



906826

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/16/2008	.	
	.	
	.	

1 The Committee on Judiciary (Geller) recommended the following
2 **amendment:**

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

5 Delete everything after the enacting clause
6 and insert:

7 Section 1. Paragraph (b) of subsection (3) and paragraph
8 (b) of subsection (10) of section 775.21, Florida Statutes, are
9 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 (10) PENALTIES.--

38 (b) A sexual predator who has been convicted of or found to
39 have committed, or has pled nolo contendere or guilty to,
40 regardless of adjudication, any violation, or attempted
41 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
42 the victim is a minor and the defendant is not the victim's
43 parent or guardian; s. 794.011(2), (3), (4), (5), or (8) ~~s.~~
44 ~~794.011, excluding s. 794.011(10);~~ s. 794.05; s. 796.03; s.
45 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0145; or s.



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46 985.701(1); or a violation of a similar law of another
47 jurisdiction when the victim of the offense was a minor, and who
48 works, whether for compensation or as a volunteer, at any
49 business where children regularly congregate, school, child care
50 facility ~~day care center~~, park as defined in s. 794.0701,
51 playground, or other place where children regularly congregate,
52 commits a felony of the third degree, punishable as provided in
53 s. 775.082, s. 775.083, or s. 775.084.

54 Section 2. Section 775.215, Florida Statutes, is created to
55 read:

56 775.215 Residency distance limitations for persons
57 convicted of certain sexual offenses; local ordinances preempted
58 and repealed.--The adoption of residency distance limitations for
59 persons convicted of sexual offenses, including, but not limited
60 to, violations of s. 787.01, s. 787.02, s. 794.011, s. 800.04, s.
61 827.071, or s. 847.0145, regardless of whether adjudication has
62 been withheld, is expressly preempted to the state. The
63 provisions of ss. 794.065, 947.1405, and 948.30 which establish
64 such residency distance limitations supersede the distance
65 limitation included in any such municipal or county ordinances.
66 Any such residency distance limitations adopted by a county or
67 municipality before October 1, 2008, are repealed and abolished
68 effective October 1, 2008.

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

71 775.24 Duty of the court to uphold laws governing sexual
72 predators and sexual offenders.--

73 (2) If a person meets the criteria in this chapter for
74 designation as a sexual predator or meets the criteria in s.
75 943.0435, s. 944.606, s. 944.607, or any other law for



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76 classification as a sexual offender, the court may not enter an
77 order, for the purpose of approving a plea agreement or for any
78 other reason, which:

79 (a) Exempts a person who meets the criteria for designation
80 as a sexual predator or classification as a sexual offender from
81 such designation or classification, ~~or~~ exempts such person from
82 the requirements for registration or community and public
83 notification imposed upon sexual predators and sexual offenders,
84 exempts such person from the residency distance limitations
85 contained in ss. 794.065, 947.1405, and 948.30, or exempts such
86 person from the provisions of s. 794.0701;

87 (b) Restricts the compiling, reporting, or release of
88 public records information that relates to sexual predators or
89 sexual offenders; or

90 (c) Prevents any person or entity from performing its
91 duties or operating within its statutorily conferred authority as
92 such duty or authority relates to sexual predators or sexual
93 offenders.

94 Section 4. Section 794.065, Florida Statutes, is amended to
95 read:

96 794.065 Unlawful place of residence for persons convicted
97 of certain sex offenses.--

98 (1) (a)1. It is unlawful for any person who has been
99 convicted of a violation of s. 794.011, s. 800.04, s. 827.071, or
100 s. 847.0145, regardless of whether adjudication has been
101 withheld, in which the victim of the offense was less than 16
102 years of age, to reside within 1,000 feet of any school, child
103 care facility ~~day care center~~, park as defined in s. 794.0701, or
104 playground.



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105 2. A person who violates this subsection ~~section~~ and whose
106 conviction for an offense listed in subparagraph 1. ~~under s.~~

107 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified as:

108 a. A felony of the first degree or higher commits a felony
109 of the third degree, punishable as provided in s. 775.082 or s.
110 775.083. ~~A person who violates this section and whose conviction~~
111 ~~under s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 was~~
112 ~~classified as~~

113 b. A felony of the second or third degree commits a
114 misdemeanor of the first degree, punishable as provided in s.
115 775.082 or s. 775.083.

116 (b)(2) This subsection ~~section~~ applies to any person
117 convicted of an offense listed in subparagraph (a)1. if the
118 offense occurred a violation of s. 794.011, s. 800.04, s.
119 827.071, or s. 847.0145 for offenses that occur on or after
120 October 1, 2004.

121 (2)(a)1. It is unlawful for any person who has been
122 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
123 800.04, s. 827.071, or s. 847.0145, committed on or after October
124 1, 2008, regardless of whether adjudication has been withheld, in
125 which the victim of the offense was younger than 16 years of age,
126 to reside within 1,500 feet of any school, child care facility,
127 park as defined in s. 794.0701, or playground.

128
129 A sexual offender or sexual predator does not commit a violation
130 of this section if convicted of a violation of s. 787.01, s.
131 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
132 regardless of whether adjudication has been withheld, in which
133 the victim of the offense was younger than 16 years of age and
134 when the sexual offender or sexual predator was a minor. This



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135 exception, however, does not apply to a sexual offender or sexual
136 predator who is convicted of a subsequent sexual offense as an
137 adult.

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

140 a. A felony of the first degree or higher commits a felony
141 of the third degree, punishable as provided in s. 775.082 or s.
142 775.083.

143 b. A felony of the second or third degree commits a
144 misdemeanor of the first degree, punishable as provided in s.
145 775.082 or s. 775.083.

146 (b) The distances in this subsection shall be measured in a
147 straight line from the offender's place of residence to the
148 nearest boundary line of the school, child care facility, park as
149 defined in s. 794.0701, or playground.

150 Section 5. Section 794.0701, Florida Statutes, is created
151 to read:

152 794.0701 Loitering or prowling by persons convicted of
153 certain sex offenses.--

154 (1) Any person who:

155 (a) Has been convicted of a violation of s. 787.01, s.
156 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
157 regardless of whether adjudication has been withheld, in which
158 the victim of the offense was younger than 16 years of age; and

159 (b) Loiters or prowls as proscribed in s. 856.021 within
160 300 feet of a place where children regularly congregate,
161 including a school, designated public school bus stop, child care
162 facility, playground, or park as defined in s. 794.0701,
163



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164 commits a misdemeanor of the first degree, punishable as provided
165 in s. 775.082 or s. 775.083.

166 (2) "Child care facility" has the same meaning as provided
167 in s. 402.302.

168 (3) "Park" means and includes all public and private
169 property specifically designated as being used for park and
170 recreational purposes and where children regularly congregate.

171 (4) "School" has the same meaning as provided in s. 1003.01
172 and includes a "private school" as defined in s. 1002.01, a
173 "voluntary prekindergarten education program" as described in s.
174 1002.53(3), a "public school" as described in s. 402.3025(1), the
175 Florida School for the Deaf and the Blind, the Florida Virtual
176 School as established in s. 1002.37, and a K-8 Virtual School as
177 established in s. 1002.415, excluding facilities dedicated
178 exclusively to the education of adults.

179
180 A sexual offender or sexual predator does not commit a violation
181 of this section if convicted of a violation of s. 787.01, s.
182 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
183 regardless of whether adjudication has been withheld, in which
184 the victim of the offense was younger than 16 years of age and
185 when the sexual offender or sexual predator was a minor. This
186 exception, however, does not apply to a sexual offender or sexual
187 predator who is convicted of a subsequent sexual offense as an
188 adult.

189 Section 6. Subsection (2) and paragraph (a) of subsection
190 (7) of section 947.1405, Florida Statutes, are amended, and
191 subsection (11) is added to that section, to read:

192 947.1405 Conditional release program.--

193 (2) (a) Any inmate who:



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194 1.(a) Is convicted of a crime committed on or after October
195 1, 1988, and before January 1, 1994, ~~and any inmate who is~~
196 convicted of a crime committed on or after January 1, 1994, which
197 crime is or was contained in category 1, category 2, category 3,
198 or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of
199 Criminal Procedure (1993), and who has served at least one prior
200 felony commitment at a state or federal correctional institution;

201 2.(b) Is sentenced as a habitual or violent habitual
202 offender or a violent career criminal pursuant to s. 775.084; or

203 3.(e) Is found to be a sexual predator under s. 775.21 or
204 former s. 775.23,

205
206 shall, upon reaching the tentative release date or provisional
207 release date, whichever is earlier, as established by the
208 Department of Corrections, be released under supervision subject
209 to specified terms and conditions, including payment of the cost
210 of supervision pursuant to s. 948.09. Such supervision shall be
211 applicable to all sentences within the overall term of sentences
212 if an inmate's overall term of sentences includes one or more
213 sentences that are eligible for conditional release supervision
214 as provided herein.

215 (b) Effective July 1, 1994, and applicable for offenses
216 committed on or after that date, the commission may require, as a
217 condition of conditional release, that the releasee make payment
218 of the debt due and owing to a county or municipal detention
219 facility under s. 951.032 for medical care, treatment,
220 hospitalization, or transportation received by the releasee while
221 in that detention facility. The commission, in determining
222 whether to order such repayment and the amount of such repayment,
223 shall consider the amount of the debt, whether there was any



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224 | fault of the institution for the medical expenses incurred, the
225 | financial resources of the releasee, the present and potential
226 | future financial needs and earning ability of the releasee, and
227 | dependents, and other appropriate factors.

228 | (c) If any inmate placed on conditional release supervision
229 | is also subject to probation or community control, resulting from
230 | a probationary or community control split sentence within the
231 | overall term of sentences, the Department of Corrections shall
232 | supervise such person according to the conditions imposed by the
233 | court and the commission shall defer to such supervision. If the
234 | court revokes probation or community control and resentences the
235 | offender to a term of incarceration, such revocation also
236 | constitutes a sufficient basis for the revocation of the
237 | conditional release supervision on any nonprobationary or
238 | noncommunity control sentence without further hearing by the
239 | commission. If any such supervision on any nonprobationary or
240 | noncommunity control sentence is revoked, such revocation may
241 | result in a forfeiture of all gain-time, and the commission may
242 | revoke the resulting deferred conditional release supervision or
243 | take other action it considers appropriate. If the term of
244 | conditional release supervision exceeds that of the probation or
245 | community control, then, upon expiration of the probation or
246 | community control, authority for the supervision shall revert to
247 | the commission and the supervision shall be subject to the
248 | conditions imposed by the commission.

249 | (d) A panel of no fewer than two commissioners shall
250 | establish the terms and conditions of any such release. If the
251 | offense was a controlled substance violation, the conditions
252 | shall include a requirement that the offender submit to random
253 | substance abuse testing intermittently throughout the term of



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254 conditional release supervision, upon the direction of the
255 correctional probation officer as defined in s. 943.10(3). The
256 commission shall also determine whether the terms and conditions
257 of such release have been violated and whether such violation
258 warrants revocation of the conditional release.

259 (7)(a) Any inmate who is convicted of a crime committed on
260 or after October 1, 1995, or who has been previously convicted of
261 a crime committed on or after October 1, 1995, in violation of
262 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
263 subject to conditional release supervision, shall have, in
264 addition to any other conditions imposed, the following special
265 conditions imposed by the commission:

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

272 2.a. If the victim was under the age of 18, a prohibition
273 on living within 1,000 feet of a school, child care facility ~~day~~
274 ~~care center~~, park as defined in s. 794.0701, playground,
275 ~~designated public school bus stop~~, or other place where children
276 regularly congregate. ~~A releasee who is subject to this~~
277 ~~subparagraph may not relocate to a residence that is within 1,000~~
278 ~~feet of a public school bus stop.~~

279 b. Beginning October 1, 2004, the commission or the
280 department may not approve a residence that is located within
281 1,000 feet of a school, child care facility ~~day care center~~, park
282 as defined in s. 794.0701, playground, ~~designated school bus~~
283 ~~stop~~, or other place where children regularly congregate for any



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284 | releasee who is subject to this subparagraph. On October 1, 2004,
285 | the department shall notify each affected school district of the
286 | location of the residence of a releasee 30 days prior to release
287 | and thereafter, if the releasee relocates to a new residence,
288 | shall notify any affected school district of the residence of the
289 | releasee within 30 days after relocation. ~~If, on October 1, 2004,~~
290 | ~~any public school bus stop is located within 1,000 feet of the~~
291 | ~~existing residence of such releasee, the district school board~~
292 | ~~shall relocate that school bus stop. Beginning October 1, 2004, a~~
293 | ~~district school board may not establish or relocate a public~~
294 | ~~school bus stop within 1,000 feet of the residence of a releasee~~
295 | ~~who is subject to this subparagraph.~~ The failure of the district
296 | school board to comply with this subparagraph shall not result in
297 | a violation of conditional release supervision.

298 | c. Beginning October 1, 2008, the commission or the
299 | department may not approve a residence located within 1,500 feet
300 | of a school, child care facility, park as defined in s. 794.0701,
301 | playground, or other place where children regularly congregate
302 | for any releasee who is subject to this subparagraph. The
303 | distance in this sub-subparagraph shall be measured in a straight
304 | line from the offender's place of residence to the nearest
305 | boundary line of the school, child care facility, park as defined
306 | in s. 794.0701, playground, or other place where children
307 | regularly congregate. The distance may not be measured by a
308 | pedestrian route or automobile route.

309 | d. A sexual offender or sexual predator convicted of a
310 | violation of s. 787.01, s. 787.02, s. 794.011, s. 800.04, s.
311 | 827.071, or s. 847.0145, regardless of whether adjudication has
312 | been withheld, in which the victim of the offense was younger
313 | than 16 years of age and when the sexual offender or sexual



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314 predator was a minor is not subject to the conditions in
315 subparagraph 2. This sub-subparagraph, however, does not apply to
316 a sexual offender or sexual predator who is convicted of a
317 subsequent sexual offense as an adult.

318 3. Active participation in and successful completion of a
319 sex offender treatment program with qualified practitioners
320 specifically trained to treat sex offenders, at the releasee's
321 own expense. If a qualified practitioner is not available within
322 a 50-mile radius of the releasee's residence, the offender shall
323 participate in other appropriate therapy.

324 4. A prohibition on any contact with the victim, directly
325 or indirectly, including through a third person, unless approved
326 by the victim, the offender's therapist, and the sentencing
327 court.

328 5. If the victim was under the age of 18, a prohibition
329 against contact with children under the age of 18 without review
330 and approval by the commission. The commission may approve
331 supervised contact with a child under the age of 18 if the
332 approval is based upon a recommendation for contact issued by a
333 qualified practitioner who is basing the recommendation on a risk
334 assessment. Further, the sex offender must be currently enrolled
335 in or have successfully completed a sex offender therapy program.
336 The commission may not grant supervised contact with a child if
337 the contact is not recommended by a qualified practitioner and
338 may deny supervised contact with a child at any time. When
339 considering whether to approve supervised contact with a child,
340 the commission must review and consider the following:

341 a. A risk assessment completed by a qualified practitioner.
342 The qualified practitioner must prepare a written report that



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343 must include the findings of the assessment and address each of
344 the following components:

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

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

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

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

352 (V) The sex offender's offender treatment history,
353 including a consultation from the sex offender's treating, or
354 most recent treating, therapist;

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

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

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

360 (IX) The results of current psychological testing of the
361 sex offender if determined necessary by the qualified
362 practitioner;

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

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

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

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



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373
374 The written report of the assessment must be given to the
375 commission.
376 b. A recommendation made as a part of the risk-assessment
377 report as to whether supervised contact with the child should be
378 approved;
379 c. A written consent signed by the child's parent or legal
380 guardian, if the parent or legal guardian is not the sex
381 offender, agreeing to the sex offender having supervised contact
382 with the child after receiving full disclosure of the sex
383 offender's present legal status, past criminal history, and the
384 results of the risk assessment. The commission may not approve
385 contact with the child if the parent or legal guardian refuses to
386 give written consent for supervised contact;
387 d. A safety plan prepared by the qualified practitioner,
388 who provides treatment to the offender, in collaboration with the
389 sex offender, the child's parent or legal guardian, and the
390 child, when age appropriate, which details the acceptable
391 conditions of contact between the sex offender and the child. The
392 safety plan must be reviewed and approved by the Department of
393 Corrections before being submitted to the commission; and
394 e. Evidence that the child's parent or legal guardian, if
395 the parent or legal guardian is not the sex offender, understands
396 the need for and agrees to the safety plan and has agreed to
397 provide, or to designate another adult to provide, constant
398 supervision any time the child is in contact with the offender.
399
400 The commission may not appoint a person to conduct a risk
401 assessment and may not accept a risk assessment from a person who
402 has not demonstrated to the commission that he or she has met the



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403 requirements of a qualified practitioner as defined in this
404 section.

405 6. If the victim was under age 18, a prohibition on working
406 for pay or as a volunteer at any school, child care facility ~~day~~
407 ~~care center~~, park as defined in s. 794.0701, playground, or other
408 place where children regularly congregate, as prescribed by the
409 commission.

410 7. Unless otherwise indicated in the treatment plan
411 provided by the sexual offender treatment program, a prohibition
412 on viewing, owning, or possessing any obscene, pornographic, or
413 sexually stimulating visual or auditory material, including
414 telephone, electronic media, computer programs, or computer
415 services that are relevant to the offender's deviant behavior
416 pattern.

417 8. Effective for a releasee whose crime is committed on or
418 after July 1, 2005, a prohibition on accessing the Internet or
419 other computer services until the offender's sex offender
420 treatment program, after a risk assessment is completed, approves
421 and implements a safety plan for the offender's accessing or
422 using the Internet or other computer services.

423 9. A requirement that the releasee must submit two
424 specimens of blood to the Florida Department of Law Enforcement
425 to be registered with the DNA database.

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

430 11. Submission to a warrantless search by the community
431 control or probation officer of the probationer's or community
432 controllee's person, residence, or vehicle.



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433 (11) For a releasee whose crime was committed on or after
434 October 1, 2008, the commission must, in addition to all other
435 provisions of this section, impose the special conditions in
436 paragraph (b) on the following releasees:

437 (a) A releasee whose crime was committed on or after
438 October 1, 2008, in violation of s. 800.04(4), (5), or (6); s.
439 827.071; or s. 847.0145 in this state or a similar offense in
440 another jurisdiction when, at the time of the offense, the victim
441 was younger than 16 years of age and the releasee was 18 years of
442 age or older.

443 (b) A releasee who is designated as a sexual predator under
444 s. 775.21 or who has received a similar designation or
445 determination in another jurisdiction.

446 (c) A releasee subject to registration as a sexual predator
447 under s. 775.21 or as a sexual offender under s. 943.0435 who has
448 committed an offense that would meet the criteria for the
449 designation or registration when at the time of the offense the
450 victim was younger than 16 years of age and the releasee was 18
451 years of age or older, who commits a violation of s. 775.21 or s.
452 943.0435 on or after October 1, 2008, and who is not otherwise
453 subject to this subsection.

454 Section 7. Subsection (4) of section 948.06, Florida
455 Statutes, is amended to read:

456 948.06 Violation of probation or community control;
457 revocation; modification; continuance; failure to pay restitution
458 or cost of supervision.--

459 (4) Notwithstanding any other provision of this section, a
460 felony probationer or an offender in community control who is
461 arrested for violating his or her probation or community control
462 in a material respect may be taken before the court in the county



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463 or circuit in which the probationer or offender was arrested.
464 That court shall advise him or her of such ~~the~~ charge of a
465 violation and, if such charge is admitted, shall cause him or her
466 to be brought before the court that granted the probation or
467 community control. If such ~~the~~ violation is not admitted by the
468 probationer or offender, the court may commit him or her or
469 release him or her with or without bail to await further hearing.
470 However, if the probationer or offender is under supervision for
471 any criminal offense proscribed in chapter 794, s. 800.04(4),
472 (5), (6), s. 827.071, or s. 847.0145, or is a registered sexual
473 predator or a registered sexual offender, or is under supervision
474 for a criminal offense for which he or she would meet the
475 registration criteria in s. 775.21, s. 943.0435, or s. 944.607
476 but for the effective date of those sections, the court must make
477 a finding that the probationer or offender poses no ~~is not a~~
478 danger to the public prior to release with or without bail. In
479 determining whether the offender poses no danger to the public
480 ~~the danger posed by the offender's or probationer's release~~, the
481 court may consider the nature and circumstances of the violation
482 and any new offenses charged; the offender's or probationer's
483 past and present conduct, including convictions of crimes; any
484 record of arrests without conviction for crimes involving
485 violence or sexual crimes; any other evidence of allegations of
486 unlawful sexual conduct or the use of violence by the offender or
487 probationer; the offender's or probationer's family ties, length
488 of residence in the community, employment history, and mental
489 condition; his or her history and conduct during the probation or
490 community control supervision from which the violation arises and
491 any other previous supervisions, including disciplinary records
492 of previous incarcerations; the likelihood that the offender or



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493 | probationer will engage again in a criminal course of conduct;
494 | the weight of the evidence against the offender or probationer;
495 | and any other facts the court considers relevant. The court, as
496 | soon as is practicable, shall give the probationer or offender an
497 | opportunity to be fully heard on his or her behalf in person or
498 | by counsel. After such ~~the~~ hearing, the court shall make findings
499 | of fact and forward the findings to the court that granted the
500 | probation or community control and to the probationer or offender
501 | or his or her attorney. The findings of fact by the hearing court
502 | are binding on the court that granted the probation or community
503 | control. Upon the probationer or offender being brought before
504 | it, the court that granted the probation or community control may
505 | revoke, modify, or continue the probation or community control or
506 | may place the probationer into community control as provided in
507 | this section. However, the probationer or offender shall not be
508 | released and shall not be admitted to bail, but shall be brought
509 | before the court that granted the probation or community control
510 | if any violation of felony probation or community control other
511 | than a failure to pay costs or fines or make restitution payments
512 | is alleged to have been committed by:

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

515 | (b) A person who is on felony probation or community
516 | control for any offense committed on or after the effective date
517 | of this act and who is arrested for a qualifying offense as
518 | defined in this section; or

519 | (c) A person who is on felony probation or community
520 | control and has previously been found by a court to be a habitual
521 | violent felony offender as defined in s. 775.084(1)(b), a three-
522 | time violent felony offender as defined in s. 775.084(1)(c), or a



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523 sexual predator under s. 775.21, and who is arrested for
524 committing a qualifying offense as defined in this section on or
525 after the effective date of this act.

526 Section 8. Paragraph (b) of subsection (1) and subsection
527 (3) of section 948.30, Florida Statutes, are amended, and
528 subsection (4) is added to that section, to read:

529 948.30 Additional terms and conditions of probation or
530 community control for certain sex offenses.--Conditions imposed
531 pursuant to this section do not require oral pronouncement at the
532 time of sentencing and shall be considered standard conditions of
533 probation or community control for offenders specified in this
534 section.

535 (1) Effective for probationers or community controllees
536 whose crime was committed on or after October 1, 1995, and who
537 are placed under supervision for violation of chapter 794, s.
538 800.04, s. 827.071, or s. 847.0145, the court must impose the
539 following conditions in addition to all other standard and
540 special conditions imposed:

541 (b)1. Except as provided in subparagraph 2., if the victim
542 was under the age of 18, a prohibition on living within 1,000
543 feet of a school, child care facility ~~day care center~~, park as
544 defined in s. 794.0701, playground, or other place where children
545 regularly congregate, as prescribed by the court. The 1,000-foot
546 distance shall be measured in a straight line from the offender's
547 place of residence to the nearest boundary line of the school,
548 child care facility ~~day care center~~, park as defined in s.
549 794.0701, playground, or other place where children regularly
550 congregate. The distance may not be measured by a pedestrian
551 route or automobile route.



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552 2. For a probationer or community controllee whose crime
553 was committed on or after October 1, 2008, if the victim was
554 younger than 18 years of age, a prohibition on living within
555 1,500 feet of a school, child care facility, park as defined in
556 s. 794.0701, playground, or other place where children regularly
557 congregate, as prescribed by the court. This distance shall be
558 measured in a straight line from the offender's place of
559 residence to the nearest boundary line of the school, child care
560 facility, park as defined in s. 794.0701, playground, or other
561 place where children regularly congregate. The distance may not
562 be measured by a pedestrian route or automobile route.

563
564 A sexual offender or sexual predator convicted of a violation of
565 s. 787.01, s. 787.02, s. 794.011, s. 800.04, s. 827.071, or s.
566 847.0145, regardless of whether adjudication has been withheld,
567 in which the victim of the offense was younger than 16 years of
568 age and when the sexual offender or sexual predator was a minor
569 is not subject to the conditions in paragraph (b). This
570 exception, however, does not apply to a sexual offender or sexual
571 predator who is convicted of a subsequent sexual offense as an
572 adult.

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

575 (a) Is placed on probation or community control for a
576 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
577 or s. 847.0145 and the unlawful sexual activity involved a victim
578 younger than 16 ~~15~~ years of age ~~or younger~~ and the offender is 18
579 years of age or older;

580 (b) Is designated a sexual predator pursuant to s. 775.21;
581 or



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582 (c) Has previously been convicted of a violation of chapter
583 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and
584 the unlawful sexual activity involved a victim younger than 16 ~~15~~
585 years of age ~~or younger~~ and the offender is 18 years of age or
586 older,

587
588 the court must order, in addition to any other provision of this
589 section, mandatory electronic monitoring as a condition of the
590 probation or community control supervision.

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

595 (a) A probationer or community controllee who violated s.
596 800.04(4), (5), or (6); s. 827.071; or s. 847.0145 in this state
597 or committed a similar offense in another jurisdiction when, at
598 the time of the offense, the victim was younger than 16 years of
599 age and the probationer or community controllee was 18 years of
600 age or older.

601 (b) A probationer or community controllee who is designated
602 as a sexual predator under s. 775.21 or who has received a
603 similar designation or determination in another jurisdiction.

604 (c) A probationer or community controllee subject to
605 registration as a sexual predator under s. 775.21 or as a sexual
606 offender pursuant to s. 943.0435 who has committed an offense
607 that would meet the criteria for the designation or registration
608 when at the time of the offense the victim was younger than 16
609 years of age and the probationer or community controllee was 18
610 years of age or older, who commits a violation of s. 775.21 or s.



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611 943.0435 on or after October 1, 2008, and who is not otherwise
612 subject to this subsection.

613 Section 9. This act shall take effect October 1, 2008.

614
615 ===== T I T L E A M E N D M E N T =====

616 And the title is amended as follows:

617 Delete everything before the enacting clause
618 and insert:

619 A bill to be entitled
620 An act relating to public safety; amending s. 775.21,
621 F.S.; revising provisions relating to reimbursement of
622 specified costs by sexual predators; revising provisions
623 relating to the residence of sexual predators; providing
624 criminal penalties; creating s. 775.215, F.S.; specifying
625 residency distance limitations for persons convicted of
626 certain sexual offenses; preempting certain local
627 ordinances and providing for repeal of such ordinances;
628 amending s. 775.24, F.S.; revising provisions relating to
629 the duty of the court to uphold certain laws; amending s.
630 794.065, F.S.; providing additional residency restrictions
631 for certain offenders; providing penalties; creating s.
632 794.0701, F.S.; providing for enhanced penalties for
633 loitering or prowling by persons convicted of certain sex
634 offenses; providing definitions; providing an exemption;
635 amending s. 947.1405, F.S.; providing additional
636 conditional release restrictions for certain offenders;
637 providing an exemption; amending s. 948.06, F.S.; revising
638 provisions relating to probation or community control for
639 sexual predators and sexual offenders; amending s. 948.30,
640 F.S.; revising provisions relating to terms and conditions



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641 | of probation or community control for certain sex
642 | offenses; providing additional restrictions for certain
643 | probationers or community controllees who committed sexual
644 | offenses against a minor younger than 16 years of age;
645 | providing an effective date.