

1 A bill to be entitled

2 An act relating to criminal justice; amending s. 648.387,
3 F.S.; authorizing bail bond agents to provide electronic
4 monitoring equipment and services; authorizing bail bond
5 agents to contract with third-party vendors to provide
6 electronic monitoring services; authorizing bail bond
7 agents to register with a governmental entity to provide
8 electronic monitoring equipment and services in certain
9 circumstances; authorizing such agents to collect a fee
10 for electronic monitoring equipment and services;
11 providing that failure to timely pay fees constitutes
12 grounds to remand; providing that such fees are exempt
13 from specified premium requirements; amending s. 775.21,
14 F.S.; revising provisions relating to notice of the
15 presence of sexual predators; revising a prohibition on
16 work places of sexual predators; providing penalties;
17 creating s. 775.215, F.S.; specifying residency exclusions
18 for sexual offenders or sexual predators; preempting and
19 repealing certain local ordinances; amending s. 775.24,
20 F.S.; revising provisions relating to residency exclusions
21 for sexual predators and sexual offenders; amending s.
22 794.065, F.S.; providing additional residency restrictions
23 on certain offenders; providing penalties; creating s.
24 907.06, F.S.; providing for electronic monitoring of
25 certain defendants on pretrial release; requiring the
26 monitored defendant to pay fees; providing that provision
27 of electronic monitoring equipment and services is not an
28 undertaking to protect members of the public from harm

29 | occasioned by a monitored defendant; prohibiting a
30 | defendant being monitored from tampering with monitoring
31 | equipment; creating s. 907.07, F.S.; requiring the chief
32 | judge of each circuit to maintain a list of licensed bail
33 | bond agents who are eligible private vendors for provision
34 | of electronic monitoring equipment and services; requiring
35 | registration of such vendors and certification of
36 | electronic monitoring devices; providing grounds for
37 | removal from the list; creating s. 907.08, F.S.; providing
38 | standards for privately owned electronic monitoring
39 | systems; creating s. 907.09, F.S.; providing criminal
40 | penalties for tampering with electronic monitoring
41 | devices; providing criminal penalties for cloning or
42 | jamming the signal of an electronic monitoring device;
43 | providing criminal penalties for the alteration or
44 | destruction of data stored or transmitted by an electronic
45 | monitoring device with specified intent; creating s.
46 | 944.161, F.S.; providing for electronic monitoring of
47 | inmates within correctional facilities; requiring
48 | monitoring of certain employees and visitors to such
49 | facilities; providing system requirements; prohibiting
50 | specified actions relating to such monitoring systems and
51 | data from such systems; providing penalties; providing
52 | rulemaking authority; providing for applicability of
53 | specified provisions to certain existing contracts;
54 | amending s. 947.1405, F.S.; providing additional
55 | conditional release restrictions for certain offenders;
56 | amending s. 947.141, F.S.; revising provisions relating to

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57 | hearings alleging a violation of community release by
58 | specified releasees for failure to comply with specified
59 | residency exclusions; amending s. 948.06, F.S.; revising
60 | provisions relating to probation or community control for
61 | sexual predators and sexual offenders; amending s. 948.30,
62 | F.S.; providing additional probation or community control
63 | restrictions for certain offenders; creating s. 985.6012,
64 | F.S.; providing for electronic monitoring of juvenile
65 | offenders within juvenile facilities; requiring monitoring
66 | of certain employees and visitors to such facilities;
67 | providing system requirements; prohibiting specified
68 | actions relating to such monitoring systems and data from
69 | such systems; providing penalties; providing an effective
70 | date.

71 |
72 | Be It Enacted by the Legislature of the State of Florida:

73 |
74 | Section 1. Subsection (6) is added to section 648.387,
75 | Florida Statutes, to read:

76 | 648.387 Primary bail bond agents; duties; provision of
77 | electronic monitoring equipment and services by licensed
78 | agents.--

79 | (6) (a) A licensed bail bond agent qualifying under s.
80 | 907.07 may provide electronic monitoring equipment and services
81 | for defendants released from custody on a surety bond and
82 | subject to conditions including electronic monitoring. A
83 | licensed bail bond agent may subcontract with a third party to
84 | provide these services if the third party complies with the

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85 requirements under s. 907.07. A licensed bail bond agent
 86 qualifying under s. 907.07 may also register with a governmental
 87 entity to provide electronic monitoring equipment and services
 88 under contract with that entity.

89 (b) A licensed bail bond agent may charge a defendant
 90 subject to electronic monitoring a reasonable, nonrefundable fee
 91 for electronic monitoring equipment and services. The amount of
 92 the fee charged in each judicial circuit shall not exceed the
 93 maximum daily fee set annually by the chief judge for the
 94 judicial circuit in which the defendant is released. The failure
 95 of a defendant to pay this fee in a timely manner shall
 96 constitute grounds for the licensed bail bond agent to remand
 97 the defendant to the custody of the court or appropriate law
 98 enforcement agency. Fees charged by a bail bond agent for
 99 electronic monitoring equipment and services shall not be
 100 considered part of the bail bond premium and shall be exempt
 101 from the provisions of s. 648.33.

102 (c) Records and receipts for electronic monitoring
 103 equipment and services provided by a licensed bail bond agent
 104 shall be kept separate and apart from bail bond records and
 105 shall be available for inspection by the court or the
 106 appropriate governmental entity.

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

110 775.21 The Florida Sexual Predators Act.--

111 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

112 (a) Law enforcement agencies must inform members of the

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113 community and the public of a sexual predator's presence. Upon
114 notification of the presence of a sexual predator, the sheriff
115 of the county or the chief of police of the municipality where
116 the sexual predator establishes or maintains a permanent or
117 temporary residence shall notify members of the community and
118 the public of the presence of the sexual predator in a manner
119 deemed appropriate by the sheriff or the chief of police. Within
120 48 hours after receiving notification of the presence of a
121 sexual predator, the sheriff of the county or the chief of
122 police of the municipality where the sexual predator temporarily
123 or permanently resides shall notify each licensed day care
124 center, elementary school, middle school, ~~and~~ high school, and
125 library within a 1-mile radius of the temporary or permanent
126 residence of the sexual predator of the presence of the sexual
127 predator. Information provided to members of the community and
128 the public regarding a sexual predator must include:

- 129 1. The name of the sexual predator;
- 130 2. A description of the sexual predator, including a
131 photograph;
- 132 3. The sexual predator's current address, including the
133 name of the county or municipality if known;
- 134 4. The circumstances of the sexual predator's offense or
135 offenses; and
- 136 5. Whether the victim of the sexual predator's offense or
137 offenses was, at the time of the offense, a minor or an adult.

138

139 This paragraph does not authorize the release of the name of any
140 victim of the sexual predator.

141 (10) PENALTIES.--

142 (b) A sexual predator who has been convicted of or found
 143 to have committed, or has pled nolo contendere or guilty to,
 144 regardless of adjudication, any violation, or attempted
 145 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 146 the victim is a minor and the defendant is not the victim's
 147 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.
 148 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s.
 149 847.0145; or s. 985.701(1); or a violation of a similar law of
 150 another jurisdiction when the victim of the offense was a minor,
 151 and who works, whether for compensation or as a volunteer, at
 152 any ~~business~~, school, day care center, park, playground,
 153 library, or business or other place where children regularly
 154 congregate, commits a felony of the third degree, punishable as
 155 provided in s. 775.082, s. 775.083, or s. 775.084.

156 Section 3. Section 775.215, Florida Statutes, is created
 157 to read:

158 775.215 Residency exclusions for sexual offenders or
 159 predators; local ordinances preempted.--

160 (1) The establishment of residency exclusions applicable
 161 to the residences of a person required to register as a sexual
 162 offender or sexual predator is expressly preempted to the state,
 163 and the provisions of ss. 794.065, 947.1405, and 948.30
 164 establishing such exclusions supersede any municipal or county
 165 ordinances imposing different exclusions.

166 (2) A provision of any ordinance adopted by a county or
 167 municipality prior to October 1, 2007, imposing residency
 168 exclusions for the residences of persons subject to the

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169 provisions of s. 794.065, s. 947.1405, or s. 948.30 is repealed
170 and abolished as of October 1, 2007.

171 Section 4. Subsection (2) of section 775.24, Florida
172 Statutes, is amended to read:

173 775.24 Duty of the court to uphold laws governing sexual
174 predators and sexual offenders.--

175 (2) If a person meets the criteria in this chapter for
176 designation as a sexual predator or meets the criteria in s.
177 943.0435, s. 944.606, s. 944.607, or any other law for
178 classification as a sexual offender, the court may not enter an
179 order, for the purpose of approving a plea agreement or for any
180 other reason, which:

181 (a) Exempts a person who meets the criteria for
182 designation as a sexual predator or classification as a sexual
183 offender from such designation or classification, ~~or~~ exempts
184 such person from the requirements for registration or community
185 and public notification imposed upon sexual predators and sexual
186 offenders, or exempts such person from the residency exclusions
187 contained in ss. 794.065, 947.1405, and 948.30;

188 (b) Restricts the compiling, reporting, or release of
189 public records information that relates to sexual predators or
190 sexual offenders; or

191 (c) Prevents any person or entity from performing its
192 duties or operating within its statutorily conferred authority
193 as such duty or authority relates to sexual predators or sexual
194 offenders.

195 Section 5. Section 794.065, Florida Statutes, is amended
196 to read:

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197 794.065 Unlawful place of residence for persons convicted
 198 of certain sex offenses.--

199 (1) (a) It is unlawful for any person who has been
 200 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,
 201 or s. 847.0145 committed on or after October 1, 2004, regardless
 202 of whether adjudication has been withheld, in which the victim
 203 of the offense was less than 16 years of age, to reside within
 204 1,000 feet of any school, day care center, park, or playground.

205 (b) A person who violates this subsection ~~section~~ and
 206 whose conviction for an offense listed in paragraph (a) ~~under s.~~
 207 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified
 208 as:

209 1. A felony of the first degree or higher, commits a
 210 felony of the third degree, punishable as provided in s. 775.082
 211 or s. 775.083. ~~A person who violates this section and whose~~
 212 ~~conviction under s. 794.011, s. 800.04, s. 827.071, or s.~~
 213 ~~847.0145 was classified as~~

214 2. A felony of the second or third degree, commits a
 215 misdemeanor of the first degree, punishable as provided in s.
 216 775.082 or s. 775.083.

217 (2) (a) It is unlawful for any person who has been
 218 convicted of a violation of s. 787.01(3)(a)2., 3., 4., or 5., s.
 219 787.02(3)(a)2., 3., 4., or 5., s. 794.011, s. 800.04, s.
 220 827.071, or s. 847.0145 committed on or after October 1, 2007,
 221 regardless of whether adjudication has been withheld, in which
 222 the victim of the offense was less than 16 years of age, to
 223 reside within 1,500 feet of any school, day care center, park,
 224 playground, library, or business or other place where children

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225 regularly congregate.

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

228 1. A felony of the first degree or higher, commits a
229 felony of the third degree, punishable as provided in s. 775.082
230 or s. 775.083.

231 2. A felony of the second or third degree, commits a
232 misdemeanor of the first degree, punishable as provided in s.
233 775.082 or s. 775.083.

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

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

243 Section 6. Section 907.06, Florida Statutes, is created to
244 read:

245 907.06 Electronic monitoring of certain defendants;
246 general requirements for equipment and services.--

247 (1) (a) The court may order a defendant charged with a
248 forcible felony or a sexual offense, or charged with any crime
249 and previously convicted of a forcible felony or a sexual
250 offense, to be released from custody on a surety bond subject to
251 conditions that include, without limitation, electronic
252 monitoring, if electronic monitoring is available in the

253 jurisdiction.

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

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

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

258 (2) A defendant who is released on a surety bond that
 259 includes a condition requiring electronic monitoring shall pay a
 260 reasonable fee for equipment use and monitoring as an additional
 261 condition of pretrial release not to exceed the maximum daily
 262 fee set by the chief judge of the judicial circuit in which the
 263 defendant is released.

264 (3)(a) Electronic monitoring shall include the equipment
 265 and services necessary to continuously receive electronic
 266 signals from the transmitter worn by the defendant to determine
 267 the defendant's geographic position at any time to within 10
 268 meters, using global positioning satellite (GPS) technology,
 269 subject to the limitations related to the technology and to
 270 circumstances of force majeure.

271 (b) Provision of electronic monitoring equipment and
 272 services may be undertaken as a primary responsibility of a
 273 governmental entity or a licensed bail bond agent qualifying as
 274 a vendor under s. 907.07.

275 (c) A governmental entity or licensed bail bond agent may
 276 subcontract with an eligible third-party vendor for electronic
 277 monitoring equipment and services, provided the third-party
 278 vendor complies with all provisions of this subsection and s.
 279 907.08 and operates under the direction and control of the
 280 governmental entity or licensed bail bond agent. A governmental

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281 entity subcontracting for electronic monitoring equipment and
282 services must select the third-party vendor through a
283 competitive bidding process.

284 (4) (a) Any governmental entity or bail bond agent
285 providing electronic monitoring services must report any known
286 violations of the defendant's pretrial release conditions to the
287 appropriate court, law enforcement agency, and state attorney as
288 soon as possible. Additionally, if a third-party vendor is
289 providing the electronic monitoring equipment and services under
290 a subcontract, the third-party vendor must report any known
291 violations to the governmental entity or bail bond agent with
292 whom the third-party vendor has a subcontract.

293 (b) Notwithstanding the reporting requirements in
294 paragraph (a), the provision of electronic monitoring services
295 by a governmental entity or bail bond agent, or any
296 subcontractor thereof, shall not constitute a legal duty to
297 protect members of the public from criminal acts committed by a
298 monitored defendant. The sole purpose of electronic monitoring
299 is to give the governmental entity, bail bond agent, or law
300 enforcement agency, upon request, an indication of the physical
301 location of the monitored defendant at any point in time. The
302 governmental entity or licensed bail bond agent, or any
303 subcontractor thereof, is not responsible to third parties for
304 the failure of the monitoring equipment or for the criminal acts
305 of the monitored defendant.

306 (5) A defendant released in accordance with this section
307 shall not alter, tamper with, damage, or destroy any electronic
308 monitoring equipment or the data recorded by such equipment. A

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309 defendant notified of a malfunction in the equipment shall
310 immediately cooperate with the governmental entity, bail bond
311 agent, or subcontractor thereof to restore the equipment to
312 proper functioning. A violation of this subsection shall
313 constitute a violation of pretrial release and be grounds for
314 the defendant to be remanded to the court or appropriate law
315 enforcement agency.

316 Section 7. Section 907.07, Florida Statutes, is created to
317 read:

318 907.07 Vendors of electronic monitoring equipment and
319 services; bail bond agent eligibility; process; standards.--

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

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

328 (a) Register the name of the licensed bail bond agent and,
329 if applicable, the subcontractor; the name and telephone number
330 of the individual employed by the licensed bail bond agent and,
331 if applicable, the subcontractor that is serving as the contact
332 person for the licensed bail bond agent and, if applicable, the
333 subcontractor; and the address of the licensed bail bond agent
334 and, if applicable, the subcontractor.

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

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337 1. That the electronic monitoring equipment used by the
338 licensed bail bond agent or subcontractor complies with the
339 specifications for privately owned electronic monitoring devices
340 pursuant to s. 907.08.

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

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

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

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

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

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

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

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

362 Section 8. Section 907.08, Florida Statutes, is created to
363 read:

364 907.08 Standards for privately owned electronic monitoring

365 system.--To be eligible for use for electronic monitoring of a
366 defendant under s. 907.06, a privately owned electronic
367 monitoring system must meet the minimum specifications in
368 subsections (1) and (2) and must be consistent with the
369 performance standards in subsections (3)-(9), subject to the
370 best commercially available technology at time of procurement.

371 Such a system must:

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

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

378 (b) Receive signal content 24 hours per day determining
379 the defendant's physical location using GPS technology accurate
380 to within 10 meters, recording the defendant's physical
381 locations throughout the day, and being capable of transmitting
382 that record of locations to the vendor at least daily.

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

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

391 (5) Possess encrypted signal content or another feature
392 designed to discourage duplication.

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393 (6) Be shock resistant, waterproof, and capable of
394 reliable function under normal atmospheric and environmental
395 conditions.

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

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

402 (9) Make use of straps or other mechanisms for attaching
403 the transmitter to the defendant that are capable of being
404 adjusted to fit a defendant of any size or are available in a
405 variety of sizes.

406 Section 9. Section 907.09, Florida Statutes, is created to
407 read:

408 907.09 Offenses related to electronic monitoring
409 devices.--It is a felony of the third degree, punishable as
410 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
411 to:

412 (1) Intentionally alter, tamper with, damage, or destroy
413 any electronic monitoring device used to monitor the location of
414 a person pursuant to court order, unless the person is the owner
415 of the equipment or an agent of the owner performing ordinary
416 maintenance and repairs.

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

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421 (3) Intentionally alter, tamper with, damage, or destroy
422 any data stored or transmitted by any electronic monitoring
423 device used to monitor the location of a defendant pursuant to
424 court order with the intent to violate the court order or to
425 conceal a violation.

426 Section 10. Section 944.161, Florida Statutes, is created
427 to read:

428 944.161 Electronic monitoring of inmates within
429 correctional facilities.--

430 (1) The department is authorized to employ electronic
431 monitoring of inmates incarcerated within state and private
432 correctional facilities. The department must use electronic
433 monitoring systems that meet the minimum specifications in
434 paragraphs (a) and (b) and are consistent with the performance
435 standards in paragraph (c), subject to the best commercially
436 available technology at the time of procurement. Such a system
437 must:

438 (a) Have the capacity to continuously receive electronic
439 signals at a monitoring station within the correctional facility
440 from a transmitter that continuously transmits in real time and
441 identifies the specific geographic position within the facility
442 at any time of the following persons who must wear a
443 transmitter:

- 444 1. Inmates.
- 445 2. Department employees.
- 446 3. Employees of any private-sector company contracted to
447 operate a correctional facility.
- 448 4. Any visitor to a correctional facility provided access

449 to areas designated for authorized personnel only.

450 (b) Use electronic monitoring transmitters worn by persons
451 in any correctional facility that are capable of providing
452 updates in at least 5-second intervals and transmit the
453 geographical location of a person wearing a transmitter to
454 within at least a 3-meter radius of his or her actual location
455 or to within a radius equal to the width of a facility's average
456 size sleeping quarters, whichever is less, subject to the
457 limitations relating to the state of the art of the technology
458 used and to circumstances of force majeure. Transmitters worn by
459 persons other than inmates shall also include a panic safety
460 button.

461 (c) Be consistent with the following technological and
462 functional performance standards:

463 1. Be compatible with a commercially recognized wireless
464 network access standard as designated by the department and have
465 sufficient bandwidth to support additional wireless networking
466 devices to expand the capacity of the correctional facility to
467 use the service.

468 2. Be capable of issuing an alarm to an internal
469 correctional monitoring station in an appropriate amount of time
470 after receiving a panic alert from an employee or visitor
471 transmitter or within an appropriate amount of time after
472 violation of the established parameters for permissible movement
473 of inmates, employees, and visitors within the facility.

474 3. Be capable of maintaining a historical storage capacity
475 sufficient to store up to at least 6 months of complete inmate,
476 employee, and visitor tracking data for purposes of followup

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477 investigations and vendor contract auditing. The system should
478 be capable of recording the continuous uninterrupted movement of
479 all monitored individuals by specific position, rather than
480 solely by area or zone. All tracking data shall also be
481 periodically archived by appropriate electronic data transfer to
482 a permanent storage medium designated as acceptable by the
483 department and retained for at least a 5-year period. In
484 addition, tracking data collected from each facility shall be
485 electronically transmitted periodically to a secure centralized
486 offsite location designated by the department and in an
487 appropriate storage medium designated as acceptable by the
488 department as a supplemental backup to protect the archived data
489 from alteration and to prevent loss due to disaster or other
490 cause.

491 4. With respect to a transmitter affixed to an inmate,
492 possess an internal power source that is field rechargeable or
493 provides at least 1 year of normal operation without the need to
494 recharge or replace the power source. Batteries used in devices
495 should be capable of being replaced by correctional employees.
496 The device should emit signal content indicating the power
497 status of the transmitter and notifying the correctional
498 facility monitoring station of any need to recharge or replace
499 the power source.

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

502 6. Possess encrypted signal content or another feature
503 designed to discourage duplication.

504 7. Be shock resistant, waterproof, and capable of reliable

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505 function under normal atmospheric and environmental conditions.

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

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

512 10. Possess straps or other mechanisms for attaching the
513 transmitter to the inmate that are capable of being adjusted to
514 fit an inmate of any size or are available in a variety of
515 sizes.

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

518 12. Provide a backup power source in the event of a power
519 failure.

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

523 (a) Intentionally alter, tamper with, damage, or destroy
524 any electronic monitoring equipment used to monitor the location
525 of a person within a correctional facility, unless the person is
526 the owner of the equipment or an agent of the owner performing
527 ordinary maintenance and repairs.

528 (b) Develop, build, create, possess, or use any device
529 that is intended to mimic, clone, interfere with, or jam the
530 signal of an electronic monitoring device used to monitor the
531 location of a person within a correctional facility.

532 (c) Intentionally alter, tamper with, damage, or destroy

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533 any data stored in an electronic monitoring device pursuant to
 534 subparagraph (1)(c)3. unless done so with written permission
 535 from an authorized official of the department or in compliance
 536 with a data-retention policy of the department adopted by rule.

537 (3) The department is authorized to adopt rules pursuant
 538 to ss. 120.536(1) and 120.54 to implement the provisions of this
 539 section.

540 Section 11. The provisions of section 944.161(1), Florida
 541 Statutes, as created by this act, do not apply to contracts
 542 executed pursuant to chapter 957, Florida Statutes, before July
 543 1, 2007, between the Department of Management Services and
 544 private prison providers.

545 Section 12. Effective July 1, 2007, subsections (2) and
 546 (6) and paragraph (a) of subsection (7) of section 947.1405,
 547 Florida Statutes, are amended, and subsection (11) is added to
 548 that section, to read:

549 947.1405 Conditional release program.--

550 (2)(a) Any inmate who:

551 1.(a) Is convicted of a crime committed on or after
 552 October 1, 1988, and before January 1, 1994; ~~and any inmate who~~
 553 is convicted of a crime committed on or after January 1, 1994,
 554 which crime is or was contained in category 1, category 2,
 555 category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida
 556 Rules of Criminal Procedure (1993), and ~~who~~ has served at least
 557 one prior felony commitment at a state or federal correctional
 558 institution; or is convicted of a violation of any of the
 559 following statutory provisions committed on or after July 1,
 560 2007:

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561 a. Kidnapping, under s. 787.01(3)(a)2., 3., 4., or 5.;
562 b. False imprisonment, under s. 787.02(3)(a)2., 3., 4., or
563 5.;
564 c. Sexual performance by a child, under s. 827.071; or
565 d. Selling or buying of minors, under s. 847.0145;
566 2.~~(b)~~ Is sentenced as a habitual or violent habitual
567 offender or a violent career criminal pursuant to s. 775.084; or
568 3.~~(e)~~ Is found to be a sexual predator under s. 775.21 or
569 former s. 775.23,
570
571 shall, upon reaching the tentative release date or provisional
572 release date, whichever is earlier, as established by the
573 Department of Corrections, be released under supervision subject
574 to specified terms and conditions, including payment of the cost
575 of supervision pursuant to s. 948.09. Such supervision shall be
576 applicable to all sentences within the overall term of sentences
577 if an inmate's overall term of sentences includes one or more
578 sentences that are eligible for conditional release supervision
579 as provided herein.
580 (b) Effective July 1, 1994, and applicable for offenses
581 committed on or after that date, the commission may require, as
582 a condition of conditional release, that the releasee make
583 payment of the debt due and owing to a county or municipal
584 detention facility under s. 951.032 for medical care, treatment,
585 hospitalization, or transportation received by the releasee
586 while in that detention facility. The commission, in determining
587 whether to order such repayment and the amount of such
588 repayment, shall consider the amount of the debt, whether there

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589 was any fault of the institution for the medical expenses
590 incurred, the financial resources of the releasee, the present
591 and potential future financial needs and earning ability of the
592 releasee, and dependents, and other appropriate factors.

593 (c) If any inmate, other than an inmate required to
594 register as a sexual predator under s. 775.21 or as a sexual
595 offender under s. 943.0435, placed on conditional release
596 supervision is also subject to probation or community control,
597 resulting from a probationary or community control split
598 sentence within the overall term of sentences, the Department of
599 Corrections shall supervise such person according to the
600 conditions imposed by the court and the commission shall defer
601 to such supervision. If the court revokes probation or community
602 control and resentences the offender to a term of incarceration,
603 such revocation also constitutes a sufficient basis for the
604 revocation of the conditional release supervision on any
605 nonprobationary or noncommunity control sentence without further
606 hearing by the commission. If any such supervision on any
607 nonprobationary or noncommunity control sentence is revoked,
608 such revocation may result in a forfeiture of all gain-time, and
609 the commission may revoke the resulting deferred conditional
610 release supervision or take other action it considers
611 appropriate. If the term of conditional release supervision
612 exceeds that of the probation or community control, then, upon
613 expiration of the probation or community control, authority for
614 the supervision shall revert to the commission and the
615 supervision shall be subject to the conditions imposed by the
616 commission.

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617 (d) If any inmate required to register as a sexual
618 predator under s. 775.21 or as a sexual offender under s.
619 943.0435 is placed on conditional release supervision and is
620 also subject to probation or community control, the period of
621 court-ordered community supervision shall not be substituted for
622 conditional release supervision and shall follow the term of
623 conditional release supervision.

624 (e) A panel of no fewer than two commissioners shall
625 establish the terms and conditions of any such release. If the
626 offense was a controlled substance violation, the conditions
627 shall include a requirement that the offender submit to random
628 substance abuse testing intermittently throughout the term of
629 conditional release supervision, upon the direction of the
630 correctional probation officer as defined in s. 943.10(3). The
631 commission shall also determine whether the terms and conditions
632 of such release have been violated and whether such violation
633 warrants revocation of the conditional release.

634 (6) The commission shall review the recommendations of the
635 department, and such other information as it deems relevant, and
636 may conduct a review of the inmate's record for the purpose of
637 establishing the terms and conditions of the conditional
638 release. The commission may impose any special conditions it
639 considers warranted from its review of the release plan and
640 recommendation. If the commission determines that the inmate is
641 eligible for release under this section, the commission shall
642 enter an order establishing the length of supervision and the
643 conditions attendant thereto. However, an inmate who has been
644 convicted of a violation of chapter 794 or found by the court to

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645 be a sexual predator is subject to the maximum level of
646 supervision provided, with the mandatory conditions as required
647 in subsection (7), and that supervision shall continue through
648 the end of the releasee's original court-imposed sentence. The
649 length of supervision must not exceed the maximum penalty
650 imposed by the court. The commission may modify the conditions
651 of supervision at any time as warranted in the interest of
652 public safety.

653 (7) (a) Any inmate who is convicted of a crime committed on
654 or after October 1, 1995, or who has been previously convicted
655 of a crime committed on or after October 1, 1995, in violation
656 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
657 subject to conditional release supervision, shall have, in
658 addition to any other conditions imposed, the following special
659 conditions imposed by the commission:

660 1. A mandatory curfew from 10 p.m. to 6 a.m. The
661 commission may designate another 8-hour period if the offender's
662 employment precludes the above specified time, and such
663 alternative is recommended by the Department of Corrections. If
664 the commission determines that imposing a curfew would endanger
665 the victim, the commission may consider alternative sanctions.

666 2.a. If the victim was under the age of 18, a prohibition
667 on living within 1,000 feet of a school, day care center, park,
668 playground, designated public school bus stop, or other place
669 where children regularly congregate. A releasee who is subject
670 to this subparagraph may not relocate to a residence that is
671 within 1,000 feet of a public school bus stop.

672 b. Beginning October 1, 2004, the commission or the

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673 department may not approve a residence that is located within
674 1,000 feet of a school, day care center, park, playground,
675 designated school bus stop, or other place where children
676 regularly congregate for any releasee who is subject to this
677 subparagraph. On October 1, 2004, the department shall notify
678 each affected school district of the location of the residence
679 of a releasee 30 days prior to release and thereafter, if the
680 releasee relocates to a new residence, shall notify any affected
681 school district of the residence of the releasee within 30 days
682 after relocation. If, on October 1, 2004, any public school bus
683 stop is located within 1,000 feet of the existing residence of
684 such releasee, the district school board shall relocate that
685 school bus stop. Beginning October 1, 2004, a district school
686 board may not establish or relocate a public school bus stop
687 within 1,000 feet of the residence of a releasee who is subject
688 to this subparagraph. The failure of the district school board
689 to comply with this subparagraph shall not result in a violation
690 of conditional release supervision.

691 c. Beginning October 1, 2007, neither the commission nor
692 the department may approve a residence located within 1,500 feet
693 of a school, day care center, park, playground, designated
694 school bus stop, library, or business or other place where
695 children regularly congregate for any releasee who is subject to
696 this subparagraph. The distance provided in this sub-
697 subparagraph shall be measured in a straight line from the
698 offender's place of residence to the nearest boundary line of
699 the school, day care center, park, playground, library, or other
700 business or place where children regularly congregate. The

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701 distance may not be measured by a pedestrian route or automobile
702 route.

703 3. Active participation in and successful completion of a
704 sex offender treatment program with qualified practitioners
705 specifically trained to treat sex offenders, at the releasee's
706 own expense. If a qualified practitioner is not available within
707 a 50-mile radius of the releasee's residence, the offender shall
708 participate in other appropriate therapy.

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

713 5. If the victim was under the age of 18, a prohibition
714 against contact with children under the age of 18 without review
715 and approval by the commission. The commission may approve
716 supervised contact with a child under the age of 18 if the
717 approval is based upon a recommendation for contact issued by a
718 qualified practitioner who is basing the recommendation on a
719 risk assessment. Further, the sex offender must be currently
720 enrolled in or have successfully completed a sex offender
721 therapy program. The commission may not grant supervised contact
722 with a child if the contact is not recommended by a qualified
723 practitioner and may deny supervised contact with a child at any
724 time. When considering whether to approve supervised contact
725 with a child, the commission must review and consider the
726 following:

727 a. A risk assessment completed by a qualified
728 practitioner. The qualified practitioner must prepare a written

729 | report that must include the findings of the assessment and
 730 | address each of the following components:

- 731 | (I) The sex offender's current legal status;
- 732 | (II) The sex offender's history of adult charges with
 733 | apparent sexual motivation;
- 734 | (III) The sex offender's history of adult charges without
 735 | apparent sexual motivation;
- 736 | (IV) The sex offender's history of juvenile charges,
 737 | whenever available;
- 738 | (V) The sex offender's offender treatment history,
 739 | including a consultation from the sex offender's treating, or
 740 | most recent treating, therapist;
- 741 | (VI) The sex offender's current mental status;
- 742 | (VII) The sex offender's mental health and substance abuse
 743 | history as provided by the Department of Corrections;
- 744 | (VIII) The sex offender's personal, social, educational,
 745 | and work history;
- 746 | (IX) The results of current psychological testing of the
 747 | sex offender if determined necessary by the qualified
 748 | practitioner;
- 749 | (X) A description of the proposed contact, including the
 750 | location, frequency, duration, and supervisory arrangement;
- 751 | (XI) The child's preference and relative comfort level
 752 | with the proposed contact, when age-appropriate;
- 753 | (XII) The parent's or legal guardian's preference
 754 | regarding the proposed contact; and
- 755 | (XIII) The qualified practitioner's opinion, along with
 756 | the basis for that opinion, as to whether the proposed contact

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757 would likely pose significant risk of emotional or physical harm
758 to the child.

759

760 The written report of the assessment must be given to the
761 commission.

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

765 c. A written consent signed by the child's parent or legal
766 guardian, if the parent or legal guardian is not the sex
767 offender, agreeing to the sex offender having supervised contact
768 with the child after receiving full disclosure of the sex
769 offender's present legal status, past criminal history, and the
770 results of the risk assessment. The commission may not approve
771 contact with the child if the parent or legal guardian refuses
772 to give written consent for supervised contact;

773 d. A safety plan prepared by the qualified practitioner,
774 who provides treatment to the offender, in collaboration with
775 the sex offender, the child's parent or legal guardian, and the
776 child, when age appropriate, which details the acceptable
777 conditions of contact between the sex offender and the child.
778 The safety plan must be reviewed and approved by the Department
779 of Corrections before being submitted to the commission; and

780 e. Evidence that the child's parent or legal guardian, if
781 the parent or legal guardian is not the sex offender,
782 understands the need for and agrees to the safety plan and has
783 agreed to provide, or to designate another adult to provide,
784 constant supervision any time the child is in contact with the

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785 offender.

786

787 The commission may not appoint a person to conduct a risk
788 assessment and may not accept a risk assessment from a person
789 who has not demonstrated to the commission that he or she has
790 met the requirements of a qualified practitioner as defined in
791 this section.

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

797 7. Unless otherwise indicated in the treatment plan
798 provided by the sexual offender treatment program, a prohibition
799 on viewing, owning, or possessing any obscene, pornographic, or
800 sexually stimulating visual or auditory material, including
801 telephone, electronic media, computer programs, or computer
802 services that are relevant to the offender's deviant behavior
803 pattern.

804 8. Effective for a releasee whose crime is committed on or
805 after July 1, 2005, a prohibition on accessing the Internet or
806 other computer services until the offender's sex offender
807 treatment program, after a risk assessment is completed,
808 approves and implements a safety plan for the offender's
809 accessing or using the Internet or other computer services.

810 9. A requirement that the releasee must submit two
811 specimens of blood to the Florida Department of Law Enforcement
812 to be registered with the DNA database.

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813 10. A requirement that the releasee make restitution to
814 the victim, as determined by the sentencing court or the
815 commission, for all necessary medical and related professional
816 services relating to physical, psychiatric, and psychological
817 care.

818 11. Submission to a warrantless search by the community
819 control or probation officer of the probationer's or community
820 controllee's person, residence, or vehicle.

821 (11) Effective for a releasee whose crime was a violation
822 of s. 787.01(3)(a)2., 3., 4., or 5. or s. 787.02(3)(a)2., 3.,
823 4., or 5., committed on or after October 1, 2007, and who was 18
824 years of age or older at the time of the offense, in addition to
825 any other provision of this section, the commission must order
826 electronic monitoring for the duration of the releasee's
827 supervision.

828 Section 13. Effective July 1, 2007, subsection (8) is
829 added to section 947.141, Florida Statutes, to read:

830 947.141 Violations of conditional release, control
831 release, or conditional medical release or addiction-recovery
832 supervision.--

833 (8) Because of the compelling state interest in protecting
834 the public from sexual offenders or sexual predators granted the
835 privilege of conditional release, in any hearing alleging a
836 violation of conditional release by a releasee for failure to
837 comply with the residency exclusion in s. 947.1405, the
838 inability of the releasee to locate a residence in compliance
839 with s. 947.1405 shall not be a defense to the finding of a
840 violation under this section.

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841 Section 14. Subsection (4) of section 948.06, Florida
842 Statutes, is amended to read:

843 948.06 Violation of probation or community control;
844 revocation; modification; continuance; failure to pay
845 restitution or cost of supervision.--

846 (4) Notwithstanding any other provision of this section, a
847 probationer or an offender in community control who is arrested
848 for violating his or her probation or community control in a
849 material respect may be taken before the court in the county or
850 circuit in which the probationer or offender was arrested. That
851 court shall advise him or her of such charge of a violation and,
852 if such charge is admitted, shall cause him or her to be brought
853 before the court which granted the probation or community
854 control. If such violation is not admitted by the probationer or
855 offender, the court may commit him or her or release him or her
856 with or without bail to await further hearing. However, if the
857 probationer or offender is under supervision for any criminal
858 offense proscribed in chapter 794, s. 800.04(4), (5), (6), s.
859 827.071, or s. 847.0145, or is a registered sexual predator or a
860 registered sexual offender, or is under supervision for a
861 criminal offense for which he or she would meet the registration
862 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the
863 effective date of those sections, the court must make a finding
864 that the probationer or offender poses no ~~is not~~ a danger to the
865 public prior to release with or without bail. In determining
866 that the probationer or offender poses no danger to the public
867 ~~the danger posed by the offender's or probationer's release~~, the
868 court may consider the nature and circumstances of the violation

869 and any new offenses charged; the offender's or probationer's
870 past and present conduct, including convictions of crimes; any
871 record of arrests without conviction for crimes involving
872 violence or sexual crimes; any other evidence of allegations of
873 unlawful sexual conduct or the use of violence by the offender
874 or probationer; the offender's or probationer's family ties,
875 length of residence in the community, employment history, and
876 mental condition; his or her history and conduct during the
877 probation or community control supervision from which the
878 violation arises and any other previous supervisions, including
879 disciplinary records of previous incarcerations; the likelihood
880 that the offender or probationer will engage again in a criminal
881 course of conduct; the weight of the evidence against the
882 offender or probationer; whether the probationer or offender is
883 currently subject to electronic monitoring; and any other facts
884 the court considers relevant. The court, as soon as is
885 practicable, shall give the probationer or offender an
886 opportunity to be fully heard on his or her behalf in person or
887 by counsel. After such hearing, the court shall make findings of
888 fact and forward the findings to the court which granted the
889 probation or community control and to the probationer or
890 offender or his or her attorney. The findings of fact by the
891 hearing court are binding on the court which granted the
892 probation or community control. Upon the probationer or offender
893 being brought before it, the court which granted the probation
894 or community control may revoke, modify, or continue the
895 probation or community control or may place the probationer into
896 community control as provided in this section.

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897 Section 15. Effective September 1, 2007, paragraph (b) of
898 subsection (1) and subsection (3) of section 948.30, Florida
899 Statutes, are amended, and subsection (4) is added to that
900 section, to read:

901 948.30 Additional terms and conditions of probation or
902 community control for certain sex offenses.--Conditions imposed
903 pursuant to this section do not require oral pronouncement at
904 the time of sentencing and shall be considered standard
905 conditions of probation or community control for offenders
906 specified in this section.

907 (1) Effective for probationers or community controllees
908 whose crime was committed on or after October 1, 1995, and who
909 are placed under supervision for violation of chapter 794, s.
910 800.04, s. 827.071, or s. 847.0145, the court must impose the
911 following conditions in addition to all other standard and
912 special conditions imposed:

913 (b) 1. Except as provided in subparagraph 2., if the victim
914 was under the age of 18, a prohibition on living within 1,000
915 feet of a school, day care center, park, playground, or other
916 place where children regularly congregate, as prescribed by the
917 court. The 1,000-foot distance shall be measured in a straight
918 line from the offender's place of residence to the nearest
919 boundary line of the school, day care center, park, playground,
920 or other place where children regularly congregate. The distance
921 may not be measured by a pedestrian route or automobile route.

922 2. For probationers or community controllees whose crime
923 was committed on or after October 1, 2007, if the victim was
924 under the age of 18, a prohibition on living within 1,500 feet

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925 of a school, day care center, park, playground, library, or
 926 business or other place where children regularly congregate, as
 927 prescribed by the court. This distance shall be measured in a
 928 straight line from the offender's place of residence to the
 929 nearest boundary line of the school, day care center, park,
 930 playground, library, or business or other place where children
 931 regularly congregate. The distance may not be measured by a
 932 pedestrian route or automobile route.

933 (3) Effective for a probationer or community controllee
 934 whose felony offense ~~crime~~ was committed on or after September
 935 1, 2005, and who:

936 (a) Is placed on probation or community control for a
 937 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
 938 or s. 847.0145 and the unlawful sexual activity involved a
 939 victim under 16 ~~15~~ years of age ~~or younger~~ and the offender is
 940 18 years of age or older;

941 (b) Is designated a sexual predator pursuant to s. 775.21;
 942 or

943 (c) Has previously been convicted of a violation of
 944 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
 945 847.0145 and the unlawful sexual activity involved a victim
 946 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years
 947 of age or older,

948
 949 the court must order, in addition to any other provision of this
 950 section, mandatory electronic monitoring as a condition of the
 951 probation or community control supervision.

952 (4) Effective for a probationer or community controllee

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953 whose felony offense was committed on or after September 1,
954 2007, and who:

955 (a) Is placed on probation or community control for a
956 violation of s. 787.01(3)(a)2., 3., 4., or 5., s.
957 787.02(3)(a)2., 3., 4., or 5., chapter 794, s. 800.04(4), (5),
958 or (6), s. 827.071, or s. 847.0145 and the unlawful sexual
959 activity involved a victim under 16 years of age and the
960 offender is 18 years of age or older;

961 (b) Is designated a sexual predator pursuant to s. 775.21;
962 or

963 (c) Has previously been convicted of a violation of s.
964 787.01(3)(a)2., 3., 4., or 5., s. 787.02(3)(a)2., 3., 4., or 5.,
965 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
966 847.0145 and the unlawful sexual activity involved a victim
967 under 16 years of age and the offender is 18 years of age or
968 older,

969
970 the court must order, in addition to any other provision of this
971 section, mandatory electronic monitoring as a condition of the
972 probation or community control supervision.

973 Section 16. Section 985.6012, Florida Statutes, is created
974 to read:

975 985.6012 Electronic monitoring of juvenile offenders
976 within juvenile facilities.--

977 (1) The department is authorized to employ electronic
978 monitoring of juvenile offenders incarcerated within state and
979 private juvenile offender facilities for the purpose of reducing
980 offender-on-offender violence and reducing employee sexual

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981 misconduct as defined in s. 985.701. The department must use
982 electronic monitoring systems that meet the minimum
983 specifications in paragraphs (a) and (b) and are consistent with
984 the performance standards in paragraph (c), subject to the best
985 commercially available technology at the time of procurement.

986 Such a system must:

987 (a) Have the capacity to continuously receive electronic
988 signals at a monitoring station within the correctional facility
989 from a transmitter that continuously transmits in real time and
990 identifies the specific geographic position within the facility
991 at any time of the following persons who must wear a
992 transmitter:

993 1. Juvenile offenders.

994 2. Department employees.

995 3. Employees of a private sector company contracted to
996 operate a juvenile facility.

997 4. Any visitor to a juvenile facility provided access to
998 areas designated for authorized personnel only.

999 (b) Use electronic monitoring transmitters worn by persons
1000 in any juvenile facility that provide updates in at least 5-
1001 second intervals and transmit the geographical location of a
1002 person wearing a transmitter to within at least a 3-meter radius
1003 of his or her actual location or to within a radius equal to the
1004 width of a facility's average size sleeping quarters, whichever
1005 is less, subject to the limitations relating to the state of the
1006 art of the technology used and to circumstances of force
1007 majeure. Transmitters worn by persons other than juvenile
1008 offenders shall also include a panic safety button.

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1009 (c) Be consistent with the following technological and
1010 functional performance standards:

1011 1. Be compatible with a commercially recognized wireless
1012 network access standard as designated by the department and
1013 sufficient bandwidth to support additional wireless networking
1014 devices to expand the capacity of the juvenile facility to use
1015 the service.

1016 2. Be capable of issuing an alarm to an internal
1017 correctional monitoring station in an appropriate amount of time
1018 after receiving a panic alert from an employee or visitor
1019 transmitter or within an appropriate amount of time after
1020 violation of the established parameters for permissible movement
1021 of juvenile offenders, employees, and visitors within the
1022 facility.

1023 3. Be capable of maintaining a historical storage capacity
1024 sufficient to store up to at least 6 months of complete juvenile
1025 offender, employee, and visitor tracking data for purposes of
1026 followup investigations and vendor contract auditing. The system
1027 should be capable of recording the continuous uninterrupted
1028 movement of all monitored individuals by specific position,
1029 rather than solely by area or zone. All tracking data shall also
1030 be periodically archived by appropriate electronic data transfer
1031 to a permanent storage medium designated as acceptable by the
1032 department and retained for at least a 5-year period. In
1033 addition, tracking data collected from each facility shall be
1034 electronically transmitted periodically to a secure centralized
1035 offsite location designated by the department and in an
1036 appropriate storage medium designated as acceptable by the

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1037 department as a supplemental backup to protect the archived data
1038 from alteration and to prevent loss due to disaster or other
1039 cause.

1040 4. With respect to a unit affixed to a juvenile offender,
1041 possess an internal power source that is field rechargeable or
1042 provides at least 1 year of normal operation without the need to
1043 recharge or replace the power source. Batteries used in devices
1044 should be capable of being replaced by correctional employees.
1045 The device should emit signal content indicating the power
1046 status of the transmitter and notifying the juvenile facility
1047 monitoring station of any need to recharge or replace the power
1048 source.

1049 5. Possess and emit signal content indicating whether the
1050 transmitter has been tampered with or removed.

1051 6. Possess encrypted signal content or another feature
1052 designed to discourage duplication.

1053 7. Be shock resistant, waterproof, and capable of reliable
1054 function under normal atmospheric and environmental conditions.

1055 8. Be capable of sustaining wear and use in a manner that
1056 does not pose a safety hazard or unduly restrict the activities
1057 of the offender.

1058 9. Be capable of being attached to the offender in a manner
1059 that readily reveals any efforts to tamper with or remove the
1060 transmitter upon visual inspection.

1061 10. Possess straps or other mechanisms for attaching the
1062 transmitter to the offender that are capable of being adjusted
1063 to fit an offender of any size or are available in a variety of
1064 sizes.

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1065 11. Be designed and constructed in such a way as to resist
1066 tampering with or removal by the offender.

1067 12. Provide a backup power source in the event of a power
1068 failure.

1069 (2) It is a felony of the third degree, punishable as
1070 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
1071 to:

1072 (a) Intentionally alter, tamper with, damage, or destroy
1073 any electronic monitoring equipment used to monitor the location
1074 of a person within a juvenile facility, unless the person is the
1075 owner of the equipment or an agent of the owner performing
1076 ordinary maintenance and repairs.

1077 (b) Develop, build, create, possess, or use any device
1078 that is intended to mimic, clone, interfere with, or jam the
1079 signal of an electronic monitoring device used to monitor the
1080 location of a person within a juvenile facility.

1081 (c) Intentionally alter, tamper with, damage, or destroy
1082 any data stored in an electronic monitoring device pursuant to
1083 subparagraph (1)(c)3. unless done so with written permission
1084 from an authorized official of the department or in compliance
1085 with a data-retention policy of the department adopted by rule.

1086 Section 17. Except as otherwise expressly provided in this
1087 act, this act shall take effect October 1, 2007.