

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Robaina offered the following:

2
3 **Substitute Amendment for Amendment (304669)**

4 Remove lines 131-384 and insert:

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

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

9 a. A felony of the first degree or higher, commits a
10 felony of the third degree, punishable as provided in s. 775.082
11 or s. 775.083.

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

15 (b) The distances in this subsection shall be measured in
16 a straight line from the offender's place of residence to the

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17 nearest boundary line of the school, day care center, park, or
18 playground.

19 Section 4. Section 794.0701, Florida Statutes, is created
20 to read:

21 794.0701 Loitering or prowling by persons convicted of
22 certain sex offenses.--Any person who:

23 (1) Has been convicted of a violation of s. 787.01, s.
24 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145, or a
25 violation of a similar law of another jurisdiction, regardless
26 of whether adjudication has been withheld, in which the victim
27 of the offense was less than 16 years of age; and

28 (2) Loiters or prowls as proscribed in s. 856.021 within
29 300 feet of a place where children regularly congregate,
30 including, but not limited to, a school, designated public
31 school bus stop, day care center, park, or playground

32
33 commits a misdemeanor of the first degree, punishable as
34 provided in s. 775.082 or s. 775.083.

35 Section 5. Paragraph (a) of subsection (7) of section
36 947.1405, Florida Statutes, is amended, and subsection (11) is
37 added to that section, to read:

38 947.1405 Conditional release program.--

39 (7)(a) Any inmate who is convicted of a crime committed on
40 or after October 1, 1995, or who has been previously convicted
41 of a crime committed on or after October 1, 1995, in violation
42 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
43 subject to conditional release supervision, shall have, in

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44 addition to any other conditions imposed, the following special
45 conditions imposed by the commission:

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

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

58 b. Beginning October 1, 2004, the commission or the
59 department may not approve a residence that is located within
60 1,000 feet of a school, day care center, park, playground,
61 designated school bus stop, or other place where children
62 regularly congregate for any releasee who is subject to this
63 subparagraph. On October 1, 2004, the department shall notify
64 each affected school district of the location of the residence
65 of a releasee 30 days prior to release and thereafter, if the
66 releasee relocates to a new residence, shall notify any affected
67 school district of the residence of the releasee within 30 days
68 after relocation. If, on October 1, 2004, any public school bus
69 stop is located within 1,000 feet of the existing residence of
70 such releasee, the district school board shall relocate that
71 school bus stop. Beginning October 1, 2004, a district school

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72 board may not establish or relocate a public school bus stop
73 within 1,000 feet of the residence of a releasee who is subject
74 to this subparagraph. The failure of the district school board
75 to comply with this subparagraph shall not result in a violation
76 of conditional release supervision.

77 c. If the victim was under the age of 18, beginning
78 October 1, 2008, neither the commission nor the department may
79 approve a residence located within 2,000 feet of a school, day
80 care center, park, playground, designated school bus stop, or
81 other place where children regularly congregate for any releasee
82 who is subject to this subparagraph. The distance in this sub-
83 subparagraph shall be measured in a straight line from the
84 offender's place of residence to the nearest boundary line of
85 the school, day care center, park, playground, designated school
86 bus stop, or other place where children regularly congregate.
87 The distance may not be measured by a pedestrian route or
88 automobile route.

89 3. Active participation in and successful completion of a
90 sex offender treatment program with qualified practitioners
91 specifically trained to treat sex offenders, at the releasee's
92 own expense. If a qualified practitioner is not available within
93 a 50-mile radius of the releasee's residence, the offender shall
94 participate in other appropriate therapy.

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

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99 5. If the victim was under the age of 18, a prohibition
100 against contact with children under the age of 18 without review
101 and approval by the commission. The commission may approve
102 supervised contact with a child under the age of 18 if the
103 approval is based upon a recommendation for contact issued by a
104 qualified practitioner who is basing the recommendation on a
105 risk assessment. Further, the sex offender must be currently
106 enrolled in or have successfully completed a sex offender
107 therapy program. The commission may not grant supervised contact
108 with a child if the contact is not recommended by a qualified
109 practitioner and may deny supervised contact with a child at any
110 time. When considering whether to approve supervised contact
111 with a child, the commission must review and consider the
112 following:

113 a. A risk assessment completed by a qualified
114 practitioner. The qualified practitioner must prepare a written
115 report that must include the findings of the assessment and
116 address each of the following components:

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

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

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

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

124 (V) The sex offender's offender treatment history,
125 including a consultation from the sex offender's treating, or
126 most recent treating, therapist;

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- 127 (VI) The sex offender's current mental status;
128 (VII) The sex offender's mental health and substance abuse
129 history as provided by the Department of Corrections;
130 (VIII) The sex offender's personal, social, educational,
131 and work history;
132 (IX) The results of current psychological testing of the
133 sex offender if determined necessary by the qualified
134 practitioner;
135 (X) A description of the proposed contact, including the
136 location, frequency, duration, and supervisory arrangement;
137 (XI) The child's preference and relative comfort level
138 with the proposed contact, when age-appropriate;
139 (XII) The parent's or legal guardian's preference
140 regarding the proposed contact; and
141 (XIII) The qualified practitioner's opinion, along with
142 the basis for that opinion, as to whether the proposed contact
143 would likely pose significant risk of emotional or physical harm
144 to the child.

145
146 The written report of the assessment must be given to the
147 commission.

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

151 c. A written consent signed by the child's parent or legal
152 guardian, if the parent or legal guardian is not the sex
153 offender, agreeing to the sex offender having supervised contact
154 with the child after receiving full disclosure of the sex

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155 offender's present legal status, past criminal history, and the
156 results of the risk assessment. The commission may not approve
157 contact with the child if the parent or legal guardian refuses
158 to give written consent for supervised contact;

159 d. A safety plan prepared by the qualified practitioner,
160 who provides treatment to the offender, in collaboration with
161 the sex offender, the child's parent or legal guardian, and the
162 child, when age appropriate, which details the acceptable
163 conditions of contact between the sex offender and the child.
164 The safety plan must be reviewed and approved by the Department
165 of Corrections before being submitted to the commission; and

166 e. Evidence that the child's parent or legal guardian, if
167 the parent or legal guardian is not the sex offender,
168 understands the need for and agrees to the safety plan and has
169 agreed to provide, or to designate another adult to provide,
170 constant supervision any time the child is in contact with the
171 offender.

172
173 The commission may not appoint a person to conduct a risk
174 assessment and may not accept a risk assessment from a person
175 who has not demonstrated to the commission that he or she has
176 met the requirements of a qualified practitioner as defined in
177 this section.

178 6. If the victim was under age 18, a prohibition on
179 working for pay or as a volunteer at any school, day care
180 center, park, playground, or other place where children
181 regularly congregate, as prescribed by the commission.

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182 7. Unless otherwise indicated in the treatment plan
183 provided by the sexual offender treatment program, a prohibition
184 on viewing, owning, or possessing any obscene, pornographic, or
185 sexually stimulating visual or auditory material, including
186 telephone, electronic media, computer programs, or computer
187 services that are relevant to the offender's deviant behavior
188 pattern.

189 8. Effective for a releasee whose crime is committed on or
190 after July 1, 2005, a prohibition on accessing the Internet or
191 other computer services until the offender's sex offender
192 treatment program, after a risk assessment is completed,
193 approves and implements a safety plan for the offender's
194 accessing or using the Internet or other computer services.

195 9. A requirement that the releasee must submit two
196 specimens of blood to the Florida Department of Law Enforcement
197 to be registered with the DNA database.

198 10. A requirement that the releasee make restitution to
199 the victim, as determined by the sentencing court or the
200 commission, for all necessary medical and related professional
201 services relating to physical, psychiatric, and psychological
202 care.

203 11. Submission to a warrantless search by the community
204 control or probation officer of the probationer's or community
205 controllee's person, residence, or vehicle.

206 (11) (a) The commission must, in addition to all other
207 provisions of this section, impose the special conditions in
208 paragraph (b) on the following releasees whose crime was
209 committed on or after October 1, 2008:

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210 1. A releasee who violated s. 800.04(4), (5), or (6), s.
211 827.071, or s. 847.0145 in this state or a similar offense in
212 another jurisdiction when, at the time of the offense, the
213 victim was under 16 years of age and the releasee was 18 years
214 of age or older.

215 2. A releasee who is designated as a sexual predator under
216 s. 775.21 or who has received a similar designation or
217 determination in another jurisdiction.

218 3. A releasee subject to registration as a sexual predator
219 under s. 775.21 or as a sexual offender under s. 943.0435 who
220 has committed an offense that would meet the criteria for the
221 designation or registration when at the time of the offense the
222 victim was under 16 years of age and the releasee was 18 years
223 of age or older, who commits a violation of s. 775.21 or s.
224 943.0435 on or after October 1, 2008, and who is not otherwise
225 subject to this paragraph.

226 (b) The commission must order a prohibition on
227 distributing candy or other items to children on Halloween,
228 wearing a Santa Claus costume on or preceding Christmas, wearing
229 an Easter Bunny costume on or preceding Easter, entertaining at
230 children's parties, or wearing a clown costume without prior
231 approval from the commission.

232 Section 6. Paragraph (b) of subsection (1) and subsection
233 (3) of section 948.30, Florida Statutes, are amended, and
234 subsection (4) is added to that section, to read:

235 948.30 Additional terms and conditions of probation or
236 community control for certain sex offenses.--Conditions imposed
237 pursuant to this section do not require oral pronouncement at
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238 the time of sentencing and shall be considered standard
239 conditions of probation or community control for offenders
240 specified in this section.

241 (1) Effective for probationers or community controllees
242 whose crime was committed on or after October 1, 1995, and who
243 are placed under supervision for violation of chapter 794, s.
244 800.04, s. 827.071, or s. 847.0145, the court must impose the
245 following conditions in addition to all other standard and
246 special conditions imposed:

247 (b)1. Except as provided in subparagraph 2., if the victim
248 was under the age of 18, a prohibition on living within 1,000
249 feet of a school, day care center, park, playground, or other
250 place where children regularly congregate, as prescribed by the
251 court. The 1,000-foot distance shall be measured in a straight
252 line from the offender's place of residence to the nearest
253 boundary line of the school, day care center, park, playground,
254 or other place where children regularly congregate. The distance
255 may not be measured by a pedestrian route or automobile route.

256 2. For a probationer or community controllee whose crime
257 was committed on or after October 1, 2008, if the victim was
258 under the age of 18, a prohibition on living within 2,000 feet