amended to read:

18 948.06 Violation of probation or community control;
19 revocation; modification; continuance; failure to pay
20 restitution or cost of supervision.--

21 (4) Notwithstanding any other provision of this
22 section, a probationer or an offender in community control who
23 is arrested for violating his or her probation or community
24 control in a material respect may be taken before the court in
25 the county or circuit in which the probationer or offender was
26 arrested. That court shall advise him or her of such charge of
27 a violation and, if such charge is admitted, shall cause him
28 or her to be brought before the court which granted the
29 probation or community control. If such violation is not
30 admitted by the probationer or offender, the court may commit
31 him or her or release him or her with or without bail to await

1 further hearing. However, if the probationer or offender is
2 under supervision for any criminal offense proscribed in
3 chapter 794, s. 800.04(4), (5), (6), s. 827.071, or s.
4 847.0145, or is a registered sexual predator or a registered
5 sexual offender, or is under supervision for a criminal
6 offense for which he or she would meet the registration
7 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the
8 effective date of those sections, the court must make a
9 finding that the probationer or offender poses no ~~is not a~~
10 danger to the public prior to release with or without bail. In
11 determining that the probationer or offender poses no danger
12 to the public ~~the danger posed by the offender's or~~
13 ~~probationer's release~~, the court may consider the nature and
14 circumstances of the violation and any new offenses charged;
15 the offender's or probationer's past and present conduct,
16 including convictions of crimes; any record of arrests without
17 conviction for crimes involving violence or sexual crimes; any
18 other evidence of allegations of unlawful sexual conduct or
19 the use of violence by the offender or probationer; the
20 offender's or probationer's family ties, length of residence
21 in the community, employment history, and mental condition;
22 his or her history and conduct during the probation or
23 community control supervision from which the violation arises
24 and any other previous supervisions, including disciplinary
25 records of previous incarcerations; the likelihood that the
26 offender or probationer will engage again in a criminal course
27 of conduct; the weight of the evidence against the offender or
28 probationer; whether the probationer or offender is currently
29 subject to electronic monitoring; and any other facts the
30 court considers relevant. The court, as soon as is
31 practicable, shall give the probationer or offender an

1 opportunity to be fully heard on his or her behalf in person
2 or by counsel. After such hearing, the court shall make
3 findings of fact and forward the findings to the court which
4 granted the probation or community control and to the
5 probationer or offender or his or her attorney. The findings
6 of fact by the hearing court are binding on the court which
7 granted the probation or community control. Upon the
8 probationer or offender being brought before it, the court
9 which granted the probation or community control may revoke,
10 modify, or continue the probation or community control or may
11 place the probationer into community control as provided in
12 this section.

13 Section 17. Effective September 1, 2007, paragraph (b)
14 of subsection (1) and subsection (3) of section 948.30,
15 Florida Statutes, are amended, and subsection (4) is added to
16 that section, to read:

17 948.30 Additional terms and conditions of probation or
18 community control for certain sex offenses.--Conditions
19 imposed pursuant to this section do not require oral
20 pronouncement at the time of sentencing and shall be
21 considered standard conditions of probation or community
22 control for offenders specified in this section.

23 (1) Effective for probationers or community
24 controllees whose crime was committed on or after October 1,
25 1995, and who are placed under supervision for violation of
26 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court
27 must impose the following conditions in addition to all other
28 standard and special conditions imposed:

29 (b)1. Except as provided in subparagraph 2., if the
30 victim was under the age of 18, a prohibition on living within
31 1,000 feet of a school, day care center, park, playground, or

1 other place where children regularly congregate, as prescribed
2 by the court. The 1,000-foot distance shall be measured in a
3 straight line from the offender's place of residence to the
4 nearest boundary line of the school, day care center, park,
5 playground, or other place where children regularly
6 congregate. The distance may not be measured by a pedestrian
7 route or automobile route.

8 2. For probationers or community controllees whose
9 crime was committed on or after October 1, 2007, if the victim
10 was under the age of 18, a prohibition on living within 1,500
11 feet of a school, day care center, park, playground, library,
12 or business or other place where children regularly
13 congregate, as prescribed by the court. This distance shall be
14 measured in a straight line from the offender's place of
15 residence to the nearest boundary line of the school, day care
16 center, park, playground, library, or business or other place
17 where children regularly congregate. The distance may not be
18 measured by a pedestrian route or automobile route.

19 (3) Effective for a probationer or community
20 controllee whose felony offense ~~crime~~ was committed on or
21 after September 1, 2005, and who:

22 (a) Is placed on probation or community control for a
23 violation of chapter 794, s. 800.04(4), (5), or (6), s.
24 827.071, or s. 847.0145 and the unlawful sexual activity
25 involved a victim under 16 ~~15~~ years of age ~~or younger~~ and the
26 offender is 18 years of age or older;

27 (b) Is designated a sexual predator pursuant to s.
28 775.21; or

29 (c) Has previously been convicted of a violation of
30 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
31 847.0145 and the unlawful sexual activity involved a victim

1 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18
2 years of age or older,

3
4 the court must order, in addition to any other provision of
5 this section, mandatory electronic monitoring as a condition
6 of the probation or community control supervision.

7 (4) Effective for a probationer or community
8 controllee whose felony offense was committed on or after
9 September 1, 2007, and who:

10 (a) Is placed on probation or community control for a
11 violation of s. 787.01(3)(a)2., 3., 4., or 5., s.
12 787.02(3)(a)2., 3., 4., or 5., chapter 794, s. 800.04(4), (5),
13 or (6), s. 827.071, or s. 847.0145 and the unlawful sexual
14 activity involved a victim under 16 years of age and the
15 offender is 18 years of age or older;

16 (b) Is designated a sexual predator pursuant to s.
17 775.21; or

18 (c) Has previously been convicted of a violation of s.
19 787.01(3)(a)2., 3., 4., or 5., s. 787.02(3)(a)2., 3., 4., or
20 5., chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
21 847.0145 and the unlawful sexual activity involved a victim
22 under 16 years of age and the offender is 18 years of age or
23 older,

24
25 the court must order, in addition to any other provision of
26 this section, mandatory electronic monitoring as a condition
27 of the probation or community control supervision.

28 Section 18. Section 985.6012, Florida Statutes, is
29 created to read:

30 985.6012 Electronic monitoring of juvenile offenders
31 within juvenile facilities.--

1 (1) The department is authorized to employ electronic
2 monitoring of juvenile offenders incarcerated within state and
3 private juvenile offender facilities for the purpose of
4 reducing offender-on-offender violence and reducing employee
5 sexual misconduct as defined in s. 985.701. The department
6 must use electronic monitoring systems that meet the minimum
7 specifications in paragraphs (a) and (b) and are consistent
8 with the performance standards in paragraph (c), subject to
9 the best commercially available technology at the time of
10 procurement. Such a system must:

11 (a) Have the capacity to continuously receive
12 electronic signals at a monitoring station within the
13 correctional facility from a transmitter that continuously
14 transmits in real time and identifies the specific geographic
15 position within the facility at any time of the following
16 persons who must wear a transmitter:

- 17 1. Juvenile offenders.
- 18 2. Department employees.
- 19 3. Employees of a private sector company contracted to
20 operate a juvenile facility.
- 21 4. Any visitor to a juvenile facility provided access
22 to areas designated for authorized personnel only.

23 (b) Use electronic monitoring transmitters worn by
24 persons in any juvenile facility that provide updates in at
25 least 5-second intervals and transmit the geographical
26 location of a person wearing a transmitter to within at least
27 a 3-meter radius of his or her actual location or to within a
28 radius equal to the width of a facility's average size
29 sleeping quarters, whichever is less, subject to the
30 limitations relating to the state of the art of the technology
31 used and to circumstances of force majeure. Transmitters worn

1 by persons other than juvenile offenders shall also include a
2 panic safety button.

3 (c) Be consistent with the following technological and
4 functional performance standards:

5 1. Be compatible with a commercially recognized
6 wireless network access standard as designated by the
7 department and sufficient bandwidth to support additional
8 wireless networking devices to expand the capacity of the
9 juvenile facility to use the service.

10 2. Be capable of issuing an alarm to an internal
11 correctional monitoring station in an appropriate amount of
12 time after receiving a panic alert from an employee or visitor
13 transmitter or within an appropriate amount of time after
14 violation of the established parameters for permissible
15 movement of juvenile offenders, employees, and visitors within
16 the facility.

17 3. Be capable of maintaining a historical storage
18 capacity sufficient to store up to at least 6 months of
19 complete juvenile offender, employee, and visitor tracking
20 data for purposes of followup investigations and vendor
21 contract auditing. The system should be capable of recording
22 the continuous uninterrupted movement of all monitored
23 individuals by specific position, rather than solely by area
24 or zone. All tracking data shall also be periodically archived
25 by appropriate electronic data transfer to a permanent storage
26 medium designated as acceptable by the department and retained
27 for at least a 5-year period. In addition, tracking data
28 collected from each facility shall be electronically
29 transmitted periodically to a secure centralized offsite
30 location designated by the department and in an appropriate
31 storage medium designated as acceptable by the department as a

1 supplemental backup to protect the archived data from
2 alteration and to prevent loss due to disaster or other cause.

3 4. With respect to a unit affixed to a juvenile
4 offender, possess an internal power source that is field
5 rechargeable or provides at least 1 year of normal operation
6 without the need to recharge or replace the power source.
7 Batteries used in devices should be capable of being replaced
8 by correctional employees. The device should emit signal
9 content indicating the power status of the transmitter and
10 notifying the juvenile facility monitoring station of any need
11 to recharge or replace the power source.

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

14 6. Possess encrypted signal content or another feature
15 designed to discourage duplication.

16 7. Be shock resistant, waterproof, and capable of
17 reliable function under normal atmospheric and environmental
18 conditions.

19 8. Be capable of sustaining wear and use in a manner
20 that does not pose a safety hazard or unduly restrict the
21 activities of the offender.

22 9. Be capable of being attached to the offender in a
23 manner that readily reveals any efforts to tamper with or
24 remove the transmitter upon visual inspection.

25 10. Possess straps or other mechanisms for attaching
26 the transmitter to the offender that are capable of being
27 adjusted to fit an offender of any size or are available in a
28 variety of sizes.

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

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1 12. Provide a backup power source in the event of a
2 power failure.

3 (2) It is a felony of the third degree, punishable as
4 provided in s. 775.082, s. 775.083, or s. 775.084, for a
5 person to:

6 (a) Intentionally alter, tamper with, damage, or
7 destroy any electronic monitoring equipment used to monitor
8 the location of a person within a juvenile facility, unless
9 the person is the owner of the equipment or an agent of the
10 owner performing ordinary maintenance and repairs.

11 (b) Develop, build, create, possess, or use any device
12 that is intended to mimic, clone, interfere with, or jam the
13 signal of an electronic monitoring device used to monitor the
14 location of a person within a juvenile facility.

15 (c) Intentionally alter, tamper with, damage, or
16 destroy any data stored in an electronic monitoring device
17 pursuant to subparagraph (1)(c)3. unless done so with written
18 permission from an authorized official of the department or in
19 compliance with a data-retention policy of the department
20 adopted by rule.

21 Section 19. Except as otherwise expressly provided in
22 this act, this act shall take effect October 1, 2007.
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