

By the Committee on Criminal Justice; and Senator Aronberg

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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

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59 into the community are not made on the basis of inadequate space.

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

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88 predator, the sheriff of the county or the chief of police of the  
89 municipality where the sexual predator temporarily or permanently  
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.

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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  
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

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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  
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.~~

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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~~  
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.

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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:

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



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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

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

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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  
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.

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

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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  
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

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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  
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

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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  
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;

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

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

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

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

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

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

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

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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  
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



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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.

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

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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;  
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.

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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  
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

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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  
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,

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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.

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

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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  
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

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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 crime committed on or after October 1,  
643 2008, if the crime was a violation of s. 787.01(3) or s.  
644 787.02(3), the offender was 18 years of age or older, and the  
645 crime involved a victim less than 16 years of age, in addition to  
646 any other provision of this section, the court must order  
647 electronic monitoring as a condition of probation or community  
648 control supervision.

649 Section 11. The Department of Law Enforcement, with the  
650 assistance of the Department of Corrections, the Department of  
651 Highway Safety and Motor Vehicles, the Department of Juvenile  
652 Justice, the Office of the State Courts Administrator, the clerk  
653 of the court in each judicial circuit court, the offices of the  
654 state attorney and public defender in each judicial circuit, the  
655 Florida Sheriffs Association, and the Florida Legislative  
656 Committee on Intergovernmental Relations shall examine the  
657 feasibility of eliminating the October 1, 1993, date in the  
658 sexual predator criteria set forth in s. 775.21, Florida  
659 Statutes, and the October 1, 1997, date in the sexual offender  
660 criteria set forth in ss. 943.0435 and 944.607, Florida Statutes,  
661 or modifying those dates to provide for earlier dates. When  
662 conducting this examination, the department shall evaluate the  
663 potential effect, including the fiscal impact, that the  
664 elimination or modification of these dates will have on the  
665 department, other state agencies, circuit courts, state  
666 attorneys, public defenders, and local law enforcement agencies.  
667 The Department of Law Enforcement shall also determine whether

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668 there are factors, such as incomplete criminal histories and  
669 court records, which might make the elimination or modification  
670 of these dates impractical or might have a negative effect on the  
671 state's current system for registering sexual predators and  
672 offenders. The department shall present a report of its findings  
673 to the President of the Senate and the Speaker of the House of  
674 Representatives by December 30, 2008.

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