

By the Committees on Judiciary; Criminal Justice; and Senator
Aronberg

590-07885-08

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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; creating s. 775.215, F.S.; specifying
7 residency distance limitations for persons convicted of
8 certain sexual offenses; preempting certain local
9 ordinances and providing for repeal of such ordinances;
10 amending s. 775.24, F.S.; revising provisions relating to
11 the duty of the court to uphold certain laws; amending s.
12 794.065, F.S.; providing additional residency restrictions
13 for certain offenders; providing penalties; creating s.
14 794.0701, F.S.; providing for enhanced penalties for
15 loitering or prowling by persons convicted of certain sex
16 offenses; providing definitions; providing an exemption;
17 amending s. 947.1405, F.S.; providing additional
18 conditional release restrictions for certain offenders;
19 providing an exemption; amending s. 948.06, F.S.; revising
20 provisions relating to probation or community control for
21 sexual predators and sexual offenders; amending s. 948.30,
22 F.S.; revising provisions relating to terms and conditions
23 of probation or community control for certain sex
24 offenses; providing additional restrictions for certain
25 probationers or community controllees who committed sexual
26 offenses against a minor younger than 16 years of age;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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30
31 Section 1. Paragraph (b) of subsection (3) and paragraph
32 (b) of subsection (10) of section 775.21, Florida Statutes, are
33 amended to read:

34 775.21 The Florida Sexual Predators Act.--

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

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

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

43 2. Providing for specialized supervision of sexual
44 predators who are in the community by specially trained probation
45 officers with low caseloads, as described in ss. 947.1405(7) and
46 948.30. The sexual predator is subject to specified terms and
47 conditions implemented at sentencing or at the time of release
48 from incarceration, with a requirement that only those sexual
49 predators found to be indigent may defer payment pursuant to s.
50 28.246 of all or part of the costs in accordance with the
51 provisions of that section ~~who are financially able must pay all~~
52 ~~or part of the costs of supervision.~~

53 3. Requiring the registration of sexual predators, with a
54 requirement that complete and accurate information be maintained
55 and accessible for use by law enforcement authorities,
56 communities, and the public.

57 4. Providing for community and public notification
58 concerning the presence of sexual predators.

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

61 (10) PENALTIES.--

62 (b) A sexual predator who has been convicted of or found to
63 have committed, or has pled nolo contendere or guilty to,
64 regardless of adjudication, any violation, or attempted
65 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
66 the victim is a minor and the defendant is not the victim's
67 parent or guardian; s. 794.011(2), (3), (4), (5), or (8) ~~s.~~
68 ~~794.011, excluding s. 794.011(10);~~ s. 794.05; s. 796.03; s.
69 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0145; or s.
70 985.701(1); or a violation of a similar law of another
71 jurisdiction when the victim of the offense was a minor, and who
72 works, whether for compensation or as a volunteer, at any
73 business where children regularly congregate, school, child care
74 facility ~~day care center~~, park as defined in s. 794.0701,
75 playground, or other place where children regularly congregate,
76 commits a felony of the third degree, punishable as provided in
77 s. 775.082, s. 775.083, or s. 775.084.

78 Section 2. Section 775.215, Florida Statutes, is created to
79 read:

80 775.215 Residency distance limitations for persons
81 convicted of certain sexual offenses; local ordinances preempted
82 and repealed.--The adoption of residency distance limitations for
83 persons convicted of sexual offenses, including, but not limited
84 to, violations of s. 787.01, s. 787.02, s. 794.011, s. 800.04, s.
85 827.071, or s. 847.0145, regardless of whether adjudication has
86 been withheld, is expressly preempted to the state. The
87 provisions of ss. 794.065, 947.1405, and 948.30 which establish

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88 such residency distance limitations supersede the distance
89 limitation included in any such municipal or county ordinances.
90 Any such residency distance limitations adopted by a county or
91 municipality before October 1, 2008, are repealed and abolished
92 effective October 1, 2008.

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

95 775.24 Duty of the court to uphold laws governing sexual
96 predators and sexual offenders.--

97 (2) If a person meets the criteria in this chapter for
98 designation as a sexual predator or meets the criteria in s.
99 943.0435, s. 944.606, s. 944.607, or any other law for
100 classification as a sexual offender, the court may not enter an
101 order, for the purpose of approving a plea agreement or for any
102 other reason, which:

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

111 (b) Restricts the compiling, reporting, or release of
112 public records information that relates to sexual predators or
113 sexual offenders; or

114 (c) Prevents any person or entity from performing its
115 duties or operating within its statutorily conferred authority as
116 such duty or authority relates to sexual predators or sexual

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117 offenders.

118 Section 4. Section 794.065, Florida Statutes, is amended to
119 read:

120 794.065 Unlawful place of residence for persons convicted
121 of certain sex offenses.--

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

129 2. A person who violates this subsection ~~section~~ and whose
130 conviction for an offense listed in subparagraph 1. ~~under s.~~
131 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified as:

132 a. A felony of the first degree or higher commits a felony
133 of the third degree, punishable as provided in s. 775.082 or s.
134 775.083. ~~A person who violates this section and whose conviction~~
135 ~~under s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 was~~
136 ~~classified as~~

137 b. A felony of the second or third degree commits a
138 misdemeanor of the first degree, punishable as provided in s.
139 775.082 or s. 775.083.

140 (b)(2) This subsection ~~section~~ applies to any person
141 convicted of an offense listed in subparagraph (a)1. if the
142 offense occurred ~~a violation of s. 794.011, s. 800.04, s.~~
143 ~~827.071, or s. 847.0145 for offenses that occur on or after~~
144 October 1, 2004.

145 (2) (a)1. It is unlawful for any person who has been

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146 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
147 800.04, s. 827.071, or s. 847.0145, committed on or after October
148 1, 2008, regardless of whether adjudication has been withheld, in
149 which the victim of the offense was younger than 16 years of age,
150 to reside within 1,500 feet of any school, child care facility,
151 park as defined in s. 794.0701, or playground.

152
153 A sexual offender or sexual predator does not commit a violation
154 of this section if convicted of a violation of s. 787.01, s.
155 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
156 regardless of whether adjudication has been withheld, in which
157 the victim of the offense was younger than 16 years of age and
158 when the sexual offender or sexual predator was a minor. This
159 exception, however, does not apply to a sexual offender or sexual
160 predator who is convicted of a subsequent sexual offense as an
161 adult.

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

164 a. A felony of the first degree or higher commits a felony
165 of the third degree, punishable as provided in s. 775.082 or s.
166 775.083.

167 b. A felony of the second or third degree commits a
168 misdemeanor of the first degree, punishable as provided in s.
169 775.082 or s. 775.083.

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

174 Section 5. Section 794.0701, Florida Statutes, is created

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175 to read:

176 794.0701 Loitering or prowling by persons convicted of
177 certain sex offenses.--

178 (1) Any person who:

179 (a) Has been convicted of a violation of s. 787.01, s.
180 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
181 regardless of whether adjudication has been withheld, in which
182 the victim of the offense was younger than 16 years of age; and

183 (b) Loiters or prowls as proscribed in s. 856.021 within
184 300 feet of a place where children regularly congregate,
185 including a school, designated public school bus stop, child care
186 facility, playground, or park as defined in s. 794.0701,

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

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

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

195 (4) "School" has the same meaning as provided in s. 1003.01
196 and includes a "private school" as defined in s. 1002.01, a
197 "voluntary prekindergarten education program" as described in s.
198 1002.53(3), a "public school" as described in s. 402.3025(1), the
199 Florida School for the Deaf and the Blind, the Florida Virtual
200 School as established in s. 1002.37, and a K-8 Virtual School as
201 established in s. 1002.415, excluding facilities dedicated
202 exclusively to the education of adults.

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204 A sexual offender or sexual predator does not commit a violation
205 of this section if convicted of a violation of s. 787.01, s.
206 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
207 regardless of whether adjudication has been withheld, in which
208 the victim of the offense was younger than 16 years of age and
209 when the sexual offender or sexual predator was a minor. This
210 exception, however, does not apply to a sexual offender or sexual
211 predator who is convicted of a subsequent sexual offense as an
212 adult.

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

216 947.1405 Conditional release program.--

217 (2) (a) Any inmate who:

218 1.(a) Is convicted of a crime committed on or after October
219 1, 1988, and before January 1, 1994, ~~and any inmate who is~~
220 convicted of a crime committed on or after January 1, 1994, which
221 crime is or was contained in category 1, category 2, category 3,
222 or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of
223 Criminal Procedure (1993), and who has served at least one prior
224 felony commitment at a state or federal correctional institution;

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

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

229

230 shall, upon reaching the tentative release date or provisional
231 release date, whichever is earlier, as established by the
232 Department of Corrections, be released under supervision subject

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233 to specified terms and conditions, including payment of the cost
234 of supervision pursuant to s. 948.09. Such supervision shall be
235 applicable to all sentences within the overall term of sentences
236 if an inmate's overall term of sentences includes one or more
237 sentences that are eligible for conditional release supervision
238 as provided herein.

239 (b) Effective July 1, 1994, and applicable for offenses
240 committed on or after that date, the commission may require, as a
241 condition of conditional release, that the releasee make payment
242 of the debt due and owing to a county or municipal detention
243 facility under s. 951.032 for medical care, treatment,
244 hospitalization, or transportation received by the releasee while
245 in that detention facility. The commission, in determining
246 whether to order such repayment and the amount of such repayment,
247 shall consider the amount of the debt, whether there was any
248 fault of the institution for the medical expenses incurred, the
249 financial resources of the releasee, the present and potential
250 future financial needs and earning ability of the releasee, and
251 dependents, and other appropriate factors.

252 (c) If any inmate placed on conditional release supervision
253 is also subject to probation or community control, resulting from
254 a probationary or community control split sentence within the
255 overall term of sentences, the Department of Corrections shall
256 supervise such person according to the conditions imposed by the
257 court and the commission shall defer to such supervision. If the
258 court revokes probation or community control and resentsences the
259 offender to a term of incarceration, such revocation also
260 constitutes a sufficient basis for the revocation of the
261 conditional release supervision on any nonprobationary or

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262 noncommunity control sentence without further hearing by the
263 commission. If any such supervision on any nonprobationary or
264 noncommunity control sentence is revoked, such revocation may
265 result in a forfeiture of all gain-time, and the commission may
266 revoke the resulting deferred conditional release supervision or
267 take other action it considers appropriate. If the term of
268 conditional release supervision exceeds that of the probation or
269 community control, then, upon expiration of the probation or
270 community control, authority for the supervision shall revert to
271 the commission and the supervision shall be subject to the
272 conditions imposed by the commission.

273 (d) A panel of no fewer than two commissioners shall
274 establish the terms and conditions of any such release. If the
275 offense was a controlled substance violation, the conditions
276 shall include a requirement that the offender submit to random
277 substance abuse testing intermittently throughout the term of
278 conditional release supervision, upon the direction of the
279 correctional probation officer as defined in s. 943.10(3). The
280 commission shall also determine whether the terms and conditions
281 of such release have been violated and whether such violation
282 warrants revocation of the conditional release.

283 (7)(a) Any inmate who is convicted of a crime committed on
284 or after October 1, 1995, or who has been previously convicted of
285 a crime committed on or after October 1, 1995, in violation of
286 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
287 subject to conditional release supervision, shall have, in
288 addition to any other conditions imposed, the following special
289 conditions imposed by the commission:

290 1. A mandatory curfew from 10 p.m. to 6 a.m. The commission

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291 | may designate another 8-hour period if the offender's employment
292 | precludes the above specified time, and such alternative is
293 | recommended by the Department of Corrections. If the commission
294 | determines that imposing a curfew would endanger the victim, the
295 | commission may consider alternative sanctions.

296 | 2.a. If the victim was under the age of 18, a prohibition
297 | on living within 1,000 feet of a school, child care facility ~~day~~
298 | ~~care center~~, park as defined in s. 794.0701, playground,
299 | ~~designated public school bus stop~~, or other place where children
300 | regularly congregate. ~~A releasee who is subject to this~~
301 | ~~subparagraph may not relocate to a residence that is within 1,000~~
302 | ~~feet of a public school bus stop.~~

303 | b. Beginning October 1, 2004, the commission or the
304 | department may not approve a residence that is located within
305 | 1,000 feet of a school, child care facility ~~day care center~~, park
306 | as defined in s. 794.0701, playground, ~~designated school bus~~
307 | ~~stop~~, or other place where children regularly congregate for any
308 | releasee who is subject to this subparagraph. On October 1, 2004,
309 | the department shall notify each affected school district of the
310 | location of the residence of a releasee 30 days prior to release
311 | and thereafter, if the releasee relocates to a new residence,
312 | shall notify any affected school district of the residence of the
313 | releasee within 30 days after relocation. ~~If, on October 1, 2004,~~
314 | ~~any public school bus stop is located within 1,000 feet of the~~
315 | ~~existing residence of such releasee, the district school board~~
316 | ~~shall relocate that school bus stop. Beginning October 1, 2004, a~~
317 | ~~district school board may not establish or relocate a public~~
318 | ~~school bus stop within 1,000 feet of the residence of a releasee~~
319 | ~~who is subject to this subparagraph.~~ The failure of the district

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320 school board to comply with this subparagraph shall not result in
321 a violation of conditional release supervision.

322 c. Beginning October 1, 2008, the commission or the
323 department may not approve a residence located within 1,500 feet
324 of a school, child care facility, park as defined in s. 794.0701,
325 playground, or other place where children regularly congregate
326 for any releasee who is subject to this subparagraph. The
327 distance in this sub-subparagraph shall be measured in a straight
328 line from the offender's place of residence to the nearest
329 boundary line of the school, child care facility, park as defined
330 in s. 794.0701, playground, or other place where children
331 regularly congregate. The distance may not be measured by a
332 pedestrian route or automobile route.

333 d. A sexual offender or sexual predator convicted of a
334 violation of s. 787.01, s. 787.02, s. 794.011, s. 800.04, s.
335 827.071, or s. 847.0145, regardless of whether adjudication has
336 been withheld, in which the victim of the offense was younger
337 than 16 years of age and when the sexual offender or sexual
338 predator was a minor is not subject to the conditions in
339 subparagraph 2. This sub-subparagraph, however, does not apply to
340 a sexual offender or sexual predator who is convicted of a
341 subsequent sexual offense as an adult.

342 3. Active participation in and successful completion of a
343 sex offender treatment program with qualified practitioners
344 specifically trained to treat sex offenders, at the releasee's
345 own expense. If a qualified practitioner is not available within
346 a 50-mile radius of the releasee's residence, the offender shall
347 participate in other appropriate therapy.

348 4. A prohibition on any contact with the victim, directly

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349 or indirectly, including through a third person, unless approved
350 by the victim, the offender's therapist, and the sentencing
351 court.

352 5. If the victim was under the age of 18, a prohibition
353 against contact with children under the age of 18 without review
354 and approval by the commission. The commission may approve
355 supervised contact with a child under the age of 18 if the
356 approval is based upon a recommendation for contact issued by a
357 qualified practitioner who is basing the recommendation on a risk
358 assessment. Further, the sex offender must be currently enrolled
359 in or have successfully completed a sex offender therapy program.
360 The commission may not grant supervised contact with a child if
361 the contact is not recommended by a qualified practitioner and
362 may deny supervised contact with a child at any time. When
363 considering whether to approve supervised contact with a child,
364 the commission must review and consider the following:

365 a. A risk assessment completed by a qualified practitioner.
366 The qualified practitioner must prepare a written report that
367 must include the findings of the assessment and address each of
368 the following components:

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

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

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

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

376 (V) The sex offender's offender treatment history,
377 including a consultation from the sex offender's treating, or

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378 | most recent treating, therapist;
379 | (VI) The sex offender's current mental status;
380 | (VII) The sex offender's mental health and substance abuse
381 | history as provided by the Department of Corrections;
382 | (VIII) The sex offender's personal, social, educational,
383 | and work history;
384 | (IX) The results of current psychological testing of the
385 | sex offender if determined necessary by the qualified
386 | practitioner;
387 | (X) A description of the proposed contact, including the
388 | location, frequency, duration, and supervisory arrangement;
389 | (XI) The child's preference and relative comfort level with
390 | the proposed contact, when age-appropriate;
391 | (XII) The parent's or legal guardian's preference regarding
392 | the proposed contact; and
393 | (XIII) The qualified practitioner's opinion, along with the
394 | basis for that opinion, as to whether the proposed contact would
395 | likely pose significant risk of emotional or physical harm to the
396 | child.
397 |
398 | The written report of the assessment must be given to the
399 | commission.
400 | b. A recommendation made as a part of the risk-assessment
401 | report as to whether supervised contact with the child should be
402 | approved;
403 | c. A written consent signed by the child's parent or legal
404 | guardian, if the parent or legal guardian is not the sex
405 | offender, agreeing to the sex offender having supervised contact
406 | with the child after receiving full disclosure of the sex

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407 offender's present legal status, past criminal history, and the
408 results of the risk assessment. The commission may not approve
409 contact with the child if the parent or legal guardian refuses to
410 give written consent for supervised contact;

411 d. A safety plan prepared by the qualified practitioner,
412 who provides treatment to the offender, in collaboration with the
413 sex offender, the child's parent or legal guardian, and the
414 child, when age appropriate, which details the acceptable
415 conditions of contact between the sex offender and the child. The
416 safety plan must be reviewed and approved by the Department of
417 Corrections before being submitted to the commission; and

418 e. Evidence that the child's parent or legal guardian, if
419 the parent or legal guardian is not the sex offender, understands
420 the need for and agrees to the safety plan and has agreed to
421 provide, or to designate another adult to provide, constant
422 supervision any time the child is in contact with the offender.

423
424 The commission may not appoint a person to conduct a risk
425 assessment and may not accept a risk assessment from a person who
426 has not demonstrated to the commission that he or she has met the
427 requirements of a qualified practitioner as defined in this
428 section.

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

434 7. Unless otherwise indicated in the treatment plan
435 provided by the sexual offender treatment program, a prohibition

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436 on viewing, owning, or possessing any obscene, pornographic, or
437 sexually stimulating visual or auditory material, including
438 telephone, electronic media, computer programs, or computer
439 services that are relevant to the offender's deviant behavior
440 pattern.

441 8. Effective for a releasee whose crime is committed on or
442 after July 1, 2005, a prohibition on accessing the Internet or
443 other computer services until the offender's sex offender
444 treatment program, after a risk assessment is completed, approves
445 and implements a safety plan for the offender's accessing or
446 using the Internet or other computer services.

447 9. A requirement that the releasee must submit two
448 specimens of blood to the Florida Department of Law Enforcement
449 to be registered with the DNA database.

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

454 11. Submission to a warrantless search by the community
455 control or probation officer of the probationer's or community
456 controllee's person, residence, or vehicle.

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

461 (a) A releasee whose crime was committed on or after
462 October 1, 2008, in violation of s. 800.04(4), (5), or (6); s.
463 827.071; or s. 847.0145 in this state or a similar offense in
464 another jurisdiction when, at the time of the offense, the victim

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465 was younger than 16 years of age and the releasee was 18 years of
466 age or older.

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

470 (c) A releasee subject to registration as a sexual predator
471 under s. 775.21 or as a sexual offender under s. 943.0435 who has
472 committed an offense that would meet the criteria for the
473 designation or registration when at the time of the offense the
474 victim was younger than 16 years of age and the releasee was 18
475 years of age or older, who commits a violation of s. 775.21 or s.
476 943.0435 on or after October 1, 2008, and who is not otherwise
477 subject to this subsection.

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

480 948.06 Violation of probation or community control;
481 revocation; modification; continuance; failure to pay restitution
482 or cost of supervision.--

483 (4) Notwithstanding any other provision of this section, a
484 felony probationer or an offender in community control who is
485 arrested for violating his or her probation or community control
486 in a material respect may be taken before the court in the county
487 or circuit in which the probationer or offender was arrested.
488 That court shall advise him or her of such ~~the~~ charge of a
489 violation and, if such charge is admitted, shall cause him or her
490 to be brought before the court that granted the probation or
491 community control. If such ~~the~~ violation is not admitted by the
492 probationer or offender, the court may commit him or her or
493 release him or her with or without bail to await further hearing.

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494 | However, if the probationer or offender is under supervision for
495 | any criminal offense proscribed in chapter 794, s. 800.04(4),
496 | (5), (6), s. 827.071, or s. 847.0145, or is a registered sexual
497 | predator or a registered sexual offender, or is under supervision
498 | for a criminal offense for which he or she would meet the
499 | registration criteria in s. 775.21, s. 943.0435, or s. 944.607
500 | but for the effective date of those sections, the court must make
501 | a finding that the probationer or offender poses no ~~is not a~~
502 | danger to the public prior to release with or without bail. In
503 | determining whether the offender poses no danger to the public
504 | ~~the danger posed by the offender's or probationer's release~~, the
505 | court may consider the nature and circumstances of the violation
506 | and any new offenses charged; the offender's or probationer's
507 | past and present conduct, including convictions of crimes; any
508 | record of arrests without conviction for crimes involving
509 | violence or sexual crimes; any other evidence of allegations of
510 | unlawful sexual conduct or the use of violence by the offender or
511 | probationer; the offender's or probationer's family ties, length
512 | of residence in the community, employment history, and mental
513 | condition; his or her history and conduct during the probation or
514 | community control supervision from which the violation arises and
515 | any other previous supervisions, including disciplinary records
516 | of previous incarcerations; the likelihood that the offender or
517 | probationer will engage again in a criminal course of conduct;
518 | the weight of the evidence against the offender or probationer;
519 | and any other facts the court considers relevant. The court, as
520 | soon as is practicable, shall give the probationer or offender an
521 | opportunity to be fully heard on his or her behalf in person or
522 | by counsel. After such ~~the~~ hearing, the court shall make findings

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523 of fact and forward the findings to the court that granted the
524 probation or community control and to the probationer or offender
525 or his or her attorney. The findings of fact by the hearing court
526 are binding on the court that granted the probation or community
527 control. Upon the probationer or offender being brought before
528 it, the court that granted the probation or community control may
529 revoke, modify, or continue the probation or community control or
530 may place the probationer into community control as provided in
531 this section. However, the probationer or offender shall not be
532 released and shall not be admitted to bail, but shall be brought
533 before the court that granted the probation or community control
534 if any violation of felony probation or community control other
535 than a failure to pay costs or fines or make restitution payments
536 is alleged to have been committed by:

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

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

543 (c) A person who is on felony probation or community
544 control and has previously been found by a court to be a habitual
545 violent felony offender as defined in s. 775.084(1)(b), a three-
546 time violent felony offender as defined in s. 775.084(1)(c), or a
547 sexual predator under s. 775.21, and who is arrested for
548 committing a qualifying offense as defined in this section on or
549 after the effective date of this act.

550 Section 8. Paragraph (b) of subsection (1) and subsection
551 (3) of section 948.30, Florida Statutes, are amended, and

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552 subsection (4) is added to that section, to read:

553 948.30 Additional terms and conditions of probation or
554 community control for certain sex offenses.--Conditions imposed
555 pursuant to this section do not require oral pronouncement at the
556 time of sentencing and shall be considered standard conditions of
557 probation or community control for offenders specified in this
558 section.

559 (1) Effective for probationers or community controllees
560 whose crime was committed on or after October 1, 1995, and who
561 are placed under supervision for violation of chapter 794, s.
562 800.04, s. 827.071, or s. 847.0145, the court must impose the
563 following conditions in addition to all other standard and
564 special conditions imposed:

565 (b)1. Except as provided in subparagraph 2., if the victim
566 was under the age of 18, a prohibition on living within 1,000
567 feet of a school, child care facility ~~day care center~~, park as
568 defined in s. 794.0701, playground, or other place where children
569 regularly congregate, as prescribed by the court. The 1,000-foot
570 distance shall be measured in a straight line from the offender's
571 place of residence to the nearest boundary line of the school,
572 child care facility ~~day care center~~, park as defined in s.
573 794.0701, playground, or other place where children regularly
574 congregate. The distance may not be measured by a pedestrian
575 route or automobile route.

576 2. For a probationer or community controllee whose crime
577 was committed on or after October 1, 2008, if the victim was
578 younger than 18 years of age, a prohibition on living within
579 1,500 feet of a school, child care facility, park as defined in
580 s. 794.0701, playground, or other place where children regularly

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581 congregate, as prescribed by the court. This distance shall be
582 measured in a straight line from the offender's place of
583 residence to the nearest boundary line of the school, child care
584 facility, park as defined in s. 794.0701, playground, or other
585 place where children regularly congregate. The distance may not
586 be measured by a pedestrian route or automobile route.

587
588 A sexual offender or sexual predator convicted of a violation of
589 s. 787.01, s. 787.02, s. 794.011, s. 800.04, s. 827.071, or s.
590 847.0145, regardless of whether adjudication has been withheld,
591 in which the victim of the offense was younger than 16 years of
592 age and when the sexual offender or sexual predator was a minor
593 is not subject to the conditions in paragraph (b). This
594 exception, however, does not apply to a sexual offender or sexual
595 predator who is convicted of a subsequent sexual offense as an
596 adult.

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

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

604 (b) Is designated a sexual predator pursuant to s. 775.21;
605 or

606 (c) Has previously been convicted of a violation of chapter
607 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and
608 the unlawful sexual activity involved a victim younger than 16 ~~15~~
609 years of age ~~or younger~~ and the offender is 18 years of age or

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610 | older,

611 |

612 | the court must order, in addition to any other provision of this
613 | section, mandatory electronic monitoring as a condition of the
614 | probation or community control supervision.

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

619 | (a) A probationer or community controllee who violated s.
620 | 800.04(4), (5), or (6); s. 827.071; or s. 847.0145 in this state
621 | or committed a similar offense in another jurisdiction when, at
622 | the time of the offense, the victim was younger than 16 years of
623 | age and the probationer or community controllee was 18 years of
624 | age or older.

625 | (b) A probationer or community controllee who is designated
626 | as a sexual predator under s. 775.21 or who has received a
627 | similar designation or determination in another jurisdiction.

628 | (c) A probationer or community controllee subject to
629 | registration as a sexual predator under s. 775.21 or as a sexual
630 | offender pursuant to s. 943.0435 who has committed an offense
631 | that would meet the criteria for the designation or registration
632 | when at the time of the offense the victim was younger than 16
633 | years of age and the probationer or community controllee was 18
634 | years of age or older, who commits a violation of s. 775.21 or s.
635 | 943.0435 on or after October 1, 2008, and who is not otherwise
636 | subject to this subsection.

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