



1 control for certain sex offenses; providing an  
2 effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Paragraph (b) of subsection (3), paragraph  
7 (a) of subsection (7) and paragraph (b) of subsection (10), of  
8 section 775.21, Florida Statutes, are amended to read:

9 775.21 The Florida Sexual Predators Act.--

10 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE  
11 INTENT.--

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

17 1. Incarcerating sexual predators and maintaining  
18 adequate facilities to ensure that decisions to release sexual  
19 predators into the community are not made on the basis of  
20 inadequate space.

21 2. Providing for specialized supervision of sexual  
22 predators who are in the community by specially trained  
23 probation officers with low caseloads, as described in ss.  
24 947.1405(7) and 948.30. The sexual predator is subject to  
25 specified terms and conditions implemented at sentencing or at  
26 the time of release from incarceration, with a requirement  
27 that those sexual predators found to be indigent may defer  
28 payment pursuant to s. 28.246 of all or part of the costs in  
29 accordance with the provisions of that section ~~who are~~  
30 ~~financially able must pay all or part of the costs of~~  
31 ~~supervision.~~

1           3. Requiring the registration of sexual predators,  
2 with a requirement that complete and accurate information be  
3 maintained and accessible for use by law enforcement  
4 authorities, communities, and the public.

5           4. Providing for community and public notification  
6 concerning the presence of sexual predators.

7           5. Prohibiting sexual predators from working with  
8 children, either for compensation or as a volunteer.

9           (7) COMMUNITY AND PUBLIC NOTIFICATION.--

10           (a) Law enforcement agencies must inform members of  
11 the community and the public of a sexual predator's presence.  
12 Upon notification of the presence of a sexual predator, the  
13 sheriff of the county or the chief of police of the  
14 municipality where the sexual predator establishes or  
15 maintains a permanent or temporary residence shall notify  
16 members of the community and the public of the presence of the  
17 sexual predator in a manner deemed appropriate by the sheriff  
18 or the chief of police. Within 48 hours after receiving  
19 notification of the presence of a sexual predator, the sheriff  
20 of the county or the chief of police of the municipality where  
21 the sexual predator temporarily or permanently resides shall  
22 notify each licensed day care center, elementary school,  
23 middle school, ~~and~~ high school, and library within a 1-mile  
24 radius of the temporary or permanent residence of the sexual  
25 predator of the presence of the sexual predator. Information  
26 provided to members of the community and the public regarding  
27 a sexual predator must include:

- 28           1. The name of the sexual predator;  
29           2. A description of the sexual predator, including a  
30 photograph;  
31

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

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

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

8  
9 This paragraph does not authorize the release of the name of  
10 any victim of the sexual predator.

11           (10) PENALTIES.--

12           (b) A sexual predator who has been convicted of or  
13 found to have committed, or has pled nolo contendere or guilty  
14 to, regardless of adjudication, any violation, or attempted  
15 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
16 the victim is a minor and the defendant is not the victim's  
17 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.  
18 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s.  
19 847.0145; or s. 985.701(1); or a violation of a similar law of  
20 another jurisdiction when the victim of the offense was a  
21 minor, and who works, whether for compensation or as a  
22 volunteer, at any ~~business~~, school, day care center, park,  
23 playground, library, or business or other place where children  
24 regularly congregate, commits a felony of the third degree,  
25 punishable as provided in s. 775.082, s. 775.083, or s.  
26 775.084.

27           Section 2. Section 775.215, Florida Statutes, is  
28 created to read:

29           775.215 Residency exclusions for sexual offenders or  
30 predators; local ordinances preempted.--

31

1           (1) The establishment of residency exclusions  
2 applicable to the residences of a person required to register  
3 as a sexual offender or sexual predator is expressly preempted  
4 to the state, and the provisions of ss. 794.065, 947.1405, and  
5 948.30 establishing such exclusions supersede any municipal or  
6 county ordinances imposing different exclusions.

7           (2) A provision of any ordinance adopted by a county  
8 or municipality prior to October 1, 2007, imposing residency  
9 exclusions for the residences of persons subject to the  
10 provisions of s. 794.065, s. 947.1405, or s. 948.30 is hereby  
11 repealed and abolished as of October 1, 2007.

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

14           775.24 Duty of the court to uphold laws governing  
15 sexual predators and sexual offenders.--

16           (2) If a person meets the criteria in this chapter for  
17 designation as a sexual predator or meets the criteria in s.  
18 943.0435, s. 944.606, s. 944.607, or any other law for  
19 classification as a sexual offender, the court may not enter  
20 an order, for the purpose of approving a plea agreement or for  
21 any other reason, which:

22           (a) Exempts a person who meets the criteria for  
23 designation as a sexual predator or classification as a sexual  
24 offender from such designation or classification, ~~or~~ exempts  
25 such person from the requirements for registration or  
26 community and public notification imposed upon sexual  
27 predators and sexual offenders, or exempts such person from  
28 the residency exclusions contained in ss. 794.065, 947.1405,  
29 and 948.30;

1 (b) Restricts the compiling, reporting, or release of  
2 public records information that relates to sexual predators or  
3 sexual offenders; or

4 (c) Prevents any person or entity from performing its  
5 duties or operating within its statutorily conferred authority  
6 as such duty or authority relates to sexual predators or  
7 sexual offenders.

8 Section 4. Section 794.065, Florida Statutes, is  
9 amended to read:

10 794.065 Unlawful place of residence for persons  
11 convicted of certain sex offenses.--

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

18 2. A person who violates this section and whose  
19 conviction for an offense listed in subparagraph 1. ~~under s.~~  
20 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified  
21 as:

22 a. A felony of the first degree or higher,  commits a  
23 felony of the third degree, punishable as provided in s.  
24 775.082 or s. 775.083. ~~A person who violates this section and~~  
25 ~~whose conviction under s. 794.011, s. 800.04, s. 827.071, or~~  
26 ~~s. 847.0145 was classified as~~

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

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

1 ~~offense occurred a violation of s. 794.011, s. 800.04, s.~~  
2 ~~827.071, or s. 847.0145 for offenses that occur on or after~~  
3 ~~October 1, 2004.~~

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

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

14 a. A felony of the first degree or higher, commits a  
15 felony of the third degree, punishable as provided in s.  
16 775.082 or s. 775.083.

17 b. A felony of the second or third degree, commits a  
18 misdemeanor of the first degree, punishable as provided in s.  
19 775.082 or s. 775.083.

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

26 (c) This subsection applies to any person convicted of  
27 an offense listed in subparagraph (a)1. if the offense  
28 occurred on or after October 1, 2007.

29 Section 5. Subsections (2) and (6) and paragraph (a)  
30 of subsection (7) of section 947.1405, Florida Statutes, are  
31

1 amended, and subsection (11) is added to that section, to  
2 read:  
3           947.1405 Conditional release program.--  
4           (2)(a) Any inmate who:  
5           1.(a) Is convicted of a crime committed on or after  
6 October 1, 1988, and before January 1, 1994; ~~and any inmate~~  
7 ~~who~~ is convicted of a crime committed on or after January 1,  
8 1994, which crime is or was contained in category 1, category  
9 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,  
10 Florida Rules of Criminal Procedure (1993), and who has served  
11 at least one prior felony commitment at a state or federal  
12 correctional institution; or is convicted of any of the  
13 following offenses committed on or after October 1, 2007:  
14           a. Kidnapping, under s. 787.01(1)(b);  
15           b. False imprisonment, under s. 787.02(1)(b);  
16           c. Sexual performance by a child, under s. 827.071; or  
17           d. Selling or buying of minors, under s. 847.0145;  
18           2.(b) Is sentenced as a habitual or violent habitual  
19 offender or a violent career criminal pursuant to s. 775.084;  
20 or  
21           3.(c) Is found to be a sexual predator under s. 775.21  
22 or former s. 775.23,  
23  
24 shall, upon reaching the tentative release date or provisional  
25 release date, whichever is earlier, as established by the  
26 Department of Corrections, be released under supervision  
27 subject to specified terms and conditions, including payment  
28 of the cost of supervision pursuant to s. 948.09. Such  
29 supervision shall be applicable to all sentences within the  
30 overall term of sentences if an inmate's overall term of  
31



1 sentences includes one or more sentences that are eligible for  
2 conditional release supervision as provided herein.

3       **(b)** Effective July 1, 1994, and applicable for  
4 offenses committed on or after that date, the commission may  
5 require, as a condition of conditional release, that the  
6 releasee make payment of the debt due and owing to a county or  
7 municipal detention facility under s. 951.032 for medical  
8 care, treatment, hospitalization, or transportation received  
9 by the releasee while in that detention facility. The  
10 commission, in determining whether to order such repayment and  
11 the amount of such repayment, shall consider the amount of the  
12 debt, whether there was any fault of the institution for the  
13 medical expenses incurred, the financial resources of the  
14 releasee, the present and potential future financial needs and  
15 earning ability of the releasee, and dependents, and other  
16 appropriate factors.

17       **(c)** If any inmate, other than an inmate required to  
18 register as a sexual predator under s. 775.21 or as a sexual  
19 offender under s. 943.0435, placed on conditional release  
20 supervision is also subject to probation or community control,  
21 resulting from a probationary or community control split  
22 sentence within the overall term of sentences, the Department  
23 of Corrections shall supervise such person according to the  
24 conditions imposed by the court and the commission shall defer  
25 to such supervision. If the court revokes probation or  
26 community control and resentsences the offender to a term of  
27 incarceration, such revocation also constitutes a sufficient  
28 basis for the revocation of the conditional release  
29 supervision on any nonprobationary or noncommunity control  
30 sentence without further hearing by the commission. If any  
31 such supervision on any nonprobationary or noncommunity

1 control sentence is revoked, such revocation may result in a  
2 forfeiture of all gain-time, and the commission may revoke the  
3 resulting deferred conditional release supervision or take  
4 other action it considers appropriate. If the term of  
5 conditional release supervision exceeds that of the probation  
6 or community control, then, upon expiration of the probation  
7 or community control, authority for the supervision shall  
8 revert to the commission and the supervision shall be subject  
9 to the conditions imposed by the commission.

10 (d) If any inmate required to register as a sexual  
11 predator under s. 775.21 or as a sexual offender under s.  
12 943.0435 is placed on conditional release supervision and is  
13 also subject to probation or community supervision, the period  
14 of court-ordered community supervision shall not be  
15 substituted for conditional release supervision and shall  
16 follow the term of conditional release supervision.

17 (e) A panel of no fewer than two commissioners shall  
18 establish the terms and conditions of any such release. If the  
19 offense was a controlled substance violation, the conditions  
20 shall include a requirement that the offender submit to random  
21 substance abuse testing intermittently throughout the term of  
22 conditional release supervision, upon the direction of the  
23 correctional probation officer as defined in s. 943.10(3). The  
24 commission shall also determine whether the terms and  
25 conditions of such release have been violated and whether such  
26 violation warrants revocation of the conditional release.

27 (6) The commission shall review the recommendations of  
28 the department, and such other information as it deems  
29 relevant, and may conduct a review of the inmate's record for  
30 the purpose of establishing the terms and conditions of the  
31 conditional release. The commission may impose any special

1 conditions it considers warranted from its review of the  
2 release plan and recommendation. If the commission determines  
3 that the inmate is eligible for release under this section,  
4 the commission shall enter an order establishing the length of  
5 supervision and the conditions attendant thereto. However, an  
6 inmate who has been convicted of a violation of chapter 794 or  
7 found by the court to be a sexual predator is subject to the  
8 maximum level of supervision provided, with the mandatory  
9 conditions as required in subsection (7), and that supervision  
10 shall continue through the end of the releasee's original  
11 court-imposed sentence. The length of supervision must not  
12 exceed the maximum penalty imposed by the court. The  
13 commission may modify the conditions of supervision at any  
14 time.

15 (7)(a) Any inmate who is convicted of a crime  
16 committed on or after October 1, 1995, or who has been  
17 previously convicted of a crime committed on or after October  
18 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,  
19 or s. 847.0145, and is subject to conditional release  
20 supervision, shall have, in addition to any other conditions  
21 imposed, the following special conditions imposed by the  
22 commission:

23 1. A mandatory curfew from 10 p.m. to 6 a.m. The  
24 commission may designate another 8-hour period if the  
25 offender's employment precludes the above specified time, and  
26 such alternative is recommended by the Department of  
27 Corrections. If the commission determines that imposing a  
28 curfew would endanger the victim, the commission may consider  
29 alternative sanctions.

30 2.a. If the victim was under the age of 18, a  
31 prohibition on living within 1,000 feet of a school, day care

1 center, park, playground, designated public school bus stop,  
2 or other place where children regularly congregate. A releasee  
3 who is subject to this subparagraph may not relocate to a  
4 residence that is within 1,000 feet of a public school bus  
5 stop.

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

26 c. Beginning October 1, 2007, neither the commission  
27 nor the department may approve a residence located within  
28 1,500 feet of a school, day care center, park, playground,  
29 designated school bus stop, library, or other business or  
30 place where children regularly congregate for any releasee who  
31 is subject to this subparagraph. The distance provided in this

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

7           3. Active participation in and successful completion  
8 of a sex offender treatment program with qualified  
9 practitioners specifically trained to treat sex offenders, at  
10 the releasee's own expense. If a qualified practitioner is not  
11 available within a 50-mile radius of the releasee's residence,  
12 the offender shall participate in other appropriate therapy.

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

17           5. If the victim was under the age of 18, a  
18 prohibition against contact with children under the age of 18  
19 without review and approval by the commission. The commission  
20 may approve supervised contact with a child under the age of  
21 18 if the approval is based upon a recommendation for contact  
22 issued by a qualified practitioner who is basing the  
23 recommendation on a risk assessment. Further, the sex offender  
24 must be currently enrolled in or have successfully completed a  
25 sex offender therapy program. The commission may not grant  
26 supervised contact with a child if the contact is not  
27 recommended by a qualified practitioner and may deny  
28 supervised contact with a child at any time. When considering  
29 whether to approve supervised contact with a child, the  
30 commission must review and consider the following:  
31

1           a. A risk assessment completed by a qualified  
2 practitioner. The qualified practitioner must prepare a  
3 written report that must include the findings of the  
4 assessment and address each of the following components:  
5           (I) The sex offender's current legal status;  
6           (II) The sex offender's history of adult charges with  
7 apparent sexual motivation;  
8           (III) The sex offender's history of adult charges  
9 without apparent sexual motivation;  
10           (IV) The sex offender's history of juvenile charges,  
11 whenever available;  
12           (V) The sex offender's offender treatment history,  
13 including a consultation from the sex offender's treating, or  
14 most recent treating, therapist;  
15           (VI) The sex offender's current mental status;  
16           (VII) The sex offender's mental health and substance  
17 abuse history as provided by the Department of Corrections;  
18           (VIII) The sex offender's personal, social,  
19 educational, and work history;  
20           (IX) The results of current psychological testing of  
21 the sex offender if determined necessary by the qualified  
22 practitioner;  
23           (X) A description of the proposed contact, including  
24 the location, frequency, duration, and supervisory  
25 arrangement;  
26           (XI) The child's preference and relative comfort level  
27 with the proposed contact, when age-appropriate;  
28           (XII) The parent's or legal guardian's preference  
29 regarding the proposed contact; and  
30           (XIII) The qualified practitioner's opinion, along  
31 with the basis for that opinion, as to whether the proposed

1 | contact would likely pose significant risk of emotional or  
2 | physical harm to the child.

3 |  
4 | The written report of the assessment must be given to the  
5 | commission.

6 |         b. A recommendation made as a part of the  
7 | risk-assessment report as to whether supervised contact with  
8 | the child should be approved;

9 |         c. A written consent signed by the child's parent or  
10 | legal guardian, if the parent or legal guardian is not the sex  
11 | offender, agreeing to the sex offender having supervised  
12 | contact with the child after receiving full disclosure of the  
13 | sex offender's present legal status, past criminal history,  
14 | and the results of the risk assessment. The commission may not  
15 | approve contact with the child if the parent or legal guardian  
16 | refuses to give written consent for supervised contact;

17 |         d. A safety plan prepared by the qualified  
18 | practitioner, who provides treatment to the offender, in  
19 | collaboration with the sex offender, the child's parent or  
20 | legal guardian, and the child, when age appropriate, which  
21 | details the acceptable conditions of contact between the sex  
22 | offender and the child. The safety plan must be reviewed and  
23 | approved by the Department of Corrections before being  
24 | submitted to the commission; and

25 |         e. Evidence that the child's parent or legal guardian,  
26 | if the parent or legal guardian is not the sex offender,  
27 | understands the need for and agrees to the safety plan and has  
28 | agreed to provide, or to designate another adult to provide,  
29 | constant supervision any time the child is in contact with the  
30 | offender.

31 |

1 The commission may not appoint a person to conduct a risk  
2 assessment and may not accept a risk assessment from a person  
3 who has not demonstrated to the commission that he or she has  
4 met the requirements of a qualified practitioner as defined in  
5 this section.

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

11           7. Unless otherwise indicated in the treatment plan  
12 provided by the sexual offender treatment program, a  
13 prohibition on viewing, owning, or possessing any obscene,  
14 pornographic, or sexually stimulating visual or auditory  
15 material, including telephone, electronic media, computer  
16 programs, or computer services that are relevant to the  
17 offender's deviant behavior pattern.

18           8. Effective for a releasee whose crime is committed  
19 on or after July 1, 2005, a prohibition on accessing the  
20 Internet or other computer services until the offender's sex  
21 offender treatment program, after a risk assessment is  
22 completed, approves and implements a safety plan for the  
23 offender's accessing or using the Internet or other computer  
24 services.

25           9. A requirement that the releasee must submit two  
26 specimens of blood to the Florida Department of Law  
27 Enforcement to be registered with the DNA database.

28           10. A requirement that the releasee make restitution  
29 to the victim, as determined by the sentencing court or the  
30 commission, for all necessary medical and related professional  
31



1 services relating to physical, psychiatric, and psychological  
2 care.

3 11. Submission to a warrantless search by the  
4 community control or probation officer of the probationer's or  
5 community controllee's person, residence, or vehicle. Such  
6 warrantless search includes the use of electronic monitoring  
7 or other means in the case of a person convicted of an offense  
8 under s. 775.21(4)(a)1.

9 (11) Effective for a releasee whose crime was a  
10 violation of s. 787.01(1)(b) or s. 787.02(1)(b) committed on  
11 or after October 1, 2007, and whose crime involved a victim  
12 less than 16 years of age and an offender 18 years of age or  
13 older, in addition to any other provision of this section, the  
14 commission must order electronic monitoring for the duration  
15 of the releasee's supervision.

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

18 947.141 Violations of conditional release, control  
19 release, or conditional medical release or addiction-recovery  
20 supervision.--

21 (8) Because of the compelling state interest in  
22 protecting the public from sexual offenders or sexual  
23 predators granted the privilege of conditional release, in any  
24 hearing alleging a violation of community release by a  
25 releasee for failure to comply with the residency exclusion in  
26 s. 947.1405, the inability of the releasee to locate a  
27 residence in compliance with s. 947.1405 shall not be a  
28 defense to the finding of a violation under this section.

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

31

1           948.06 Violation of probation or community control;  
2 revocation; modification; continuance; failure to pay  
3 restitution or cost of supervision.--

4           (4) Notwithstanding any other provision of this  
5 section, a probationer or an offender in community control who  
6 is arrested for violating his or her probation or community  
7 control in a material respect may be taken before the court in  
8 the county or circuit in which the probationer or offender was  
9 arrested. That court shall advise him or her of such charge of  
10 a violation and, if such charge is admitted, shall cause him  
11 or her to be brought before the court which granted the  
12 probation or community control. If such violation is not  
13 admitted by the probationer or offender, the court may commit  
14 him or her or release him or her with or without bail to await  
15 further hearing. However, if the probationer or offender is  
16 under supervision for any criminal offense proscribed in  
17 chapter 794, s. 800.04(4), (5), (6), s. 827.071, or s.  
18 847.0145, or is a registered sexual predator or a registered  
19 sexual offender, or is under supervision for a criminal  
20 offense for which he or she would meet the registration  
21 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the  
22 effective date of those sections, the court must make a  
23 finding that the probationer or offender poses no ~~is not a~~  
24 danger to the public prior to release with or without bail. In  
25 determining that the offender poses no danger to the public  
26 ~~the danger posed by the offender's or probationer's release,~~  
27 the court may consider the nature and circumstances of the  
28 violation and any new offenses charged; the offender's or  
29 probationer's past and present conduct, including convictions  
30 of crimes; any record of arrests without conviction for crimes  
31 involving violence or sexual crimes; any other evidence of

1 | allegations of unlawful sexual conduct or the use of violence  
2 | by the offender or probationer; the offender's or  
3 | probationer's family ties, length of residence in the  
4 | community, employment history, and mental condition; his or  
5 | her history and conduct during the probation or community  
6 | control supervision from which the violation arises and any  
7 | other previous supervisions, including disciplinary records of  
8 | previous incarcerations; the likelihood that the offender or  
9 | probationer will engage again in a criminal course of conduct;  
10 | the weight of the evidence against the offender or  
11 | probationer; whether or not the probationer is currently  
12 | subject to electronic monitoring; and any other facts the  
13 | court considers relevant. The court, as soon as is  
14 | practicable, shall give the probationer or offender an  
15 | opportunity to be fully heard on his or her behalf in person  
16 | or by counsel. After such hearing, the court shall make  
17 | findings of fact and forward the findings to the court which  
18 | granted the probation or community control and to the  
19 | probationer or offender or his or her attorney. The findings  
20 | of fact by the hearing court are binding on the court which  
21 | granted the probation or community control. Upon the  
22 | probationer or offender being brought before it, the court  
23 | which granted the probation or community control may revoke,  
24 | modify, or continue the probation or community control or may  
25 | place the probationer into community control as provided in  
26 | this section.

27 |       Section 8. Subsection (3) is added to section 948.063,  
28 | Florida Statutes, to read:

29 |       948.063 Violations of probation or community control  
30 | by designated sexual offenders and sexual predators.--  
31 |

1           (3) Because of the compelling state interest in  
2 protecting the public from sexual predators or sexual  
3 offenders on probation, in any hearing alleging a violation of  
4 probation by a releasee for failure to comply with the  
5 residency exclusion in s. 948.30, the inability of the  
6 probationer to locate a residence in compliance with s. 948.30  
7 shall not be a defense to the finding of a violation under  
8 this section.

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

12           948.30 Additional terms and conditions of probation or  
13 community control for certain sex offenses.--Conditions  
14 imposed pursuant to this section do not require oral  
15 pronouncement at the time of sentencing and shall be  
16 considered standard conditions of probation or community  
17 control for offenders specified in this section.

18           (1) Effective for probationers or community  
19 controllees whose crime was committed on or after October 1,  
20 1995, and who are placed under supervision for violation of  
21 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court  
22 must impose the following conditions in addition to all other  
23 standard and special conditions imposed:

24           (b)1. Except as provided in subparagraph 2., if the  
25 victim was under the age of 18, a prohibition on living within  
26 1,000 feet of a school, day care center, park, playground, or  
27 other place where children regularly congregate, as prescribed  
28 by the court. The 1,000-foot distance shall be measured in a  
29 straight line from the offender's place of residence to the  
30 nearest boundary line of the school, day care center, park,  
31 playground, or other place where children regularly

1 congregate. The distance may not be measured by a pedestrian  
2 route or automobile route.

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

14 (k) Submission to a warrantless search by the  
15 community control or probation officer of the probationer's or  
16 community controllee's person, residence, or vehicle. Such a  
17 warrantless search includes the use of electronic monitoring  
18 or other means in the case of a person convicted of an offense  
19 under s. 775.21(4)(a)1.

20 (3) Effective for a probationer or community  
21 controllee whose crime was committed on or after September 1,  
22 2005, and who:

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

28 (b) Is designated a sexual predator pursuant to s.  
29 775.21; or

30 (c) Has previously been convicted of a violation of  
31 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.

1 847.0145 and the unlawful sexual activity involved a victim  
2 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18  
3 years of age or older,

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

8 (4) Effective for a probationer or community  
9 controllee whose crime was committed on or after October 1,  
10 2007, who has previously been convicted of a violation of s.  
11 787.01(1)(b) or s. 787.02(1)(b), and the unlawful sexual  
12 activity involved a victim under 16 years of age and the  
13 offender is 18 years of age or older, the court must order, in  
14 addition to any other provision of this section, mandatory  
15 electronic monitoring as a condition of the probation or  
16 community control supervision.

17 Section 10. This act shall take effect October 1,  
18 2007.

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