

1 A bill to be entitled

2 An act relating to sexual offenders and predators;
3 amending s. 775.21, F.S.; revising provisions relating to
4 reimbursement of specified costs by sexual predators;
5 revising provisions relating to notification of the
6 residence of sexual predators; providing criminal
7 penalties; prohibiting sexual predators from working at
8 certain locations; providing criminal penalties; creating
9 s. 775.215, F.S.; specifying residency distance
10 limitations for persons convicted of certain sexual
11 offenses; preempting certain local ordinances and
12 providing for repeal of such ordinances; amending s.
13 775.24, F.S.; revising provisions relating to the duty of
14 the court to uphold certain laws; amending s. 794.065,
15 F.S.; providing additional residency restrictions on
16 certain offenders; providing penalties; creating s.
17 794.0701, F.S.; prohibiting loitering or prowling by
18 persons convicted of certain sex offenses; providing
19 criminal penalties; amending s. 947.1405, F.S.; providing
20 additional conditional release restrictions for certain
21 offenders; amending s. 948.30, F.S.; revising provisions
22 relating to terms and conditions of probation or community
23 control for certain sex offenses; providing additional
24 restrictions for certain probationers or community
25 controllees who committed sexual offenses with minors
26 under the age of 16; providing an effective date.

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

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

775.21 The Florida Sexual Predators Act.--

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

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

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

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

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

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

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

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

63 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

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

- 81 1. The name of the sexual predator;
- 82 2. A description of the sexual predator, including a
83 photograph;
- 84 3. The sexual predator's current address, including the

85 name of the county or municipality if known;

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

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

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

93 (10) PENALTIES.--

94 (b) A sexual predator who has been convicted of or found
95 to have committed, or has pled nolo contendere or guilty to,
96 regardless of adjudication, any violation, or attempted
97 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
98 the victim is a minor and the defendant is not the victim's
99 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
100 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s.
101 847.0133; s. 847.0145; or s. 985.701(1); or a violation of a
102 similar law of another jurisdiction when the victim of the
103 offense was a minor, and who works, whether for compensation or
104 as a volunteer, at any business, school, day care center, park,
105 playground, library, or other place where children regularly
106 congregate, commits a felony of the third degree, punishable as
107 provided in s. 775.082, s. 775.083, or s. 775.084.

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

110 775.215 Residency distance limitations for persons
111 convicted of certain sexual offenses; local ordinances preempted
112 and repealed.--The adoption of residency distance limitations

113 for persons convicted of sexual offenses, including, but not
 114 limited to, violations of s. 787.01, s. 787.02, s. 794.011, s.
 115 800.04, s. 827.071, or s. 847.0145, regardless of whether
 116 adjudication has been withheld, is expressly preempted to the
 117 state. The provisions of ss. 794.065, 947.1405, and 948.30
 118 establishing such distance limitations supersede the distance
 119 limitations included in any such municipal or county ordinances.
 120 Any such residency distance limitations adopted by a county or
 121 municipality prior to October 1, 2008, are hereby repealed and
 122 abolished as of October 1, 2008.

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

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

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

133 (a) Exempts a person who meets the criteria for
 134 designation as a sexual predator or classification as a sexual
 135 offender from such designation or classification; ~~or~~ exempts
 136 such person from the requirements for registration or community
 137 and public notification imposed upon sexual predators and sexual
 138 offenders; exempts such person from the distance limitations
 139 contained in ss. 794.065, 947.1405, and 948.30; or exempts such
 140 person from the provisions of s. 794.0701;

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

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

148 Section 4. Section 794.065, Florida Statutes, is amended
 149 to read:

150 794.065 Unlawful place of residence for persons convicted
 151 of certain sex offenses.--

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

158 2. A person who violates this subsection ~~section~~ and whose
 159 conviction for an offense listed in subparagraph 1. ~~under s.~~
 160 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified
 161 as:

162 a. A felony of the first degree or higher, commits a
 163 felony of the third degree, punishable as provided in s. 775.082
 164 or s. 775.083. ~~A person who violates this section and whose~~
 165 ~~conviction under s. 794.011, s. 800.04, s. 827.071, or s.~~
 166 ~~847.0145 was classified as~~

167 b. A felony of the second or third degree, commits a
 168 misdemeanor of the first degree, punishable as provided in s.

169 775.082 or s. 775.083.

170 ~~(b)(2)~~ This subsection ~~section~~ applies to any person
 171 convicted of an offense listed in subparagraph (a)1. if the
 172 offense occurred a violation of s. 794.011, s. 800.04, s.
 173 827.071, or s. 847.0145 for offenses that occur on or after
 174 October 1, 2004.

175 (2)(a)1. It is unlawful for any person who has been
 176 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
 177 800.04, s. 827.071, or s. 847.0145, committed on or after
 178 October 1, 2008, regardless of whether adjudication has been
 179 withheld, in which the victim of the offense was less than 16
 180 years of age, to reside within 1,500 feet of any school, day
 181 care center, park, or playground.

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

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

187 b. A felony of the second or third degree, commits a
 188 misdemeanor of the first degree, punishable as provided in s.
 189 775.082 or s. 775.083.

190 (b) The distances in this subsection shall be measured in
 191 a straight line from the offender's place of residence to the
 192 nearest boundary line of the school, day care center, park, or
 193 playground.

194 Section 5. Section 794.0701, Florida Statutes, is created
 195 to read:

196 794.0701 Loitering or prowling by persons convicted of

197 certain sex offenses.--Any person who:

198 (1) Has been convicted of a violation of s. 787.01, s.
 199 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
 200 regardless of whether adjudication has been withheld, in which
 201 the victim of the offense was less than 16 years of age; and

202 (2) Loiters or prowls as proscribed in s. 856.021 within
 203 300 feet of a place where children regularly congregate,
 204 including, but not limited to, a school, designated public
 205 school bus stop, day care center, park, or playground

206
 207 commits a misdemeanor of the first degree, punishable as
 208 provided in s. 775.082 or s. 775.083.

209 Section 6. Paragraph (a) of subsection (7) of section
 210 947.1405, Florida Statutes, is amended, and subsection (11) is
 211 added to that section, to read:

212 947.1405 Conditional release program.--

213 (7)(a) Any inmate who is convicted of a crime committed on
 214 or after October 1, 1995, or who has been previously convicted
 215 of a crime committed on or after October 1, 1995, in violation
 216 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
 217 subject to conditional release supervision, shall have, in
 218 addition to any other conditions imposed, the following special
 219 conditions imposed by the commission:

220 1. A mandatory curfew from 10 p.m. to 6 a.m. The
 221 commission may designate another 8-hour period if the offender's
 222 employment precludes the above specified time, and such
 223 alternative is recommended by the Department of Corrections. If
 224 the commission determines that imposing a curfew would endanger

225 the victim, the commission may consider alternative sanctions.

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

232 b. Beginning October 1, 2004, the commission or the
233 department may not approve a residence that is located within
234 1,000 feet of a school, day care center, park, playground,
235 designated school bus stop, or other place where children
236 regularly congregate for any releasee who is subject to this
237 subparagraph. On October 1, 2004, the department shall notify
238 each affected school district of the location of the residence
239 of a releasee 30 days prior to release and thereafter, if the
240 releasee relocates to a new residence, shall notify any affected
241 school district of the residence of the releasee within 30 days
242 after relocation. If, on October 1, 2004, any public school bus
243 stop is located within 1,000 feet of the existing residence of
244 such releasee, the district school board shall relocate that
245 school bus stop. Beginning October 1, 2004, a district school
246 board may not establish or relocate a public school bus stop
247 within 1,000 feet of the residence of a releasee who is subject
248 to this subparagraph. The failure of the district school board
249 to comply with this subparagraph shall not result in a violation
250 of conditional release supervision.

251 c. If the victim was under the age of 18, beginning
252 October 1, 2008, neither the commission nor the department may

253 approve a residence located within 1,500 feet of a school, day
254 care center, park, playground, designated school bus stop, or
255 other place where children regularly congregate for any releasee
256 who is subject to this subparagraph. The distance in this sub-
257 subparagraph shall be measured in a straight line from the
258 offender's place of residence to the nearest boundary line of
259 the school, day care center, park, playground, designated school
260 bus stop, or other place where children regularly congregate.
261 The distance may not be measured by a pedestrian route or
262 automobile route.

263 3. Active participation in and successful completion of a
264 sex offender treatment program with qualified practitioners
265 specifically trained to treat sex offenders, at the releasee's
266 own expense. If a qualified practitioner is not available within
267 a 50-mile radius of the releasee's residence, the offender shall
268 participate in other appropriate therapy.

269 4. A prohibition on any contact with the victim, directly
270 or indirectly, including through a third person, unless approved
271 by the victim, the offender's therapist, and the sentencing
272 court.

273 5. If the victim was under the age of 18, a prohibition
274 against contact with children under the age of 18 without review
275 and approval by the commission. The commission may approve
276 supervised contact with a child under the age of 18 if the
277 approval is based upon a recommendation for contact issued by a
278 qualified practitioner who is basing the recommendation on a
279 risk assessment. Further, the sex offender must be currently
280 enrolled in or have successfully completed a sex offender

281 therapy program. The commission may not grant supervised contact
282 with a child if the contact is not recommended by a qualified
283 practitioner and may deny supervised contact with a child at any
284 time. When considering whether to approve supervised contact
285 with a child, the commission must review and consider the
286 following:

287 a. A risk assessment completed by a qualified
288 practitioner. The qualified practitioner must prepare a written
289 report that must include the findings of the assessment and
290 address each of the following components:

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

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

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

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

298 (V) The sex offender's offender treatment history,
299 including a consultation from the sex offender's treating, or
300 most recent treating, therapist;

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

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

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

306 (IX) The results of current psychological testing of the
307 sex offender if determined necessary by the qualified
308 practitioner;

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

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

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

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

319

320 The written report of the assessment must be given to the
 321 commission.

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

325 c. A written consent signed by the child's parent or legal
 326 guardian, if the parent or legal guardian is not the sex
 327 offender, agreeing to the sex offender having supervised contact
 328 with the child after receiving full disclosure of the sex
 329 offender's present legal status, past criminal history, and the
 330 results of the risk assessment. The commission may not approve
 331 contact with the child if the parent or legal guardian refuses
 332 to give written consent for supervised contact;

333 d. A safety plan prepared by the qualified practitioner,
 334 who provides treatment to the offender, in collaboration with
 335 the sex offender, the child's parent or legal guardian, and the
 336 child, when age appropriate, which details the acceptable

337 conditions of contact between the sex offender and the child.
 338 The safety plan must be reviewed and approved by the Department
 339 of Corrections before being submitted to the commission; and

340 e. Evidence that the child's parent or legal guardian, if
 341 the parent or legal guardian is not the sex offender,
 342 understands the need for and agrees to the safety plan and has
 343 agreed to provide, or to designate another adult to provide,
 344 constant supervision any time the child is in contact with the
 345 offender.

346
 347 The commission may not appoint a person to conduct a risk
 348 assessment and may not accept a risk assessment from a person
 349 who has not demonstrated to the commission that he or she has
 350 met the requirements of a qualified practitioner as defined in
 351 this section.

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

356 7. Unless otherwise indicated in the treatment plan
 357 provided by the sexual offender treatment program, a prohibition
 358 on viewing, owning, or possessing any obscene, pornographic, or
 359 sexually stimulating visual or auditory material, including
 360 telephone, electronic media, computer programs, or computer
 361 services that are relevant to the offender's deviant behavior
 362 pattern.

363 8. Effective for a releasee whose crime is committed on or
 364 after July 1, 2005, a prohibition on accessing the Internet or

365 other computer services until the offender's sex offender
366 treatment program, after a risk assessment is completed,
367 approves and implements a safety plan for the offender's
368 accessing or using the Internet or other computer services.

369 9. A requirement that the releasee must submit two
370 specimens of blood to the Florida Department of Law Enforcement
371 to be registered with the DNA database.

372 10. A requirement that the releasee make restitution to
373 the victim, as determined by the sentencing court or the
374 commission, for all necessary medical and related professional
375 services relating to physical, psychiatric, and psychological
376 care.

377 11. Submission to a warrantless search by the community
378 control or probation officer of the probationer's or community
379 controllee's person, residence, or vehicle.

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

384 1. A releasee who violated s. 800.04(4), (5), or (6), s.
385 827.071, or s. 847.0145 in this state or a similar offense in
386 another jurisdiction when, at the time of the offense, the
387 victim was under 16 years of age and the releasee was 18 years
388 of age or older.

389 2. A releasee who is designated as a sexual predator under
390 s. 775.21 or who has received a similar designation or
391 determination in another jurisdiction.

392 3. A releasee subject to registration as a sexual predator

393 under s. 775.21 or as a sexual offender under s. 943.0435 who
 394 has committed an offense that would meet the criteria for the
 395 designation or registration when at the time of the offense the
 396 victim was under 16 years of age and the releasee was 18 years
 397 of age or older, who commits a violation of s. 775.21 or s.
 398 943.0435 on or after October 1, 2008, and who is not otherwise
 399 subject to this paragraph.

400 (b) The commission must order a prohibition on
 401 distributing candy or other items to children on Halloween,
 402 wearing a Santa Claus costume on or preceding Christmas, wearing
 403 an Easter Bunny costume on or preceding Easter, entertaining at
 404 children's parties, or wearing a clown costume without prior
 405 approval from the commission.

406 Section 7. Paragraph (b) of subsection (1) and subsection
 407 (3) of section 948.30, Florida Statutes, are amended, and
 408 subsection (4) is added to that section, to read:

409 948.30 Additional terms and conditions of probation or
 410 community control for certain sex offenses.--Conditions imposed
 411 pursuant to this section do not require oral pronouncement at
 412 the time of sentencing and shall be considered standard
 413 conditions of probation or community control for offenders
 414 specified in this section.

415 (1) Effective for probationers or community controllees
 416 whose crime was committed on or after October 1, 1995, and who
 417 are placed under supervision for violation of chapter 794, s.
 418 800.04, s. 827.071, or s. 847.0145, the court must impose the
 419 following conditions in addition to all other standard and
 420 special conditions imposed:

421 (b) 1. Except as provided in subparagraph 2., if the victim
 422 was under the age of 18, a prohibition on living within 1,000
 423 feet of a school, day care center, park, playground, or other
 424 place where children regularly congregate, as prescribed by the
 425 court. The 1,000-foot distance shall be measured in a straight
 426 line from the offender's place of residence to the nearest
 427 boundary line of the school, day care center, park, playground,
 428 or other place where children regularly congregate. The distance
 429 may not be measured by a pedestrian route or automobile route.

430 2. For a probationer or community controllee whose crime
 431 was committed on or after October 1, 2008, if the victim was
 432 under the age of 18, a prohibition on living within 1,500 feet
 433 of a school, day care center, park, playground, or other place
 434 where children regularly congregate, as prescribed by the court.
 435 This distance shall be measured in a straight line from the
 436 offender's place of residence to the nearest boundary line of
 437 the school, day care center, park, playground, or other place
 438 where children regularly congregate. The distance may not be
 439 measured by a pedestrian route or automobile route.

440 (3) Effective for a probationer or community controllee
 441 whose crime was committed on or after September 1, 2005, and
 442 who:

443 (a) Is placed on probation or community control for a
 444 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
 445 or s. 847.0145 and the unlawful sexual activity involved a
 446 victim under 16 ~~15~~ years of age ~~or younger~~ and the offender is
 447 18 years of age or older;

448 (b) Is designated a sexual predator pursuant to s. 775.21;

449 or

450 (c) Has previously been convicted of a violation of
 451 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
 452 847.0145 and the unlawful sexual activity involved a victim
 453 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years
 454 of age or older,

455
 456 the court must order, in addition to any other provision of this
 457 section, mandatory electronic monitoring as a condition of the
 458 probation or community control supervision.

459 (4) (a) The court must, in addition to all other provisions
 460 of this section, impose the special conditions in paragraph (b)
 461 on the following probationers or community controllees whose
 462 crime was committed on or after October 1, 2008:

463 1. A probationer or community controllee who violated s.
 464 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 in this state
 465 or committed a similar offense in another jurisdiction when, at
 466 the time of the offense, the victim was under 16 years of age
 467 and the probationer or community controllee was 18 years of age
 468 or older.

469 2. A probationer or community controllee who is designated
 470 as a sexual predator under s. 775.21 or who has received a
 471 similar designation or determination in another jurisdiction.

472 3. A probationer or community controllee subject to
 473 registration as a sexual predator under s. 775.21 or as a sexual
 474 offender pursuant to s. 943.0435 who has committed an offense
 475 that would meet the criteria for the designation or registration
 476 when at the time of the offense the victim was under 16 years of

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477 age and the probationer or community controllee was 18 years of
478 age or older, who commits a violation of s. 775.21 or s.
479 943.0435 on or after October 1, 2008, and who is not otherwise
480 subject to this paragraph.

481 (b) The court must order a prohibition on distributing
482 candy or other items to children on Halloween, wearing a Santa
483 Claus costume on or preceding Christmas, wearing an Easter Bunny
484 costume on or preceding Easter, entertaining at children's
485 parties, or wearing a clown costume without prior approval from
486 the court.

487 Section 8. This act shall take effect October 1, 2008.