

Bill No. SB 1442



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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/5/2008	.	
	.	
	.	

1 The Committee on Criminal Justice (Dockery) recommended the  
 2 following **amendment**:

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

5 Delete everything after the enacting clause  
 6 and insert:

7 Section 1. Subsection (3) of section 92.56, Florida  
 8 Statutes, is amended to read:

9 92.56 Judicial proceedings and court records involving  
 10 sexual offenses.--

11 (3) The state may use a pseudonym instead of the victim's  
 12 name to designate the victim of a crime described in chapter 794  
 13 or chapter 800, or of child abuse, aggravated child abuse, or  
 14 sexual performance by a child as described in chapter 827, or  
 15 any crime involving the production, possession, or promotion of

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16 child pornography as described in chapter 847, in all court  
17 records and records of court proceedings, both civil and  
18 criminal.

19 Section 2. Subsection (7) of section 800.04, Florida  
20 Statutes, is amended to read:

21 800.04 Lewd or lascivious offenses committed upon or in  
22 the presence of persons less than 16 years of age.--

23 (7) LEWD OR LASCIVIOUS EXHIBITION.--

24 (a) A person who:

25 1. Intentionally masturbates;

26 2. Intentionally exposes the genitals in a lewd or  
27 lascivious manner; or

28 3. Intentionally commits any other sexual act that does  
29 not involve actual physical or sexual contact with the victim,  
30 including, but not limited to, sadomasochistic abuse, sexual  
31 bestiality, or the simulation of any act involving sexual  
32 activity

33  
34 in the presence of a victim who is less than 16 years of age,  
35 commits lewd or lascivious exhibition.

36 ~~(b) A person who:~~

37 ~~1. Intentionally masturbates;~~

38 ~~2. Intentionally exposes the genitals in a lewd or~~  
39 ~~lascivious manner; or~~

40 ~~3. Intentionally commits any other sexual act that does~~  
41 ~~not involve actual physical or sexual contact with the victim,~~  
42 ~~including, but not limited to, sadomasochistic abuse, sexual~~

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43 ~~bestiality, or the simulation of any act involving sexual~~  
44 ~~activity~~

45  
46 ~~live over a computer online service, Internet service, or local~~  
47 ~~bulletin board service and who knows or should know or has~~  
48 ~~reason to believe that the transmission is viewed on a computer~~  
49 ~~or television monitor by a victim in this state who is less than~~  
50 ~~16 years of age, commits lewd or lascivious exhibition. The fact~~  
51 ~~that an undercover operative or law enforcement officer was~~  
52 ~~involved in the detection and investigation of an offense under~~  
53 ~~this paragraph shall not constitute a defense to a prosecution~~  
54 ~~under this paragraph.~~

55 ~~(b)(e)~~ An offender 18 years of age or older who commits a  
56 lewd or lascivious exhibition commits a felony of the second  
57 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
58 775.084.

59 ~~(c)(d)~~ An offender less than 18 years of age who commits a  
60 lewd or lascivious exhibition commits a felony of the third  
61 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
62 775.084.

63 Section 3. Subsections (5), (6), and (7) of section  
64 847.0135, Florida Statutes, are renumbered as subsections (6),  
65 (7), and (8), respectively, and a subsection (5) is added to  
66 that section, to read:

67 847.0135 Computer pornography; traveling to meet minor;  
68 penalties.--

69 (5) (a) A person who:

70 1. Intentionally masturbates;

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71           2. Intentionally exposes the genitals in a lewd or  
72 lascivious manner; or

73           3. Intentionally commits any other sexual act that does not  
74 involve actual physical or sexual contact with the victim,  
75 including, but not limited to, sadomasochistic abuse, sexual  
76 bestiality, or the simulation of any act involving sexual  
77 activity

78  
79 live over a computer online service, Internet service, or local  
80 bulletin board service and who knows or should know or has  
81 reason to believe that the transmission is viewed on a computer  
82 or television monitor by a victim in this state who is less than  
83 16 years of age, commits lewd or lascivious exhibition in  
84 violation of this subsection. The fact that an undercover  
85 operative or law enforcement officer was involved in the  
86 detection and investigation of an offense under this subsection  
87 shall not constitute a defense to a prosecution under this  
88 subsection.

89           (b) An offender 18 years of age or older who commits a  
90 lewd or lascivious exhibition using a computer commits a felony  
91 of the second degree, punishable as provided in s. 775.082, s.  
92 775.083, or s. 775.084.

93           (c) An offender less than 18 years of age who commits a  
94 lewd or lascivious exhibition using a computer commits a felony  
95 of the third degree, punishable as provided in s. 775.082, s.  
96 775.083, or s. 775.084.

97           (d) A mother's breastfeeding of her baby does not under  
98 any circumstance constitute a violation of this subsection.

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99 Section 4. Section 847.002, Florida Statutes, is created  
100 to read:

101 847.002 Child pornography prosecutions.--

102 (1) Any law enforcement officer who, pursuant to a criminal  
103 investigation, recovers images of child pornography shall:

104 (a) Provide such images and any information regarding the  
105 identity of a child depicted in such images to the National  
106 Center for Missing and Exploited Children, Child Victim  
107 Identification Program; and

108 (b) Request the law enforcement contact information from  
109 the National Center for Missing and Exploited Children, Child  
110 Victim Identification Program for any images recovered that  
111 contain a known victim of child pornography, as defined in s.  
112 960.03.

113 (2) Any law enforcement officer submitting a case for  
114 prosecution that involves the production, promotion, or  
115 possession of child pornography shall submit to the designated  
116 prosecutor the law enforcement contact information provided by  
117 the National Center for Missing and Exploited Children, Child  
118 Victim Identification Program for any images involved in the  
119 case which contain the depiction of a known victim of child  
120 pornography as defined in s. 960.03.

121 (3) In every filed case involving a known victim of child  
122 pornography, as defined in s. 960.03, the prosecuting agency  
123 shall enter the following information into the Victims in Child  
124 Pornography Tracking Repeat Exploitation database maintained by  
125 the Office of the Attorney General:

126 (a) The case number and agency file number.

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127        (b) The named defendant.

128        (c) The circuit court division and county.

129        (d) Current court dates and the status of the case.

130        (e) Contact information for the prosecutor assigned.

131        (f) Verification that the prosecutor is or is not in  
132 possession of a victim impact statement and will use the  
133 statement in sentencing.

134        Section 5. Section 847.01357, Florida Statutes, is created  
135 to read:

136        847.01357 Exploited children's civil remedy.--

137        (1) Any person who, while under the age of 18, was a  
138 victim of a sexual abuse crime listed in chapter 794, chapter  
139 800, chapter 827, or chapter 847, wherein any portion of such  
140 abuse was used in the production of child pornography, and who  
141 suffers personal or psychological injury as a result of the  
142 production, promotion, or possession of such images, may bring  
143 an action in any appropriate state court against the producer,  
144 promoter, or possessor of such images, regardless of whether the  
145 victim is now an adult. In any action brought under this  
146 section, a prevailing plaintiff shall recover the actual damages  
147 such person sustained and the cost of the suit, including  
148 reasonable attorney's fees. Any such victim who is awarded  
149 damages under this section shall be deemed to have sustained  
150 damages of no less than \$150,000.

151        (2) Notwithstanding any other provisions of law, any  
152 action commenced under this section must be filed within 3 years  
153 of the later of:

154        (a) The conclusion of a related criminal case;



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155       (b) The notification to the victim by a member of law  
156 enforcement of the creation, possession, or promotion of  
157 pornographic images; or

158       (c) In the case of a victim under the age of 18, within 3  
159 years after the person reaches the age of 18.

160       (3) Any victim who has a bona fide claim under this  
161 section shall, upon request, be provided a pseudonym, pursuant  
162 to s. 92.56(3), which shall be issued and maintained by the  
163 Department of Legal Affairs for use in all legal pleadings. This  
164 identifier shall be fully recognized in all courts in this state  
165 as a valid legal identity.

166       (4) It is not a defense to a civil cause of action under  
167 this section that the respondent did not know the victim or  
168 commit the abuse depicted in any image of child pornography.

169       (5) To prevent the further exploitation of victims for  
170 monetary gain by any other person, at the victim's request and  
171 pursuant to agency approval, the Office of the Attorney General  
172 may pursue cases on behalf of any Florida victim under this  
173 section. All damages obtained in such cases shall go to the  
174 victim, and the Office of the Attorney General may seek  
175 reasonable attorney's fees and costs as authorized under this  
176 section.

177       Section 6. Paragraph (d) of subsection (3) of section  
178 960.03, Florida Statutes, is created, subsections (10) through  
179 (13) of that section are renumbered as subsections (11) through  
180 (14), respectively, a new subsection (10) is added to that  
181 section, and present subsection (13) of that section is amended,  
182 to read:

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183 960.03 Definitions; ss. 960.01-960.28.--As used in ss.  
184 960.01-960.28, unless the context otherwise requires, the term:  
185 (3) "Crime" means:  
186 (d) Any violation of s. 827.071, s. 847.0135, s. 847.0137,  
187 or s. 847.0138, related to on-line sexual exploitation and child  
188 pornography.  
189 (10) "Known victim of child pornography" means any person  
190 who, while under the age of 18, was depicted in any image of  
191 child pornography and who has been identified through a report  
192 generated by a member of law enforcement and provided to the  
193 National Center for Missing and Exploited Children's Child  
194 Victim Identification Program.  
195 (14)-(13) "Victim" means:  
196 (a) A person who suffers personal physical injury or death  
197 as a direct result of a crime;  
198 (b) A person less than 18 ~~16~~ years of age who was present  
199 at the scene of a crime, saw or heard the crime, and suffered a  
200 psychiatric or psychological injury because of the crime, but  
201 who was not physically injured; or  
202 (c) A person against whom a forcible felony was committed  
203 and who suffers a psychiatric or psychological injury as a  
204 direct result of that crime but who does not otherwise sustain a  
205 personal physical injury or death;  
206 Section 7. Section 960.197, Florida Statutes, is created  
207 to read:  
208 960.197 Assistance to victims of online sexual  
209 exploitation and child pornography.--



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210 (1) Notwithstanding the criteria set forth in s. 960.13  
211 for crime victim compensation awards, the department may award  
212 compensation for counseling and other mental health services to  
213 treat psychological injury or trauma to:

214 (a) A child less than 18 years of age who suffers  
215 psychiatric or psychological injury as a direct result of online  
216 sexual exploitation under any provision of s. 827.071, s.  
217 847.0135, s. 847.0137, or s. 847.0138, and who does not  
218 otherwise sustain a personal injury or death; or

219 (b) Any person who, while under the age of 18, was  
220 depicted in any image or video, regardless of length, of child  
221 pornography as defined in s. 847.001 and who has been identified  
222 by law enforcement or the National Center for Missing and  
223 Exploited Children as a known victim of child pornography, who  
224 suffers psychiatric or psychological injury as a direct result  
225 of the crime, and who does not otherwise sustain a personal  
226 injury or death.

227 (2) Compensation under this section is not contingent upon  
228 pursuit of a criminal investigation or prosecution.

229 Section 8. Paragraph (b) of subsection (2) of section  
230 90.404, Florida Statutes, is amended to read:

231 90.404 Character evidence; when admissible.--

232 (2) OTHER CRIMES, WRONGS, OR ACTS.--

233 (b)1. In a criminal case in which the defendant is charged  
234 with a crime involving child molestation, evidence of the  
235 defendant's commission of other crimes, wrongs, or acts of child  
236 molestation is admissible, and may be considered for its bearing  
237 on any matter to which it is relevant.

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238           2. For the purposes of this paragraph, the term "child  
239 molestation" means conduct proscribed by s. 794.011, ~~or~~ s.  
240 800.04, or s. 847.0135(5) when committed against a person 16  
241 years of age or younger.

242           Section 9. Subsection (2) of section 92.565, Florida  
243 Statutes, is amended to read:

244           92.565 Admissibility of confession in sexual abuse  
245 cases.--

246           (2) In any criminal action in which the defendant is  
247 charged with a crime against a victim under s. 794.011; s.  
248 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;  
249 s. 827.04, involving sexual abuse; ~~or~~ s. 827.071; or s.  
250 847.0135(5), or any other crime involving sexual abuse of  
251 another, or with any attempt, solicitation, or conspiracy to  
252 commit any of these crimes, the defendant's memorialized  
253 confession or admission is admissible during trial without the  
254 state having to prove a corpus delicti of the crime if the court  
255 finds in a hearing conducted outside the presence of the jury  
256 that the state is unable to show the existence of each element  
257 of the crime, and having so found, further finds that the  
258 defendant's confession or admission is trustworthy. Factors  
259 which may be relevant in determining whether the state is unable  
260 to show the existence of each element of the crime include, but  
261 are not limited to, the fact that, at the time the crime was  
262 committed, the victim was:

263           (a) Physically helpless, mentally incapacitated, or  
264 mentally defective, as those terms are defined in s. 794.011;

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265 (b) Physically incapacitated due to age, infirmity, or any  
266 other cause; or

267 (c) Less than 12 years of age.

268 Section 10. Paragraph (e) of subsection (9) of section  
269 394.912, Florida Statutes, is amended to read:

270 394.912 Definitions.--As used in this part, the term:

271 (9) "Sexually violent offense" means:

272 (e) Lewd, lascivious, or indecent assault or act upon or  
273 in presence of the child in violation of s. 800.04 or s.  
274 847.0135(5);

275 Section 11. Section 409.2355, Florida Statutes, is amended  
276 to read:

277 409.2355 Programs for prosecution of males over age 21 who  
278 commit certain offenses involving girls under age 16.--Subject  
279 to specific appropriated funds, the Department of Children and  
280 Family Services is directed to establish a program by which  
281 local communities, through the state attorney's office of each  
282 judicial circuit, may apply for grants to fund innovative  
283 programs for the prosecution of males over the age of 21 who  
284 victimize girls under the age of 16 in violation of s. 794.011,  
285 s. 794.05, s. 800.04, ~~or~~ s. 827.04(3), or s. 847.0135(5).

286 Section 12. Paragraph (a) of subsection (9) of section  
287 775.082, Florida Statutes, is amended to read:

288 775.082 Penalties; applicability of sentencing structures;  
289 mandatory minimum sentences for certain reoffenders previously  
290 released from prison.--

291 (9) (a) 1. "Prison releasee reoffender" means any defendant  
292 who commits, or attempts to commit:

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- 293 a. Treason;
- 294 b. Murder;
- 295 c. Manslaughter;
- 296 d. Sexual battery;
- 297 e. Carjacking;
- 298 f. Home-invasion robbery;
- 299 g. Robbery;
- 300 h. Arson;
- 301 i. Kidnapping;
- 302 j. Aggravated assault with a deadly weapon;
- 303 k. Aggravated battery;
- 304 l. Aggravated stalking;
- 305 m. Aircraft piracy;
- 306 n. Unlawful throwing, placing, or discharging of a  
307 destructive device or bomb;
- 308 o. Any felony that involves the use or threat of physical  
309 force or violence against an individual;
- 310 p. Armed burglary;
- 311 q. Burglary of a dwelling or burglary of an occupied  
312 structure; or
- 313 r. Any felony violation of s. 790.07, s. 800.04, s.  
314 827.03, ~~or~~ s. 827.071, or s. 847.0135(5);
- 315
- 316 within 3 years after being released from a state correctional  
317 facility operated by the Department of Corrections or a private  
318 vendor or within 3 years after being released from a  
319 correctional institution of another state, the District of  
320 Columbia, the United States, any possession or territory of the



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321 United States, or any foreign jurisdiction, following  
322 incarceration for an offense for which the sentence is  
323 punishable by more than 1 year in this state.

324 2. "Prison releasee reoffender" also means any defendant  
325 who commits or attempts to commit any offense listed in sub-  
326 subparagraphs (a)1.a.-r. while the defendant was serving a  
327 prison sentence or on escape status from a state correctional  
328 facility operated by the Department of Corrections or a private  
329 vendor or while the defendant was on escape status from a  
330 correctional institution of another state, the District of  
331 Columbia, the United States, any possession or territory of the  
332 United States, or any foreign jurisdiction, following  
333 incarceration for an offense for which the sentence is  
334 punishable by more than 1 year in this state.

335 3. If the state attorney determines that a defendant is a  
336 prison releasee reoffender as defined in subparagraph 1., the  
337 state attorney may seek to have the court sentence the defendant  
338 as a prison releasee reoffender. Upon proof from the state  
339 attorney that establishes by a preponderance of the evidence  
340 that a defendant is a prison releasee reoffender as defined in  
341 this section, such defendant is not eligible for sentencing  
342 under the sentencing guidelines and must be sentenced as  
343 follows:

344 a. For a felony punishable by life, by a term of  
345 imprisonment for life;

346 b. For a felony of the first degree, by a term of  
347 imprisonment of 30 years;

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348 c. For a felony of the second degree, by a term of  
349 imprisonment of 15 years; and

350 d. For a felony of the third degree, by a term of  
351 imprisonment of 5 years.

352 Section 13. Paragraph (d) of subsection (1) of section  
353 775.084, Florida Statutes, is amended to read:

354 775.084 Violent career criminals; habitual felony  
355 offenders and habitual violent felony offenders; three-time  
356 violent felony offenders; definitions; procedure; enhanced  
357 penalties or mandatory minimum prison terms.--

358 (1) As used in this act:

359 (d) "Violent career criminal" means a defendant for whom  
360 the court must impose imprisonment pursuant to paragraph (4) (d),  
361 if it finds that:

362 1. The defendant has previously been convicted as an adult  
363 three or more times for an offense in this state or other  
364 qualified offense that is:

365 a. Any forcible felony, as described in s. 776.08;

366 b. Aggravated stalking, as described in s. 784.048(3) and  
367 (4);

368 c. Aggravated child abuse, as described in s. 827.03(2);

369 d. Aggravated abuse of an elderly person or disabled  
370 adult, as described in s. 825.102(2);

371 e. Lewd or lascivious battery, lewd or lascivious  
372 molestation, lewd or lascivious conduct, or lewd or lascivious  
373 exhibition, as described in s. 800.04 or s. 847.0135(5);

374 f. Escape, as described in s. 944.40; or

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375           g. A felony violation of chapter 790 involving the use or  
376 possession of a firearm.

377           2. The defendant has been incarcerated in a state prison  
378 or a federal prison.

379           3. The primary felony offense for which the defendant is  
380 to be sentenced is a felony enumerated in subparagraph 1. and  
381 was committed on or after October 1, 1995, and:

382           a. While the defendant was serving a prison sentence or  
383 other sentence, or court-ordered or lawfully imposed supervision  
384 that is imposed as a result of a prior conviction for an  
385 enumerated felony; or

386           b. Within 5 years after the conviction of the last prior  
387 enumerated felony, or within 5 years after the defendant's  
388 release from a prison sentence, probation, community control,  
389 control release, conditional release, parole, or court-ordered  
390 or lawfully imposed supervision or other sentence that is  
391 imposed as a result of a prior conviction for an enumerated  
392 felony, whichever is later.

393           4. The defendant has not received a pardon for any felony  
394 or other qualified offense that is necessary for the operation  
395 of this paragraph.

396           5. A conviction of a felony or other qualified offense  
397 necessary to the operation of this paragraph has not been set  
398 aside in any postconviction proceeding.

399           Section 14. Paragraph (a) of subsection (13) and paragraph  
400 (a) of subsection (16) of section 775.15, Florida Statutes, are  
401 amended to read:

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402           775.15 Time limitations; general time limitations;  
403 exceptions.--

404           (13) (a) If the victim of a violation of s. 794.011, former  
405 s. 794.05, Florida Statutes 1995, s. 800.04, ~~or~~ s. 826.04, or s.  
406 847.0135(5) is under the age of 18, the applicable period of  
407 limitation, if any, does not begin to run until the victim has  
408 reached the age of 18 or the violation is reported to a law  
409 enforcement agency or other governmental agency, whichever  
410 occurs earlier. Such law enforcement agency or other  
411 governmental agency shall promptly report such allegation to the  
412 state attorney for the judicial circuit in which the alleged  
413 violation occurred. If the offense is a first or second degree  
414 felony violation of s. 794.011, and the offense is reported  
415 within 72 hours after its commission, the prosecution for such  
416 offense may be commenced at any time. This paragraph applies to  
417 any such offense except an offense the prosecution of which  
418 would have been barred by subsection (2) on or before December  
419 31, 1984.

420           (16) (a) In addition to the time periods prescribed in this  
421 section, a prosecution for any of the following offenses may be  
422 commenced at any time after the date on which the identity of  
423 the accused is established, or should have been established by  
424 the exercise of due diligence, through the analysis of  
425 deoxyribonucleic acid (DNA) evidence, if a sufficient portion of  
426 the evidence collected at the time of the original investigation  
427 and tested for DNA is preserved and available for testing by the  
428 accused:



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429 1. Aggravated battery or any felony battery offense under  
430 chapter 784.

431 2. Kidnapping under s. 787.01 or false imprisonment under  
432 s. 787.02.

433 3. An offense of sexual battery under chapter 794.

434 4. A lewd or lascivious offense under s. 800.04, ~~or~~ s.  
435 825.1025, or s. 847.0135(5).

436 5. A burglary offense under s. 810.02.

437 6. A robbery offense under s. 812.13, s. 812.131, or s.  
438 812.135.

439 7. Carjacking under s. 812.133.

440 8. Aggravated child abuse under s. 827.03.

441 Section 15. Paragraph (a) of subsection (4) and paragraph  
442 (b) of subsection (10) of section 775.21, Florida Statutes, are  
443 amended to read:

444 775.21 The Florida Sexual Predators Act.--

445 (4) SEXUAL PREDATOR CRITERIA.--

446 (a) For a current offense committed on or after October 1,  
447 1993, upon conviction, an offender shall be designated as a  
448 "sexual predator" under subsection (5), and subject to  
449 registration under subsection (6) and community and public  
450 notification under subsection (7) if:

451 1. The felony is:

452 a. A capital, life, or first-degree felony violation, or  
453 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
454 is a minor and the defendant is not the victim's parent or  
455 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a  
456 violation of a similar law of another jurisdiction; or

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457           b. Any felony violation, or any attempt thereof, of s.  
458 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a  
459 minor and the defendant is not the victim's parent or guardian;  
460 s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.  
461 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s.  
462 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a  
463 similar law of another jurisdiction, and the offender has  
464 previously been convicted of or found to have committed, or has  
465 pled nolo contendere or guilty to, regardless of adjudication,  
466 any violation of s. 787.01, s. 787.02, or s. 787.025(2)(c),  
467 where the victim is a minor and the defendant is not the  
468 victim's parent or guardian; s. 794.011, excluding s.  
469 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.  
470 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.  
471 847.0135(4); s. 847.0145; or s. 985.701(1); or a violation of a  
472 similar law of another jurisdiction;

473           2. The offender has not received a pardon for any felony  
474 or similar law of another jurisdiction that is necessary for the  
475 operation of this paragraph; and

476           3. A conviction of a felony or similar law of another  
477 jurisdiction necessary to the operation of this paragraph has  
478 not been set aside in any postconviction proceeding.

479           (10) PENALTIES.--

480           (b) A sexual predator who has been convicted of or found  
481 to have committed, or has pled nolo contendere or guilty to,  
482 regardless of adjudication, any violation, or attempted  
483 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
484 the victim is a minor and the defendant is not the victim's

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485 parent or guardian; s. 794.011, excluding s. 794.011(10); s.  
486 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s.  
487 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a  
488 violation of a similar law of another jurisdiction when the  
489 victim of the offense was a minor, and who works, whether for  
490 compensation or as a volunteer, at any business, school, day  
491 care center, park, playground, or other place where children  
492 regularly congregate, commits a felony of the third degree,  
493 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

494 Section 16. Subsections (7) and (8) of section 784.048,  
495 Florida Statutes, are amended to read:

496 784.048 Stalking; definitions; penalties.--

497 (7) Any person who, after having been sentenced for a  
498 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) and  
499 prohibited from contacting the victim of the offense under s.  
500 921.244, willfully, maliciously, and repeatedly follows,  
501 harasses, or cyberstalks the victim commits the offense of  
502 aggravated stalking, a felony of the third degree, punishable as  
503 provided in s. 775.082, s. 775.083, or s. 775.084.

504 (8) The punishment imposed under this section shall run  
505 consecutive to any former sentence imposed for a conviction for  
506 any offense under s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5).

507 Section 17. Paragraph (a) of subsection (3) of section  
508 787.01, Florida Statutes, is amended to read:

509 787.01 Kidnapping; kidnapping of child under age 13,  
510 aggravating circumstances.--

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511 (3) (a) A person who commits the offense of kidnapping upon  
512 a child under the age of 13 and who, in the course of committing  
513 the offense, commits one or more of the following:

514 1. Aggravated child abuse, as defined in s. 827.03;  
515 2. Sexual battery, as defined in chapter 794, against the  
516 child;

517 3. Lewd or lascivious battery, lewd or lascivious  
518 molestation, lewd or lascivious conduct, or lewd or lascivious  
519 exhibition, in violation of s. 800.04 or s. 847.0135(5);

520 4. A violation of s. 796.03 or s. 796.04, relating to  
521 prostitution, upon the child; or

522 5. Exploitation of the child or allowing the child to be  
523 exploited, in violation of s. 450.151,

524  
525 commits a life felony, punishable as provided in s. 775.082, s.  
526 775.083, or s. 775.084.

527 Section 18. Paragraph (a) of subsection (3) of section  
528 787.02, Florida Statutes, is amended to read:

529 787.02 False imprisonment; false imprisonment of child  
530 under age 13, aggravating circumstances.--

531 (3) (a) A person who commits the offense of false  
532 imprisonment upon a child under the age of 13 and who, in the  
533 course of committing the offense, commits any offense enumerated  
534 in subparagraphs 1.-5., commits a felony of the first degree,  
535 punishable by imprisonment for a term of years not exceeding  
536 life or as provided in s. 775.082, s. 775.083, or s. 775.084.

537 1. Aggravated child abuse, as defined in s. 827.03;

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538           2. Sexual battery, as defined in chapter 794, against the  
539 child;

540           3. Lewd or lascivious battery, lewd or lascivious  
541 molestation, lewd or lascivious conduct, or lewd or lascivious  
542 exhibition, in violation of s. 800.04 or s. 847.0135(5);

543           4. A violation of s. 796.03 or s. 796.04, relating to  
544 prostitution, upon the child; or

545           5. Exploitation of the child or allowing the child to be  
546 exploited, in violation of s. 450.151.

547           Section 19. Paragraph (c) of subsection (2) of section  
548 787.025, Florida Statutes, is amended to read:

549           787.025 Luring or enticing a child.--

550           (2)

551           (c) A person 18 years of age or older who, having been  
552 previously convicted of a violation of chapter 794, ~~or~~ s.  
553 800.04, or s. 847.0135(5), or a violation of a similar law of  
554 another jurisdiction, intentionally lures or entices, or  
555 attempts to lure or entice, a child under the age of 12 into a  
556 structure, dwelling, or conveyance for other than a lawful  
557 purpose commits a felony of the third degree, punishable as  
558 provided in s. 775.082, s. 775.083, or s. 775.084.

559           Section 20. Section 794.065, Florida Statutes, is amended  
560 to read:

561           794.065 Unlawful place of residence for persons convicted  
562 of certain sex offenses.--

563           (1) It is unlawful for any person who has been convicted  
564 of a violation of s. 794.011, s. 800.04, s. 827.071, s.  
565 847.0135(5), or s. 847.0145, regardless of whether adjudication

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566 has been withheld, in which the victim of the offense was less  
567 than 16 years of age, to reside within 1,000 feet of any school,  
568 day care center, park, or playground. A person who violates this  
569 section and whose conviction under s. 794.011, s. 800.04, s.  
570 827.071, s. 847.0135(5), or s. 847.0145 was classified as a  
571 felony of the first degree or higher commits a felony of the  
572 third degree, punishable as provided in s. 775.082 or s.  
573 775.083. A person who violates this section and whose conviction  
574 under s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s.  
575 847.0145 was classified as a felony of the second or third  
576 degree commits a misdemeanor of the first degree, punishable as  
577 provided in s. 775.082 or s. 775.083.

578 (2) This section applies to any person convicted of a  
579 violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5),  
580 or s. 847.0145 for offenses that occur on or after October 1,  
581 2004.

582 Section 21. Section 914.16, Florida Statutes, is amended  
583 to read:

584 914.16 Child abuse and sexual abuse of victims under age  
585 16 or persons with mental retardation; limits on  
586 interviews.--The chief judge of each judicial circuit, after  
587 consultation with the state attorney and the public defender for  
588 the judicial circuit, the appropriate chief law enforcement  
589 officer, and any other person deemed appropriate by the chief  
590 judge, shall provide by order reasonable limits on the number of  
591 interviews that a victim of a violation of s. 794.011, s.  
592 800.04, ~~or~~ s. 827.03, or s. 847.0135(5) who is under 16 years of  
593 age or a victim of a violation of s. 794.011, s. 800.02, s.



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594 800.03, or s. 825.102 who is a person with mental retardation as  
 595 defined in s. 393.063 must submit to for law enforcement or  
 596 discovery purposes. The order shall, to the extent possible,  
 597 protect the victim from the psychological damage of repeated  
 598 interrogations while preserving the rights of the public, the  
 599 victim, and the person charged with the violation.

600 Section 22. Paragraphs (d) and (e) of subsection (3) of  
 601 section 921.0022, Florida Statutes, are amended to read:

602 921.0022 Criminal Punishment Code; offense severity  
 603 ranking chart.--

604 (3) OFFENSE SEVERITY RANKING CHART

605 (d) LEVEL 4

606

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
499.0051(2)	3rd	Failure to authenticate pedigree papers.

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611	499.0051(6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
612	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
613	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
614	784.075	3rd	Battery on detention or commitment facility staff.
615	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
616	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
617	784.081(3)	3rd	Battery on specified official or employee.
618	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
619	784.083(3)	3rd	Battery on code inspector.



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620	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
621	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
622	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
623	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
624	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
625	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
626	790.115 (2) (c)	3rd	Possessing firearm on school property.
627	800.04 (7) <u>(c)</u> <del>(d)</del>	3rd	Lewd or lascivious exhibition; offender less than 18 years.

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628	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
629	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
630	810.06	3rd	Burglary; possession of tools.
631	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
632	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
633	812.014 (2) (c) 4. -10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
634	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
635	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
	817.568 (2) (a)	3rd	Fraudulent use of personal

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identification information.

636

817.625 (2) (a) 3rd Fraudulent use of scanning device or reencoder.

637

828.125 (1) 2nd Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

638

837.02 (1) 3rd Perjury in official proceedings.

639

837.021 (1) 3rd Make contradictory statements in official proceedings.

640

838.022 3rd Official misconduct.

641

839.13 (2) (a) 3rd Falsifying records of an individual in the care and custody of a state agency.

642

839.13 (2) (c) 3rd Falsifying records of the Department of Children and Family Services.

643

843.021 3rd Possession of a concealed handcuff key by a person in custody.

644

843.025 3rd Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

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645 843.15(1)(a) 3rd Failure to appear while on bail for  
felony (bond estreature or bond  
jumping).

646 847.0135(5)(c) 3rd Lewd or lascivious exhibition using  
computer; offender less than 18 years.

647 874.05(1) 3rd Encouraging or recruiting another to  
join a criminal street gang.

648 893.13(2)(a)1. 2nd Purchase of cocaine (or other s.  
893.03(1)(a), (b), or (d), (2)(a),  
(2)(b), or (2)(c)4. drugs).

649 914.14(2) 3rd Witnesses accepting bribes.

650 914.22(1) 3rd Force, threaten, etc., witness, victim,  
or informant.

651 914.23(2) 3rd Retaliation against a witness, victim,  
or informant, no bodily injury.

652 918.12 3rd Tampering with jurors.

653 934.215 3rd Use of two-way communications device to  
facilitate commission of a crime.

654



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655 (e) LEVEL 5

656

Florida	Felony	Description
Statute	Degree	

657

316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
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658

316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
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659

322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
-----------	-----	--

660

327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
-----------	-----	---

661

381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
-----------------	-----	--

662

440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
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663

440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
------------	-----	--

664

440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose
------------	-----	--

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of avoiding or reducing workers'  
compensation premiums.

665

624.401(4)(b)2. 2nd Transacting insurance without a  
certificate or authority; premium  
collected \$20,000 or more but less than  
\$100,000.

666

626.902(1)(c) 2nd Representing an unauthorized insurer;  
repeat offender.

667

790.01(2) 3rd Carrying a concealed firearm.

668

790.162 2nd Threat to throw or discharge  
destructive device.

669

790.163(1) 2nd False report of deadly explosive or  
weapon of mass destruction.

670

790.221(1) 2nd Possession of short-barreled shotgun or  
machine gun.

671

790.23 2nd Felons in possession of firearms,  
ammunition, or electronic weapons or  
devices.

672

800.04(6)(c) 3rd Lewd or lascivious conduct; offender  
less than 18 years.

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673	800.04 (7) <u>(b)</u> <del>(e)</del>	2nd	Lewd or lascivious exhibition; offender 18 years or older.
674	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
675	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
676	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
677	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
678	812.131 (2) (b)	3rd	Robbery by sudden snatching.
679	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
680	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
681	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000



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or more but less than \$100,000.

682

817.2341(1), (2) 3rd  
(a) & (3) (a)

Filing false financial statements,  
making false entries of material fact  
or false statements regarding property  
values relating to the solvency of an  
insuring entity.

683

817.568(2) (b) 2nd

Fraudulent use of personal  
identification information; value of  
benefit, services received, payment  
avoided, or amount of injury or fraud,  
\$5,000 or more or use of personal  
identification information of 10 or  
more individuals.

684

817.625(2) (b) 2nd

Second or subsequent fraudulent use of  
scanning device or reencoder.

685

825.1025(4) 3rd

Lewd or lascivious exhibition in the  
presence of an elderly person or  
disabled adult.

686

827.071(4) 2nd

Possess with intent to promote any  
photographic material, motion picture,  
etc., which includes sexual conduct by  
a child.

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688	827.071(5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
689	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
690	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
691	<u>847.0135(5)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious exhibition using computer; offender 18 years or older.</u>
692	847.0137(2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
693	847.0138(2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
694	874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.

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drugs).

695

893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

696

893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.

697

893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

698

893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b),



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(1) (d), or (2) (a), (2) (b), or (2) (c) 4. drugs) within 1,000 feet of public housing facility.

699

893.13(4) (b)            2nd            Deliver to minor cannabis (or other s. 893.03(1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (3), or (4) drugs).

700

701            Section 23. Subsections (1) and (3) of section 921.244,  
702 Florida Statutes, are amended to read:

703            921.244 Order of no contact; penalties.--

704            (1) At the time of sentencing an offender convicted of a  
705 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5), the  
706 court shall order that the offender be prohibited from having  
707 any contact with the victim, directly or indirectly, including  
708 through a third person, for the duration of the sentence  
709 imposed. The court may reconsider the order upon the request of  
710 the victim if the request is made at any time after the victim  
711 has attained 18 years of age. In considering the request, the  
712 court shall conduct an evidentiary hearing to determine whether  
713 a change of circumstances has occurred which warrants a change  
714 in the court order prohibiting contact and whether it is in the  
715 best interest of the victim that the court order be modified or  
716 rescinded.

717            (3) The punishment imposed under this section shall run  
718 consecutive to any former sentence imposed for a conviction for  
719 any offense under s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5).

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720 Section 24. Subsection (1) of section 938.10, Florida  
721 Statutes, is amended to read:

722 938.10 Additional court cost imposed in cases of certain  
723 crimes against minors.--

724 (1) If a person pleads guilty or nolo contendere to, or is  
725 found guilty of, regardless of adjudication, any offense against  
726 a minor in violation of s. 784.085, chapter 787, chapter 794, s.  
727 796.03, s. 800.04, chapter 827, s. 847.0135(5), s. 847.0145, or  
728 s. 985.701, the court shall impose a court cost of \$101 against  
729 the offender in addition to any other cost or penalty required  
730 by law.

731 Section 25. Subsections (1), (2), and (4) of section  
732 943.04354, Florida Statutes, are amended to read:

733 943.04354 Removal of the requirement to register as a  
734 sexual offender or sexual predator in special circumstances.--

735 (1) For purposes of this section, a person shall be  
736 considered for removal of the requirement to register as a  
737 sexual offender or sexual predator only if the person:

738 (a) Was or will be convicted or adjudicated delinquent of  
739 a violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) or  
740 the person committed a violation of s. 794.011, ~~or~~ s. 800.04, or  
741 s. 847.0135(5) for which adjudication of guilt was or will be  
742 withheld, and the person does not have any other conviction,  
743 adjudication of delinquency, or withhold of adjudication of  
744 guilt for a violation of s. 794.011, ~~or~~ s. 800.04, or s.  
745 847.0135(5);

746 (b) Is required to register as a sexual offender or sexual  
747 predator solely on the basis of this violation; and



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748 (c) Is not more than 4 years older than the victim of this  
749 violation who was 14 years of age or older but not more than 17  
750 years of age at the time the person committed this violation.

751 (2) If a person meets the criteria in subsection (1) and  
752 the violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) was  
753 committed on or after July 1, 2007, the person may move the  
754 court that will sentence or dispose of this violation to remove  
755 the requirement that the person register as a sexual offender or  
756 sexual predator. The person must allege in the motion that he or  
757 she meets the criteria in subsection (1) and that removal of the  
758 registration requirement will not conflict with federal law. The  
759 state attorney must be given notice of the motion at least 21  
760 days before the date of sentencing or disposition of this  
761 violation and may present evidence in opposition to the  
762 requested relief or may otherwise demonstrate why the motion  
763 should be denied. At sentencing or disposition of this  
764 violation, the court shall rule on this motion and, if the court  
765 determines the person meets the criteria in subsection (1) and  
766 the removal of the registration requirement will not conflict  
767 with federal law, it may grant the motion and order the removal  
768 of the registration requirement. If the court denies the motion,  
769 the person is not authorized under this section to petition for  
770 removal of the registration requirement.

771 (4) If a person provides to the Department of Law  
772 Enforcement a certified copy of the court's order removing the  
773 requirement that the person register as a sexual offender or  
774 sexual predator for the violation of s. 794.011, ~~or~~ s. 800.04,  
775 or s. 847.0135(5), the registration requirement will not apply

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776 to the person and the department shall remove all information  
777 about the person from the public registry of sexual offenders  
778 and sexual predators maintained by the department. However, the  
779 removal of this information from the public registry does not  
780 mean that the public is denied access to information about the  
781 person's criminal history or record that is otherwise available  
782 as a public record.

783 Section 26. Subsection (7) of section 947.1405, Florida  
784 Statutes, is amended to read:

785 947.1405 Conditional release program.--

786 (7) (a) Any inmate who is convicted of a crime committed on  
787 or after October 1, 1995, or who has been previously convicted  
788 of a crime committed on or after October 1, 1995, in violation  
789 of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.  
790 847.0145, and is subject to conditional release supervision,  
791 shall have, in addition to any other conditions imposed, the  
792 following special conditions imposed by the commission:

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

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

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804 within 1,000 feet of a public school bus stop. Beginning October  
805 1, 2004, the commission or the department may not approve a  
806 residence that is located within 1,000 feet of a school, day  
807 care center, park, playground, designated school bus stop, or  
808 other place where children regularly congregate for any releasee  
809 who is subject to this subparagraph. On October 1, 2004, the  
810 department shall notify each affected school district of the  
811 location of the residence of a releasee 30 days prior to release  
812 and thereafter, if the releasee relocates to a new residence,  
813 shall notify any affected school district of the residence of  
814 the releasee within 30 days after relocation. If, on October 1,  
815 2004, any public school bus stop is located within 1,000 feet of  
816 the existing residence of such releasee, the district school  
817 board shall relocate that school bus stop. Beginning October 1,  
818 2004, a district school board may not establish or relocate a  
819 public school bus stop within 1,000 feet of the residence of a  
820 releasee who is subject to this subparagraph. The failure of the  
821 district school board to comply with this subparagraph shall not  
822 result in a violation of conditional release supervision.

823 3. Active participation in and successful completion of a  
824 sex offender treatment program with qualified practitioners  
825 specifically trained to treat sex offenders, at the releasee's  
826 own expense. If a qualified practitioner is not available within  
827 a 50-mile radius of the releasee's residence, the offender shall  
828 participate in other appropriate therapy.

829 4. A prohibition on any contact with the victim, directly  
830 or indirectly, including through a third person, unless approved



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831 by the victim, the offender's therapist, and the sentencing  
832 court.

833 5. If the victim was under the age of 18, a prohibition  
834 against contact with children under the age of 18 without review  
835 and approval by the commission. The commission may approve  
836 supervised contact with a child under the age of 18 if the  
837 approval is based upon a recommendation for contact issued by a  
838 qualified practitioner who is basing the recommendation on a  
839 risk assessment. Further, the sex offender must be currently  
840 enrolled in or have successfully completed a sex offender  
841 therapy program. The commission may not grant supervised contact  
842 with a child if the contact is not recommended by a qualified  
843 practitioner and may deny supervised contact with a child at any  
844 time. When considering whether to approve supervised contact  
845 with a child, the commission must review and consider the  
846 following:

847 a. A risk assessment completed by a qualified  
848 practitioner. The qualified practitioner must prepare a written  
849 report that must include the findings of the assessment and  
850 address each of the following components:

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

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

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

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





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858 (V) The sex offender's offender treatment history,  
859 including a consultation from the sex offender's treating, or  
860 most recent treating, therapist;

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

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

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

866 (IX) The results of current psychological testing of the  
867 sex offender if determined necessary by the qualified  
868 practitioner;

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

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

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

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

879

880 The written report of the assessment must be given to the  
881 commission.

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



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885           c. A written consent signed by the child's parent or legal  
886 guardian, if the parent or legal guardian is not the sex  
887 offender, agreeing to the sex offender having supervised contact  
888 with the child after receiving full disclosure of the sex  
889 offender's present legal status, past criminal history, and the  
890 results of the risk assessment. The commission may not approve  
891 contact with the child if the parent or legal guardian refuses  
892 to give written consent for supervised contact;

893           d. A safety plan prepared by the qualified practitioner,  
894 who provides treatment to the offender, in collaboration with  
895 the sex offender, the child's parent or legal guardian, and the  
896 child, when age appropriate, which details the acceptable  
897 conditions of contact between the sex offender and the child.  
898 The safety plan must be reviewed and approved by the Department  
899 of Corrections before being submitted to the commission; and

900           e. Evidence that the child's parent or legal guardian, if  
901 the parent or legal guardian is not the sex offender,  
902 understands the need for and agrees to the safety plan and has  
903 agreed to provide, or to designate another adult to provide,  
904 constant supervision any time the child is in contact with the  
905 offender.

906  
907 The commission may not appoint a person to conduct a risk  
908 assessment and may not accept a risk assessment from a person  
909 who has not demonstrated to the commission that he or she has  
910 met the requirements of a qualified practitioner as defined in  
911 this section.

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

916           7. Unless otherwise indicated in the treatment plan  
917 provided by the sexual offender treatment program, a prohibition  
918 on viewing, owning, or possessing any obscene, pornographic, or  
919 sexually stimulating visual or auditory material, including  
920 telephone, electronic media, computer programs, or computer  
921 services that are relevant to the offender's deviant behavior  
922 pattern.

923           8. Effective for a releasee whose crime is committed on or  
924 after July 1, 2005, a prohibition on accessing the Internet or  
925 other computer services until the offender's sex offender  
926 treatment program, after a risk assessment is completed,  
927 approves and implements a safety plan for the offender's  
928 accessing or using the Internet or other computer services.

929           9. A requirement that the releasee must submit two  
930 specimens of blood to the Florida Department of Law Enforcement  
931 to be registered with the DNA database.

932           10. A requirement that the releasee make restitution to  
933 the victim, as determined by the sentencing court or the  
934 commission, for all necessary medical and related professional  
935 services relating to physical, psychiatric, and psychological  
936 care.

937           11. Submission to a warrantless search by the community  
938 control or probation officer of the probationer's or community  
939 controllee's person, residence, or vehicle.



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940 (b) For a releasee whose crime was committed on or after  
941 October 1, 1997, in violation of chapter 794, s. 800.04, s.  
942 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to  
943 conditional release supervision, in addition to any other  
944 provision of this subsection, the commission shall impose the  
945 following additional conditions of conditional release  
946 supervision:

947 1. As part of a treatment program, participation in a  
948 minimum of one annual polygraph examination to obtain  
949 information necessary for risk management and treatment and to  
950 reduce the sex offender's denial mechanisms. The polygraph  
951 examination must be conducted by a polygrapher trained  
952 specifically in the use of the polygraph for the monitoring of  
953 sex offenders, where available, and at the expense of the sex  
954 offender. The results of the polygraph examination shall not be  
955 used as evidence in a hearing to prove that a violation of  
956 supervision has occurred.

957 2. Maintenance of a driving log and a prohibition against  
958 driving a motor vehicle alone without the prior approval of the  
959 supervising officer.

960 3. A prohibition against obtaining or using a post office  
961 box without the prior approval of the supervising officer.

962 4. If there was sexual contact, a submission to, at the  
963 probationer's or community controllee's expense, an HIV test  
964 with the results to be released to the victim or the victim's  
965 parent or guardian.

966 5. Electronic monitoring of any form when ordered by the  
967 commission.

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968 Section 27. Subsection (2) of section 948.03, Florida  
969 Statutes, is amended to read:

970 948.03 Terms and conditions of probation.--

971 (2) The enumeration of specific kinds of terms and  
972 conditions shall not prevent the court from adding thereto such  
973 other or others as it considers proper. However, the sentencing  
974 court may only impose a condition of supervision allowing an  
975 offender convicted of s. 794.011, s. 800.04, s. 827.071, s.  
976 847.0135(5), or s. 847.0145, to reside in another state, if the  
977 order stipulates that it is contingent upon the approval of the  
978 receiving state interstate compact authority. The court may  
979 rescind or modify at any time the terms and conditions  
980 theretofore imposed by it upon the probationer. However, if the  
981 court withholds adjudication of guilt or imposes a period of  
982 incarceration as a condition of probation, the period shall not  
983 exceed 364 days, and incarceration shall be restricted to either  
984 a county facility, a probation and restitution center under the  
985 jurisdiction of the Department of Corrections, a probation  
986 program drug punishment phase I secure residential treatment  
987 institution, or a community residential facility owned or  
988 operated by any entity providing such services.

989 Section 28. Paragraph (c) of subsection (8) of section  
990 948.06, Florida Statutes, is amended to read:

991 948.06 Violation of probation or community control;  
992 revocation; modification; continuance; failure to pay  
993 restitution or cost of supervision.--

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995 (c) For purposes of this section, the term "qualifying  
996 offense" means any of the following:

997 1. Kidnapping or attempted kidnapping under s. 787.01,  
998 false imprisonment of a child under the age of 13 under s.  
999 787.02(3), or luring or enticing a child under s. 787.025(2)(b)  
1000 or (c).

1001 2. Murder or attempted murder under s. 782.04, attempted  
1002 felony murder under s. 782.051, or manslaughter under s. 782.07.

1003 3. Aggravated battery or attempted aggravated battery  
1004 under s. 784.045.

1005 4. Sexual battery or attempted sexual battery under s.  
1006 794.011(2), (3), (4), or (8)(b) or (c).

1007 5. Lewd or lascivious battery or attempted lewd or  
1008 lascivious battery under s. 800.04(4), lewd or lascivious  
1009 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious  
1010 conduct under s. 800.04(6)(b), ~~or~~ lewd or lascivious exhibition  
1011 under s. 800.04(7)(b)~~(e)~~, or lewd or lascivious exhibition on  
1012 computer under s. 847.0135(5)(b).

1013 6. Robbery or attempted robbery under s. 812.13,  
1014 carjacking or attempted carjacking under s. 812.133, or home  
1015 invasion robbery or attempted home invasion robbery under s.  
1016 812.135.

1017 7. Lewd or lascivious offense upon or in the presence of  
1018 an elderly or disabled person or attempted lewd or lascivious  
1019 offense upon or in the presence of an elderly or disabled person  
1020 under s. 825.1025.

1021 8. Sexual performance by a child or attempted sexual  
1022 performance by a child under s. 827.071.

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1023           9. Computer pornography under s. 847.0135(2) or (3),  
1024 transmission of child pornography under s. 847.0137, or selling  
1025 or buying of minors under s. 847.0145.

1026           10. Poisoning food or water under s. 859.01.

1027           11. Abuse of a dead human body under s. 872.06.

1028           12. Any burglary offense or attempted burglary offense  
1029 that is either a first degree felony or second degree felony  
1030 under s. 810.02(2) or (3).

1031           13. Arson or attempted arson under s. 806.01(1).

1032           14. Aggravated assault under s. 784.021.

1033           15. Aggravated stalking under s. 784.048(3), (4), (5), or  
1034 (7).

1035           16. Aircraft piracy under s. 860.16.

1036           17. Unlawful throwing, placing, or discharging of a  
1037 destructive device or bomb under s. 790.161(2), (3), or (4).

1038           18. Treason under s. 876.32.

1039           19. Any offense committed in another jurisdiction which  
1040 would be an offense listed in this paragraph if that offense had  
1041 been committed in this state.

1042           Section 29. Subsection (2) of section 948.101, Florida  
1043 Statutes, is amended to read:

1044           948.101 Terms and conditions of community control and  
1045 criminal quarantine community control.--

1046           (2) The enumeration of specific kinds of terms and  
1047 conditions does not prevent the court from adding thereto any  
1048 other terms or conditions that the court considers proper.  
1049 However, the sentencing court may only impose a condition of  
1050 supervision allowing an offender convicted of s. 794.011, s.

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1051 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in  
1052 another state if the order stipulates that it is contingent upon  
1053 the approval of the receiving state interstate compact  
1054 authority. The court may rescind or modify at any time the terms  
1055 and conditions theretofore imposed by it upon the offender in  
1056 community control. However, if the court withholds adjudication  
1057 of guilt or imposes a period of incarceration as a condition of  
1058 community control, the period may not exceed 364 days, and  
1059 incarceration shall be restricted to a county facility, a  
1060 probation and restitution center under the jurisdiction of the  
1061 Department of Corrections, a probation program drug punishment  
1062 phase I secure residential treatment institution, or a community  
1063 residential facility owned or operated by any entity providing  
1064 such services.

1065 Section 30. Subsections (1) and (2) of section 948.30,  
1066 Florida Statutes, are amended to read:

1067 948.30 Additional terms and conditions of probation or  
1068 community control for certain sex offenses.--Conditions imposed  
1069 pursuant to this section do not require oral pronouncement at  
1070 the time of sentencing and shall be considered standard  
1071 conditions of probation or community control for offenders  
1072 specified in this section.

1073 (1) Effective for probationers or community controllees  
1074 whose crime was committed on or after October 1, 1995, and who  
1075 are placed under supervision for violation of chapter 794, s.  
1076 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, the court  
1077 must impose the following conditions in addition to all other  
1078 standard and special conditions imposed:



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1079 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court  
1080 may designate another 8-hour period if the offender's employment  
1081 precludes the above specified time, and the alternative is  
1082 recommended by the Department of Corrections. If the court  
1083 determines that imposing a curfew would endanger the victim, the  
1084 court may consider alternative sanctions.

1085 (b) If the victim was under the age of 18, a prohibition  
1086 on living within 1,000 feet of a school, day care center, park,  
1087 playground, or other place where children regularly congregate,  
1088 as prescribed by the court. The 1,000-foot distance shall be  
1089 measured in a straight line from the offender's place of  
1090 residence to the nearest boundary line of the school, day care  
1091 center, park, playground, or other place where children  
1092 congregate. The distance may not be measured by a pedestrian  
1093 route or automobile route.

1094 (c) Active participation in and successful completion of a  
1095 sex offender treatment program with qualified practitioners  
1096 specifically trained to treat sex offenders, at the  
1097 probationer's or community controllee's own expense. If a  
1098 qualified practitioner is not available within a 50-mile radius  
1099 of the probationer's or community controllee's residence, the  
1100 offender shall participate in other appropriate therapy.

1101 (d) A prohibition on any contact with the victim, directly  
1102 or indirectly, including through a third person, unless approved  
1103 by the victim, the offender's therapist, and the sentencing  
1104 court.

1105 (e) If the victim was under the age of 18, a prohibition  
1106 on contact with a child under the age of 18 except as provided



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1107 in this paragraph. The court may approve supervised contact with  
1108 a child under the age of 18 if the approval is based upon a  
1109 recommendation for contact issued by a qualified practitioner  
1110 who is basing the recommendation on a risk assessment. Further,  
1111 the sex offender must be currently enrolled in or have  
1112 successfully completed a sex offender therapy program. The court  
1113 may not grant supervised contact with a child if the contact is  
1114 not recommended by a qualified practitioner and may deny  
1115 supervised contact with a child at any time. When considering  
1116 whether to approve supervised contact with a child, the court  
1117 must review and consider the following:

1118 1. A risk assessment completed by a qualified  
1119 practitioner. The qualified practitioner must prepare a written  
1120 report that must include the findings of the assessment and  
1121 address each of the following components:

1122 a. The sex offender's current legal status;

1123 b. The sex offender's history of adult charges with  
1124 apparent sexual motivation;

1125 c. The sex offender's history of adult charges without  
1126 apparent sexual motivation;

1127 d. The sex offender's history of juvenile charges,  
1128 whenever available;

1129 e. The sex offender's offender treatment history,  
1130 including consultations with the sex offender's treating, or  
1131 most recent treating, therapist;

1132 f. The sex offender's current mental status;

1133 g. The sex offender's mental health and substance abuse  
1134 treatment history as provided by the Department of Corrections;

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1135 h. The sex offender's personal, social, educational, and  
1136 work history;

1137 i. The results of current psychological testing of the sex  
1138 offender if determined necessary by the qualified practitioner;

1139 j. A description of the proposed contact, including the  
1140 location, frequency, duration, and supervisory arrangement;

1141 k. The child's preference and relative comfort level with  
1142 the proposed contact, when age appropriate;

1143 l. The parent's or legal guardian's preference regarding  
1144 the proposed contact; and

1145 m. The qualified practitioner's opinion, along with the  
1146 basis for that opinion, as to whether the proposed contact would  
1147 likely pose significant risk of emotional or physical harm to  
1148 the child.

1149  
1150 The written report of the assessment must be given to the court;

1151 2. A recommendation made as a part of the risk assessment  
1152 report as to whether supervised contact with the child should be  
1153 approved;

1154 3. A written consent signed by the child's parent or legal  
1155 guardian, if the parent or legal guardian is not the sex  
1156 offender, agreeing to the sex offender having supervised contact  
1157 with the child after receiving full disclosure of the sex  
1158 offender's present legal status, past criminal history, and the  
1159 results of the risk assessment. The court may not approve  
1160 contact with the child if the parent or legal guardian refuses  
1161 to give written consent for supervised contact;

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1162           4. A safety plan prepared by the qualified practitioner,  
1163 who provides treatment to the offender, in collaboration with  
1164 the sex offender, the child's parent or legal guardian, if the  
1165 parent or legal guardian is not the sex offender, and the child,  
1166 when age appropriate, which details the acceptable conditions of  
1167 contact between the sex offender and the child. The safety plan  
1168 must be reviewed and approved by the court; and

1169           5. Evidence that the child's parent or legal guardian  
1170 understands the need for and agrees to the safety plan and has  
1171 agreed to provide, or to designate another adult to provide,  
1172 constant supervision any time the child is in contact with the  
1173 offender.

1174  
1175 The court may not appoint a person to conduct a risk assessment  
1176 and may not accept a risk assessment from a person who has not  
1177 demonstrated to the court that he or she has met the  
1178 requirements of a qualified practitioner as defined in this  
1179 section.

1180           (f) If the victim was under age 18, a prohibition on  
1181 working for pay or as a volunteer at any place where children  
1182 regularly congregate, including, but not limited to, schools,  
1183 day care centers, parks, playgrounds, pet stores, libraries,  
1184 zoos, theme parks, and malls.

1185           (g) Unless otherwise indicated in the treatment plan  
1186 provided by the sexual offender treatment program, a prohibition  
1187 on viewing, accessing, owning, or possessing any obscene,  
1188 pornographic, or sexually stimulating visual or auditory  
1189 material, including telephone, electronic media, computer



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1190 programs, or computer services that are relevant to the  
1191 offender's deviant behavior pattern.

1192 (h) Effective for probationers and community controllees  
1193 whose crime is committed on or after July 1, 2005, a prohibition  
1194 on accessing the Internet or other computer services until the  
1195 offender's sex offender treatment program, after a risk  
1196 assessment is completed, approves and implements a safety plan  
1197 for the offender's accessing or using the Internet or other  
1198 computer services.

1199 (i) A requirement that the probationer or community  
1200 controllee must submit a specimen of blood or other approved  
1201 biological specimen to the Department of Law Enforcement to be  
1202 registered with the DNA data bank.

1203 (j) A requirement that the probationer or community  
1204 controllee make restitution to the victim, as ordered by the  
1205 court under s. 775.089, for all necessary medical and related  
1206 professional services relating to physical, psychiatric, and  
1207 psychological care.

1208 (k) Submission to a warrantless search by the community  
1209 control or probation officer of the probationer's or community  
1210 controllee's person, residence, or vehicle.

1211 (2) Effective for a probationer or community controllee  
1212 whose crime was committed on or after October 1, 1997, and who  
1213 is placed on community control or sex offender probation for a  
1214 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
1215 or s. 847.0145, in addition to any other provision of this  
1216 section, the court must impose the following conditions of  
1217 probation or community control:

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1218 (a) As part of a treatment program, participation at least  
1219 annually in polygraph examinations to obtain information  
1220 necessary for risk management and treatment and to reduce the  
1221 sex offender's denial mechanisms. A polygraph examination must  
1222 be conducted by a polygrapher trained specifically in the use of  
1223 the polygraph for the monitoring of sex offenders, where  
1224 available, and shall be paid for by the sex offender. The  
1225 results of the polygraph examination shall not be used as  
1226 evidence in court to prove that a violation of community  
1227 supervision has occurred.

1228 (b) Maintenance of a driving log and a prohibition against  
1229 driving a motor vehicle alone without the prior approval of the  
1230 supervising officer.

1231 (c) A prohibition against obtaining or using a post office  
1232 box without the prior approval of the supervising officer.

1233 (d) If there was sexual contact, a submission to, at the  
1234 probationer's or community controllee's expense, an HIV test  
1235 with the results to be released to the victim or the victim's  
1236 parent or guardian.

1237 (e) Electronic monitoring when deemed necessary by the  
1238 community control or probation officer and his or her  
1239 supervisor, and ordered by the court at the recommendation of  
1240 the Department of Corrections.

1241 Section 31. Subsection (1) of section 948.31, Florida  
1242 Statutes, is amended to read:

1243 948.31 Diagnosis, evaluation, and treatment of offenders  
1244 placed on probation or community control for certain sex  
1245 offenses or child exploitation.--The court shall require a



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1246 diagnosis and evaluation to determine the need of a probationer  
 1247 or offender in community control for treatment. If the court  
 1248 determines that a need therefor is established by such diagnosis  
 1249 and evaluation process, the court shall require outpatient  
 1250 counseling as a term or condition of probation or community  
 1251 control for any person who was found guilty of any of the  
 1252 following, or whose plea of guilty or nolo contendere to any of  
 1253 the following was accepted by the court:

1254 (1) Lewd or lascivious battery, lewd or lascivious  
 1255 molestation, lewd or lascivious conduct, or lewd or lascivious  
 1256 exhibition, as defined in s. 800.04 or s. 847.0135(5).  
 1257

1258 Such counseling shall be required to be obtained from a  
 1259 community mental health center, a recognized social service  
 1260 agency providing mental health services, or a private mental  
 1261 health professional or through other professional counseling.  
 1262 The plan for counseling for the individual shall be provided to  
 1263 the court for review.

1264 Section 32. This act shall take effect October 1, 2008.  
 1265

1266 ===== T I T L E A M E N D M E N T =====

1267 And the title is amended as follows:

1268 Delete everything before the enacting clause  
 1269 and insert:

1270 A bill to be entitled  
 1271 An act relating to exploited children; amending s. 92.56,  
 1272 F.S.; permitting use of a pseudonym to designate the  
 1273 victim of a crime involving a victim of production,

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1274 possession, or promotion of child pornography; revising  
1275 provisions concerning use of victim pseudonyms to specify  
1276 that they may be used in civil and criminal proceedings;  
1277 amending s. 800.04, F.S., relating to lewd or lascivious  
1278 exhibition, to conform to changes made by the act;  
1279 amending s. 847.0135, F.S.; to conform changes made by the  
1280 act; creating s. 847.002, F.S.; requiring law enforcement  
1281 officers to provide certain information to the National  
1282 Center for Missing and Exploited Children; requiring law  
1283 enforcement officers submitting a case for prosecution  
1284 that involves the creation, possession, or promotion of  
1285 child pornography to provide specified information to  
1286 prosecutors; requiring prosecutors to enter specified  
1287 information in a database maintained by the Attorney  
1288 General; creating s. 847.01357, F.S.; providing a civil  
1289 remedy for any person who, while under the age of 18, was  
1290 a victim of certain sexual abuse crimes wherein any  
1291 portion of that abuse was used in the production of child  
1292 pornography and who suffers personal or psychological  
1293 injury as a result of the production, promotion, or  
1294 possession of such images; specifying damages; providing  
1295 for limitation of actions; providing for confidential  
1296 pseudonyms to specified claimants; precluding a defense to  
1297 certain civil actions; permitting the Attorney General to  
1298 pursue cases on behalf of victims; providing for  
1299 disposition of damages and attorney's fees; amending s.  
1300 960.03, F.S.; expanding the definition of "crime" for  
1301 purposes of victim compensation to include violations of



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1302 ss. 827.071, 847.0135, 847.0137, and 847.038, related to  
1303 on-line sexual exploitation and child pornography;  
1304 defining the term "known victim of child pornography;"  
1305 expanding the definition of "victim" for purposes of  
1306 victim compensation to include a person less than 18 years  
1307 of age who was present at the scene of a crime, saw or  
1308 heard the crime, and suffered a psychiatric or  
1309 psychological injury because of the crime, but who was not  
1310 physically injured; creating s. 960.197, F.S.; authorizing  
1311 victim compensation awards to certain persons who suffer  
1312 psychiatric or psychological injury as a result of certain  
1313 crimes; amending ss. 90.404, 92.565, 394.912, 409.2355,  
1314 775.082, 775.084, 775.15, 775.21, 784.048, 787.01, 787.02,  
1315 787.025, 794.065, 914.16, 921.0022, 921.244, 938.10,  
1316 943.0435, 943.04354, 943.0585, 943.059, 944.606, 944.607,  
1317 947.1405, 948.013, 948.03, 948.06, 948.101, 948.30,  
1318 948.31, and 948.32, F.S.; conforming provisions to changes  
1319 made by the act; providing an effective date.

1320  
1321 WHEREAS, children who are sexually abused and then  
1322 exploited by the creation of permanent images of that sexual  
1323 abuse through child pornography are further harmed by the  
1324 continued possession, promotion, and distribution of those  
1325 images on the Internet, and

1326 WHEREAS, the possession of child pornography is not a  
1327 victimless crime, and over 1,200 victims of child pornography  
1328 are known by law enforcement, over 30 of whom were citizens of  
1329 this state at the time of their abuse, and

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1330 WHEREAS, victims of child pornography suffer repeated  
1331 unending abuse not only as children, but throughout their lives,  
1332 by those individuals who engage in the collection and  
1333 distribution of the image of the victim's sexual abuse and  
1334 exploitation, and

1335 WHEREAS, victims of child pornography currently do not  
1336 receive notice, consideration, compensation, or any other rights  
1337 assured to crime victims in this state pursuant to chapter 960,  
1338 F.S., and

1339 WHEREAS, victims of child pornography are entitled to be  
1340 heard and considered in any case involving the production,  
1341 possession, and promotion of an image of their sexual-abuse, and  
1342 these victims are due all the rights and protections afforded  
1343 every other crime victim in this state, NOW, THEREFORE,  
1344