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CHAMBER ACTION

Senate

House

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Floor: WD/2R
4/29/2008 11:28 AM

1 Senator Aronberg moved the following **amendment**:

2
3 **Senate Amendment (with title amendment)**

4 Delete everything after the enacting clause
5 and insert:

6
7 Section 1. Paragraph (b) of subsection (3), paragraph (a)
8 of subsection (7), and paragraph (b) of subsection (10) of
9 section 775.21, Florida Statutes, are amended to read:

10 775.21 The Florida Sexual Predators Act.--

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

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



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

19 2. Providing for specialized supervision of sexual
20 predators who are in the community by specially trained probation
21 officers with low caseloads, as described in ss. 947.1405(7) and
22 948.30. The sexual predator is subject to specified terms and
23 conditions implemented at sentencing or at the time of release
24 from incarceration, with a requirement that only those sexual
25 predators found to be indigent may defer payment pursuant to s.
26 28.246 of all or part of the costs in accordance with the
27 provisions of that section ~~who are financially able must pay all~~
28 ~~or part of the costs of supervision.~~

29 3. Requiring the registration of sexual predators, with a
30 requirement that complete and accurate information be maintained
31 and accessible for use by law enforcement authorities,
32 communities, and the public.

33 4. Providing for community and public notification
34 concerning the presence of sexual predators.

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

37 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

38 (a) Law enforcement agencies must inform members of the
39 community and the public of a sexual predator's presence. Upon
40 notification of the presence of a sexual predator, the sheriff of
41 the county or the chief of police of the municipality where the
42 sexual predator establishes or maintains a permanent or temporary
43 residence shall notify members of the community and the public of
44 the presence of the sexual predator in a manner deemed
45 appropriate by the sheriff or the chief of police. Within 48



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46 hours after receiving notification of the presence of a sexual
47 predator, the sheriff of the county or the chief of police of the
48 municipality where the sexual predator temporarily or permanently
49 resides shall notify each licensed day care center, elementary
50 school, middle school, ~~and~~ high school, and library within a 1-
51 mile radius of the temporary or permanent residence of the sexual
52 predator of the presence of the sexual predator. Information
53 provided to members of the community and the public regarding a
54 sexual predator must include:

- 55 1. The name of the sexual predator;
- 56 2. A description of the sexual predator, including a
57 photograph;
- 58 3. The sexual predator's current address, including the
59 name of the county or municipality if known;
- 60 4. The circumstances of the sexual predator's offense or
61 offenses; and
- 62 5. Whether the victim of the sexual predator's offense or
63 offenses was, at the time of the offense, a minor or an adult.
64

65 This paragraph does not authorize the release of the name of any
66 victim of the sexual predator.

67 (10) PENALTIES.--

68 (b) A sexual predator who has been convicted of or found to
69 have committed, or has pled nolo contendere or guilty to,
70 regardless of adjudication, any violation, or attempted
71 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
72 the victim is a minor and the defendant is not the victim's
73 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
74 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s.
75 847.0133; s. 847.0145; or s. 985.701(1); or a violation of a



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76 similar law of another jurisdiction when the victim of the
77 offense was a minor, and who works, whether for compensation or
78 as a volunteer, at any business, school, day care center, park,
79 playground, library, or other place where children regularly
80 congregate, commits a felony of the third degree, punishable as
81 provided in s. 775.082, s. 775.083, or s. 775.084.

82 Section 2. Section 775.215, Florida Statutes, is created to
83 read:

84 775.215 Residency distance limitations for persons
85 convicted of certain sexual offenses; local ordinances preempted
86 and repealed.--The adoption of residency distance limitations for
87 persons convicted of sexual offenses, including, but not limited
88 to, violations of s. 787.01, s. 787.02, s. 794.011, s. 800.04, s.
89 827.071, or s. 847.0145, regardless of whether adjudication has
90 been withheld, is expressly preempted to the state. The
91 provisions of ss. 794.065, 947.1405, and 948.30 establishing such
92 distance limitations supersede the distance limitations included
93 in any such municipal or county ordinances. Any such residency
94 distance limitations adopted by a county or municipality prior to
95 October 1, 2008, are hereby repealed and abolished as of October
96 1, 2008.

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

99 775.24 Duty of the court to uphold laws governing sexual
100 predators and sexual offenders.--

101 (2) If a person meets the criteria in this chapter for
102 designation as a sexual predator or meets the criteria in s.
103 943.0435, s. 944.606, s. 944.607, or any other law for
104 classification as a sexual offender, the court may not enter an



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

107 (a) Exempts a person who meets the criteria for designation
108 as a sexual predator or classification as a sexual offender from
109 such designation or classification; ~~or~~ exempts such person from
110 the requirements for registration or community and public
111 notification imposed upon sexual predators and sexual offenders;
112 exempts such person from the distance limitations contained in
113 ss. 794.065, 947.1405, and 948.30; or exempts such person from
114 the provisions of s. 794.0701;

115 (b) Restricts the compiling, reporting, or release of
116 public records information that relates to sexual predators or
117 sexual offenders; or

118 (c) Prevents any person or entity from performing its
119 duties or operating within its statutorily conferred authority as
120 such duty or authority relates to sexual predators or sexual
121 offenders.

122 Section 4. Section 794.065, Florida Statutes, is amended to
123 read:

124 794.065 Unlawful place of residence for persons convicted
125 of certain sex offenses.--

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

132 2. A person who violates this subsection ~~section~~ and whose
133 conviction for an offense listed in subparagraph 1. or a



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134 violation of a similar law of another jurisdiction under s.
135 794.011, s. 800.04, s. 827.071, or s. 847.0145 was classified as:

136 a. A felony of the first degree or higher, commits a felony
137 of the third degree, punishable as provided in s. 775.082 or s.
138 775.083. ~~A person who violates this section and whose conviction~~
139 ~~under s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 was~~
140 ~~classified as~~

141 b. A felony of the second or third degree, commits a
142 misdemeanor of the first degree, punishable as provided in s.
143 775.082 or s. 775.083.

144 ~~(b)(2)~~ This subsection ~~section~~ applies to any person
145 convicted of an offense listed in subparagraph (a)1. if the
146 offense occurred a violation of s. 794.011, s. 800.04, s.
147 827.071, or s. 847.0145 for offenses that occur on or after
148 October 1, 2004.

149 (2)(a)1. It is unlawful for any person who has been
150 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
151 800.04, s. 827.071, or s. 847.0145, committed on or after October
152 1, 2008, regardless of whether adjudication has been withheld, in
153 which the victim of the offense was less than 16 years of age, to
154 reside within 1,500 feet of any school, day care center, park, or
155 playground.

156 2. Those persons who are subject to the provisions of
157 subparagraph 1. and who establish a new residence after October
158 1, 2008, shall be subject to the residency distance limitation
159 set forth in subparagraph (2)(a)1.

160 3. A person who violates this subsection and whose
161 conviction of an offense listed in subparagraph 1. was classified
162 as:



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163 a. A felony of the first degree or higher, commits a felony
164 of the third degree, punishable as provided in s. 775.082 or s.
165 775.083.

166 b. A felony of the second or third degree, commits a
167 misdemeanor of the first degree, punishable as provided in s.
168 775.082 or s. 775.083.

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

173 Section 5. Section 794.0701, Florida Statutes, is created
174 to read:

175 794.0701 Loitering or prowling by persons convicted of
176 certain sex offenses.--Any person who:

177 (1) Has been convicted of a violation of s. 787.01, s.
178 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 or a
179 violation of a similar law of another jurisdiction regardless of
180 whether adjudication has been withheld, in which the victim of
181 the offense was less than 16 years of age; and

182 (2) Loiters or prowls as proscribed in s. 856.021 within
183 300 feet of a place where children regularly congregate,
184 including, but not limited to, a school, designated public school
185 bus stop, day care center, park, or playground

186
187 commits a misdemeanor of the first degree, punishable as provided
188 in s. 775.082 or s. 775.083.

189 Section 6. Paragraph (a) of subsection (7) of section
190 947.1405, Florida Statutes, is amended, and subsection (11) is
191 added to that section, to read:

192 947.1405 Conditional release program.--



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193 (7) (a) Any inmate who is convicted of a crime committed on
194 or after October 1, 1995, or who has been previously convicted of
195 a crime committed on or after October 1, 1995, in violation of
196 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
197 subject to conditional release supervision, shall have, in
198 addition to any other conditions imposed, the following special
199 conditions imposed by the commission:

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

206 2.a. If the victim was under the age of 18, a prohibition
207 on living within 1,000 feet of a school, day care center, park,
208 playground, designated public school bus stop, or other place
209 where children regularly congregate. A releasee who is subject to
210 this subparagraph may not relocate to a residence that is within
211 1,000 feet of a public school bus stop.

212 b. Beginning October 1, 2004, the commission or the
213 department may not approve a residence that is located within
214 1,000 feet of a school, day care center, park, playground,
215 designated school bus stop, or other place where children
216 regularly congregate for any releasee who is subject to this
217 subparagraph. On October 1, 2004, the department shall notify
218 each affected school district of the location of the residence of
219 a releasee 30 days prior to release and thereafter, if the
220 releasee relocates to a new residence, shall notify any affected
221 school district of the residence of the releasee within 30 days
222 after relocation. If, on October 1, 2004, any public school bus



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223 stop is located within 1,000 feet of the existing residence of
224 such releasee, the district school board shall relocate that
225 school bus stop. Beginning October 1, 2004, a district school
226 board may not establish or relocate a public school bus stop
227 within 1,000 feet of the residence of a releasee who is subject
228 to this subparagraph. The failure of the district school board to
229 comply with this subparagraph shall not result in a violation of
230 conditional release supervision.

231 c. If the victim was under the age of 18, beginning October
232 1, 2008, neither the commission nor the department may approve a
233 residence located within 1,000 feet of any designated school bus
234 stop or within 1,500 feet of a school, child care facility, park,
235 playground, or other place where children regularly congregate
236 for any releasee who is subject to this subparagraph. The
237 distance in this sub-subparagraph shall be measured in a straight
238 line from the offender's place of residence to the nearest
239 boundary line of the school, day care center, park, playground,
240 designated school bus stop, or other place where children
241 regularly congregate. The distance may not be measured by a
242 pedestrian route or automobile route.

243 3. Active participation in and successful completion of a
244 sex offender treatment program with qualified practitioners
245 specifically trained to treat sex offenders, at the releasee's
246 own expense. If a qualified practitioner is not available within
247 a 50-mile radius of the releasee's residence, the offender shall
248 participate in other appropriate therapy.

249 4. A prohibition on any contact with the victim, directly
250 or indirectly, including through a third person, unless approved
251 by the victim, the offender's therapist, and the sentencing
252 court.



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253 5. If the victim was under the age of 18, a prohibition
254 against contact with children under the age of 18 without review
255 and approval by the commission. The commission may approve
256 supervised contact with a child under the age of 18 if the
257 approval is based upon a recommendation for contact issued by a
258 qualified practitioner who is basing the recommendation on a risk
259 assessment. Further, the sex offender must be currently enrolled
260 in or have successfully completed a sex offender therapy program.
261 The commission may not grant supervised contact with a child if
262 the contact is not recommended by a qualified practitioner and
263 may deny supervised contact with a child at any time. When
264 considering whether to approve supervised contact with a child,
265 the commission must review and consider the following:

266 a. A risk assessment completed by a qualified practitioner.
267 The qualified practitioner must prepare a written report that
268 must include the findings of the assessment and address each of
269 the following components:

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

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

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

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

277 (V) The sex offender's offender treatment history,
278 including a consultation from the sex offender's treating, or
279 most recent treating, therapist;

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

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



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

285 (IX) The results of current psychological testing of the
286 sex offender if determined necessary by the qualified
287 practitioner;

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

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

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

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

298

299 The written report of the assessment must be given to the
300 commission.

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

304 c. A written consent signed by the child's parent or legal
305 guardian, if the parent or legal guardian is not the sex
306 offender, agreeing to the sex offender having supervised contact
307 with the child after receiving full disclosure of the sex
308 offender's present legal status, past criminal history, and the
309 results of the risk assessment. The commission may not approve
310 contact with the child if the parent or legal guardian refuses to
311 give written consent for supervised contact;



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312 d. A safety plan prepared by the qualified practitioner,
313 who provides treatment to the offender, in collaboration with the
314 sex offender, the child's parent or legal guardian, and the
315 child, when age appropriate, which details the acceptable
316 conditions of contact between the sex offender and the child. The
317 safety plan must be reviewed and approved by the Department of
318 Corrections before being submitted to the commission; and

319 e. Evidence that the child's parent or legal guardian, if
320 the parent or legal guardian is not the sex offender, understands
321 the need for and agrees to the safety plan and has agreed to
322 provide, or to designate another adult to provide, constant
323 supervision any time the child is in contact with the offender.

324
325 The commission may not appoint a person to conduct a risk
326 assessment and may not accept a risk assessment from a person who
327 has not demonstrated to the commission that he or she has met the
328 requirements of a qualified practitioner as defined in this
329 section.

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

334 7. Unless otherwise indicated in the treatment plan
335 provided by the sexual offender treatment program, a prohibition
336 on viewing, owning, or possessing any obscene, pornographic, or
337 sexually stimulating visual or auditory material, including
338 telephone, electronic media, computer programs, or computer
339 services that are relevant to the offender's deviant behavior
340 pattern.



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341 8. Effective for a releasee whose crime is committed on or
342 after July 1, 2005, a prohibition on accessing the Internet or
343 other computer services until the offender's sex offender
344 treatment program, after a risk assessment is completed, approves
345 and implements a safety plan for the offender's accessing or
346 using the Internet or other computer services.

347 9. A requirement that the releasee must submit two
348 specimens of blood to the Florida Department of Law Enforcement
349 to be registered with the DNA database.

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

354 11. Submission to a warrantless search by the community
355 control or probation officer of the probationer's or community
356 controllee's person, residence, or vehicle.

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

361 1. A releasee who violated s. 800.04(4), (5), or (6), s.
362 827.071, or s. 847.0145 in this state or a similar offense in
363 another jurisdiction when, at the time of the offense, the victim
364 was under 16 years of age and the releasee was 18 years of age or
365 older.

366 2. A releasee who is designated as a sexual predator under
367 s. 775.21 or who has received a similar designation or
368 determination in another jurisdiction.

369 3. A releasee subject to registration as a sexual predator
370 under s. 775.21 or as a sexual offender under s. 943.0435 who has



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371 committed an offense that would meet the criteria for the
372 designation or registration when at the time of the offense the
373 victim was under 16 years of age and the releasee was 18 years of
374 age or older, who commits a violation of s. 775.21 or s. 943.0435
375 on or after October 1, 2008, and who is not otherwise subject to
376 this paragraph.

377 (b) The commission must order a prohibition on distributing
378 candy or other items to children on Halloween, wearing a Santa
379 Claus costume on or preceding Christmas, wearing an Easter Bunny
380 costume on or preceding Easter, entertaining at children's
381 parties, or wearing a clown costume without prior approval from
382 the commission.

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

386 948.30 Additional terms and conditions of probation or
387 community control for certain sex offenses.--Conditions imposed
388 pursuant to this section do not require oral pronouncement at the
389 time of sentencing and shall be considered standard conditions of
390 probation or community control for offenders specified in this
391 section.

392 (1) Effective for probationers or community controllees
393 whose crime was committed on or after October 1, 1995, and who
394 are placed under supervision for violation of chapter 794, s.
395 800.04, s. 827.071, or s. 847.0145, the court must impose the
396 following conditions in addition to all other standard and
397 special conditions imposed:

398 (b)1. Except as provided in subparagraph 2., if the victim
399 was under the age of 18, a prohibition on living within 1,000
400 feet of a school, day care center, park, playground, or other



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401 place where children regularly congregate, as prescribed by the
402 court. The 1,000-foot distance shall be measured in a straight
403 line from the offender's place of residence to the nearest
404 boundary line of the school, day care center, park, playground,
405 or other place where children regularly congregate. The distance
406 may not be measured by a pedestrian route or automobile route.

407 2. For a probationer or community controllee whose crime
408 was committed on or after October 1, 2008, if the victim was
409 under the age of 18, a prohibition on living within 1,500 feet of
410 a school, day care center, park, playground, or other place where
411 children regularly congregate, as prescribed by the court. This
412 distance shall be measured in a straight line from the offender's
413 place of residence to the nearest boundary line of the school,
414 day care center, park, playground, or other place where children
415 regularly congregate. The distance may not be measured by a
416 pedestrian route or automobile route.

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

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

424 (b) Is designated a sexual predator pursuant to s. 775.21;
425 or

426 (c) Has previously been convicted of a violation of chapter
427 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and
428 the unlawful sexual activity involved a victim under 16 ~~15~~ years
429 of age ~~or younger~~ and the offender is 18 years of age or older,
430



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431 the court must order, in addition to any other provision of this
432 section, mandatory electronic monitoring as a condition of the
433 probation or community control supervision.

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

438 1. A probationer or community controllee who violated s.
439 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 in this state
440 or committed a similar offense in another jurisdiction when, at
441 the time of the offense, the victim was under 16 years of age and
442 the probationer or community controllee was 18 years of age or
443 older.

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

447 3. A probationer or community controllee subject to
448 registration as a sexual predator under s. 775.21 or as a sexual
449 offender pursuant to s. 943.0435 who has committed an offense
450 that would meet the criteria for the designation or registration
451 when at the time of the offense the victim was under 16 years of
452 age and the probationer or community controllee was 18 years of
453 age or older, who commits a violation of s. 775.21 or s. 943.0435
454 on or after October 1, 2008, and who is not otherwise subject to
455 this paragraph.

456 (b) The court must order a prohibition on distributing
457 candy or other items to children on Halloween, wearing a Santa
458 Claus costume on or preceding Christmas, wearing an Easter Bunny
459 costume on or preceding Easter, entertaining at children's



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460 parties, or wearing a clown costume without prior approval from
461 the court.

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

463
464 ===== T I T L E A M E N D M E N T =====

465 And the title is amended as follows:

466 Delete everything before the enacting clause
467 and insert:

468 A bill to be entitled
469 An act relating to sexual offenders and predators;
470 amending s. 775.21, F.S.; revising provisions relating to
471 reimbursement of specified costs by sexual predators;
472 revising provisions relating to notification of the
473 residence of sexual predators; providing criminal
474 penalties; prohibiting sexual predators from working at
475 certain locations; providing criminal penalties; creating
476 s. 775.215, F.S.; specifying residency distance
477 limitations for persons convicted of certain sexual
478 offenses; preempting certain local ordinances and
479 providing for repeal of such ordinances; amending s.
480 775.24, F.S.; revising provisions relating to the duty of
481 the court to uphold certain laws; amending s. 794.065,
482 F.S.; providing additional residency restrictions on
483 certain offenders; providing penalties; creating s.
484 794.0701, F.S.; prohibiting loitering or prowling by
485 persons convicted of certain sex offenses; providing
486 criminal penalties; amending s. 947.1405, F.S.; providing
487 additional conditional release restrictions for certain
488 offenders; amending s. 948.30, F.S.; revising provisions
489 relating to terms and conditions of probation or community



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490 | control for certain sex offenses; providing additional
491 | restrictions for certain probationers or community
492 | controllees who committed sexual offenses with minors
493 | under the age of 16; providing an effective date.