

By the Committee on Criminal Justice; and Senator Aronberg

591-2615-07

1 A bill to be entitled
2 An act relating to public safety; amending s.
3 775.21, F.S.; revising provisions relating to
4 reimbursement of specified costs by sexual
5 predators; revising provisions relating to the
6 residence of sexual predators; providing
7 penalties; creating s. 775.215, F.S.;
8 specifying requirements for complying with
9 state and local government residency exclusions
10 for sexual offenders or sexual predators;
11 clarifying that third parties are not
12 prohibited from voluntarily paying the costs of
13 the monitoring for a sexual offender or a
14 sexual predator; providing immunity from
15 prosecution if the sexual predator or sexual
16 offender complies with the applicable residency
17 exclusion; amending s. 775.24, F.S.; revising
18 provisions relating to residency exclusions for
19 sexual predators and sexual offenders; amending
20 s. 794.065, F.S.; providing additional
21 residency restrictions on certain offenders;
22 providing penalties; amending s. 947.1405,
23 F.S.; providing additional conditional release
24 restrictions for certain offenders; amending s.
25 947.141, F.S.; revising provisions relating to
26 hearings alleging a violation of community
27 release by specified releasees for failure to
28 comply with specified residency exclusions;
29 amending s. 948.06, F.S.; revising provisions
30 relating to probation or community control for
31 sexual predators and sexual offenders; amending

1 s. 948.063, F.S.; providing that failure of a
2 sexual predator or sexual offender to obtain a
3 residence in compliance with certain
4 requirements is not a defense in certain
5 proceedings; amending s. 948.30, F.S.; revising
6 provisions relating to terms and conditions of
7 probation or community control for certain sex
8 offenses; requiring the Department of Law
9 Enforcement and other specified agencies to
10 consider eliminating or modifying two dates on
11 or after which a person must be classified as a
12 sexual offender or a sexual predator; directing
13 the department to determine the effect the
14 elimination or modification of these dates will
15 have on the department and other agencies;
16 directing the department to present a report of
17 its findings to the President of the Senate and
18 the Speaker of the House of Representatives by
19 a specified date; authorizing bail bond agents
20 to provide electronic monitoring equipment for
21 certain persons released under bond; providing
22 for fees and recordkeeping; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (b) of subsection (3), paragraph
28 (a) of subsection (7) and paragraph (b) of subsection (10), of
29 section 775.21, Florida Statutes, are amended to read:

30 775.21 The Florida Sexual Predators Act.--
31

1 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE
2 INTENT.--

3 (b) The high level of threat that a sexual predator
4 presents to the public safety, and the long-term effects
5 suffered by victims of sex offenses, provide the state with
6 sufficient justification to implement a strategy that
7 includes:

8 1. Incarcerating sexual predators and maintaining
9 adequate facilities to ensure that decisions to release sexual
10 predators into the community are not made on the basis of
11 inadequate space.

12 2. Providing for specialized supervision of sexual
13 predators who are in the community by specially trained
14 probation officers with low caseloads, as described in ss.
15 947.1405(7) and 948.30. The sexual predator is subject to
16 specified terms and conditions implemented at sentencing or at
17 the time of release from incarceration, with a requirement
18 that those sexual predators found to be indigent may defer
19 payment pursuant to s. 28.246 of all or part of the costs in
20 accordance with the provisions of that section ~~who are~~
21 ~~financially able must pay all or part of the costs of~~
22 ~~supervision.~~

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

27 4. Providing for community and public notification
28 concerning the presence of sexual predators.

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

31 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

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

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

29
30 This paragraph does not authorize the release of the name of
31 any victim of the sexual predator.

1 (10) PENALTIES.--

2 (b) A sexual predator who has been convicted of or
3 found to have committed, or has pled nolo contendere or guilty
4 to, regardless of adjudication, any violation, or attempted
5 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
6 the victim is a minor and the defendant is not the victim's
7 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.
8 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s.
9 847.0145; or s. 985.701(1); or a violation of a similar law of
10 another jurisdiction when the victim of the offense was a
11 minor, and who works, whether for compensation or as a
12 volunteer, at any ~~business~~, school, day care center, park,
13 playground, library, or business or other place where children
14 regularly congregate, commits a felony of the third degree,
15 punishable as provided in s. 775.082, s. 775.083, or s.
16 775.084.

17 Section 2. Section 775.215, Florida Statutes, is
18 created to read:

19 775.215 Compliance with residency exclusions by sexual
20 offenders or predators.--

21 (1) A person who is subject to a residency exclusion
22 under s. 794.065, s. 947.1405, or s. 948.30 and who is also
23 subject to a residency exclusion under a municipal or county
24 ordinance as a consequence of conviction of an offense listed
25 in s. 775.21 or s. 943.0435, may:

26 (a) Comply with the residency exclusion of the
27 municipal or county ordinance; or

28 (b) Comply with the residency exclusion of s. 794.065,
29 s. 947.1405, or s. 948.30, which is applicable to the person
30 and voluntarily submit to electronic monitoring.

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1 (2) If a person who voluntarily submits to electronic
2 monitoring under this section is supervised by the Department
3 of Corrections, he or she must pay the costs of the electronic
4 monitoring in the same manner as an offender who is
5 electronically monitored as a condition of his or her
6 supervision.

7 (3) If a person is subject to the residency exclusion
8 in s. 794.065 and voluntarily submits to electronic monitoring
9 but is not supervised by the Department of Corrections, he or
10 she shall arrange for and pay the costs of the monitoring.

11 (4) This section does not prohibit a third party from
12 voluntarily paying the costs of the monitoring.

13 (5) A person who voluntarily submits to electronic
14 monitoring under this section, or who is electronically
15 monitored under any other law, is immune from prosecution for
16 violation of any residency exclusion of a municipal or county
17 ordinance.

18 (6) A person who complies with a residency restriction
19 of a municipal or county ordinance is immune from prosecution
20 for violation of s. 794.065 or a residency exclusion in s.
21 947.1405 or s. 948.30.

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

24 775.24 Duty of the court to uphold laws governing
25 sexual predators and sexual offenders.--

26 (2) If a person meets the criteria in this chapter for
27 designation as a sexual predator or meets the criteria in s.
28 943.0435, s. 944.606, s. 944.607, or any other law for
29 classification as a sexual offender, the court may not enter
30 an order, for the purpose of approving a plea agreement or for
31 any other reason, which:

1 (a) Exempts a person who meets the criteria for
2 designation as a sexual predator or classification as a sexual
3 offender from such designation or classification, ~~or~~ exempts
4 such person from the requirements for registration or
5 community and public notification imposed upon sexual
6 predators and sexual offenders, or exempts such person from
7 the residency exclusions contained in ss. 794.065, 947.1405,
8 and 948.30;

9 (b) Restricts the compiling, reporting, or release of
10 public records information that relates to sexual predators or
11 sexual offenders; or

12 (c) Prevents any person or entity from performing its
13 duties or operating within its statutorily conferred authority
14 as such duty or authority relates to sexual predators or
15 sexual offenders.

16 Section 4. Section 794.065, Florida Statutes, is
17 amended to read:

18 794.065 Unlawful place of residence for persons
19 convicted of certain sex offenses.--

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

26 2. A person who violates this section and whose
27 conviction for an offense listed in subparagraph 1. under s.
28 794.011, s. 800.04, s. 827.071, or s. 847.0145 was classified
29 as:

30 a. A felony of the first degree or higher, commits a
31 felony of the third degree, punishable as provided in s.

1 775.082 or s. 775.083. ~~A person who violates this section and~~
2 ~~whose conviction under s. 794.011, s. 800.04, s. 827.071, or~~
3 ~~s. 847.0145 was classified as~~

4 b. A felony of the second or third degree, commits a
5 misdemeanor of the first degree, punishable as provided in s.
6 775.082 or s. 775.083.

7 ~~(b)(2)~~ This subsection ~~section~~ applies to any person
8 convicted of an offense listed in subparagraph (a)1. if the
9 offense occurred a violation of s. 794.011, s. 800.04, s.
10 827.071, or s. 847.0145 for offenses that occur on or after
11 October 1, 2004.

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

20 2. A person violating this subsection whose conviction
21 of an offense listed in subparagraph 1. was classified 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.

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

28 (b) The distances in this subsection shall be measured
29 in a straight line from the offender's place of residence to
30 the nearest boundary line of the school, day care center,
31 park, playground, library, or other business or place where

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

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

6 Section 5. Subsections (2) and (6) and paragraph (a)
7 of subsection (7) of section 947.1405, Florida Statutes, are
8 amended, and subsection (11) is added to that section, to
9 read:

10 947.1405 Conditional release program.--

11 (2)(a) Any inmate who:

12 1.(a) Is convicted of a crime committed on or after
13 October 1, 1988, and before January 1, 1994; ~~and any inmate~~
14 ~~who~~ is convicted of a crime committed on or after January 1,
15 1994, which crime is or was contained in category 1, category
16 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,
17 Florida Rules of Criminal Procedure (1993), and who has served
18 at least one prior felony commitment at a state or federal
19 correctional institution; or is convicted of any of the
20 following offenses committed on or after October 1, 2007:

21 a. Kidnapping, under s. 787.01(1)(b);

22 b. False imprisonment, under s. 787.02(1)(b);

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

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

25 2.(b) Is sentenced as a habitual or violent habitual
26 offender or a violent career criminal pursuant to s. 775.084;
27 or

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

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1 shall, upon reaching the tentative release date or provisional
2 release date, whichever is earlier, as established by the
3 Department of Corrections, be released under supervision
4 subject to specified terms and conditions, including payment
5 of the cost of supervision pursuant to s. 948.09. Such
6 supervision shall be applicable to all sentences within the
7 overall term of sentences if an inmate's overall term of
8 sentences includes one or more sentences that are eligible for
9 conditional release supervision as provided herein.

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

24 **(c)** If any inmate, other than an inmate required to
25 register as a sexual predator under s. 775.21 or as a sexual
26 offender under s. 943.0435, placed on conditional release
27 supervision is also subject to probation or community control,
28 resulting from a probationary or community control split
29 sentence within the overall term of sentences, the Department
30 of Corrections shall supervise such person according to the
31 conditions imposed by the court and the commission shall defer

1 | to such supervision. If the court revokes probation or
2 | community control and resentences the offender to a term of
3 | incarceration, such revocation also constitutes a sufficient
4 | basis for the revocation of the conditional release
5 | supervision on any nonprobationary or noncommunity control
6 | sentence without further hearing by the commission. If any
7 | such supervision on any nonprobationary or noncommunity
8 | control sentence is revoked, such revocation may result in a
9 | forfeiture of all gain-time, and the commission may revoke the
10 | resulting deferred conditional release supervision or take
11 | other action it considers appropriate. If the term of
12 | conditional release supervision exceeds that of the probation
13 | or community control, then, upon expiration of the probation
14 | or community control, authority for the supervision shall
15 | revert to the commission and the supervision shall be subject
16 | to the conditions imposed by the commission.

17 | (d) If any inmate required to register as a sexual
18 | predator under s. 775.21 or as a sexual offender under s.
19 | 943.0435 is placed on conditional release supervision and is
20 | also subject to probation or community supervision, the period
21 | of court-ordered community supervision shall not be
22 | substituted for conditional release supervision and shall
23 | follow the term of conditional release supervision.

24 | (e) A panel of no fewer than two commissioners shall
25 | establish the terms and conditions of any such release. If the
26 | offense was a controlled substance violation, the conditions
27 | shall include a requirement that the offender submit to random
28 | substance abuse testing intermittently throughout the term of
29 | conditional release supervision, upon the direction of the
30 | correctional probation officer as defined in s. 943.10(3). The
31 | commission shall also determine whether the terms and

1 conditions of such release have been violated and whether such
2 violation warrants revocation of the conditional release.

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

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

30 1. A mandatory curfew from 10 p.m. to 6 a.m. The
31 commission may designate another 8-hour period if the

1 offender's employment precludes the above specified time, and
2 such alternative is recommended by the Department of
3 Corrections. If the commission determines that imposing a
4 curfew would endanger the victim, the commission may consider
5 alternative sanctions.

6 2.a. If the victim was under the age of 18, a
7 prohibition on living within 1,000 feet of a school, day care
8 center, park, playground, designated public school bus stop,
9 or other place where children regularly congregate. A releasee
10 who is subject to this subparagraph may not relocate to a
11 residence that is within 1,000 feet of a public school bus
12 stop.

13 b. Beginning October 1, 2004, the commission or the
14 department may not approve a residence that is located within
15 1,000 feet of a school, day care center, park, playground,
16 designated school bus stop, or other place where children
17 regularly congregate for any releasee who is subject to this
18 subparagraph. On October 1, 2004, the department shall notify
19 each affected school district of the location of the residence
20 of a releasee 30 days prior to release and thereafter, if the
21 releasee relocates to a new residence, shall notify any
22 affected school district of the residence of the releasee
23 within 30 days after relocation. If, on October 1, 2004, any
24 public school bus stop is located within 1,000 feet of the
25 existing residence of such releasee, the district school board
26 shall relocate that school bus stop. Beginning October 1,
27 2004, a district school board may not establish or relocate a
28 public school bus stop within 1,000 feet of the residence of a
29 releasee who is subject to this subparagraph. The failure of
30 the district school board to comply with this subparagraph
31

1 shall not result in a violation of conditional release
2 supervision.

3 c. Beginning October 1, 2007, neither the commission
4 nor the department may approve a residence located within
5 1,500 feet of a school, day care center, park, playground,
6 designated school bus stop, library, or other business or
7 place where children regularly congregate for any releasee who
8 is subject to this subparagraph. The distance provided in this
9 sub-subparagraph shall be measured in a straight line from the
10 offender's place of residence to the nearest boundary line of
11 the school, day care center, park, playground, library, or
12 other business or place where children regularly congregate.
13 The distance may not be measured by a pedestrian route or
14 automobile route.

15 3. Active participation in and successful completion
16 of a sex offender treatment program with qualified
17 practitioners specifically trained to treat sex offenders, at
18 the releasee's own expense. If a qualified practitioner is not
19 available within a 50-mile radius of the releasee's residence,
20 the offender shall participate in other appropriate therapy.

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

25 5. If the victim was under the age of 18, a
26 prohibition against contact with children under the age of 18
27 without review and approval by the commission. The commission
28 may approve supervised contact with a child under the age of
29 18 if the approval is based upon a recommendation for contact
30 issued by a qualified practitioner who is basing the
31 recommendation on a risk assessment. Further, the sex offender

1 must be currently enrolled in or have successfully completed a
2 sex offender therapy program. The commission may not grant
3 supervised contact with a child if the contact is not
4 recommended by a qualified practitioner and may deny
5 supervised contact with a child at any time. When considering
6 whether to approve supervised contact with a child, the
7 commission must review and consider the following:
8 a. A risk assessment completed by a qualified
9 practitioner. The qualified practitioner must prepare a
10 written report that must include the findings of the
11 assessment and address each of the following components:
12 (I) The sex offender's current legal status;
13 (II) The sex offender's history of adult charges with
14 apparent sexual motivation;
15 (III) The sex offender's history of adult charges
16 without apparent sexual motivation;
17 (IV) The sex offender's history of juvenile charges,
18 whenever available;
19 (V) The sex offender's offender treatment history,
20 including a consultation from the sex offender's treating, or
21 most recent treating, therapist;
22 (VI) The sex offender's current mental status;
23 (VII) The sex offender's mental health and substance
24 abuse history as provided by the Department of Corrections;
25 (VIII) The sex offender's personal, social,
26 educational, and work history;
27 (IX) The results of current psychological testing of
28 the sex offender if determined necessary by the qualified
29 practitioner;
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1 (X) A description of the proposed contact, including
2 the location, frequency, duration, and supervisory
3 arrangement;

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

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

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

12
13 The written report of the assessment must be given to the
14 commission.

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

18 c. A written consent signed by the child's parent or
19 legal guardian, if the parent or legal guardian is not the sex
20 offender, agreeing to the sex offender having supervised
21 contact with the child after receiving full disclosure of the
22 sex offender's present legal status, past criminal history,
23 and the results of the risk assessment. The commission may not
24 approve contact with the child if the parent or legal guardian
25 refuses to give written consent for supervised contact;

26 d. A safety plan prepared by the qualified
27 practitioner, who provides treatment to the offender, in
28 collaboration with the sex offender, the child's parent or
29 legal guardian, and the child, when age appropriate, which
30 details the acceptable conditions of contact between the sex
31 offender and the child. The safety plan must be reviewed and

1 approved by the Department of Corrections before being
2 submitted to the commission; and

3 e. Evidence that the child's parent or legal guardian,
4 if the parent or legal guardian is not the sex offender,
5 understands the need for and agrees to the safety plan and has
6 agreed to provide, or to designate another adult to provide,
7 constant supervision any time the child is in contact with the
8 offender.

9
10 The commission may not appoint a person to conduct a risk
11 assessment and may not accept a risk assessment from a person
12 who has not demonstrated to the commission that he or she has
13 met the requirements of a qualified practitioner as defined in
14 this section.

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

20 7. Unless otherwise indicated in the treatment plan
21 provided by the sexual offender treatment program, a
22 prohibition on viewing, owning, or possessing any obscene,
23 pornographic, or sexually stimulating visual or auditory
24 material, including telephone, electronic media, computer
25 programs, or computer services that are relevant to the
26 offender's deviant behavior pattern.

27 8. Effective for a releasee whose crime is committed
28 on or after July 1, 2005, a prohibition on accessing the
29 Internet or other computer services until the offender's sex
30 offender treatment program, after a risk assessment is
31 completed, approves and implements a safety plan for the

1 offender's accessing or using the Internet or other computer
2 services.

3 9. A requirement that the releasee must submit two
4 specimens of blood to the Florida Department of Law
5 Enforcement to be registered with the DNA database.

6 10. A requirement that the releasee make restitution
7 to the victim, as determined by the sentencing court or the
8 commission, for all necessary medical and related professional
9 services relating to physical, psychiatric, and psychological
10 care.

11 11. Submission to a warrantless search by the
12 ~~department of the releasee's community control or probation~~
13 ~~officer of the probationer's or community controllee's person,~~
14 residence, or vehicle.

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

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

24 947.141 Violations of conditional release, control
25 release, or conditional medical release or addiction-recovery
26 supervision.--

27 (8) Because of the compelling state interest in
28 protecting the public from sexual offenders or sexual
29 predators granted the privilege of conditional release, in any
30 hearing alleging a violation of conditional release by a
31 releasee for failure to comply with the residency exclusion in

1 s. 947.1405, the inability of the releasee to locate a
2 residence in compliance with s. 947.1405 shall not be a
3 defense to the finding of a violation under this section.

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

6 948.06 Violation of probation or community control;
7 revocation; modification; continuance; failure to pay
8 restitution or cost of supervision.--

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

1 | the court may consider the nature and circumstances of the
2 | violation and any new offenses charged; the offender's or
3 | probationer's past and present conduct, including convictions
4 | of crimes; any record of arrests without conviction for crimes
5 | involving violence or sexual crimes; any other evidence of
6 | allegations of unlawful sexual conduct or the use of violence
7 | by the offender or probationer; the offender's or
8 | probationer's family ties, length of residence in the
9 | community, employment history, and mental condition; his or
10 | her history and conduct during the probation or community
11 | control supervision from which the violation arises and any
12 | other previous supervisions, including disciplinary records of
13 | previous incarcerations; the likelihood that the offender or
14 | probationer will engage again in a criminal course of conduct;
15 | the weight of the evidence against the offender or
16 | probationer; whether or not the probationer is currently
17 | subject to electronic monitoring; and any other facts the
18 | court considers relevant. The court, as soon as is
19 | practicable, shall give the probationer or offender an
20 | opportunity to be fully heard on his or her behalf in person
21 | or by counsel. After such hearing, the court shall make
22 | findings of fact and forward the findings to the court which
23 | granted the probation or community control and to the
24 | probationer or offender or his or her attorney. The findings
25 | of fact by the hearing court are binding on the court which
26 | granted the probation or community control. Upon the
27 | probationer or offender being brought before it, the court
28 | which granted the probation or community control may revoke,
29 | modify, or continue the probation or community control or may
30 | place the probationer into community control as provided in
31 | this section.

1 Section 8. Subsection (3) is added to section 948.063,
2 Florida Statutes, to read:

3 948.063 Violations of probation or community control
4 by designated sexual offenders and sexual predators.--

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

13 Section 9. Paragraph (b) of subsection (1) and
14 subsection (3) of section 948.30, Florida Statutes, are
15 amended, and subsection (4) is added to that section, to read:

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

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

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

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

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

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

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

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

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

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

16 Section 10. The Department of Law Enforcement, with
17 the assistance of the Department of Corrections, the
18 Department of Highway Safety and Motor Vehicles, the
19 Department of Juvenile Justice, the Office of the State Courts
20 Administrator, the clerk of the court in each judicial circuit
21 court, the offices of the state attorney and public defender
22 in each judicial circuit, the Florida Sheriffs Association,
23 and the Florida Legislative Committee on Intergovernmental
24 Relations shall examine the feasibility of eliminating the
25 October 1, 1993, date in the sexual predator criteria set
26 forth in s. 775.21, Florida Statutes, and the October 1, 1997,
27 date in the sexual offender criteria set forth in ss. 943.0435
28 and 944.607, Florida Statutes, or modifying those dates to
29 provide for earlier dates. When conducting this examination,
30 the department shall assess the potential effect, including
31 fiscal impact, that the elimination or modification of these

1 dates will have on the department, other state agencies,
2 circuit courts, state attorneys, public defenders, and local
3 law enforcement agencies. The Department of Law Enforcement
4 shall also assess whether there are factors, such as
5 incomplete criminal histories and court records, which might
6 make the elimination or modification of these dates
7 impractical or might have a negative effect on the state's
8 current system for registering sexual predators and offenders.
9 The department shall present a report of its findings to the
10 President of the Senate and the Speaker of the House of
11 Representatives by December 30, 2007.

12 Section 11. (1) The owner, operator, or primary agent
13 of a bail bond agency may provide electronic monitoring
14 equipment and services for defendants released from custody on
15 surety bond and subject to conditions including electronic
16 monitoring.

17 (2) A bail bond agent may charge a person subject to
18 electronic monitoring a nonrefundable fee for such monitoring
19 equipment and services. Such fees are not part of the bail
20 bond premium and are exempt from s. 648.33, Florida Statutes.

21 (3) Records and receipts for such electronic
22 monitoring equipment and services shall be kept separate from
23 bail bond records and shall be made available for inspection
24 by the court or appropriate governmental entity.

25 Section 12. This act shall take effect October 1,
26 2007.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2646

- Replaces bill's preemption of local ordinances with an option for the sexual offender or sex predator to choose to abide by either the local ordinance or the state law. Persons who choose to abide by the state law would have to agree to be electronically monitored.
- Removes bill's expansion of warrantless search to include electronic monitoring.
- Requires FDLE to study feasibility of expanding date criteria for sexual predator and sexual offender registration to include earlier crimes, and requires a report to the Senate President and the House Speaker by December 30, 2007.
- Amends current statute to properly refer to conditional releasees rather than probationers and community controllees.
- Authorizes bail bond agencies to provide electronic monitoring equipment and services for defendants on pre-trial release and to charge a reasonable fee.