

1                   A bill to be entitled  
2     An act relating to public safety; amending s. 775.21,  
3     F.S.; revising provisions relating to reimbursement of  
4     specified costs by sexual predators; revising provisions  
5     relating to the residence of sexual predators; providing  
6     penalties; creating s. 775.215, F.S.; specifying residency  
7     exclusions for sexual offenders or sexual predators;  
8     preempting certain local ordinances; amending s. 775.24,  
9     F.S.; revising provisions relating to residency exclusions  
10    for sexual predators and sexual offenders; amending s.  
11    794.065, F.S.; providing additional residency restrictions  
12    on certain offenders; providing penalties; amending s.  
13    947.1405, F.S.; providing additional conditional release  
14    restrictions for certain offenders; amending s. 947.141,  
15    F.S.; revising provisions relating to hearings alleging a  
16    violation of community release by specified releasees for  
17    failure to comply with specified residency exclusions;  
18    amending s. 948.06, F.S.; revising provisions relating to  
19    probation or community control for sexual predators and  
20    sexual offenders; amending s. 948.063, F.S.; providing  
21    that failure of a sexual predator or sexual offender to  
22    obtain a residence in compliance with certain requirements  
23    is not a defense in certain proceedings; amending s.  
24    948.30, F.S.; revising provisions relating to terms and  
25    conditions of probation or community control for certain  
26    sex offenses; providing an effective date.

27  
28    Be It Enacted by the Legislature of the State of Florida:

29

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

33 775.21 The Florida Sexual Predators Act.--

34 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE  
35 INTENT.--

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

40 1. Incarcerating sexual predators and maintaining adequate  
41 facilities to ensure that decisions to release sexual predators  
42 into the community are not made on the basis of inadequate  
43 space.

44 2. Providing for specialized supervision of sexual  
45 predators who are in the community by specially trained  
46 probation officers with low caseloads, as described in ss.  
47 947.1405(7) and 948.30. The sexual predator is subject to  
48 specified terms and conditions implemented at sentencing or at  
49 the time of release from incarceration, with a requirement that  
50 those sexual predators found to be indigent may defer payment  
51 pursuant to s. 28.246 of all or part of the costs in accordance  
52 with the provisions of that section ~~who are financially able~~  
53 ~~must pay all or part of the costs of supervision.~~

54 3. Requiring the registration of sexual predators, with a  
55 requirement that complete and accurate information be maintained

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56 and accessible for use by law enforcement authorities,  
57 communities, and the public.

58 4. Providing for community and public notification  
59 concerning the presence of sexual predators.

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

62 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

63 (a) Law enforcement agencies must inform members of the  
64 community and the public of a sexual predator's presence. Upon  
65 notification of the presence of a sexual predator, the sheriff  
66 of the county or the chief of police of the municipality where  
67 the sexual predator establishes or maintains a permanent or  
68 temporary residence shall notify members of the community and  
69 the public of the presence of the sexual predator in a manner  
70 deemed appropriate by the sheriff or the chief of police. Within  
71 48 hours after receiving notification of the presence of a  
72 sexual predator, the sheriff of the county or the chief of  
73 police of the municipality where the sexual predator temporarily  
74 or permanently resides shall notify each licensed day care  
75 center, elementary school, middle school, ~~and~~ high school, and  
76 library within a 1-mile radius of the temporary or permanent  
77 residence of the sexual predator of the presence of the sexual  
78 predator. Information provided to members of the community and  
79 the public regarding a sexual predator must include:

- 80 1. The name of the sexual predator;  
81 2. A description of the sexual predator, including a  
82 photograph;

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

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

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

89

90 This paragraph does not authorize the release of the name of any  
91 victim of the sexual predator.

92 (10) PENALTIES.--

93 (b) A sexual predator who has been convicted of or found  
94 to have committed, or has pled nolo contendere or guilty to,  
95 regardless of adjudication, any violation, or attempted  
96 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
97 the victim is a minor and the defendant is not the victim's  
98 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.  
99 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s.  
100 847.0145; or s. 985.701(1); or a violation of a similar law of  
101 another jurisdiction when the victim of the offense was a minor,  
102 and who works, whether for compensation or as a volunteer, at  
103 any ~~business~~, school, day care center, park, playground,  
104 library, or business or other place where children regularly  
105 congregate, commits a felony of the third degree, punishable as  
106 provided in s. 775.082, s. 775.083, or s. 775.084.

107 Section 2. Section 775.215, Florida Statutes, is created  
108 to read:

109 775.215 Residency exclusions for sexual offenders or  
110 predators; local ordinances preempted.--

111       (1) The establishment of residency exclusions applicable  
 112 to the residences of a person required to register as a sexual  
 113 offender or sexual predator is expressly preempted to the state,  
 114 and the provisions of ss. 794.065, 947.1405, and 948.30  
 115 establishing such exclusions supersede any municipal or county  
 116 ordinances imposing different exclusions.

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

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

124       775.24 Duty of the court to uphold laws governing sexual  
 125 predators and sexual offenders.--

126       (2) If a person meets the criteria in this chapter for  
 127 designation as a sexual predator or meets the criteria in s.  
 128 943.0435, s. 944.606, s. 944.607, or any other law for  
 129 classification as a sexual offender, the court may not enter an  
 130 order, for the purpose of approving a plea agreement or for any  
 131 other reason, which:

132       (a) Exempts a person who meets the criteria for  
 133 designation as a sexual predator or classification as a sexual  
 134 offender from such designation or classification, ~~or~~ exempts  
 135 such person from the requirements for registration or community  
 136 and public notification imposed upon sexual predators and sexual  
 137 offenders, or exempts such person from the residency exclusions  
 138 contained in ss. 794.065, 947.1405, and 948.30;

139 (b) Restricts the compiling, reporting, or release of  
 140 public records information that relates to sexual predators or  
 141 sexual offenders; or

142 (c) Prevents any person or entity from performing its  
 143 duties or operating within its statutorily conferred authority  
 144 as such duty or authority relates to sexual predators or sexual  
 145 offenders.

146 Section 4. Section 794.065, Florida Statutes, is amended  
 147 to read:

148 794.065 Unlawful place of residence for persons convicted  
 149 of certain sex offenses.--

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

156 2. A person who violates this section and whose conviction  
 157 for an offense listed in subparagraph 1. ~~under s. 794.011, s.~~  
 158 ~~800.04, s. 827.071, or s. 847.0145~~ was classified as:

159 a. A felony of the first degree or higher, commits a  
 160 felony of the third degree, punishable as provided in s. 775.082  
 161 or s. 775.083. ~~A person who violates this section and whose~~  
 162 ~~conviction under s. 794.011, s. 800.04, s. 827.071, or s.~~  
 163 ~~847.0145 was classified as~~

164 b. A felony of the second or third degree, commits a  
 165 misdemeanor of the first degree, punishable as provided in s.  
 166 775.082 or s. 775.083.

167 (b) ~~(2)~~ This subsection ~~section~~ applies to any person  
 168 convicted of an offense listed in subparagraph (a)1. if the  
 169 offense occurred a violation of s. 794.011, s. 800.04, s.  
 170 827.071, or s. 847.0145 for offenses that occur on or after  
 171 October 1, 2004.

172 (2) (a)1. It is unlawful for any person who has been  
 173 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.  
 174 800.04, s. 827.071, or s. 847.0145, regardless of whether  
 175 adjudication has been withheld, in which the victim of the  
 176 offense was less than 16 years of age, to reside within 1,500  
 177 feet of any school, day care center, park, playground, library,  
 178 or other business or place where children regularly congregate.

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

181 a. A felony of the first degree or higher, commits a  
 182 felony of the third degree, punishable as provided in s. 775.082  
 183 or s. 775.083.

184 b. A felony of the second or third degree, commits a  
 185 misdemeanor of the first degree, punishable as provided in s.  
 186 775.082 or s. 775.083.

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

193 (c) This subsection applies to any person convicted of an  
 194 offense listed in subparagraph (a)1. if the offense occurred on

195 or after October 1, 2007.

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

199 947.1405 Conditional release program.--

200 (2) (a) Any inmate who:

201 1. ~~(a)~~ Is convicted of a crime committed on or after  
 202 October 1, 1988, and before January 1, 1994; ~~and any inmate who~~  
 203 is convicted of a crime committed on or after January 1, 1994,  
 204 which crime is or was contained in category 1, category 2,  
 205 category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida  
 206 Rules of Criminal Procedure (1993), and who has served at least  
 207 one prior felony commitment at a state or federal correctional  
 208 institution; or is convicted of any of the following offenses  
 209 committed on or after October 1, 2007:

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

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

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

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

214 2. ~~(b)~~ Is sentenced as a habitual or violent habitual  
 215 offender or a violent career criminal pursuant to s. 775.084; or

216 3. ~~(e)~~ Is found to be a sexual predator under s. 775.21 or  
 217 former s. 775.23,

218  
 219 shall, upon reaching the tentative release date or provisional  
 220 release date, whichever is earlier, as established by the  
 221 Department of Corrections, be released under supervision subject  
 222 to specified terms and conditions, including payment of the cost



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223 of supervision pursuant to s. 948.09. Such supervision shall be  
224 applicable to all sentences within the overall term of sentences  
225 if an inmate's overall term of sentences includes one or more  
226 sentences that are eligible for conditional release supervision  
227 as provided herein.

228 (b) Effective July 1, 1994, and applicable for offenses  
229 committed on or after that date, the commission may require, as  
230 a condition of conditional release, that the releasee make  
231 payment of the debt due and owing to a county or municipal  
232 detention facility under s. 951.032 for medical care, treatment,  
233 hospitalization, or transportation received by the releasee  
234 while in that detention facility. The commission, in determining  
235 whether to order such repayment and the amount of such  
236 repayment, shall consider the amount of the debt, whether there  
237 was any fault of the institution for the medical expenses  
238 incurred, the financial resources of the releasee, the present  
239 and potential future financial needs and earning ability of the  
240 releasee, and dependents, and other appropriate factors.

241 (c) If any inmate, other than an inmate required to  
242 register as a sexual predator under s. 775.21 or as a sexual  
243 offender under s. 943.0435, placed on conditional release  
244 supervision is also subject to probation or community control,  
245 resulting from a probationary or community control split  
246 sentence within the overall term of sentences, the Department of  
247 Corrections shall supervise such person according to the  
248 conditions imposed by the court and the commission shall defer  
249 to such supervision. If the court revokes probation or community  
250 control and resentences the offender to a term of incarceration,

251 such revocation also constitutes a sufficient basis for the  
252 revocation of the conditional release supervision on any  
253 nonprobationary or noncommunity control sentence without further  
254 hearing by the commission. If any such supervision on any  
255 nonprobationary or noncommunity control sentence is revoked,  
256 such revocation may result in a forfeiture of all gain-time, and  
257 the commission may revoke the resulting deferred conditional  
258 release supervision or take other action it considers  
259 appropriate. If the term of conditional release supervision  
260 exceeds that of the probation or community control, then, upon  
261 expiration of the probation or community control, authority for  
262 the supervision shall revert to the commission and the  
263 supervision shall be subject to the conditions imposed by the  
264 commission.

265 (d) If any inmate required to register as a sexual  
266 predator under s. 775.21 or as a sexual offender under s.  
267 943.0435 is placed on conditional release supervision and is  
268 also subject to probation or community supervision, the period  
269 of court-ordered community supervision shall not be substituted  
270 for conditional release supervision and shall follow the term of  
271 conditional release supervision.

272 (e) A panel of no fewer than two commissioners shall  
273 establish the terms and conditions of any such release. If the  
274 offense was a controlled substance violation, the conditions  
275 shall include a requirement that the offender submit to random  
276 substance abuse testing intermittently throughout the term of  
277 conditional release supervision, upon the direction of the  
278 correctional probation officer as defined in s. 943.10(3). The

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279 | commission shall also determine whether the terms and conditions  
280 | of such release have been violated and whether such violation  
281 | warrants revocation of the conditional release.

282 |         (6) The commission shall review the recommendations of the  
283 | department, and such other information as it deems relevant, and  
284 | may conduct a review of the inmate's record for the purpose of  
285 | establishing the terms and conditions of the conditional  
286 | release. The commission may impose any special conditions it  
287 | considers warranted from its review of the release plan and  
288 | recommendation. If the commission determines that the inmate is  
289 | eligible for release under this section, the commission shall  
290 | enter an order establishing the length of supervision and the  
291 | conditions attendant thereto. However, an inmate who has been  
292 | convicted of a violation of chapter 794 or found by the court to  
293 | be a sexual predator is subject to the maximum level of  
294 | supervision provided, with the mandatory conditions as required  
295 | in subsection (7), and that supervision shall continue through  
296 | the end of the releasee's original court-imposed sentence. The  
297 | length of supervision must not exceed the maximum penalty  
298 | imposed by the court. The commission may modify the conditions  
299 | of supervision at any time.

300 |         (7)(a) Any inmate who is convicted of a crime committed on  
301 | or after October 1, 1995, or who has been previously convicted  
302 | of a crime committed on or after October 1, 1995, in violation  
303 | of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is  
304 | subject to conditional release supervision, shall have, in  
305 | addition to any other conditions imposed, the following special  
306 | conditions imposed by the commission:

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

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

319           b. Beginning October 1, 2004, the commission or the  
320 department may not approve a residence that is located within  
321 1,000 feet of a school, day care center, park, playground,  
322 designated school bus stop, or other place where children  
323 regularly congregate for any releasee who is subject to this  
324 subparagraph. On October 1, 2004, the department shall notify  
325 each affected school district of the location of the residence  
326 of a releasee 30 days prior to release and thereafter, if the  
327 releasee relocates to a new residence, shall notify any affected  
328 school district of the residence of the releasee within 30 days  
329 after relocation. If, on October 1, 2004, any public school bus  
330 stop is located within 1,000 feet of the existing residence of  
331 such releasee, the district school board shall relocate that  
332 school bus stop. Beginning October 1, 2004, a district school  
333 board may not establish or relocate a public school bus stop  
334 within 1,000 feet of the residence of a releasee who is subject

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335 to this subparagraph. The failure of the district school board  
336 to comply with this subparagraph shall not result in a violation  
337 of conditional release supervision.

338 c. Beginning October 1, 2007, neither the commission nor  
339 the department may approve a residence located within 1,500 feet  
340 of a school, day care center, park, playground, designated  
341 school bus stop, library, or other business or place where  
342 children regularly congregate for any releasee who is subject to  
343 this subparagraph. The distance provided in this sub-  
344 paragraph shall be measured in a straight line from the  
345 offender's place of residence to the nearest boundary line of  
346 the school, day care center, park, playground, library, or other  
347 business or place where children regularly congregate. The  
348 distance may not be measured by a pedestrian route or automobile  
349 route.

350 3. Active participation in and successful completion of a  
351 sex offender treatment program with qualified practitioners  
352 specifically trained to treat sex offenders, at the releasee's  
353 own expense. If a qualified practitioner is not available within  
354 a 50-mile radius of the releasee's residence, the offender shall  
355 participate in other appropriate therapy.

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

360 5. If the victim was under the age of 18, a prohibition  
361 against contact with children under the age of 18 without review  
362 and approval by the commission. The commission may approve

363 supervised contact with a child under the age of 18 if the  
364 approval is based upon a recommendation for contact issued by a  
365 qualified practitioner who is basing the recommendation on a  
366 risk assessment. Further, the sex offender must be currently  
367 enrolled in or have successfully completed a sex offender  
368 therapy program. The commission may not grant supervised contact  
369 with a child if the contact is not recommended by a qualified  
370 practitioner and may deny supervised contact with a child at any  
371 time. When considering whether to approve supervised contact  
372 with a child, the commission must review and consider the  
373 following:

374 a. A risk assessment completed by a qualified  
375 practitioner. The qualified practitioner must prepare a written  
376 report that must include the findings of the assessment and  
377 address each of the following components:

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

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

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

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

385 (V) The sex offender's offender treatment history,  
386 including a consultation from the sex offender's treating, or  
387 most recent treating, therapist;

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

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

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

393 (IX) The results of current psychological testing of the  
394 sex offender if determined necessary by the qualified  
395 practitioner;

396 (X) A description of the proposed contact, including the  
397 location, frequency, duration, and supervisory arrangement;

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

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

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

406  
407 The written report of the assessment must be given to the  
408 commission.

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

412 c. A written consent signed by the child's parent or legal  
413 guardian, if the parent or legal guardian is not the sex  
414 offender, agreeing to the sex offender having supervised contact  
415 with the child after receiving full disclosure of the sex  
416 offender's present legal status, past criminal history, and the  
417 results of the risk assessment. The commission may not approve  
418 contact with the child if the parent or legal guardian refuses

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419 to give written consent for supervised contact;

420 d. A safety plan prepared by the qualified practitioner,  
421 who provides treatment to the offender, in collaboration with  
422 the sex offender, the child's parent or legal guardian, and the  
423 child, when age appropriate, which details the acceptable  
424 conditions of contact between the sex offender and the child.  
425 The safety plan must be reviewed and approved by the Department  
426 of Corrections before being submitted to the commission; and

427 e. Evidence that the child's parent or legal guardian, if  
428 the parent or legal guardian is not the sex offender,  
429 understands the need for and agrees to the safety plan and has  
430 agreed to provide, or to designate another adult to provide,  
431 constant supervision any time the child is in contact with the  
432 offender.

433  
434 The commission may not appoint a person to conduct a risk  
435 assessment and may not accept a risk assessment from a person  
436 who has not demonstrated to the commission that he or she has  
437 met the requirements of a qualified practitioner as defined in  
438 this section.

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

444 7. Unless otherwise indicated in the treatment plan  
445 provided by the sexual offender treatment program, a prohibition  
446 on viewing, owning, or possessing any obscene, pornographic, or



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447 sexually stimulating visual or auditory material, including  
448 telephone, electronic media, computer programs, or computer  
449 services that are relevant to the offender's deviant behavior  
450 pattern.

451 8. Effective for a releasee whose crime is committed on or  
452 after July 1, 2005, a prohibition on accessing the Internet or  
453 other computer services until the offender's sex offender  
454 treatment program, after a risk assessment is completed,  
455 approves and implements a safety plan for the offender's  
456 accessing or using the Internet or other computer services.

457 9. A requirement that the releasee must submit two  
458 specimens of blood to the Florida Department of Law Enforcement  
459 to be registered with the DNA database.

460 10. A requirement that the releasee make restitution to  
461 the victim, as determined by the sentencing court or the  
462 commission, for all necessary medical and related professional  
463 services relating to physical, psychiatric, and psychological  
464 care.

465 11. Submission to a warrantless search by the community  
466 control or probation officer of the probationer's or community  
467 controllee's person, residence, or vehicle. Such warrantless  
468 search includes the use of electronic monitoring or other means  
469 in the case of a person convicted of an offense under s.  
470 775.21(4)(a)1.

471 (11) Effective for a releasee whose crime was a violation  
472 of s. 787.01(1)(b) or s. 787.02(1)(b) committed on or after  
473 October 1, 2007, and whose crime involved a victim less than 16  
474 years of age and an offender 18 years of age or older, in

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475 addition to any other provision of this section, the commission  
476 must order electronic monitoring for the duration of the  
477 releasee's supervision.

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

480 947.141 Violations of conditional release, control  
481 release, or conditional medical release or addiction-recovery  
482 supervision.--

483 (8) Because of the compelling state interest in protecting  
484 the public from sexual offenders or sexual predators granted the  
485 privilege of conditional release, in any hearing alleging a  
486 violation of community release by a releasee for failure to  
487 comply with the residency exclusion in s. 947.1405, the  
488 inability of the releasee to locate a residence in compliance  
489 with s. 947.1405 shall not be a defense to the finding of a  
490 violation under this section.

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

493 948.06 Violation of probation or community control;  
494 revocation; modification; continuance; failure to pay  
495 restitution or cost of supervision.--

496 (4) Notwithstanding any other provision of this section, a  
497 probationer or an offender in community control who is arrested  
498 for violating his or her probation or community control in a  
499 material respect may be taken before the court in the county or  
500 circuit in which the probationer or offender was arrested. That  
501 court shall advise him or her of such charge of a violation and,  
502 if such charge is admitted, shall cause him or her to be brought

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503 before the court which granted the probation or community  
504 control. If such violation is not admitted by the probationer or  
505 offender, the court may commit him or her or release him or her  
506 with or without bail to await further hearing. However, if the  
507 probationer or offender is under supervision for any criminal  
508 offense proscribed in chapter 794, s. 800.04(4), (5), (6), s.  
509 827.071, or s. 847.0145, or is a registered sexual predator or a  
510 registered sexual offender, or is under supervision for a  
511 criminal offense for which he or she would meet the registration  
512 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the  
513 effective date of those sections, the court must make a finding  
514 that the probationer or offender poses no ~~is not~~ a danger to the  
515 public prior to release with or without bail. In determining  
516 that the offender poses no danger to the public ~~the danger posed~~  
517 ~~by the offender's or probationer's release~~, the court may  
518 consider the nature and circumstances of the violation and any  
519 new offenses charged; the offender's or probationer's past and  
520 present conduct, including convictions of crimes; any record of  
521 arrests without conviction for crimes involving violence or  
522 sexual crimes; any other evidence of allegations of unlawful  
523 sexual conduct or the use of violence by the offender or  
524 probationer; the offender's or probationer's family ties, length  
525 of residence in the community, employment history, and mental  
526 condition; his or her history and conduct during the probation  
527 or community control supervision from which the violation arises  
528 and any other previous supervisions, including disciplinary  
529 records of previous incarcerations; the likelihood that the  
530 offender or probationer will engage again in a criminal course

531 of conduct; the weight of the evidence against the offender or  
 532 probationer; whether or not the probationer is currently subject  
 533 to electronic monitoring; and any other facts the court  
 534 considers relevant. The court, as soon as is practicable, shall  
 535 give the probationer or offender an opportunity to be fully  
 536 heard on his or her behalf in person or by counsel. After such  
 537 hearing, the court shall make findings of fact and forward the  
 538 findings to the court which granted the probation or community  
 539 control and to the probationer or offender or his or her  
 540 attorney. The findings of fact by the hearing court are binding  
 541 on the court which granted the probation or community control.  
 542 Upon the probationer or offender being brought before it, the  
 543 court which granted the probation or community control may  
 544 revoke, modify, or continue the probation or community control  
 545 or may place the probationer into community control as provided  
 546 in this section.

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

549 948.063 Violations of probation or community control by  
 550 designated sexual offenders and sexual predators.--

551 (3) Because of the compelling state interest in protecting  
 552 the public from sexual predators or sexual offenders on  
 553 probation, in any hearing alleging a violation of probation by a  
 554 releasee for failure to comply with the residency exclusion in  
 555 s. 948.30, the inability of the probationer to locate a  
 556 residence in compliance with s. 948.30 shall not be a defense to  
 557 the finding of a violation under this section.

558 Section 9. Paragraphs (b) and (k) of subsection (1) and

559 subsection (3) of section 948.30, Florida Statutes, are amended,  
 560 and subsection (4) is added to that section, to read:

561 948.30 Additional terms and conditions of probation or  
 562 community control for certain sex offenses.--Conditions imposed  
 563 pursuant to this section do not require oral pronouncement at  
 564 the time of sentencing and shall be considered standard  
 565 conditions of probation or community control for offenders  
 566 specified in this section.

567 (1) Effective for probationers or community controllees  
 568 whose crime was committed on or after October 1, 1995, and who  
 569 are placed under supervision for violation of chapter 794, s.  
 570 800.04, s. 827.071, or s. 847.0145, the court must impose the  
 571 following conditions in addition to all other standard and  
 572 special conditions imposed:

573 (b) 1. Except as provided in subparagraph 2., if the victim  
 574 was under the age of 18, a prohibition on living within 1,000  
 575 feet of a school, day care center, park, playground, or other  
 576 place where children regularly congregate, as prescribed by the  
 577 court. The 1,000-foot distance shall be measured in a straight  
 578 line from the offender's place of residence to the nearest  
 579 boundary line of the school, day care center, park, playground,  
 580 or other place where children regularly congregate. The distance  
 581 may not be measured by a pedestrian route or automobile route.

582 2. For probationers or community controllees whose crime  
 583 was committed on or after October 1, 2007, if the victim was  
 584 under the age of 18, a prohibition on living within 1,500 feet  
 585 of a school, day care center, park, playground, library, or  
 586 other business or place where children regularly congregate, as

587 prescribed by the court. This distance shall be measured in a  
 588 straight line from the offender's place of residence to the  
 589 nearest boundary line of the school, day care center, park,  
 590 playground, library, or other business or place where children  
 591 regularly congregate. The distance may not be measured by a  
 592 pedestrian route or automobile route.

593 (k) Submission to a warrantless search by the community  
 594 control or probation officer of the probationer's or community  
 595 controllee's person, residence, or vehicle. Such a warrantless  
 596 search includes the use of electronic monitoring or other means  
 597 in the case of a person convicted of an offense under s.  
 598 775.21(4)(a)1.

599 (3) Effective for a probationer or community controllee  
 600 whose crime was committed on or after September 1, 2005, and  
 601 who:

602 (a) Is placed on probation or community control for a  
 603 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,  
 604 or s. 847.0145 and the unlawful sexual activity involved a  
 605 victim under 16 ~~15~~ years of age ~~or younger~~ and the offender is  
 606 18 years of age or older;

607 (b) Is designated a sexual predator pursuant to s. 775.21;  
 608 or

609 (c) Has previously been convicted of a violation of  
 610 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.  
 611 847.0145 and the unlawful sexual activity involved a victim  
 612 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years  
 613 of age or older,

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615 the court must order, in addition to any other provision of this  
616 section, mandatory electronic monitoring as a condition of the  
617 probation or community control supervision.

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

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