

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

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Paragraph (b) of subsection (3) of section
 27 775.21, Florida Statutes, are amended to read:
 28 775.21 The Florida Sexual Predators Act.--

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

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

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

39 2. Providing for specialized supervision of sexual
 40 predators who are in the community by specially trained
 41 probation officers with low caseloads, as described in ss.
 42 947.1405(7) and 948.30. The sexual predator is subject to
 43 specified terms and conditions implemented at sentencing or at
 44 the time of release from incarceration, with a requirement that
 45 only those sexual predators found to be indigent may defer
 46 payment pursuant to s. 28.246 of all or part of the costs in
 47 accordance with the provisions of that section ~~who are~~
 48 ~~financially able must pay all or part of the costs of~~
 49 ~~supervision.~~

50 3. Requiring the registration of sexual predators, with a
 51 requirement that complete and accurate information be maintained
 52 and accessible for use by law enforcement authorities,
 53 communities, and the public.

54 4. Providing for community and public notification
 55 concerning the presence of sexual predators.

56 5. Prohibiting sexual predators from working with

57 children, either for compensation or as a volunteer.

58 Section 1. Section 775.215, Florida Statutes, is created
59 to read:

60 775.215 Residency distance limitations for persons
61 convicted of certain sexual offenses; local ordinances preempted
62 and repealed.--The adoption of residency distance limitations
63 for persons convicted of sexual offenses, including, but not
64 limited to, violations of s. 787.01, s. 787.02, s. 794.011, s.
65 800.04, s. 827.071, or s. 847.0145, regardless of whether
66 adjudication has been withheld, is expressly preempted to the
67 state. The provisions of ss. 794.065, 947.1405, and 948.30
68 establishing such distance limitations supersede the distance
69 limitations included in any such municipal or county ordinances.
70 Any such residency distance limitations adopted by a county or
71 municipality prior to October 1, 2008, are hereby repealed and
72 abolished as of October 1, 2008.

73 Section 2. Subsection (2) of section 775.24, Florida
74 Statutes, is amended to read:

75 775.24 Duty of the court to uphold laws governing sexual
76 predators and sexual offenders.--

77 (2) If a person meets the criteria in this chapter for
78 designation as a sexual predator or meets the criteria in s.
79 943.0435, s. 944.606, s. 944.607, or any other law for
80 classification as a sexual offender, the court may not enter an
81 order, for the purpose of approving a plea agreement or for any
82 other reason, which:

83 (a) Exempts a person who meets the criteria for
84 designation as a sexual predator or classification as a sexual

85 offender from such designation or classification; ~~or~~ exempts
 86 such person from the requirements for registration or community
 87 and public notification imposed upon sexual predators and sexual
 88 offenders; exempts such person from the distance limitations
 89 contained in ss. 794.065, 947.1405, and 948.30; or exempts such
 90 person from the provisions of s. 794.0701;

91 (b) Restricts the compiling, reporting, or release of
 92 public records information that relates to sexual predators or
 93 sexual offenders; or

94 (c) Prevents any person or entity from performing its
 95 duties or operating within its statutorily conferred authority
 96 as such duty or authority relates to sexual predators or sexual
 97 offenders.

98 Section 3. Section 794.065, Florida Statutes, is amended
 99 to read:

100 794.065 Unlawful place of residence for persons convicted
 101 of certain sex offenses.--

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

108 2. A person who violates this subsection ~~section~~ and whose
 109 conviction for an offense listed in subparagraph 1. ~~under s.~~
 110 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified
 111 as:

112 a. A felony of the first degree or higher, commits a

113 felony of the third degree, punishable as provided in s. 775.082
 114 or s. 775.083. ~~A person who violates this section and whose~~
 115 ~~conviction under s. 794.011, s. 800.04, s. 827.071, or s.~~
 116 ~~847.0145 was classified as~~

117 b. A felony of the second or third degree, commits a
 118 misdemeanor of the first degree, punishable as provided in s.
 119 775.082 or s. 775.083.

120 ~~(b)(2)~~ This subsection ~~section~~ applies to any person
 121 convicted of an offense listed in subparagraph (a)1. if the
 122 offense occurred a violation of s. 794.011, s. 800.04, s.
 123 827.071, or s. 847.0145 for offenses that occur on or after
 124 October 1, 2004.

125 (2)(a)1. It is unlawful for any person who has been
 126 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
 127 800.04, s. 827.071, or s. 847.0145, or a violation of a similar
 128 law of another jurisdiction, committed on or after October 1,
 129 2008, regardless of whether adjudication has been withheld, in
 130 which the victim of the offense was less than 16 years of age,
 131 to reside within 1,500 feet of any school, day care center,
 132 park, or playground.

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

135 a. A felony of the first degree or higher, commits a
 136 felony of the third degree, punishable as provided in s. 775.082
 137 or s. 775.083.

138 b. A felony of the second or third degree, commits a
 139 misdemeanor of the first degree, punishable as provided in s.
 140 775.082 or s. 775.083.

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

145 Section 4. Section 794.0701, Florida Statutes, is created
146 to read:

147 794.0701 Loitering or prowling by persons convicted of
148 certain sex offenses.--Any person who:

149 (1) Has been convicted of a violation of s. 787.01, s.
150 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145, or a
151 violation of a similar law of another jurisdiction, regardless
152 of whether adjudication has been withheld, in which the victim
153 of the offense was less than 16 years of age; and

154 (2) Loiters or prowls as proscribed in s. 856.021 within
155 300 feet of a place where children regularly congregate,
156 including, but not limited to, a school, designated public
157 school bus stop, day care center, park, or playground

158
159 commits a misdemeanor of the first degree, punishable as
160 provided in s. 775.082 or s. 775.083.

161 Section 5. Paragraph (a) of subsection (7) of section
162 947.1405, Florida Statutes, is amended, and subsection (11) is
163 added to that section, to read:

164 947.1405 Conditional release program.--

165 (7)(a) Any inmate who is convicted of a crime committed on
166 or after October 1, 1995, or who has been previously convicted
167 of a crime committed on or after October 1, 1995, in violation
168 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is

169 subject to conditional release supervision, shall have, in
170 addition to any other conditions imposed, the following special
171 conditions imposed by the commission:

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

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

184 b. Beginning October 1, 2004, the commission or the
185 department may not approve a residence that is located within
186 1,000 feet of a school, day care center, park, playground,
187 designated school bus stop, or other place where children
188 regularly congregate for any releasee who is subject to this
189 subparagraph. On October 1, 2004, the department shall notify
190 each affected school district of the location of the residence
191 of a releasee 30 days prior to release and thereafter, if the
192 releasee relocates to a new residence, shall notify any affected
193 school district of the residence of the releasee within 30 days
194 after relocation. If, on October 1, 2004, any public school bus
195 stop is located within 1,000 feet of the existing residence of
196 such releasee, the district school board shall relocate that

197 school bus stop. Beginning October 1, 2004, a district school
198 board may not establish or relocate a public school bus stop
199 within 1,000 feet of the residence of a releasee who is subject
200 to this subparagraph. The failure of the district school board
201 to comply with this subparagraph shall not result in a violation
202 of conditional release supervision.

203 c. If the victim was under the age of 18, beginning
204 October 1, 2008, neither the commission nor the department may
205 approve a residence located within 1,500 feet of a school, day
206 care center, park, playground, designated school bus stop, or
207 other place where children regularly congregate for any releasee
208 who is subject to this subparagraph. The distance in this sub-
209 subparagraph shall be measured in a straight line from the
210 offender's place of residence to the nearest boundary line of
211 the school, day care center, park, playground, designated school
212 bus stop, or other place where children regularly congregate.
213 The distance may not be measured by a pedestrian route or
214 automobile route.

215 3. Active participation in and successful completion of a
216 sex offender treatment program with qualified practitioners
217 specifically trained to treat sex offenders, at the releasee's
218 own expense. If a qualified practitioner is not available within
219 a 50-mile radius of the releasee's residence, the offender shall
220 participate in other appropriate therapy.

221 4. A prohibition on any contact with the victim, directly
222 or indirectly, including through a third person, unless approved
223 by the victim, the offender's therapist, and the sentencing
224 court.

225 5. If the victim was under the age of 18, a prohibition
226 against contact with children under the age of 18 without review
227 and approval by the commission. The commission may approve
228 supervised contact with a child under the age of 18 if the
229 approval is based upon a recommendation for contact issued by a
230 qualified practitioner who is basing the recommendation on a
231 risk assessment. Further, the sex offender must be currently
232 enrolled in or have successfully completed a sex offender
233 therapy program. The commission may not grant supervised contact
234 with a child if the contact is not recommended by a qualified
235 practitioner and may deny supervised contact with a child at any
236 time. When considering whether to approve supervised contact
237 with a child, the commission must review and consider the
238 following:

239 a. A risk assessment completed by a qualified
240 practitioner. The qualified practitioner must prepare a written
241 report that must include the findings of the assessment and
242 address each of the following components:

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

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

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

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

250 (V) The sex offender's offender treatment history,
251 including a consultation from the sex offender's treating, or
252 most recent treating, therapist;

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

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

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

258 (IX) The results of current psychological testing of the
 259 sex offender if determined necessary by the qualified
 260 practitioner;

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

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

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

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

271

272 The written report of the assessment must be given to the
 273 commission.

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

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

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

285 d. A safety plan prepared by the qualified practitioner,
286 who provides treatment to the offender, in collaboration with
287 the sex offender, the child's parent or legal guardian, and the
288 child, when age appropriate, which details the acceptable
289 conditions of contact between the sex offender and the child.
290 The safety plan must be reviewed and approved by the Department
291 of Corrections before being submitted to the commission; and

292 e. Evidence that the child's parent or legal guardian, if
293 the parent or legal guardian is not the sex offender,
294 understands the need for and agrees to the safety plan and has
295 agreed to provide, or to designate another adult to provide,
296 constant supervision any time the child is in contact with the
297 offender.

298
299 The commission may not appoint a person to conduct a risk
300 assessment and may not accept a risk assessment from a person
301 who has not demonstrated to the commission that he or she has
302 met the requirements of a qualified practitioner as defined in
303 this section.

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

308 7. Unless otherwise indicated in the treatment plan

309 provided by the sexual offender treatment program, a prohibition
 310 on viewing, owning, or possessing any obscene, pornographic, or
 311 sexually stimulating visual or auditory material, including
 312 telephone, electronic media, computer programs, or computer
 313 services that are relevant to the offender's deviant behavior
 314 pattern.

315 8. Effective for a releasee whose crime is committed on or
 316 after July 1, 2005, a prohibition on accessing the Internet or
 317 other computer services until the offender's sex offender
 318 treatment program, after a risk assessment is completed,
 319 approves and implements a safety plan for the offender's
 320 accessing or using the Internet or other computer services.

321 9. A requirement that the releasee must submit two
 322 specimens of blood to the Florida Department of Law Enforcement
 323 to be registered with the DNA database.

324 10. A requirement that the releasee make restitution to
 325 the victim, as determined by the sentencing court or the
 326 commission, for all necessary medical and related professional
 327 services relating to physical, psychiatric, and psychological
 328 care.

329 11. Submission to a warrantless search by the community
 330 control or probation officer of the probationer's or community
 331 controllee's person, residence, or vehicle.

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

336 1. A releasee who violated s. 800.04(4), (5), or (6), s.

337 827.071, or s. 847.0145 in this state or a similar offense in
338 another jurisdiction when, at the time of the offense, the
339 victim was under 16 years of age and the releasee was 18 years
340 of age or older.

341 2. A releasee who is designated as a sexual predator under
342 s. 775.21 or who has received a similar designation or
343 determination in another jurisdiction.

344 3. A releasee subject to registration as a sexual predator
345 under s. 775.21 or as a sexual offender under s. 943.0435 who
346 has committed an offense that would meet the criteria for the
347 designation or registration when at the time of the offense the
348 victim was under 16 years of age and the releasee was 18 years
349 of age or older, who commits a violation of s. 775.21 or s.
350 943.0435 on or after October 1, 2008, and who is not otherwise
351 subject to this paragraph.

352 (b) The commission must order a prohibition on
353 distributing candy or other items to children on Halloween,
354 wearing a Santa Claus costume on or preceding Christmas, wearing
355 an Easter Bunny costume on or preceding Easter, entertaining at
356 children's parties, or wearing a clown costume without prior
357 approval from the commission.

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

361 948.30 Additional terms and conditions of probation or
362 community control for certain sex offenses.--Conditions imposed
363 pursuant to this section do not require oral pronouncement at
364 the time of sentencing and shall be considered standard

365 conditions of probation or community control for offenders
 366 specified in this section.

367 (1) Effective for probationers or community controllees
 368 whose crime was committed on or after October 1, 1995, and who
 369 are placed under supervision for violation of chapter 794, s.
 370 800.04, s. 827.071, or s. 847.0145, the court must impose the
 371 following conditions in addition to all other standard and
 372 special conditions imposed:

373 (b)1. Except as provided in subparagraph 2., if the victim
 374 was under the age of 18, a prohibition on living within 1,000
 375 feet of a school, day care center, park, playground, or other
 376 place where children regularly congregate, as prescribed by the
 377 court. The 1,000-foot distance shall be measured in a straight
 378 line from the offender's place of residence to the nearest
 379 boundary line of the school, day care center, park, playground,
 380 or other place where children regularly congregate. The distance
 381 may not be measured by a pedestrian route or automobile route.

382 2. For a probationer or community controllee whose crime
 383 was committed on or after October 1, 2008, if the victim was
 384 under the age of 18, a prohibition on living within 1,500 feet
 385 of a school, day care center, park, playground, or other place
 386 where children regularly congregate, as prescribed by the court.
 387 This distance shall be measured in a straight line from the
 388 offender's place of residence to the nearest boundary line of
 389 the school, day care center, park, playground, or other place
 390 where children regularly congregate. The distance may not be
 391 measured by a pedestrian route or automobile route.

392 (3) Effective for a probationer or community controllee

393 whose crime was committed on or after September 1, 2005, and
 394 who:

395 (a) Is placed on probation or community control for a
 396 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
 397 or s. 847.0145 and the unlawful sexual activity involved a
 398 victim under 16 ~~15~~ years of age ~~or younger~~ and the offender is
 399 18 years of age or older;

400 (b) Is designated a sexual predator pursuant to s. 775.21;
 401 or

402 (c) Has previously been convicted of a violation of
 403 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
 404 847.0145 and the unlawful sexual activity involved a victim
 405 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years
 406 of age or older,

407
 408 the court must order, in addition to any other provision of this
 409 section, mandatory electronic monitoring as a condition of the
 410 probation or community control supervision.

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

415 1. A probationer or community controllee who violated s.
 416 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 in this state
 417 or committed a similar offense in another jurisdiction when, at
 418 the time of the offense, the victim was under 16 years of age
 419 and the probationer or community controllee was 18 years of age
 420 or older.

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

424 3. A probationer or community controllee subject to
425 registration as a sexual predator under s. 775.21 or as a sexual
426 offender pursuant to s. 943.0435 who has committed an offense
427 that would meet the criteria for the designation or registration
428 when at the time of the offense the victim was under 16 years of
429 age and the probationer or community controllee was 18 years of
430 age or older, who commits a violation of s. 775.21 or s.
431 943.0435 on or after October 1, 2008, and who is not otherwise
432 subject to this paragraph.

433 (b) The court must order a prohibition on distributing
434 candy or other items to children on Halloween, wearing a Santa
435 Claus costume on or preceding Christmas, wearing an Easter Bunny
436 costume on or preceding Easter, entertaining at children's
437 parties, or wearing a clown costume without prior approval from
438 the court.

439 Section 7. This act shall take effect October 1, 2008.