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Proposed Committee Substitute by the Committee on Criminal Justice

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.



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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 requiring the Department of Law Enforcement and other
36 specified agencies to consider eliminating or modifying
37 two dates on or after which a person must be classified as
38 a sexual offender or a sexual predator; directing the
39 department to determine the effect that the elimination or
40 modification of these dates will have on the department
41 and other agencies; directing the department to present a
42 report of its findings to the President of the Senate and
43 the Speaker of the House of Representatives by a specified
44 date; providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Paragraph (b) of subsection (3), paragraph (a)
49 of subsection (7), and paragraph (b) of subsection (10) of
50 section 775.21, Florida Statutes, are amended to read:

51 775.21 The Florida Sexual Predators Act.--

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

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

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



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60 2. Providing for specialized supervision of sexual
61 predators who are in the community by specially trained probation
62 officers with low caseloads, as described in ss. 947.1405(7) and
63 948.30. The sexual predator is subject to specified terms and
64 conditions implemented at sentencing or at the time of release
65 from incarceration, with a requirement that only those sexual
66 predators found to be indigent may defer payment pursuant to s.
67 28.246 of all or part of the costs in accordance with the
68 provisions of that section ~~who are financially able must pay all~~
69 ~~or part of the costs of supervision.~~

70 3. Requiring the registration of sexual predators, with a
71 requirement that complete and accurate information be maintained
72 and accessible for use by law enforcement authorities,
73 communities, and the public.

74 4. Providing for community and public notification
75 concerning the presence of sexual predators.

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

78 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

79 (a) Law enforcement agencies must inform members of the
80 community and the public of a sexual predator's presence. Upon
81 notification of the presence of a sexual predator, the sheriff of
82 the county or the chief of police of the municipality where the
83 sexual predator establishes or maintains a permanent or temporary
84 residence shall notify members of the community and the public of
85 the presence of the sexual predator in a manner deemed
86 appropriate by the sheriff or the chief of police. Within 48
87 hours after receiving notification of the presence of a sexual
88 predator, the sheriff of the county or the chief of police of the
89 municipality where the sexual predator temporarily or permanently



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90 | resides shall notify each licensed day care center, elementary
91 | school, middle school, ~~and~~ high school, and library within a 1-
92 | mile radius of the temporary or permanent residence of the sexual
93 | predator of the presence of the sexual predator. Information
94 | provided to members of the community and the public regarding a
95 | sexual predator must include:

96 | 1. The name of the sexual predator;

97 | 2. A description of the sexual predator, including a
98 | photograph;

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

101 | 4. The circumstances of the sexual predator's offense or
102 | offenses; and

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

105 |

106 | This paragraph does not authorize the release of the name of any
107 | victim of the sexual predator.

108 | (10) PENALTIES.--

109 | (b) A sexual predator who has been convicted of or found to
110 | have committed, or has pled nolo contendere or guilty to,
111 | regardless of adjudication, any violation, or attempted
112 | violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
113 | the victim is a minor and the defendant is not the victim's
114 | parent or guardian; s. 794.011(2), (3), (4), (5), or (8) ~~s.~~
115 | ~~794.011, excluding s. 794.011(10);~~ s. 794.05; s. 796.03; s.
116 | 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0145; or s.
117 | 985.701(1); or a violation of a similar law of another
118 | jurisdiction when the victim of the offense was a minor, and who
119 | works, whether for compensation or as a volunteer, at any



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120 business, school, day care center, park, playground, library, or
121 other place where children regularly congregate, commits a felony
122 of the third degree, punishable as provided in s. 775.082, s.
123 775.083, or s. 775.084.

124 Section 2. Section 775.215, Florida Statutes, is created to
125 read:

126 775.215 Residency distance limitations for persons
127 convicted of certain sexual offenses; local ordinances preempted
128 and repealed.--The adoption of residency distance limitations for
129 persons convicted of sexual offenses, including, but not limited
130 to, violations of s. 787.01, s. 787.02, s. 794.011, s. 800.04, s.
131 827.071, or s. 847.0145, regardless of whether adjudication has
132 been withheld, is expressly preempted to the state. The
133 provisions of ss. 794.065, 947.1405, and 948.30 establishing such
134 exclusions supersede the distance limitations included in any
135 such municipal or county ordinances. Any such residency distance
136 limitations adopted by a county or municipality prior to October
137 1, 2008, are repealed and abolished as of October 1, 2008.

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

140 775.24 Duty of the court to uphold laws governing sexual
141 predators and sexual offenders.--

142 (2) If a person meets the criteria in this chapter for
143 designation as a sexual predator or meets the criteria in s.
144 943.0435, s. 944.606, s. 944.607, or any other law for
145 classification as a sexual offender, the court may not enter an
146 order, for the purpose of approving a plea agreement or for any
147 other reason, which:

148 (a) Exempts a person who meets the criteria for designation
149 as a sexual predator or classification as a sexual offender from



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150 such designation or classification; ~~or~~ exempts such person from
151 the requirements for registration or community and public
152 notification imposed upon sexual predators and sexual offenders;
153 exempts such person from the residency exclusions contained in
154 ss. 794.065, 947.1405, and 948.30; or exempts such person from
155 the provisions of s. 794.0701;

156 (b) Restricts the compiling, reporting, or release of
157 public records information that relates to sexual predators or
158 sexual offenders; or

159 (c) Prevents any person or entity from performing its
160 duties or operating within its statutorily conferred authority as
161 such duty or authority relates to sexual predators or sexual
162 offenders.

163 Section 4. Section 794.065, Florida Statutes, is amended to
164 read:

165 794.065 Unlawful place of residence for persons convicted
166 of certain sex offenses.--

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

173 2. A person who violates this subsection ~~section~~ and whose
174 conviction for an offense listed in subparagraph 1. under s.
175 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified as:

176 a. A felony of the first degree or higher, commits a felony
177 of the third degree, punishable as provided in s. 775.082 or s.
178 ~~775.083. A person who violates this section and whose conviction~~
179 ~~under s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 was~~



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180 ~~classified as~~

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

184 ~~(b)(2)~~ This subsection ~~section~~ applies to any person
185 convicted of an offense listed in subparagraph (a)1. if the
186 offense occurred a violation of s. 794.011, s. 800.04, s.
187 827.071, or s. 847.0145 for offenses that occur on or after
188 October 1, 2004.

189 (2)(a)1. It is unlawful for any person who has been
190 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
191 800.04, s. 827.071, or s. 847.0145, committed on or after October
192 1, 2008, regardless of whether adjudication has been withheld, in
193 which the victim of the offense was less than 16 years of age, to
194 reside within 1,500 feet of any school, day care center, park, or
195 playground.

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

198 a. A felony of the first degree or higher, commits a felony
199 of the third degree, punishable as provided in s. 775.082 or s.
200 775.083.

201 b. A felony of the second or third degree, commits a
202 misdemeanor of the first degree, punishable as provided in s.
203 775.082 or s. 775.083.

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

208 Section 5. Section 794.0701, Florida Statutes, is created
209 to read:



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210 794.0701 Loitering or prowling by persons convicted of
211 certain sex offenses.--Any person who:

212 (1) Has been convicted of a violation of s. 787.01, s.
213 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
214 regardless of whether adjudication has been withheld, in which
215 the victim of the offense was less than 16 years of age; and

216 (2) Loiters or prowls as proscribed in s. 856.021 within
217 600 feet of a place where children regularly congregate,
218 including, but not limited to, a school, designated public school
219 bus stop, day care center, playground, park, or library
220
221 commits a misdemeanor of the first degree, punishable as provided
222 in s. 775.082 or s. 775.083.

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

226 947.1405 Conditional release program.--

227 (2)(a) Any inmate who:

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

237 a. Kidnapping, under s. 787.01(3);

238 b. False imprisonment, under s. 787.02(3);

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



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240 d. Selling or buying of minors, under s. 847.0145;
241 2. ~~(b)~~ Is sentenced as a habitual or violent habitual
242 offender or a violent career criminal pursuant to s. 775.084; or

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

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

255 (b) Effective July 1, 1994, and applicable for offenses
256 committed on or after that date, the commission may require, as a
257 condition of conditional release, that the releasee make payment
258 of the debt due and owing to a county or municipal detention
259 facility under s. 951.032 for medical care, treatment,
260 hospitalization, or transportation received by the releasee while
261 in that detention facility. The commission, in determining
262 whether to order such repayment and the amount of such repayment,
263 shall consider the amount of the debt, whether there was any
264 fault of the institution for the medical expenses incurred, the
265 financial resources of the releasee, the present and potential
266 future financial needs and earning ability of the releasee, and
267 dependents, and other appropriate factors.

268 (c) If any inmate, other than an inmate required to
269 register as a sexual predator under s. 775.21 or as a sexual



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270 offender under s. 943.0435, placed on conditional release
271 supervision is also subject to probation or community control,
272 resulting from a probationary or community control split sentence
273 within the overall term of sentences, the Department of
274 Corrections shall supervise such person according to the
275 conditions imposed by the court and the commission shall defer to
276 such supervision. If the court revokes probation or community
277 control and resentences the offender to a term of incarceration,
278 such revocation also constitutes a sufficient basis for the
279 revocation of the conditional release supervision on any
280 nonprobationary or noncommunity control sentence without further
281 hearing by the commission. If any such supervision on any
282 nonprobationary or noncommunity control sentence is revoked, such
283 revocation may result in a forfeiture of all gain-time, and the
284 commission may revoke the resulting deferred conditional release
285 supervision or take other action it considers appropriate. If the
286 term of conditional release supervision exceeds that of the
287 probation or community control, then, upon expiration of the
288 probation or community control, authority for the supervision
289 shall revert to the commission and the supervision shall be
290 subject to the conditions imposed by the commission.

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

298 (e) A panel of no fewer than two commissioners shall
299 establish the terms and conditions of any such release. If the



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300 | offense was a controlled substance violation, the conditions
301 | shall include a requirement that the offender submit to random
302 | substance abuse testing intermittently throughout the term of
303 | conditional release supervision, upon the direction of the
304 | correctional probation officer as defined in s. 943.10(3). The
305 | commission shall also determine whether the terms and conditions
306 | of such release have been violated and whether such violation
307 | warrants revocation of the conditional release.

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

325 | (7) (a) Any inmate who is convicted of a crime committed on
326 | or after October 1, 1995, or who has been previously convicted of
327 | a crime committed on or after October 1, 1995, in violation of
328 | chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
329 | subject to conditional release supervision, shall have, in



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330 addition to any other conditions imposed, the following special
331 conditions imposed by the commission:

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

338 2.a. If the victim was under the age of 18, a prohibition
339 on living within 1,000 feet of a school, day care center, park,
340 playground, designated public school bus stop, or other place
341 where children regularly congregate. A releasee who is subject to
342 this subparagraph may not relocate to a residence that is within
343 1,000 feet of a public school bus stop.

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



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360 | to this subparagraph. The failure of the district school board to
361 | comply with this subparagraph shall not result in a violation of
362 | conditional release supervision.

363 | c. Beginning October 1, 2008, neither the commission nor
364 | the department may approve a residence located within 1,500 feet
365 | of a school, day care center, park, playground, designated school
366 | bus stop, or other place where children regularly congregate for
367 | any releasee who is subject to this subparagraph. The distance in
368 | this sub-subparagraph shall be measured in a straight line from
369 | the offender's place of residence to the nearest boundary line of
370 | the school, day care center, park, playground, or other place
371 | where children regularly congregate. The distance may not be
372 | measured by a pedestrian route or automobile route.

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

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

383 | 5. If the victim was under the age of 18, a prohibition
384 | against contact with children under the age of 18 without review
385 | and approval by the commission. The commission may approve
386 | supervised contact with a child under the age of 18 if the
387 | approval is based upon a recommendation for contact issued by a
388 | qualified practitioner who is basing the recommendation on a risk
389 | assessment. Further, the sex offender must be currently enrolled



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390 | in or have successfully completed a sex offender therapy program.
391 | The commission may not grant supervised contact with a child if
392 | the contact is not recommended by a qualified practitioner and
393 | may deny supervised contact with a child at any time. When
394 | considering whether to approve supervised contact with a child,
395 | the commission must review and consider the following:

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



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

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

424 (XIII) The qualified practitioner's opinion, along with the
425 basis for that opinion, as to whether the proposed contact would
426 likely pose significant risk of emotional or physical harm to the
427 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 to
441 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 the
444 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. The
447 safety plan must be reviewed and approved by the Department of
448 Corrections before being submitted to the commission; and

449 e. Evidence that the child's parent or legal guardian, if



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

454 |
455 | The commission may not appoint a person to conduct a risk
456 | assessment and may not accept a risk assessment from a person who
457 | has not demonstrated to the commission that he or she has met the
458 | requirements of a qualified practitioner as defined in this
459 | section.

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

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

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

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



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

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

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

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

496 947.141 Violations of conditional release, control release,
497 or conditional medical release or addiction-recovery
498 supervision.--

499 (8) Because of the compelling state interest in protecting
500 the public from sexual offenders or sexual predators granted the
501 privilege of conditional release, in any hearing alleging a
502 violation of conditional release by a releasee for failure to
503 comply with the residency distance limitations in s. 947.1405,
504 the inability of the releasee to locate a residence in compliance
505 with s. 947.1405 is not a defense to the finding of a violation
506 under this section.

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

509 948.06 Violation of probation or community control;



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510 | revocation; modification; continuance; failure to pay restitution
511 | or cost of supervision.--

512 | (4) Notwithstanding any other provision of this section, a
513 | ~~felony~~ probationer or an offender in community control who is
514 | arrested for violating his or her probation or community control
515 | in a material respect may be taken before the court in the county
516 | or circuit in which the probationer or offender was arrested.
517 | That court shall advise him or her of such ~~the~~ charge of a
518 | violation and, if such charge is admitted, shall cause him or her
519 | to be brought before the court that granted the probation or
520 | community control. If such ~~the~~ violation is not admitted by the
521 | probationer or offender, the court may commit him or her or
522 | release him or her with or without bail to await further hearing.
523 | However, if the probationer or offender is under supervision for
524 | any criminal offense proscribed in chapter 794, s. 800.04(4),
525 | (5), (6), s. 827.071, or s. 847.0145, or is a registered sexual
526 | predator or a registered sexual offender, or is under supervision
527 | for a criminal offense for which he or she would meet the
528 | registration criteria in s. 775.21, s. 943.0435, or s. 944.607
529 | but for the effective date of those sections, the court must make
530 | a finding that the probationer or offender poses no ~~is not a~~
531 | danger to the public prior to release with or without bail. In
532 | determining that the offender poses no danger to the public ~~the~~
533 | ~~danger posed by the offender's or probationer's release~~, the
534 | court may consider the nature and circumstances of the violation
535 | and any new offenses charged; the offender's or probationer's
536 | past and present conduct, including convictions of crimes; any
537 | record of arrests without conviction for crimes involving
538 | violence or sexual crimes; any other evidence of allegations of
539 | unlawful sexual conduct or the use of violence by the offender or



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540 | probationer; the offender's or probationer's family ties, length
541 | of residence in the community, employment history, and mental
542 | condition; his or her history and conduct during the probation or
543 | community control supervision from which the violation arises and
544 | any other previous supervisions, including disciplinary records
545 | of previous incarcerations; the likelihood that the offender or
546 | probationer will engage again in a criminal course of conduct;
547 | the weight of the evidence against the offender or probationer;
548 | whether or not the probationer is currently subject to electronic
549 | monitoring; and any other facts the court considers relevant. The
550 | court, as soon as is practicable, shall give the probationer or
551 | offender an opportunity to be fully heard on his or her behalf in
552 | person or by counsel. After such ~~the~~ hearing, the court shall
553 | make findings of fact and forward the findings to the court that
554 | granted the probation or community control and to the probationer
555 | or offender or his or her attorney. The findings of fact by the
556 | hearing court are binding on the court that granted the probation
557 | or community control. Upon the probationer or offender being
558 | brought before it, the court that granted the probation or
559 | community control may revoke, modify, or continue the probation
560 | or community control or may place the probationer into community
561 | control as provided in this section. However, the probationer or
562 | offender shall not be released and shall not be admitted to bail,
563 | but shall be brought before the court that granted the probation
564 | or community control if any violation of felony probation or
565 | community control other than a failure to pay costs or fines or
566 | make restitution payments is alleged to have been committed by:

567 | (a) A violent felony offender of special concern, as
568 | defined in this section;

569 | (b) A person who is on felony probation or community



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570 control for any offense committed on or after the effective date
571 of this act and who is arrested for a qualifying offense as
572 defined in this section; or

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

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

582 948.063 Violations of probation or community control by
583 designated sexual offenders and sexual predators.--

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

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

594 948.30 Additional terms and conditions of probation or
595 community control for certain sex offenses.--Conditions imposed
596 pursuant to this section do not require oral pronouncement at the
597 time of sentencing and shall be considered standard conditions of
598 probation or community control for offenders specified in this
599 section.



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600 (1) Effective for probationers or community controllees
601 whose crime was committed on or after October 1, 1995, and who
602 are placed under supervision for violation of chapter 794, s.
603 800.04, s. 827.071, or s. 847.0145, the court must impose the
604 following conditions in addition to all other standard and
605 special conditions imposed:

606 (b)1. Except as provided in subparagraph 2., if the victim
607 was under the age of 18, a prohibition on living within 1,000
608 feet of a school, day care center, park, playground, or other
609 place where children regularly congregate, as prescribed by the
610 court. The 1,000-foot distance shall be measured in a straight
611 line from the offender's place of residence to the nearest
612 boundary line of the school, day care center, park, playground,
613 or other place where children regularly congregate. The distance
614 may not be measured by a pedestrian route or automobile route.

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

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

627 (a) Is placed on probation or community control for a
628 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
629 or s. 847.0145 and the unlawful sexual activity involved a victim



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630 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years
631 of age or older;

632 (b) Is designated a sexual predator pursuant to s. 775.21;
633 or

634 (c) Has previously been convicted of a violation of chapter
635 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and
636 the unlawful sexual activity involved a victim under 16 ~~15~~ years
637 of age ~~or younger~~ and the offender is 18 years of age or older,

638
639 the court must order, in addition to any other provision of this
640 section, mandatory electronic monitoring as a condition of the
641 probation or community control supervision.

642 (4) Effective for a probationer or community controllee
643 whose crime was committed on or after October 1, 2008, who has
644 previously been convicted of a violation of s. 787.01(3) or s.
645 787.02(3), and the unlawful sexual activity involved a victim
646 under 16 years of age and an offender 18 years of age or older,
647 the court must order, in addition to any other provision of this
648 section, mandatory electronic monitoring as a condition of the
649 probation or community control supervision.

650 Section 11. The Department of Law Enforcement, with the
651 assistance of the Department of Corrections, the Department of
652 Highway Safety and Motor Vehicles, the Department of Juvenile
653 Justice, the Office of the State Courts Administrator, the clerk
654 of the court in each judicial circuit court, the offices of the
655 state attorney and public defender in each judicial circuit, the
656 Florida Sheriffs Association, and the Florida Legislative
657 Committee on Intergovernmental Relations shall examine the
658 feasibility of eliminating the October 1, 1993, date in the
659 sexual predator criteria set forth in s. 775.21, Florida



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660 Statutes, and the October 1, 1997, date in the sexual offender
661 criteria set forth in ss. 943.0435 and 944.607, Florida Statutes,
662 or modifying those dates to provide for earlier dates. When
663 conducting this examination, the department shall evaluate the
664 potential effect, including the fiscal impact, that the
665 elimination or modification of these dates will have on the
666 department, other state agencies, circuit courts, state
667 attorneys, public defenders, and local law enforcement agencies.
668 The Department of Law Enforcement shall also determine whether
669 there are factors, such as incomplete criminal histories and
670 court records, which might make the elimination or modification
671 of these dates impractical or might have a negative effect on the
672 state's current system for registering sexual predators and
673 offenders. The department shall present a report of its findings
674 to the President of the Senate and the Speaker of the House of
675 Representatives by December 30, 2008.

676 Section 12. This act shall take effect October 1, 2008.