

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 criminal penalties; prohibiting sexual predators from
7 working within a specified distance of certain facilities;
8 providing criminal penalties; creating s. 775.215, F.S.;
9 specifying residency distance limitations for persons
10 convicted of certain sexual offenses; preempting certain
11 local ordinances and providing for repeal of such
12 ordinances; amending s. 775.24, F.S.; revising provisions
13 relating to the duty of the court to uphold certain laws;
14 amending s. 794.065, F.S.; providing additional residency
15 restrictions on certain offenders; providing penalties;
16 creating s. 794.0701, F.S.; providing for enhanced
17 penalties for loitering or prowling by persons convicted
18 of certain sex offenses; amending s. 947.1405, F.S.;
19 providing additional conditional release restrictions for
20 certain offenders; amending s. 947.141, F.S.; revising
21 provisions relating to hearings alleging a violation of
22 conditional release by specified releasees for failure to
23 comply with specified residency distance limitations;
24 amending s. 948.06, F.S.; revising provisions relating to
25 probation or community control for sexual predators and
26 sexual offenders; amending s. 948.063, F.S.; providing
27 that failure of a sexual predator or sexual offender to
28 obtain a residence in compliance with certain requirements

29 is not a defense in certain proceedings; amending s.
 30 948.30, F.S.; revising provisions relating to terms and
 31 conditions of probation or community control for certain
 32 sex offenses; providing additional restrictions for
 33 certain probationers or community controllees who
 34 committed sexual offenses with minors under the age of 16;
 35 providing an effective date.

36

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

38

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

42 775.21 The Florida Sexual Predators Act.--

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

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

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

53 2. Providing for specialized supervision of sexual
 54 predators who are in the community by specially trained
 55 probation officers with low caseloads, as described in ss.
 56 947.1405(7) and 948.30. The sexual predator is subject to

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57 | specified terms and conditions implemented at sentencing or at
58 | the time of release from incarceration, with a requirement that
59 | only those sexual predators found to be indigent may defer
60 | payment pursuant to s. 28.246 of all or part of the costs in
61 | accordance with the provisions of that section ~~who are~~
62 | ~~financially able must pay all or part of the costs of~~
63 | ~~supervision.~~

64 | 3. Requiring the registration of sexual predators, with a
65 | requirement that complete and accurate information be maintained
66 | and accessible for use by law enforcement authorities,
67 | communities, and the public.

68 | 4. Providing for community and public notification
69 | concerning the presence of sexual predators.

70 | 5. Prohibiting sexual predators from working with
71 | children, either for compensation or as a volunteer.

72 | (7) COMMUNITY AND PUBLIC NOTIFICATION.--

73 | (a) Law enforcement agencies must inform members of the
74 | community and the public of a sexual predator's presence. Upon
75 | notification of the presence of a sexual predator, the sheriff
76 | of the county or the chief of police of the municipality where
77 | the sexual predator establishes or maintains a permanent or
78 | temporary residence shall notify members of the community and
79 | the public of the presence of the sexual predator in a manner
80 | deemed appropriate by the sheriff or the chief of police. Within
81 | 48 hours after receiving notification of the presence of a
82 | sexual predator, the sheriff of the county or the chief of
83 | police of the municipality where the sexual predator temporarily
84 | or permanently resides shall notify each licensed day care

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85 center, elementary school, middle school, ~~and~~ high school, and
 86 library within a 1-mile radius of the temporary or permanent
 87 residence of the sexual predator of the presence of the sexual
 88 predator. Information provided to members of the community and
 89 the public regarding a sexual predator must include:

- 90 1. The name of the sexual predator;
- 91 2. A description of the sexual predator, including a
 92 photograph;
- 93 3. The sexual predator's current address, including the
 94 name of the county or municipality if known;
- 95 4. The circumstances of the sexual predator's offense or
 96 offenses; and
- 97 5. Whether the victim of the sexual predator's offense or
 98 offenses was, at the time of the offense, a minor or an adult.

99
 100 This paragraph does not authorize the release of the name of any
 101 victim of the sexual predator.

102 (10) PENALTIES.--

103 (b) A sexual predator who has been convicted of or found
 104 to have committed, or has pled nolo contendere or guilty to,
 105 regardless of adjudication, any violation, or attempted
 106 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 107 the victim is a minor and the defendant is not the victim's
 108 parent or guardian; s. 794.011(2), (3), (4), (5), or (8)~~;~~
 109 ~~excluding s. 794.011(10);~~ s. 794.05; s. 796.03; s. 796.035; s.
 110 800.04; s. 827.071; s. 847.0133; s. 847.0145; or s. 985.701(1);
 111 or a violation of a similar law of another jurisdiction when the
 112 victim of the offense was a minor, and who works, whether for

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113 compensation or as a volunteer, at any business, school, day
114 care center, park, playground, library, or other place where
115 children regularly congregate, commits a felony of the third
116 degree, punishable as provided in s. 775.082, s. 775.083, or s.
117 775.084.

118 Section 2. Section 775.215, Florida Statutes, is created
119 to read:

120 775.215 Residency distance limitations for persons
121 convicted of certain sexual offenses; local ordinances preempted
122 and repealed.--The adoption of residency distance limitations
123 for persons convicted of sexual offenses, including, but not
124 limited to, violations of s. 787.01, s. 787.02, s. 794.011, s.
125 800.04, s. 827.071, or s. 847.0145, regardless of whether
126 adjudication has been withheld, is expressly preempted to the
127 state. The provisions of ss. 794.065, 947.1405, and 948.30
128 establishing such exclusions supersede the distance limitations
129 included in any such municipal or county ordinances. Any such
130 residency distance limitations adopted by a county or
131 municipality prior to October 1, 2008, are hereby repealed and
132 abolished as of October 1, 2008.

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

135 775.24 Duty of the court to uphold laws governing sexual
136 predators and sexual offenders.--

137 (2) If a person meets the criteria in this chapter for
138 designation as a sexual predator or meets the criteria in s.
139 943.0435, s. 944.606, s. 944.607, or any other law for
140 classification as a sexual offender, the court may not enter an

141 order, for the purpose of approving a plea agreement or for any
 142 other reason, which:

143 (a) Exempts a person who meets the criteria for
 144 designation as a sexual predator or classification as a sexual
 145 offender from such designation or classification; ~~or~~ exempts
 146 such person from the requirements for registration or community
 147 and public notification imposed upon sexual predators and sexual
 148 offenders; exempts such person from the residency exclusions
 149 contained in ss. 794.065, 947.1405, and 948.30; or exempts such
 150 person from the provisions of s. 794.0701;

151 (b) Restricts the compiling, reporting, or release of
 152 public records information that relates to sexual predators or
 153 sexual offenders; or

154 (c) Prevents any person or entity from performing its
 155 duties or operating within its statutorily conferred authority
 156 as such duty or authority relates to sexual predators or sexual
 157 offenders.

158 Section 4. Section 794.065, Florida Statutes, is amended
 159 to read:

160 794.065 Unlawful place of residence for persons convicted
 161 of certain sex offenses.--

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

168 2. A person who violates this subsection ~~section~~ and whose

169 conviction for an offense listed in subparagraph 1. ~~under s.~~
 170 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified
 171 as:

172 a. A felony of the first degree or higher, commits a
 173 felony of the third degree, punishable as provided in s. 775.082
 174 or s. 775.083. ~~A person who violates this section and whose~~
 175 ~~conviction under s. 794.011, s. 800.04, s. 827.071, or s.~~
 176 ~~847.0145 was classified as~~

177 b. A felony of the second or third degree, commits a
 178 misdemeanor of the first degree, punishable as provided in s.
 179 775.082 or s. 775.083.

180 ~~(b)(2)~~ This subsection ~~section~~ applies to any person
 181 convicted of an offense listed in subparagraph (a)1. if the
 182 offense occurred ~~a violation of s. 794.011, s. 800.04, s.~~
 183 ~~827.071, or s. 847.0145 for offenses that occur~~ on or after
 184 October 1, 2004.

185 (2)(a)1. It is unlawful for any person who has been
 186 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
 187 800.04, s. 827.071, or s. 847.0145, committed on or after
 188 October 1, 2008, regardless of whether adjudication has been
 189 withheld, in which the victim of the offense was less than 16
 190 years of age, to reside within 1,500 feet of any school, day
 191 care center, park, or playground.

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

194 a. A felony of the first degree or higher, commits a
 195 felony of the third degree, punishable as provided in s. 775.082
 196 or s. 775.083.

197 b. A felony of the second or third degree, commits a
 198 misdemeanor of the first degree, punishable as provided in s.
 199 775.082 or s. 775.083.

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

204 Section 5. Section 794.0701, Florida Statutes, is created
 205 to read:

206 794.0701 Loitering or prowling by persons convicted of
 207 certain sex offenses.--Any person who:

208 (1) Has been convicted of a violation of s. 787.01, s.
 209 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
 210 regardless of whether adjudication has been withheld, in which
 211 the victim of the offense was less than 16 years of age; and

212 (2) Loiters or prowls as proscribed in s. 856.021 within
 213 600 feet of a place where children regularly congregate,
 214 including, but not limited to, a school, designated public
 215 school bus stop, day care center, playground, park, or library

216
 217 commits a misdemeanor of the first degree, punishable as
 218 provided in s. 775.082 or s. 775.083.

219 Section 6. Subsections (2) and (6) and paragraph (a) of
 220 subsection (7) of section 947.1405, Florida Statutes, are
 221 amended, and subsection (11) is added to that section, to read:

222 947.1405 Conditional release program.--

223 (2)(a) Any inmate who:

224 1.(a) Is convicted of a crime committed on or after

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225 | October 1, 1988, and before January 1, 1994; ~~and any inmate who~~
 226 | is convicted of a crime committed on or after January 1, 1994,
 227 | which crime is or was contained in category 1, category 2,
 228 | category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida
 229 | Rules of Criminal Procedure (1993), and who has served at least
 230 | one prior felony commitment at a state or federal correctional
 231 | institution; or is convicted of any of the following offenses
 232 | committed on or after October 1, 2008:

- 233 | a. Kidnapping, under s. 787.01(3);
- 234 | b. False imprisonment, under s. 787.02(3);
- 235 | c. Sexual performance by a child, under s. 827.071; or
- 236 | d. Selling or buying of minors, under s. 847.0145;
- 237 | 2.(b) Is sentenced as a habitual or violent habitual
 238 | offender or a violent career criminal pursuant to s. 775.084; or
- 239 | 3.(e) Is found to be a sexual predator under s. 775.21 or
 240 | former s. 775.23,

241 |
 242 | shall, upon reaching the tentative release date or provisional
 243 | release date, whichever is earlier, as established by the
 244 | Department of Corrections, be released under supervision subject
 245 | to specified terms and conditions, including payment of the cost
 246 | of supervision pursuant to s. 948.09. Such supervision shall be
 247 | applicable to all sentences within the overall term of sentences
 248 | if an inmate's overall term of sentences includes one or more
 249 | sentences that are eligible for conditional release supervision
 250 | as provided herein.

251 | (b) Effective July 1, 1994, and applicable for offenses
 252 | committed on or after that date, the commission may require, as

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253 a condition of conditional release, that the releasee make
254 payment of the debt due and owing to a county or municipal
255 detention facility under s. 951.032 for medical care, treatment,
256 hospitalization, or transportation received by the releasee
257 while in that detention facility. The commission, in determining
258 whether to order such repayment and the amount of such
259 repayment, shall consider the amount of the debt, whether there
260 was any fault of the institution for the medical expenses
261 incurred, the financial resources of the releasee, the present
262 and potential future financial needs and earning ability of the
263 releasee, and dependents, and other appropriate factors.

264 (c) If any inmate, other than an inmate required to
265 register as a sexual predator under s. 775.21 or as a sexual
266 offender under s. 943.0435, placed on conditional release
267 supervision is also subject to probation or community control,
268 resulting from a probationary or community control split
269 sentence within the overall term of sentences, the Department of
270 Corrections shall supervise such person according to the
271 conditions imposed by the court and the commission shall defer
272 to such supervision. If the court revokes probation or community
273 control and resentences the offender to a term of incarceration,
274 such revocation also constitutes a sufficient basis for the
275 revocation of the conditional release supervision on any
276 nonprobationary or noncommunity control sentence without further
277 hearing by the commission. If any such supervision on any
278 nonprobationary or noncommunity control sentence is revoked,
279 such revocation may result in a forfeiture of all gain-time, and
280 the commission may revoke the resulting deferred conditional

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281 release supervision or take other action it considers
282 appropriate. If the term of conditional release supervision
283 exceeds that of the probation or community control, then, upon
284 expiration of the probation or community control, authority for
285 the supervision shall revert to the commission and the
286 supervision shall be subject to the conditions imposed by the
287 commission.

288 (d) If any inmate required to register as a sexual
289 predator under s. 775.21 or as a sexual offender under s.
290 943.0435 is placed on conditional release supervision and is
291 also subject to probation or community supervision, the period
292 of court-ordered community supervision shall not be substituted
293 for conditional release supervision and shall follow the term of
294 conditional release supervision.

295 (e) A panel of no fewer than two commissioners shall
296 establish the terms and conditions of any such release. If the
297 offense was a controlled substance violation, the conditions
298 shall include a requirement that the offender submit to random
299 substance abuse testing intermittently throughout the term of
300 conditional release supervision, upon the direction of the
301 correctional probation officer as defined in s. 943.10(3). The
302 commission shall also determine whether the terms and conditions
303 of such release have been violated and whether such violation
304 warrants revocation of the conditional release.

305 (6) The commission shall review the recommendations of the
306 department, and such other information as it deems relevant, and
307 may conduct a review of the inmate's record for the purpose of
308 establishing the terms and conditions of the conditional

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309 release. The commission may impose any special conditions it
310 considers warranted from its review of the release plan and
311 recommendation. If the commission determines that the inmate is
312 eligible for release under this section, the commission shall
313 enter an order establishing the length of supervision and the
314 conditions attendant thereto. However, an inmate who has been
315 convicted of a violation of chapter 794 or found by the court to
316 be a sexual predator is subject to the maximum level of
317 supervision provided, with the mandatory conditions as required
318 in subsection (7), and that supervision shall continue through
319 the end of the releasee's original court-imposed sentence. The
320 length of supervision must not exceed the maximum penalty
321 imposed by the court. The commission may modify the conditions
322 of supervision at any time.

323 (7)(a) Any inmate who is convicted of a crime committed on
324 or after October 1, 1995, or who has been previously convicted
325 of a crime committed on or after October 1, 1995, in violation
326 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
327 subject to conditional release supervision, shall have, in
328 addition to any other conditions imposed, the following special
329 conditions imposed by the commission:

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

336 2.a. If the victim was under the age of 18, a prohibition

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337 on living within 1,000 feet of a school, day care center, park,
338 playground, designated public school bus stop, or other place
339 where children regularly congregate. A releasee who is subject
340 to this subparagraph may not relocate to a residence that is
341 within 1,000 feet of a public school bus stop.

342 b. Beginning October 1, 2004, the commission or the
343 department may not approve a residence that is located within
344 1,000 feet of a school, day care center, park, playground,
345 designated school bus stop, or other place where children
346 regularly congregate for any releasee who is subject to this
347 subparagraph. On October 1, 2004, the department shall notify
348 each affected school district of the location of the residence
349 of a releasee 30 days prior to release and thereafter, if the
350 releasee relocates to a new residence, shall notify any affected
351 school district of the residence of the releasee within 30 days
352 after relocation. If, on October 1, 2004, any public school bus
353 stop is located within 1,000 feet of the existing residence of
354 such releasee, the district school board shall relocate that
355 school bus stop. Beginning October 1, 2004, a district school
356 board may not establish or relocate a public school bus stop
357 within 1,000 feet of the residence of a releasee who is subject
358 to this subparagraph. The failure of the district school board
359 to comply with this subparagraph shall not result in a violation
360 of conditional release supervision.

361 c. Beginning October 1, 2008, neither the commission nor
362 the department may approve a residence located within 1,500 feet
363 of a school, day care center, park, playground, designated
364 school bus stop, or other place where children regularly

365 congregate for any releasee who is subject to this subparagraph.
366 The distance in this sub-subparagraph shall be measured in a
367 straight line from the offender's place of residence to the
368 nearest boundary line of the school, day care center, park,
369 playground, or other place where children regularly congregate.
370 The distance may not be measured by a pedestrian route or
371 automobile route.

372 3. Active participation in and successful completion of a
373 sex offender treatment program with qualified practitioners
374 specifically trained to treat sex offenders, at the releasee's
375 own expense. If a qualified practitioner is not available within
376 a 50-mile radius of the releasee's residence, the offender shall
377 participate in other appropriate therapy.

378 4. A prohibition on any contact with the victim, directly
379 or indirectly, including through a third person, unless approved
380 by the victim, the offender's therapist, and the sentencing
381 court.

382 5. If the victim was under the age of 18, a prohibition
383 against contact with children under the age of 18 without review
384 and approval by the commission. The commission may approve
385 supervised contact with a child under the age of 18 if the
386 approval is based upon a recommendation for contact issued by a
387 qualified practitioner who is basing the recommendation on a
388 risk assessment. Further, the sex offender must be currently
389 enrolled in or have successfully completed a sex offender
390 therapy program. The commission may not grant supervised contact
391 with a child if the contact is not recommended by a qualified
392 practitioner and may deny supervised contact with a child at any

393 | time. When considering whether to approve supervised contact
 394 | with a child, the commission must review and consider the
 395 | following:

396 | a. A risk assessment completed by a qualified
 397 | practitioner. The qualified practitioner must prepare a written
 398 | report that must include the findings of the assessment and
 399 | address each of the following components:

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

401 | (II) The sex offender's history of adult charges with
 402 | apparent sexual motivation;

403 | (III) The sex offender's history of adult charges without
 404 | apparent sexual motivation;

405 | (IV) The sex offender's history of juvenile charges,
 406 | whenever available;

407 | (V) The sex offender's offender treatment history,
 408 | including a consultation from the sex offender's treating, or
 409 | most recent treating, therapist;

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

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

413 | (VIII) The sex offender's personal, social, educational,
 414 | and work history;

415 | (IX) The results of current psychological testing of the
 416 | sex offender if determined necessary by the qualified
 417 | practitioner;

418 | (X) A description of the proposed contact, including the
 419 | location, frequency, duration, and supervisory arrangement;

420 | (XI) The child's preference and relative comfort level

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421 with the proposed contact, when age-appropriate;

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

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

428

429 The written report of the assessment must be given to the
430 commission.

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

434 c. A written consent signed by the child's parent or legal
435 guardian, if the parent or legal guardian is not the sex
436 offender, agreeing to the sex offender having supervised contact
437 with the child after receiving full disclosure of the sex
438 offender's present legal status, past criminal history, and the
439 results of the risk assessment. The commission may not approve
440 contact with the child if the parent or legal guardian refuses
441 to give written consent for supervised contact;

442 d. A safety plan prepared by the qualified practitioner,
443 who provides treatment to the offender, in collaboration with
444 the sex offender, the child's parent or legal guardian, and the
445 child, when age appropriate, which details the acceptable
446 conditions of contact between the sex offender and the child.
447 The safety plan must be reviewed and approved by the Department
448 of Corrections before being submitted to the commission; and

449 e. Evidence that the child's parent or legal guardian, if
450 the parent or legal guardian is not the sex offender,
451 understands the need for and agrees to the safety plan and has
452 agreed to provide, or to designate another adult to provide,
453 constant supervision any time the child is in contact with the
454 offender.

455

456 The commission may not appoint a person to conduct a risk
457 assessment and may not accept a risk assessment from a person
458 who has not demonstrated to the commission that he or she has
459 met the requirements of a qualified practitioner as defined in
460 this section.

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

465 7. Unless otherwise indicated in the treatment plan
466 provided by the sexual offender treatment program, a prohibition
467 on viewing, owning, or possessing any obscene, pornographic, or
468 sexually stimulating visual or auditory material, including
469 telephone, electronic media, computer programs, or computer
470 services that are relevant to the offender's deviant behavior
471 pattern.

472 8. Effective for a releasee whose crime is committed on or
473 after July 1, 2005, a prohibition on accessing the Internet or
474 other computer services until the offender's sex offender
475 treatment program, after a risk assessment is completed,
476 approves and implements a safety plan for the offender's

477 accessing or using the Internet or other computer services.

478 9. A requirement that the releasee must submit two
 479 specimens of blood to the Florida Department of Law Enforcement
 480 to be registered with the DNA database.

481 10. A requirement that the releasee make restitution to
 482 the victim, as determined by the sentencing court or the
 483 commission, for all necessary medical and related professional
 484 services relating to physical, psychiatric, and psychological
 485 care.

486 11. Submission to a warrantless search by the community
 487 control or probation officer of the probationer's or community
 488 controllee's person, residence, or vehicle.

489 (11) Effective for a releasee whose crime was a violation
 490 of s. 787.01(3) or s. 787.02(3) committed on or after October 1,
 491 2008, and whose crime involved a victim less than 16 years of
 492 age and an offender 18 years of age or older, in addition to any
 493 other provision of this section, the commission must order
 494 electronic monitoring for the duration of the releasee's
 495 supervision.

496 Section 7. Subsection (8) is added to section 947.141,
 497 Florida Statutes, to read:

498 947.141 Violations of conditional release, control
 499 release, or conditional medical release or addiction-recovery
 500 supervision.--

501 (8) Because of the compelling state interest in protecting
 502 the public from sexual offenders or sexual predators granted the
 503 privilege of conditional release, in any hearing alleging a
 504 violation of conditional release by a releasee for failure to

505 comply with the residency distance limitations in s. 947.1405,
 506 the inability of the releasee to locate a residence in
 507 compliance with s. 947.1405 shall not be a defense to the
 508 finding of a violation under this section.

509 Section 8. Subsection (4) of section 948.06, Florida
 510 Statutes, is amended to read:

511 948.06 Violation of probation or community control;
 512 revocation; modification; continuance; failure to pay
 513 restitution or cost of supervision.--

514 (4) Notwithstanding any other provision of this section, a
 515 ~~felony~~ probationer or an offender in community control who is
 516 arrested for violating his or her probation or community control
 517 in a material respect may be taken before the court in the
 518 county or circuit in which the probationer or offender was
 519 arrested. That court shall advise him or her of such ~~the~~ charge
 520 of a violation and, if such charge is admitted, shall cause him
 521 or her to be brought before the court that granted the probation
 522 or community control. If such ~~the~~ violation is not admitted by
 523 the probationer or offender, the court may commit him or her or
 524 release him or her with or without bail to await further
 525 hearing. However, if the probationer or offender is under
 526 supervision for any criminal offense proscribed in chapter 794,
 527 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a
 528 registered sexual predator or a registered sexual offender, or
 529 is under supervision for a criminal offense for which he or she
 530 would meet the registration criteria in s. 775.21, s. 943.0435,
 531 or s. 944.607 but for the effective date of those sections, the
 532 court must make a finding that the probationer or offender poses

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533 no ~~is not~~ a danger to the public prior to release with or
534 without bail. In determining that the offender poses no danger
535 to the public ~~the danger posed by the offender's or~~
536 ~~probationer's release~~, the court may consider the nature and
537 circumstances of the violation and any new offenses charged; the
538 offender's or probationer's past and present conduct, including
539 convictions of crimes; any record of arrests without conviction
540 for crimes involving violence or sexual crimes; any other
541 evidence of allegations of unlawful sexual conduct or the use of
542 violence by the offender or probationer; the offender's or
543 probationer's family ties, length of residence in the community,
544 employment history, and mental condition; his or her history and
545 conduct during the probation or community control supervision
546 from which the violation arises and any other previous
547 supervisions, including disciplinary records of previous
548 incarcerations; the likelihood that the offender or probationer
549 will engage again in a criminal course of conduct; the weight of
550 the evidence against the offender or probationer; whether or not
551 the probationer is currently subject to electronic monitoring;
552 and any other facts the court considers relevant. The court, as
553 soon as is practicable, shall give the probationer or offender
554 an opportunity to be fully heard on his or her behalf in person
555 or by counsel. After such ~~the~~ hearing, the court shall make
556 findings of fact and forward the findings to the court that
557 granted the probation or community control and to the
558 probationer or offender or his or her attorney. The findings of
559 fact by the hearing court are binding on the court that granted
560 the probation or community control. Upon the probationer or

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561 offender being brought before it, the court that granted the
562 probation or community control may revoke, modify, or continue
563 the probation or community control or may place the probationer
564 into community control as provided in this section. However, the
565 probationer or offender shall not be released and shall not be
566 admitted to bail, but shall be brought before the court that
567 granted the probation or community control if any violation of
568 felony probation or community control other than a failure to
569 pay costs or fines or make restitution payments is alleged to
570 have been committed by:

571 (a) A violent felony offender of special concern, as
572 defined in this section;

573 (b) A person who is on felony probation or community
574 control for any offense committed on or after the effective date
575 of this act and who is arrested for a qualifying offense as
576 defined in this section; or

577 (c) A person who is on felony probation or community
578 control and has previously been found by a court to be a
579 habitual violent felony offender as defined in s. 775.084(1)(b),
580 a three-time violent felony offender as defined in s.
581 775.084(1)(c), or a sexual predator under s. 775.21, and who is
582 arrested for committing a qualifying offense as defined in this
583 section on or after the effective date of this act.

584 Section 9. Subsection (3) is added to section 948.063,
585 Florida Statutes, to read:

586 948.063 Violations of probation or community control by
587 designated sexual offenders and sexual predators.--

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588 (3) Because of the compelling state interest in protecting
589 the public from sexual predators or sexual offenders on
590 probation, in any hearing alleging a violation of probation by a
591 releasee for failure to comply with the distance limitations in
592 s. 948.30, the inability of the probationer to locate a
593 residence in compliance with s. 948.30 shall not be a defense to
594 the finding of a violation under this section.

595 Section 10. Paragraph (b) of subsection (1) and subsection
596 (3) of section 948.30, Florida Statutes, are amended, and
597 subsection (4) is added to that section, to read:

598 948.30 Additional terms and conditions of probation or
599 community control for certain sex offenses.--Conditions imposed
600 pursuant to this section do not require oral pronouncement at
601 the time of sentencing and shall be considered standard
602 conditions of probation or community control for offenders
603 specified in this section.

604 (1) Effective for probationers or community controllees
605 whose crime was committed on or after October 1, 1995, and who
606 are placed under supervision for violation of chapter 794, s.
607 800.04, s. 827.071, or s. 847.0145, the court must impose the
608 following conditions in addition to all other standard and
609 special conditions imposed:

610 (b)1. Except as provided in subparagraph 2., if the victim
611 was under the age of 18, a prohibition on living within 1,000
612 feet of a school, day care center, park, playground, or other
613 place where children regularly congregate, as prescribed by the
614 court. The 1,000-foot distance shall be measured in a straight
615 line from the offender's place of residence to the nearest

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616 boundary line of the school, day care center, park, playground,
 617 or other place where children regularly congregate. The distance
 618 may not be measured by a pedestrian route or automobile route.

619 2. For a probationer or community controllee whose crime
 620 was committed on or after October 1, 2008, if the victim was
 621 under the age of 18, a prohibition on living within 1,500 feet
 622 of a school, day care center, park, playground, or other place
 623 where children regularly congregate, as prescribed by the court.
 624 This distance shall be measured in a straight line from the
 625 offender's place of residence to the nearest boundary line of
 626 the school, day care center, park, playground, or other place
 627 where children regularly congregate. The distance may not be
 628 measured by a pedestrian route or automobile route.

629 (3) Effective for a probationer or community controllee
 630 whose crime was committed on or after September 1, 2005, and
 631 who:

632 (a) Is placed on probation or community control for a
 633 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
 634 or s. 847.0145 and the unlawful sexual activity involved a
 635 victim under 16 ~~15~~ years of age ~~or younger~~ and the offender is
 636 18 years of age or older;

637 (b) Is designated a sexual predator pursuant to s. 775.21;
 638 or

639 (c) Has previously been convicted of a violation of
 640 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.
 641 847.0145 and the unlawful sexual activity involved a victim
 642 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years
 643 of age or older,

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644
645 the court must order, in addition to any other provision of this
646 section, mandatory electronic monitoring as a condition of the
647 probation or community control supervision.

648 (4) Effective for a probationer or community controllee
649 whose crime was committed on or after October 1, 2008, who has
650 previously been convicted of a violation of s. 787.01(3) or s.
651 787.02(3), and the unlawful sexual activity involved a victim
652 under 16 years of age and an offender 18 years of age or older,
653 the court must order, in addition to any other provision of this
654 section, mandatory electronic monitoring as a condition of the
655 probation or community control supervision.

656 Section 11. This act shall take effect October 1, 2008.