

By Senator Dockery

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1 A bill to be entitled

2 An act relating to exploited children; amending s. 92.56,
3 F.S.; providing specified protections to victims in any
4 civil or criminal proceeding involving the production,
5 possession, or promotion of child pornography where the
6 victim depicted in the image or images is a party to the
7 case or a witness in the case; permitting use of a
8 pseudonym to designate the victim of a crime involving a
9 victim of production, possession, or promotion of child
10 pornography; revising provisions concerning use of victim
11 pseudonyms to specify that they may be used in civil and
12 criminal proceedings; amending s. 800.04, F.S., relating
13 to lewd or lascivious exhibition, to conform to changes
14 made by the act; creating s. 847.002, F.S.; requiring law
15 enforcement officers submitting a case for prosecution
16 that involves the creation, possession, or promotion of
17 child pornography to provide specified information to
18 prosecutors; requiring prosecutors to pursue prosecutions
19 regarding images of child pornography wherein a known
20 victim from within this state is depicted; requiring
21 prosecutors to enter specified information in a database
22 maintained by the Attorney General; creating s. 847.01355,
23 F.S., relating to lewd and lascivious exhibition on a
24 computer; providing an exception; providing penalties;
25 creating s. 847.01357, F.S.; providing a civil remedy for
26 any person who is a victim of a listed sexual abuse crime
27 wherein any portion of that abuse was used in the
28 production of child pornography and who suffers personal
29 or psychological injury as a result of the production,

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30 promotion, or possession of such images; specifying
31 damages to persons who are further exploited following a
32 recovery under this section; providing for limitation of
33 actions; providing for confidential pseudonyms to
34 specified claimants; precluding a defense to certain civil
35 actions; permitting the Attorney General to pursue cases
36 on behalf of victims; providing for disposition of damages
37 and attorney's fees; amending s. 960.03, F.S.; including
38 crimes that result in psychological injury or trauma as
39 compensable crimes for purposes of victims compensation;
40 expanding the definition of "victim" for purposes of
41 victim compensation to include any minor who has suffered
42 physical or psychological injury as a result of online
43 sexual solicitation and including any person who, while a
44 child, was depicted in an image of child pornography;
45 amending ss. 90.404, 92.565, 394.912, 409.2355, 775.082,
46 775.084, 775.15, 775.21, 784.048, 787.01, 787.02, 787.025,
47 794.065, 914.16, 921.0022, 921.244, 938.10, 943.0435,
48 943.04354, 943.0585, 943.059, 944.606, 944.607, 947.1405,
49 948.013, 948.03, 948.06, 948.101, 948.30, 948.31, and
50 948.32, F.S.; conforming provisions to changes made by the
51 act; providing an effective date.

52
53 WHEREAS, children who are sexually abused and then exploited
54 by the creation of permanent images of that sexual abuse through
55 child pornography are further harmed by the continued possession,
56 promotion, and distribution of those images on the Internet, and

57 WHEREAS, the possession of child pornography is not a
58 victimless crime, and over 1,200 victims of child pornography are

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59 | known by law enforcement, over 30 of whom were citizens of this
60 | state at the time of their abuse, and

61 | WHEREAS, victims of child pornography suffer repeated
62 | unending abuse not only as children, but throughout their lives,
63 | by those individuals who engage in the collection and
64 | distribution of the image of the victim's sexual abuse and
65 | exploitation, and

66 | WHEREAS, victims of child pornography currently do not
67 | receive notice, consideration, compensation, or any other rights
68 | assured to crime victims in this state pursuant to chapter 960,
69 | F.S., and

70 | WHEREAS, victims of child pornography are entitled to be
71 | heard and considered in any case involving the production,
72 | possession, and promotion of an image of their sexual-abuse, and
73 | these victims are due all the rights and protections afforded
74 | every other crime victim in this state, NOW, THEREFORE,

75 |
76 | Be It Enacted by the Legislature of the State of Florida:

77 |
78 | Section 1. Subsections (1) and (3) of section 92.56,
79 | Florida Statutes, are amended to read:

80 | 92.56 Judicial proceedings and court records involving
81 | sexual offenses.--

82 | (1) (a) All court records, including testimony from
83 | witnesses, that reveal the photograph, name, or address of the
84 | victim of an alleged offense described in chapter 794 or chapter
85 | 800, or act of child abuse, aggravated child abuse, or sexual
86 | performance by a child as described in chapter 827, are
87 | confidential and exempt from the provisions of s. 24(a), Art. I

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88 of the State Constitution and may not be made public if, upon a
89 showing to the trial court with jurisdiction over the alleged
90 offense, the state or the victim demonstrates that:

91 ~~1.(a)~~ The identity of the victim is not already known in
92 the community;

93 ~~2.(b)~~ The victim has not voluntarily called public
94 attention to the offense;

95 ~~3.(c)~~ The identity of the victim has not otherwise become a
96 reasonable subject of public concern;

97 ~~4.(d)~~ The disclosure of the victim's identity would be
98 offensive to a reasonable person; and

99 ~~5.(e)~~ The disclosure of the victim's identity would:

100 ~~a.1.~~ Endanger the victim because the assailant has not been
101 apprehended and is not otherwise known to the victim;

102 ~~b.2.~~ Endanger the victim because of the likelihood of
103 retaliation, harassment, or intimidation;

104 ~~c.3.~~ Cause severe emotional or mental harm to the victim;

105 ~~d.4.~~ Make the victim unwilling to testify as a witness; or

106 ~~e.5.~~ Be inappropriate for other good cause shown.

107 (b) In any civil or criminal proceeding involving the
108 production, possession, or promotion of child pornography where
109 the victim depicted in the image or images is a party to the case
110 or a witness in the case, the showing required in subparagraph
111 (a)1. is waived and all the protections under this section will
112 apply to protect the victim's privacy.

113 (3) The state may use a pseudonym instead of the victim's
114 name to designate the victim of a crime described in chapter 794
115 or chapter 800, or of child abuse, aggravated child abuse, or
116 sexual performance by a child as described in chapter 827, or any

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117 crime involving a victim of production, possession, or promotion
118 of child pornography as described in chapter 827 or chapter 847,
119 in all court records and records of court proceedings, both civil
120 and criminal.

121 Section 2. Subsection (7) of section 800.04, Florida
122 Statutes, is amended, and paragraph (b) of that subsection is
123 renumbered as s. 847.01355, Florida Statutes, and amended, to
124 read:

125 800.04 Lewd or lascivious offenses committed upon or in the
126 presence of persons less than 16 years of age.--

127 (7) LEWD OR LASCIVIOUS EXHIBITION.--

128 (a) A person who:

129 1. Intentionally masturbates;

130 2. Intentionally exposes the genitals in a lewd or
131 lascivious manner; or

132 3. Intentionally commits any other sexual act that does not
133 involve actual physical or sexual contact with the victim,
134 including, but not limited to, sadomasochistic abuse, sexual
135 bestiality, or the simulation of any act involving sexual
136 activity

137
138 in the presence of a victim who is less than 16 years of age,
139 commits lewd or lascivious exhibition.

140 (b)~~(e)~~ An offender 18 years of age or older who commits a
141 lewd or lascivious exhibition commits a felony of the second
142 degree, punishable as provided in s. 775.082, s. 775.083, or s.
143 775.084.

144 (c)~~(d)~~ An offender less than 18 years of age who commits a
145 lewd or lascivious exhibition commits a felony of the third

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146 degree, punishable as provided in s. 775.082, s. 775.083, or s.
147 775.084.

148 847.01355 Lewd or lascivious exhibition using a computer.--

149 (1) ~~(b)~~ A person who:

150 (a) ~~1.~~ Intentionally masturbates;

151 (b) ~~2.~~ Intentionally exposes the genitals in a lewd or
152 lascivious manner; or

153 (c) ~~3.~~ Intentionally commits any other sexual act that does
154 not involve actual physical or sexual contact with the victim,
155 including, but not limited to, sadomasochistic abuse, sexual
156 bestiality, or the simulation of any act involving sexual
157 activity

158
159 live over a computer online service, Internet service, or local
160 bulletin board service and who knows or should know or has reason
161 to believe that the transmission is viewed on a computer or
162 television monitor by a victim in this state who is less than 16
163 years of age, commits lewd or lascivious exhibition in violation
164 of this section. The fact that an undercover operative or law
165 enforcement officer was involved in the detection and
166 investigation of an offense under this section ~~paragraph~~ shall
167 not constitute a defense to a prosecution under this section
168 paragraph.

169 (2) An offender 18 years of age or older who commits a lewd
170 or lascivious exhibition using a computer commits a felony of the
171 second degree, punishable as provided in s. 775.082, s. 775.083,
172 or s. 775.084.

173 (3) An offender less than 18 years of age who commits a
174 lewd or lascivious exhibition using a computer commits a felony

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175 of the third degree, punishable as provided in s. 775.082, s.
176 775.083, or s. 775.084.

177 (4) A mother's breastfeeding of her baby does not under any
178 circumstance constitute a violation of this section.

179 Section 3. Section 847.002, Florida Statutes, is created to
180 read:

181 847.002 Child pornography prosecutions.--

182 (1) Any law enforcement officer in this state submitting a
183 case for prosecution that involves the creation, possession, or
184 promotion of child pornography shall provide to the designated
185 prosecutor, within 30 days of arrest of a person charged with the
186 creation, possession, or promotion such child pornography a
187 detailed list of all images involved in the case which contain
188 the depiction of a known victim of child pornography as defined
189 in s. 960.03. In addition, the arresting officer shall include
190 the law enforcement contact information provided for that victim
191 by the National Center for Missing and Exploited Children's Child
192 Victim Identification Program.

193 (2) The state attorneys and the statewide prosecutor must,
194 whenever possible, pursue prosecution of those involved in the
195 creation, possession, or promotion of images of child pornography
196 described in subsection (1) in which a known victim from within
197 this state is depicted. Further, the prosecuting agency must, in
198 every filed case involving child pornography, enter the following
199 information into the Victims in Child Pornography Tracking Repeat
200 Exploitation database maintained by the Office of the Attorney
201 General:

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

203 (b) The named defendant.

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204 (c) The circuit court division and county.

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

206 (e) Contact information for the prosecutor assigned.

207 (f) Verification that the prosecutor is or is not in
208 possession of a victim impact statement and will use the
209 statement in sentencing.

210 Section 4. Section 847.01357, Florida Statutes, is created
211 to read:

212 847.01357 Exploited children's civil remedy.--

213 (1) Any person who is a victim of a sexual abuse crime
214 listed in chapter 794, chapter 800, chapter 827, or chapter 847
215 wherein any portion of that abuse was used in the production of
216 images of child sexual abuse, otherwise known as child
217 pornography, and who suffers personal or psychological injury as
218 a result of the production, promotion, or possession of such
219 images, regardless of whether the sexual abuse occurred while
220 such person was a minor, may bring an action in any appropriate
221 state court and shall recover the actual damages such person
222 sustains and the cost of the suit, including reasonable
223 attorney's fees. Any victim as described in this subsection who
224 is awarded damages under this subsection and who is thereafter
225 exploited by the further production, possession, or promotion of
226 pornographic images of his or her own victimization shall be
227 deemed to have sustained damages of no less than \$150,000 in
228 value in any instance of the further production, possession, or
229 promotion of such an image.

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

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233 (a) The conclusion of a related criminal case;
234 (b) The notification to the victim by a member of law
235 enforcement of the creation, possession, or promotion of
236 pornographic images; or
237 (c) In the case of a person under the age of 18, within 3
238 years after the person reaches the age of 18.

239 (3) Any victim who has a bona fide claim under this section
240 shall, upon request, be provided a confidential pseudonym,
241 pursuant to s. 92.56(1)(b), which shall be issued and maintained
242 by the Department of Legal Affairs for use in all legal
243 pleadings. This identifier shall be fully recognized in all
244 courts in this state as a valid legal identity.

245 (4) It is not a defense to a civil cause of action under
246 this section that the respondent did not know the complainant or
247 commit the abuse depicted in any image of child pornography.

248 (5) To prevent the further exploitation of victims for
249 monetary gain by any other person, the Office of the Attorney
250 General shall be designated to pursue cases on behalf of any
251 victim under this section. All damages obtained in such cases
252 shall go to the victims and the Office of the Attorney General
253 may seek reasonable attorney's fees and costs for itself under
254 this section.

255 Section 5. Paragraph (a) of subsection (3) of section
256 960.03, Florida Statutes, is amended, subsections (10) through
257 (13) of that section are renumbered as subsections (11) through
258 (14), respectively, a new subsection (10) is added to that
259 section, and present subsection (13) of that section is amended,
260 to read:

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261 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
262 960.01-960.28, unless the context otherwise requires, the term:

263 (3) "Crime" means:

264 (a) A felony or misdemeanor offense committed by either an
265 adult or a juvenile which results in psychological injury or
266 trauma, physical injury, or death. The term also includes any
267 such criminal act which is committed within this state but which
268 falls exclusively within federal jurisdiction.

269 (10) "Known victim of child pornography" means any person
270 who, while under the age of 18, was depicted in any image of
271 child pornography and who has been identified through a report
272 generated by a member of law enforcement and provided to the
273 National Center for Missing and Exploited Children's Child Victim
274 Identification Program.

275 (14)~~(13)~~ "Victim" means:

276 (a) A person who suffers personal physical injury or death
277 as a direct result of a crime;

278 (b) A person less than 16 years of age who was present at
279 the scene of a crime, saw or heard the crime, and suffered a
280 psychiatric or psychological injury because of the crime, but who
281 was not physically injured; ~~or~~

282 (c) A person against whom a forcible felony was committed
283 and who suffers a psychiatric or psychological injury as a direct
284 result of that crime but who does not otherwise sustain a
285 personal physical injury or death;~~or~~

286 (d) A child less than 18 years of age who is a victim of
287 online sexual exploitation under any provision of s. 827.071, s.
288 847.0135, s. 847.0137, or s. 847.0138 and who suffers psychiatric
289 or psychological injury as a direct result of that crime, but who

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290 does not otherwise sustain a personal physical injury or death;
291 or

292 (e) Any resident of this state of any age who, while under
293 the age of 18, was depicted in any image or video, regardless of
294 length, of child pornography as defined in s. 847.001 and who has
295 been identified by law enforcement and the National Center for
296 Missing and Exploited Children as a known victim of child
297 pornography, which image or video is recovered by a law
298 enforcement investigation or is related to a criminal
299 prosecution.

300 Section 6. Paragraph (b) of subsection (2) of section
301 90.404, Florida Statutes, is amended to read:

302 90.404 Character evidence; when admissible.--

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

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

309 2. For the purposes of this paragraph, the term "child
310 molestation" means conduct proscribed by s. 794.011, ~~or~~ s.
311 800.04, or s. 847.01355 when committed against a person 16 years
312 of age or younger.

313 Section 7. Subsection (2) of section 92.565, Florida
314 Statutes, is amended to read:

315 92.565 Admissibility of confession in sexual abuse cases.--

316 (2) In any criminal action in which the defendant is
317 charged with a crime against a victim under s. 794.011; s.
318 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;

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319 s. 827.04, involving sexual abuse; ~~or~~ s. 827.071; or s.
320 847.01355, or any other crime involving sexual abuse of another,
321 or with any attempt, solicitation, or conspiracy to commit any of
322 these crimes, the defendant's memorialized confession or
323 admission is admissible during trial without the state having to
324 prove a corpus delicti of the crime if the court finds in a
325 hearing conducted outside the presence of the jury that the state
326 is unable to show the existence of each element of the crime, and
327 having so found, further finds that the defendant's confession or
328 admission is trustworthy. Factors which may be relevant in
329 determining whether the state is unable to show the existence of
330 each element of the crime include, but are not limited to, the
331 fact that, at the time the crime was committed, the victim was:

- 332 (a) Physically helpless, mentally incapacitated, or
- 333 mentally defective, as those terms are defined in s. 794.011;
- 334 (b) Physically incapacitated due to age, infirmity, or any
- 335 other cause; or
- 336 (c) Less than 12 years of age.

337 Section 8. Paragraph (e) of subsection (9) of section
338 394.912, Florida Statutes, is amended to read:

339 394.912 Definitions.--As used in this part, the term:

- 340 (9) "Sexually violent offense" means:
- 341 (e) Lewd, lascivious, or indecent assault or act upon or in
- 342 presence of the child in violation of s. 800.04 or s. 847.01355;

343 Section 9. Section 409.2355, Florida Statutes, is amended
344 to read:

345 409.2355 Programs for prosecution of males over age 21 who
346 commit certain offenses involving girls under age 16.--Subject to
347 specific appropriated funds, the Department of Children and

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348 Family Services is directed to establish a program by which local
349 communities, through the state attorney's office of each judicial
350 circuit, may apply for grants to fund innovative programs for the
351 prosecution of males over the age of 21 who victimize girls under
352 the age of 16 in violation of s. 794.011, s. 794.05, s. 800.04,
353 ~~or~~ s. 827.04(3), or s. 847.01355.

354 Section 10. Paragraph (a) of subsection (9) of section
355 775.082, Florida Statutes, is amended to read:

356 775.082 Penalties; applicability of sentencing structures;
357 mandatory minimum sentences for certain reoffenders previously
358 released from prison.--

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

- 361 a. Treason;
- 362 b. Murder;
- 363 c. Manslaughter;
- 364 d. Sexual battery;
- 365 e. Carjacking;
- 366 f. Home-invasion robbery;
- 367 g. Robbery;
- 368 h. Arson;
- 369 i. Kidnapping;
- 370 j. Aggravated assault with a deadly weapon;
- 371 k. Aggravated battery;
- 372 l. Aggravated stalking;
- 373 m. Aircraft piracy;
- 374 n. Unlawful throwing, placing, or discharging of a
375 destructive device or bomb;

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- 376 o. Any felony that involves the use or threat of physical
377 force or violence against an individual;
- 378 p. Armed burglary;
- 379 q. Burglary of a dwelling or burglary of an occupied
380 structure; or
- 381 r. Any felony violation of s. 790.07, s. 800.04, s. 827.03,
382 ~~or~~ s. 827.071, or s. 847.01355;
- 383
- 384 within 3 years after being released from a state correctional
385 facility operated by the Department of Corrections or a private
386 vendor or within 3 years after being released from a correctional
387 institution of another state, the District of Columbia, the
388 United States, any possession or territory of the United States,
389 or any foreign jurisdiction, following incarceration for an
390 offense for which the sentence is punishable by more than 1 year
391 in this state.
- 392 2. "Prison releasee reoffender" also means any defendant
393 who commits or attempts to commit any offense listed in sub-
394 subparagraphs (a)1.a.-r. while the defendant was serving a prison
395 sentence or on escape status from a state correctional facility
396 operated by the Department of Corrections or a private vendor or
397 while the defendant was on escape status from a correctional
398 institution of another state, the District of Columbia, the
399 United States, any possession or territory of the United States,
400 or any foreign jurisdiction, following incarceration for an
401 offense for which the sentence is punishable by more than 1 year
402 in this state.
- 403 3. If the state attorney determines that a defendant is a
404 prison releasee reoffender as defined in subparagraph 1., the

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405 state attorney may seek to have the court sentence the defendant
406 as a prison releasee reoffender. Upon proof from the state
407 attorney that establishes by a preponderance of the evidence that
408 a defendant is a prison releasee reoffender as defined in this
409 section, such defendant is not eligible for sentencing under the
410 sentencing guidelines and must be sentenced as follows:

411 a. For a felony punishable by life, by a term of
412 imprisonment for life;

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

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

417 d. For a felony of the third degree, by a term of
418 imprisonment of 5 years.

419 Section 11. Paragraph (d) of subsection (1) of section
420 775.084, Florida Statutes, is amended to read:

421 775.084 Violent career criminals; habitual felony offenders
422 and habitual violent felony offenders; three-time violent felony
423 offenders; definitions; procedure; enhanced penalties or
424 mandatory minimum prison terms.--

425 (1) As used in this act:

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

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

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

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- 433 b. Aggravated stalking, as described in s. 784.048(3) and
434 (4);
- 435 c. Aggravated child abuse, as described in s. 827.03(2);
- 436 d. Aggravated abuse of an elderly person or disabled adult,
437 as described in s. 825.102(2);
- 438 e. Lewd or lascivious battery, lewd or lascivious
439 molestation, lewd or lascivious conduct, or lewd or lascivious
440 exhibition, as described in s. 800.04 or s. 847.01355;
- 441 f. Escape, as described in s. 944.40; or
- 442 g. A felony violation of chapter 790 involving the use or
443 possession of a firearm.
- 444 2. The defendant has been incarcerated in a state prison or
445 a federal prison.
- 446 3. The primary felony offense for which the defendant is to
447 be sentenced is a felony enumerated in subparagraph 1. and was
448 committed on or after October 1, 1995, and:
- 449 a. While the defendant was serving a prison sentence or
450 other sentence, or court-ordered or lawfully imposed supervision
451 that is imposed as a result of a prior conviction for an
452 enumerated felony; or
- 453 b. Within 5 years after the conviction of the last prior
454 enumerated felony, or within 5 years after the defendant's
455 release from a prison sentence, probation, community control,
456 control release, conditional release, parole, or court-ordered or
457 lawfully imposed supervision or other sentence that is imposed as
458 a result of a prior conviction for an enumerated felony,
459 whichever is later.

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

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

466 Section 12. Paragraph (a) of subsection (13) and paragraph
467 (a) of subsection (16) of section 775.15, Florida Statutes, are
468 amended to read:

469 775.15 Time limitations; general time limitations;
470 exceptions.--

471 (13) (a) If the victim of a violation of s. 794.011, former
472 s. 794.05, Florida Statutes 1995, s. 800.04, ~~or~~ s. 826.04, or s.
473 847.01355 is under the age of 18, the applicable period of
474 limitation, if any, does not begin to run until the victim has
475 reached the age of 18 or the violation is reported to a law
476 enforcement agency or other governmental agency, whichever occurs
477 earlier. Such law enforcement agency or other governmental agency
478 shall promptly report such allegation to the state attorney for
479 the judicial circuit in which the alleged violation occurred. If
480 the offense is a first or second degree felony violation of s.
481 794.011, and the offense is reported within 72 hours after its
482 commission, the prosecution for such offense may be commenced at
483 any time. This paragraph applies to any such offense except an
484 offense the prosecution of which would have been barred by
485 subsection (2) on or before December 31, 1984.

486 (16) (a) In addition to the time periods prescribed in this
487 section, a prosecution for any of the following offenses may be
488 commenced at any time after the date on which the identity of the

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489 | accused is established, or should have been established by the
490 | exercise of due diligence, through the analysis of
491 | deoxyribonucleic acid (DNA) evidence, if a sufficient portion of
492 | the evidence collected at the time of the original investigation
493 | and tested for DNA is preserved and available for testing by the
494 | accused:

495 | 1. Aggravated battery or any felony battery offense under
496 | chapter 784.

497 | 2. Kidnapping under s. 787.01 or false imprisonment under
498 | s. 787.02.

499 | 3. An offense of sexual battery under chapter 794.

500 | 4. A lewd or lascivious offense under s. 800.04, ~~or~~ s.
501 | 825.1025, or s. 847.01355.

502 | 5. A burglary offense under s. 810.02.

503 | 6. A robbery offense under s. 812.13, s. 812.131, or s.
504 | 812.135.

505 | 7. Carjacking under s. 812.133.

506 | 8. Aggravated child abuse under s. 827.03.

507 | Section 13. Paragraph (a) of subsection (4) and paragraph
508 | (b) of subsection (10) of section 775.21, Florida Statutes, are
509 | amended to read:

510 | 775.21 The Florida Sexual Predators Act.--

511 | (4) SEXUAL PREDATOR CRITERIA.--

512 | (a) For a current offense committed on or after October 1,
513 | 1993, upon conviction, an offender shall be designated as a
514 | "sexual predator" under subsection (5), and subject to
515 | registration under subsection (6) and community and public
516 | notification under subsection (7) if:

517 | 1. The felony is:

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518 a. A capital, life, or first-degree felony violation, or
519 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
520 is a minor and the defendant is not the victim's parent or
521 guardian, or s. 794.011, s. 800.04, s. 847.01355, or s. 847.0145,
522 or a violation of a similar law of another jurisdiction; or

523 b. Any felony violation, or any attempt thereof, of s.
524 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
525 minor and the defendant is not the victim's parent or guardian;
526 s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
527 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.01355;
528 s. 847.0145; or s. 985.701(1); or a violation of a similar law of
529 another jurisdiction, and the offender has previously been
530 convicted of or found to have committed, or has pled nolo
531 contendere or guilty to, regardless of adjudication, any
532 violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the
533 victim is a minor and the defendant is not the victim's parent or
534 guardian; s. 794.011, excluding s. 794.011(10); s. 794.05; s.
535 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
536 847.0133; s. 847.0135, excluding s. 847.0135(4); s. 847.01355; s.
537 847.0145; or s. 985.701(1); or a violation of a similar law of
538 another jurisdiction;

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

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

545 (10) PENALTIES.--

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546 (b) A sexual predator who has been convicted of or found to
547 have committed, or has pled nolo contendere or guilty to,
548 regardless of adjudication, any violation, or attempted
549 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
550 the victim is a minor and the defendant is not the victim's
551 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
552 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s.
553 847.0133; s. 847.01355; s. 847.0145; or s. 985.701(1); or a
554 violation of a similar law of another jurisdiction when the
555 victim of the offense was a minor, and who works, whether for
556 compensation or as a volunteer, at any business, school, day care
557 center, park, playground, or other place where children regularly
558 congregate, commits a felony of the third degree, punishable as
559 provided in s. 775.082, s. 775.083, or s. 775.084.

560 Section 14. Subsections (7) and (8) of section 784.048,
561 Florida Statutes, are amended to read:

562 784.048 Stalking; definitions; penalties.--

563 (7) Any person who, after having been sentenced for a
564 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.01355 and
565 prohibited from contacting the victim of the offense under s.
566 921.244, willfully, maliciously, and repeatedly follows,
567 harasses, or cyberstalks the victim commits the offense of
568 aggravated stalking, a felony of the third degree, punishable as
569 provided in s. 775.082, s. 775.083, or s. 775.084.

570 (8) The punishment imposed under this section shall run
571 consecutive to any former sentence imposed for a conviction for
572 any offense under s. 794.011, ~~or~~ s. 800.04, or s. 847.01355.

573 Section 15. Paragraph (a) of subsection (3) of section
574 787.01, Florida Statutes, is amended to read:

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575 787.01 Kidnapping; kidnapping of child under age 13,
576 aggravating circumstances.--

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

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

581 2. Sexual battery, as defined in chapter 794, against the
582 child;

583 3. Lewd or lascivious battery, lewd or lascivious
584 molestation, lewd or lascivious conduct, or lewd or lascivious
585 exhibition, in violation of s. 800.04 or s. 847.01355;

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

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

590
591 commits a life felony, punishable as provided in s. 775.082, s.
592 775.083, or s. 775.084.

593 Section 16. Paragraph (a) of subsection (3) of section
594 787.02, Florida Statutes, is amended to read:

595 787.02 False imprisonment; false imprisonment of child
596 under age 13, aggravating circumstances.--

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

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

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604 2. Sexual battery, as defined in chapter 794, against the
605 child;

606 3. Lewd or lascivious battery, lewd or lascivious
607 molestation, lewd or lascivious conduct, or lewd or lascivious
608 exhibition, in violation of s. 800.04 or s. 847.01355;

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

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

613 Section 17. Paragraph (c) of subsection (2) of section
614 787.025, Florida Statutes, is amended to read:

615 787.025 Luring or enticing a child.--

616 (2)

617 (c) A person 18 years of age or older who, having been
618 previously convicted of a violation of chapter 794, ~~or~~ s. 800.04,
619 or s. 847.01355, or a violation of a similar law of another
620 jurisdiction, intentionally lures or entices, or attempts to lure
621 or entice, a child under the age of 12 into a structure,
622 dwelling, or conveyance for other than a lawful purpose commits a
623 felony of the third degree, punishable as provided in s. 775.082,
624 s. 775.083, or s. 775.084.

625 Section 18. Section 794.065, Florida Statutes, is amended
626 to read:

627 794.065 Unlawful place of residence for persons convicted
628 of certain sex offenses.--

629 (1) It is unlawful for any person who has been convicted of
630 a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.01355,
631 or s. 847.0145, regardless of whether adjudication has been
632 withheld, in which the victim of the offense was less than 16

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633 | years of age, to reside within 1,000 feet of any school, day care
634 | center, park, or playground. A person who violates this section
635 | and whose conviction under s. 794.011, s. 800.04, s. 827.071, s.
636 | 847.01355, or s. 847.0145 was classified as a felony of the first
637 | degree or higher commits a felony of the third degree, punishable
638 | as provided in s. 775.082 or s. 775.083. A person who violates
639 | this section and whose conviction under s. 794.011, s. 800.04, s.
640 | 827.071, s. 847.01355, or s. 847.0145 was classified as a felony
641 | of the second or third degree commits a misdemeanor of the first
642 | degree, punishable as provided in s. 775.082 or s. 775.083.

643 | (2) This section applies to any person convicted of a
644 | violation of s. 794.011, s. 800.04, s. 827.071, s. 847.01355, or
645 | s. 847.0145 for offenses that occur on or after October 1, 2004.

646 | Section 19. Section 914.16, Florida Statutes, is amended to
647 | read:

648 | 914.16 Child abuse and sexual abuse of victims under age 16
649 | or persons with mental retardation; limits on interviews.--The
650 | chief judge of each judicial circuit, after consultation with the
651 | state attorney and the public defender for the judicial circuit,
652 | the appropriate chief law enforcement officer, and any other
653 | person deemed appropriate by the chief judge, shall provide by
654 | order reasonable limits on the number of interviews that a victim
655 | of a violation of s. 794.011, s. 800.04, ~~or~~ s. 827.03, or s.
656 | 847.01355 who is under 16 years of age or a victim of a violation
657 | of s. 794.011, s. 800.02, s. 800.03, or s. 825.102 who is a
658 | person with mental retardation as defined in s. 393.063 must
659 | submit to for law enforcement or discovery purposes. The order
660 | shall, to the extent possible, protect the victim from the
661 | psychological damage of repeated interrogations while preserving

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662 the rights of the public, the victim, and the person charged with
 663 the violation.

664 Section 20. Paragraphs (d) and (e) of subsection (3) of
 665 section 921.0022, Florida Statutes, are amended to read:

666 921.0022 Criminal Punishment Code; offense severity ranking
 667 chart.--

668 (3) OFFENSE SEVERITY RANKING CHART

669 (d) LEVEL 4

670

Florida	Felony	Description
Statute	Degree	

671

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.
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672

499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
-------------	-----	---

673

499.0051(2)	3rd	Failure to authenticate pedigree papers.
-------------	-----	--

674

499.0051(6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
-------------	-----	---

675

784.07(2) (b)	3rd	Battery of law enforcement officer,
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firefighter, intake officer, etc.

676

784.074 (1) (c) 3rd Battery of sexually violent predators facility staff.

677

784.075 3rd Battery on detention or commitment facility staff.

678

784.078 3rd Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.

679

784.08 (2) (c) 3rd Battery on a person 65 years of age or older.

680

784.081 (3) 3rd Battery on specified official or employee.

681

784.082 (3) 3rd Battery by detained person on visitor or other detainee.

682

784.083 (3) 3rd Battery on code inspector.

683

784.085 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

684

787.03 (1) 3rd Interference with custody; wrongly takes minor from appointed guardian.

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685	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
686	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
687	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
688	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
689	790.115 (2) (c)	3rd	Possessing firearm on school property.
690	800.04 (7) <u>(c)</u> (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
691	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
692	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

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693	810.06	3rd	Burglary; possession of tools.
694	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
695	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
696	812.014 (2) (c) 4. -10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
697	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
698	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
699	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
700	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
701	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

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702	837.02 (1)	3rd	Perjury in official proceedings.
703	837.021 (1)	3rd	Make contradictory statements in official proceedings.
704	838.022	3rd	Official misconduct.
705	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
706	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
707	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
708	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
709	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
710	<u>847.01355 (3)</u>	<u>3rd</u>	<u>Lewd or lascivious exhibition using computer; offender less than 18 years.</u>
711	874.05 (1)	3rd	Encouraging or recruiting another to

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join a criminal street gang.

712

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).

713

914.14(2) 3rd Witnesses accepting bribes.

714

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

715

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

716

918.12 3rd Tampering with jurors.

717

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

718

719 (e) LEVEL 5

720

Florida	Felony	Description
Statute	Degree	

721

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

722

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

723

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724	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
725	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
726	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
727	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
728	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
729	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
730	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
731	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.

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732	790.01 (2)	3rd	Carrying a concealed firearm.
733	790.162	2nd	Threat to throw or discharge destructive device.
734	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
735	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
736	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
737	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
738	800.04 (7) <u>(b)</u> (e)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
739	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
740	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

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741	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
742	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
743	812.131 (2) (b)	3rd	Robbery by sudden snatching.
744	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
745	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
746	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
747	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
	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

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identification information of 10 or more individuals.

748

817.625 (2) (b) 2nd Second or subsequent fraudulent use of scanning device or reencoder.

749

825.1025 (4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

750

827.071 (4) 2nd Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

751

827.071 (5) 3rd Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.

752

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.

753

843.01 3rd Resist officer with violence to person; resist arrest with violence.

754

847.01355 (2) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

755

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756	847.0137(2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
757	847.0138(2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
758	874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
759	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. drugs).
760	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.
	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.

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drugs) within 1,000 feet of university.

761

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.

762

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

763

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).

764

765 Section 21. Subsections (1) and (3) of section 921.244,
766 Florida Statutes, are amended to read:

767 921.244 Order of no contact; penalties.--

768 (1) At the time of sentencing an offender convicted of a
769 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.01355, the court
770 shall order that the offender be prohibited from having any
771 contact with the victim, directly or indirectly, including

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772 through a third person, for the duration of the sentence imposed.
773 The court may reconsider the order upon the request of the victim
774 if the request is made at any time after the victim has attained
775 18 years of age. In considering the request, the court shall
776 conduct an evidentiary hearing to determine whether a change of
777 circumstances has occurred which warrants a change in the court
778 order prohibiting contact and whether it is in the best interest
779 of the victim that the court order be modified or rescinded.

780 (3) The punishment imposed under this section shall run
781 consecutive to any former sentence imposed for a conviction for
782 any offense under s. 794.011, ~~or~~ s. 800.04, or s. 847.01355.

783 Section 22. Subsection (1) of section 938.10, Florida
784 Statutes, is amended to read:

785 938.10 Additional court cost imposed in cases of certain
786 crimes against minors.--

787 (1) If a person pleads guilty or nolo contendere to, or is
788 found guilty of, regardless of adjudication, any offense against
789 a minor in violation of s. 784.085, chapter 787, chapter 794, s.
790 796.03, s. 800.04, chapter 827, s. 847.01355, s. 847.0145, or s.
791 985.701, the court shall impose a court cost of \$101 against the
792 offender in addition to any other cost or penalty required by
793 law.

794 Section 23. Paragraph (a) of subsection (1) of section
795 943.0435, Florida Statutes, is amended to read:

796 943.0435 Sexual offenders required to register with the
797 department; penalty.--

798 (1) As used in this section, the term:

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799 (a)1. "Sexual offender" means a person who meets the
800 criteria in sub-subparagraph a., sub-subparagraph b., sub-
801 subparagraph c., or sub-subparagraph d., as follows:

802 a.(I) Has been convicted of committing, or attempting,
803 soliciting, or conspiring to commit, any of the criminal offenses
804 proscribed in the following statutes in this state or similar
805 offenses in another jurisdiction: s. 787.01, s. 787.02, or s.
806 787.025(2)(c), where the victim is a minor and the defendant is
807 not the victim's parent or guardian; s. 794.011, excluding s.
808 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
809 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
810 847.0135(4); s. 847.01355; s. 847.0137; s. 847.0138; s. 847.0145;
811 or s. 985.701(1); or any similar offense committed in this state
812 which has been redesignated from a former statute number to one
813 of those listed in this sub-sub-subparagraph; and

814 (II) Has been released on or after October 1, 1997, from
815 the sanction imposed for any conviction of an offense described
816 in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph
817 (I), a sanction imposed in this state or in any other
818 jurisdiction includes, but is not limited to, a fine, probation,
819 community control, parole, conditional release, control release,
820 or incarceration in a state prison, federal prison, private
821 correctional facility, or local detention facility;

822 b. Establishes or maintains a residence in this state and
823 who has not been designated as a sexual predator by a court of
824 this state but who has been designated as a sexual predator, as a
825 sexually violent predator, or by another sexual offender
826 designation in another state or jurisdiction and was, as a result
827 of such designation, subjected to registration or community or

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828 public notification, or both, or would be if the person were a
829 resident of that state or jurisdiction, without regard to whether
830 the person otherwise meets the criteria for registration as a
831 sexual offender;

832 c. Establishes or maintains a residence in this state who
833 is in the custody or control of, or under the supervision of, any
834 other state or jurisdiction as a result of a conviction for
835 committing, or attempting, soliciting, or conspiring to commit,
836 any of the criminal offenses proscribed in the following statutes
837 or similar offense in another jurisdiction: s. 787.01, s. 787.02,
838 or s. 787.025(2)(c), where the victim is a minor and the
839 defendant is not the victim's parent or guardian; s. 794.011,
840 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.
841 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
842 excluding s. 847.0135(4); s. 847.01355; s. 847.0137; s. 847.0138;
843 s. 847.0145; or s. 985.701(1); or any similar offense committed
844 in this state which has been redesignated from a former statute
845 number to one of those listed in this sub-subparagraph; or

846 d. On or after July 1, 2007, has been adjudicated
847 delinquent for committing, or attempting, soliciting, or
848 conspiring to commit, any of the criminal offenses proscribed in
849 the following statutes in this state or similar offenses in
850 another jurisdiction when the juvenile was 14 years of age or
851 older at the time of the offense:

852 (I) Section 794.011, excluding s. 794.011(10);

853 (II) Section 800.04(4)(b) where the victim is under 12
854 years of age or where the court finds sexual activity by the use
855 of force or coercion;

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856 (III) Section 800.04(5)(c)1. where the court finds
857 molestation involving unclothed genitals; or

858 (IV) Section 800.04(5)(d) where the court finds the use of
859 force or coercion and unclothed genitals.

860 2. For all qualifying offenses listed in sub-subparagraph
861 (1)(a)1.d., the court shall make a written finding of the age of
862 the offender at the time of the offense.

863

864 For each violation of a qualifying offense listed in this
865 subsection, the court shall make a written finding of the age of
866 the victim at the time of the offense. For a violation of s.
867 800.04(4), the court shall additionally make a written finding
868 indicating that the offense did or did not involve sexual
869 activity and indicating that the offense did or did not involve
870 force or coercion. For a violation of s. 800.04(5), the court
871 shall additionally make a written finding that the offense did or
872 did not involve unclothed genitals or genital area and that the
873 offense did or did not involve the use of force or coercion.

874 Section 24. Subsections (1), (2), and (4) of section
875 943.04354, Florida Statutes, are amended to read:

876 943.04354 Removal of the requirement to register as a
877 sexual offender or sexual predator in special circumstances.--

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

881 (a) Was or will be convicted or adjudicated delinquent of a
882 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.01355 or the
883 person committed a violation of s. 794.011, ~~or~~ s. 800.04, or s.
884 847.01355 for which adjudication of guilt was or will be

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885 withheld, and the person does not have any other conviction,
886 adjudication of delinquency, or withhold of adjudication of guilt
887 for a violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.01355;

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

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

893 (2) If a person meets the criteria in subsection (1) and
894 the violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.01355 was
895 committed on or after July 1, 2007, the person may move the court
896 that will sentence or dispose of this violation to remove the
897 requirement that the person register as a sexual offender or
898 sexual predator. The person must allege in the motion that he or
899 she meets the criteria in subsection (1) and that removal of the
900 registration requirement will not conflict with federal law. The
901 state attorney must be given notice of the motion at least 21
902 days before the date of sentencing or disposition of this
903 violation and may present evidence in opposition to the requested
904 relief or may otherwise demonstrate why the motion should be
905 denied. At sentencing or disposition of this violation, the court
906 shall rule on this motion and, if the court determines the person
907 meets the criteria in subsection (1) and the removal of the
908 registration requirement will not conflict with federal law, it
909 may grant the motion and order the removal of the registration
910 requirement. If the court denies the motion, the person is not
911 authorized under this section to petition for removal of the
912 registration requirement.

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913 (4) If a person provides to the Department of Law
914 Enforcement a certified copy of the court's order removing the
915 requirement that the person register as a sexual offender or
916 sexual predator for the violation of s. 794.011, ~~or~~ s. 800.04, or
917 s. 847.01355, the registration requirement will not apply to the
918 person and the department shall remove all information about the
919 person from the public registry of sexual offenders and sexual
920 predators maintained by the department. However, the removal of
921 this information from the public registry does not mean that the
922 public is denied access to information about the person's
923 criminal history or record that is otherwise available as a
924 public record.

925 Section 25. Section 943.0585, Florida Statutes, is amended
926 to read:

927 943.0585 Court-ordered expunction of criminal history
928 records.--The courts of this state have jurisdiction over their
929 own procedures, including the maintenance, expunction, and
930 correction of judicial records containing criminal history
931 information to the extent such procedures are not inconsistent
932 with the conditions, responsibilities, and duties established by
933 this section. Any court of competent jurisdiction may order a
934 criminal justice agency to expunge the criminal history record of
935 a minor or an adult who complies with the requirements of this
936 section. The court shall not order a criminal justice agency to
937 expunge a criminal history record until the person seeking to
938 expunge a criminal history record has applied for and received a
939 certificate of eligibility for expunction pursuant to subsection
940 (2). A criminal history record that relates to a violation of s.
941 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.

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942 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
943 839, s. 847.0133, s. 847.0135, s. 847.01355, s. 847.0145, s.
944 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
945 any violation specified as a predicate offense for registration
946 as a sexual predator pursuant to s. 775.21, without regard to
947 whether that offense alone is sufficient to require such
948 registration, or for registration as a sexual offender pursuant
949 to s. 943.0435, may not be expunged, without regard to whether
950 adjudication was withheld, if the defendant was found guilty of
951 or pled guilty or nolo contendere to the offense, or if the
952 defendant, as a minor, was found to have committed, or pled
953 guilty or nolo contendere to committing, the offense as a
954 delinquent act. The court may only order expunction of a criminal
955 history record pertaining to one arrest or one incident of
956 alleged criminal activity, except as provided in this section.
957 The court may, at its sole discretion, order the expunction of a
958 criminal history record pertaining to more than one arrest if the
959 additional arrests directly relate to the original arrest. If the
960 court intends to order the expunction of records pertaining to
961 such additional arrests, such intent must be specified in the
962 order. A criminal justice agency may not expunge any record
963 pertaining to such additional arrests if the order to expunge
964 does not articulate the intention of the court to expunge a
965 record pertaining to more than one arrest. This section does not
966 prevent the court from ordering the expunction of only a portion
967 of a criminal history record pertaining to one arrest or one
968 incident of alleged criminal activity. Notwithstanding any law to
969 the contrary, a criminal justice agency may comply with laws,
970 court orders, and official requests of other jurisdictions

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971 relating to expunction, correction, or confidential handling of
972 criminal history records or information derived therefrom. This
973 section does not confer any right to the expunction of any
974 criminal history record, and any request for expunction of a
975 criminal history record may be denied at the sole discretion of
976 the court.

977 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.--Each
978 petition to a court to expunge a criminal history record is
979 complete only when accompanied by:

980 (a) A valid certificate of eligibility for expunction
981 issued by the department pursuant to subsection (2).

982 (b) The petitioner's sworn statement attesting that the
983 petitioner:

984 1. Has never, prior to the date on which the petition is
985 filed, been adjudicated guilty of a criminal offense or
986 comparable ordinance violation, or been adjudicated delinquent
987 for committing any felony or a misdemeanor specified in s.
988 943.051(3)(b).

989 2. Has not been adjudicated guilty of, or adjudicated
990 delinquent for committing, any of the acts stemming from the
991 arrest or alleged criminal activity to which the petition
992 pertains.

993 3. Has never secured a prior sealing or expunction of a
994 criminal history record under this section, former s. 893.14,
995 former s. 901.33, or former s. 943.058, or from any jurisdiction
996 outside the state, unless expunction is sought of a criminal
997 history record previously sealed for 10 years pursuant to
998 paragraph (2)(h) and the record is otherwise eligible for
999 expunction.

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1000 4. Is eligible for such an expunction to the best of his or
1001 her knowledge or belief and does not have any other petition to
1002 expunge or any petition to seal pending before any court.

1003
1004 Any person who knowingly provides false information on such sworn
1005 statement to the court commits a felony of the third degree,
1006 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1007 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to
1008 petitioning the court to expunge a criminal history record, a
1009 person seeking to expunge a criminal history record shall apply
1010 to the department for a certificate of eligibility for
1011 expunction. The department shall, by rule adopted pursuant to
1012 chapter 120, establish procedures pertaining to the application
1013 for and issuance of certificates of eligibility for expunction. A
1014 certificate of eligibility for expunction is valid for 12 months
1015 after the date stamped on the certificate when issued by the
1016 department. After that time, the petitioner must reapply to the
1017 department for a new certificate of eligibility. Eligibility for
1018 a renewed certification of eligibility must be based on the
1019 status of the applicant and the law in effect at the time of the
1020 renewal application. The department shall issue a certificate of
1021 eligibility for expunction to a person who is the subject of a
1022 criminal history record if that person:

1023 (a) Has obtained, and submitted to the department, a
1024 written, certified statement from the appropriate state attorney
1025 or statewide prosecutor which indicates:

1026 1. That an indictment, information, or other charging
1027 document was not filed or issued in the case.

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1028 2. That an indictment, information, or other charging
1029 document, if filed or issued in the case, was dismissed or nolle
1030 prosequi by the state attorney or statewide prosecutor, or was
1031 dismissed by a court of competent jurisdiction, and that none of
1032 the charges related to the arrest or alleged criminal activity to
1033 which the petition to expunge pertains resulted in a trial,
1034 without regard to whether the outcome of the trial was other than
1035 an adjudication of guilt.

1036 3. That the criminal history record does not relate to a
1037 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, s.
1038 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
1039 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.01355, s.
1040 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s.
1041 907.041, or any violation specified as a predicate offense for
1042 registration as a sexual predator pursuant to s. 775.21, without
1043 regard to whether that offense alone is sufficient to require
1044 such registration, or for registration as a sexual offender
1045 pursuant to s. 943.0435, where the defendant was found guilty of,
1046 or pled guilty or nolo contendere to any such offense, or that
1047 the defendant, as a minor, was found to have committed, or pled
1048 guilty or nolo contendere to committing, such an offense as a
1049 delinquent act, without regard to whether adjudication was
1050 withheld.

1051 (b) Remits a \$75 processing fee to the department for
1052 placement in the Department of Law Enforcement Operating Trust
1053 Fund, unless such fee is waived by the executive director.

1054 (c) Has submitted to the department a certified copy of the
1055 disposition of the charge to which the petition to expunge
1056 pertains.

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1057 (d) Has never, prior to the date on which the application
1058 for a certificate of eligibility is filed, been adjudicated
1059 guilty of a criminal offense or comparable ordinance violation,
1060 or been adjudicated delinquent for committing any felony or a
1061 misdemeanor specified in s. 943.051(3)(b).

1062 (e) Has not been adjudicated guilty of, or adjudicated
1063 delinquent for committing, any of the acts stemming from the
1064 arrest or alleged criminal activity to which the petition to
1065 expunge pertains.

1066 (f) Has never secured a prior sealing or expunction of a
1067 criminal history record under this section, former s. 893.14,
1068 former s. 901.33, or former s. 943.058, unless expunction is
1069 sought of a criminal history record previously sealed for 10
1070 years pursuant to paragraph (h) and the record is otherwise
1071 eligible for expunction.

1072 (g) Is no longer under court supervision applicable to the
1073 disposition of the arrest or alleged criminal activity to which
1074 the petition to expunge pertains.

1075 (h) Has previously obtained a court order sealing the
1076 record under this section, former s. 893.14, former s. 901.33, or
1077 former s. 943.058 for a minimum of 10 years because adjudication
1078 was withheld or because all charges related to the arrest or
1079 alleged criminal activity to which the petition to expunge
1080 pertains were not dismissed prior to trial, without regard to
1081 whether the outcome of the trial was other than an adjudication
1082 of guilt. The requirement for the record to have previously been
1083 sealed for a minimum of 10 years does not apply when a plea was
1084 not entered or all charges related to the arrest or alleged

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1085 criminal activity to which the petition to expunge pertains were
1086 dismissed prior to trial.

1087 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

1088 (a) In judicial proceedings under this section, a copy of
1089 the completed petition to expunge shall be served upon the
1090 appropriate state attorney or the statewide prosecutor and upon
1091 the arresting agency; however, it is not necessary to make any
1092 agency other than the state a party. The appropriate state
1093 attorney or the statewide prosecutor and the arresting agency may
1094 respond to the court regarding the completed petition to expunge.

1095 (b) If relief is granted by the court, the clerk of the
1096 court shall certify copies of the order to the appropriate state
1097 attorney or the statewide prosecutor and the arresting agency.
1098 The arresting agency is responsible for forwarding the order to
1099 any other agency to which the arresting agency disseminated the
1100 criminal history record information to which the order pertains.
1101 The department shall forward the order to expunge to the Federal
1102 Bureau of Investigation. The clerk of the court shall certify a
1103 copy of the order to any other agency which the records of the
1104 court reflect has received the criminal history record from the
1105 court.

1106 (c) For an order to expunge entered by a court prior to
1107 July 1, 1992, the department shall notify the appropriate state
1108 attorney or statewide prosecutor of an order to expunge which is
1109 contrary to law because the person who is the subject of the
1110 record has previously been convicted of a crime or comparable
1111 ordinance violation or has had a prior criminal history record
1112 sealed or expunged. Upon receipt of such notice, the appropriate
1113 state attorney or statewide prosecutor shall take action, within

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1114 60 days, to correct the record and petition the court to void the
1115 order to expunge. The department shall seal the record until such
1116 time as the order is voided by the court.

1117 (d) On or after July 1, 1992, the department or any other
1118 criminal justice agency is not required to act on an order to
1119 expunge entered by a court when such order does not comply with
1120 the requirements of this section. Upon receipt of such an order,
1121 the department must notify the issuing court, the appropriate
1122 state attorney or statewide prosecutor, the petitioner or the
1123 petitioner's attorney, and the arresting agency of the reason for
1124 noncompliance. The appropriate state attorney or statewide
1125 prosecutor shall take action within 60 days to correct the record
1126 and petition the court to void the order. No cause of action,
1127 including contempt of court, shall arise against any criminal
1128 justice agency for failure to comply with an order to expunge
1129 when the petitioner for such order failed to obtain the
1130 certificate of eligibility as required by this section or such
1131 order does not otherwise comply with the requirements of this
1132 section.

1133 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
1134 criminal history record of a minor or an adult which is ordered
1135 expunged by a court of competent jurisdiction pursuant to this
1136 section must be physically destroyed or obliterated by any
1137 criminal justice agency having custody of such record; except
1138 that any criminal history record in the custody of the department
1139 must be retained in all cases. A criminal history record ordered
1140 expunged that is retained by the department is confidential and
1141 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
1142 of the State Constitution and not available to any person or

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1143 entity except upon order of a court of competent jurisdiction. A
1144 criminal justice agency may retain a notation indicating
1145 compliance with an order to expunge.

1146 (a) The person who is the subject of a criminal history
1147 record that is expunged under this section or under other
1148 provisions of law, including former s. 893.14, former s. 901.33,
1149 and former s. 943.058, may lawfully deny or fail to acknowledge
1150 the arrests covered by the expunged record, except when the
1151 subject of the record:

1152 1. Is a candidate for employment with a criminal justice
1153 agency;

1154 2. Is a defendant in a criminal prosecution;

1155 3. Concurrently or subsequently petitions for relief under
1156 this section or s. 943.059;

1157 4. Is a candidate for admission to The Florida Bar;

1158 5. Is seeking to be employed or licensed by or to contract
1159 with the Department of Children and Family Services or the
1160 Department of Juvenile Justice or to be employed or used by such
1161 contractor or licensee in a sensitive position having direct
1162 contact with children, the developmentally disabled, the aged, or
1163 the elderly as provided in s. 110.1127(3), s. 393.063, s.
1164 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.
1165 409.175(2)(i), s. 415.102(4), chapter 916, s. 985.644, chapter
1166 400, or chapter 429;

1167 6. Is seeking to be employed or licensed by the Department
1168 of Education, any district school board, any university
1169 laboratory school, any charter school, any private or parochial
1170 school, or any local governmental entity that licenses child care
1171 facilities; or

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1172 7. Is seeking authorization from a Florida seaport
1173 identified in s. 311.09 for employment within or access to one or
1174 more of such seaports pursuant to s. 311.12 or s. 311.125.

1175 (b) Subject to the exceptions in paragraph (a), a person
1176 who has been granted an expunction under this section, former s.
1177 893.14, former s. 901.33, or former s. 943.058 may not be held
1178 under any provision of law of this state to commit perjury or to
1179 be otherwise liable for giving a false statement by reason of
1180 such person's failure to recite or acknowledge an expunged
1181 criminal history record.

1182 (c) Information relating to the existence of an expunged
1183 criminal history record which is provided in accordance with
1184 paragraph (a) is confidential and exempt from the provisions of
1185 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1186 except that the department shall disclose the existence of a
1187 criminal history record ordered expunged to the entities set
1188 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their
1189 respective licensing, access authorization, and employment
1190 purposes, and to criminal justice agencies for their respective
1191 criminal justice purposes. It is unlawful for any employee of an
1192 entity set forth in subparagraph (a)1., subparagraph (a)4.,
1193 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to
1194 disclose information relating to the existence of an expunged
1195 criminal history record of a person seeking employment, access
1196 authorization, or licensure with such entity or contractor,
1197 except to the person to whom the criminal history record relates
1198 or to persons having direct responsibility for employment, access
1199 authorization, or licensure decisions. Any person who violates

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1200 | this paragraph commits a misdemeanor of the first degree,
1201 | punishable as provided in s. 775.082 or s. 775.083.

1202 | (5) STATUTORY REFERENCES.--Any reference to any other
1203 | chapter, section, or subdivision of the Florida Statutes in this
1204 | section constitutes a general reference under the doctrine of
1205 | incorporation by reference.

1206 | Section 26. Section 943.059, Florida Statutes, is amended
1207 | to read:

1208 | 943.059 Court-ordered sealing of criminal history
1209 | records.--The courts of this state shall continue to have
1210 | jurisdiction over their own procedures, including the
1211 | maintenance, sealing, and correction of judicial records
1212 | containing criminal history information to the extent such
1213 | procedures are not inconsistent with the conditions,
1214 | responsibilities, and duties established by this section. Any
1215 | court of competent jurisdiction may order a criminal justice
1216 | agency to seal the criminal history record of a minor or an adult
1217 | who complies with the requirements of this section. The court
1218 | shall not order a criminal justice agency to seal a criminal
1219 | history record until the person seeking to seal a criminal
1220 | history record has applied for and received a certificate of
1221 | eligibility for sealing pursuant to subsection (2). A criminal
1222 | history record that relates to a violation of s. 393.135, s.
1223 | 394.4593, s. 787.025, chapter 794, s. 796.03, s. 800.04, s.
1224 | 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
1225 | 847.0133, s. 847.0135, s. 847.01355, s. 847.0145, s. 893.135, s.
1226 | 916.1075, a violation enumerated in s. 907.041, or any violation
1227 | specified as a predicate offense for registration as a sexual
1228 | predator pursuant to s. 775.21, without regard to whether that

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1229 | offense alone is sufficient to require such registration, or for
1230 | registration as a sexual offender pursuant to s. 943.0435, may
1231 | not be sealed, without regard to whether adjudication was
1232 | withheld, if the defendant was found guilty of or pled guilty or
1233 | nolo contendere to the offense, or if the defendant, as a minor,
1234 | was found to have committed or pled guilty or nolo contendere to
1235 | committing the offense as a delinquent act. The court may only
1236 | order sealing of a criminal history record pertaining to one
1237 | arrest or one incident of alleged criminal activity, except as
1238 | provided in this section. The court may, at its sole discretion,
1239 | order the sealing of a criminal history record pertaining to more
1240 | than one arrest if the additional arrests directly relate to the
1241 | original arrest. If the court intends to order the sealing of
1242 | records pertaining to such additional arrests, such intent must
1243 | be specified in the order. A criminal justice agency may not seal
1244 | any record pertaining to such additional arrests if the order to
1245 | seal does not articulate the intention of the court to seal
1246 | records pertaining to more than one arrest. This section does not
1247 | prevent the court from ordering the sealing of only a portion of
1248 | a criminal history record pertaining to one arrest or one
1249 | incident of alleged criminal activity. Notwithstanding any law to
1250 | the contrary, a criminal justice agency may comply with laws,
1251 | court orders, and official requests of other jurisdictions
1252 | relating to sealing, correction, or confidential handling of
1253 | criminal history records or information derived therefrom. This
1254 | section does not confer any right to the sealing of any criminal
1255 | history record, and any request for sealing a criminal history
1256 | record may be denied at the sole discretion of the court.

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1257 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
1258 petition to a court to seal a criminal history record is complete
1259 only when accompanied by:

1260 (a) A valid certificate of eligibility for sealing issued
1261 by the department pursuant to subsection (2).

1262 (b) The petitioner's sworn statement attesting that the
1263 petitioner:

1264 1. Has never, prior to the date on which the petition is
1265 filed, been adjudicated guilty of a criminal offense or
1266 comparable ordinance violation, or been adjudicated delinquent
1267 for committing any felony or a misdemeanor specified in s.
1268 943.051(3)(b).

1269 2. Has not been adjudicated guilty of or adjudicated
1270 delinquent for committing any of the acts stemming from the
1271 arrest or alleged criminal activity to which the petition to seal
1272 pertains.

1273 3. Has never secured a prior sealing or expunction of a
1274 criminal history record under this section, former s. 893.14,
1275 former s. 901.33, former s. 943.058, or from any jurisdiction
1276 outside the state.

1277 4. Is eligible for such a sealing to the best of his or her
1278 knowledge or belief and does not have any other petition to seal
1279 or any petition to expunge pending before any court.

1280

1281 Any person who knowingly provides false information on such sworn
1282 statement to the court commits a felony of the third degree,
1283 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1284 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
1285 petitioning the court to seal a criminal history record, a person

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1286 seeking to seal a criminal history record shall apply to the
1287 department for a certificate of eligibility for sealing. The
1288 department shall, by rule adopted pursuant to chapter 120,
1289 establish procedures pertaining to the application for and
1290 issuance of certificates of eligibility for sealing. A
1291 certificate of eligibility for sealing is valid for 12 months
1292 after the date stamped on the certificate when issued by the
1293 department. After that time, the petitioner must reapply to the
1294 department for a new certificate of eligibility. Eligibility for
1295 a renewed certification of eligibility must be based on the
1296 status of the applicant and the law in effect at the time of the
1297 renewal application. The department shall issue a certificate of
1298 eligibility for sealing to a person who is the subject of a
1299 criminal history record provided that such person:

1300 (a) Has submitted to the department a certified copy of the
1301 disposition of the charge to which the petition to seal pertains.

1302 (b) Remits a \$75 processing fee to the department for
1303 placement in the Department of Law Enforcement Operating Trust
1304 Fund, unless such fee is waived by the executive director.

1305 (c) Has never, prior to the date on which the application
1306 for a certificate of eligibility is filed, been adjudicated
1307 guilty of a criminal offense or comparable ordinance violation,
1308 or been adjudicated delinquent for committing any felony or a
1309 misdemeanor specified in s. 943.051(3)(b).

1310 (d) Has not been adjudicated guilty of or adjudicated
1311 delinquent for committing any of the acts stemming from the
1312 arrest or alleged criminal activity to which the petition to seal
1313 pertains.

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1314 (e) Has never secured a prior sealing or expunction of a
1315 criminal history record under this section, former s. 893.14,
1316 former s. 901.33, or former s. 943.058.

1317 (f) Is no longer under court supervision applicable to the
1318 disposition of the arrest or alleged criminal activity to which
1319 the petition to seal pertains.

1320 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

1321 (a) In judicial proceedings under this section, a copy of
1322 the completed petition to seal shall be served upon the
1323 appropriate state attorney or the statewide prosecutor and upon
1324 the arresting agency; however, it is not necessary to make any
1325 agency other than the state a party. The appropriate state
1326 attorney or the statewide prosecutor and the arresting agency may
1327 respond to the court regarding the completed petition to seal.

1328 (b) If relief is granted by the court, the clerk of the
1329 court shall certify copies of the order to the appropriate state
1330 attorney or the statewide prosecutor and to the arresting agency.
1331 The arresting agency is responsible for forwarding the order to
1332 any other agency to which the arresting agency disseminated the
1333 criminal history record information to which the order pertains.
1334 The department shall forward the order to seal to the Federal
1335 Bureau of Investigation. The clerk of the court shall certify a
1336 copy of the order to any other agency which the records of the
1337 court reflect has received the criminal history record from the
1338 court.

1339 (c) For an order to seal entered by a court prior to July
1340 1, 1992, the department shall notify the appropriate state
1341 attorney or statewide prosecutor of any order to seal which is
1342 contrary to law because the person who is the subject of the

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1343 record has previously been convicted of a crime or comparable
1344 ordinance violation or has had a prior criminal history record
1345 sealed or expunged. Upon receipt of such notice, the appropriate
1346 state attorney or statewide prosecutor shall take action, within
1347 60 days, to correct the record and petition the court to void the
1348 order to seal. The department shall seal the record until such
1349 time as the order is voided by the court.

1350 (d) On or after July 1, 1992, the department or any other
1351 criminal justice agency is not required to act on an order to
1352 seal entered by a court when such order does not comply with the
1353 requirements of this section. Upon receipt of such an order, the
1354 department must notify the issuing court, the appropriate state
1355 attorney or statewide prosecutor, the petitioner or the
1356 petitioner's attorney, and the arresting agency of the reason for
1357 noncompliance. The appropriate state attorney or statewide
1358 prosecutor shall take action within 60 days to correct the record
1359 and petition the court to void the order. No cause of action,
1360 including contempt of court, shall arise against any criminal
1361 justice agency for failure to comply with an order to seal when
1362 the petitioner for such order failed to obtain the certificate of
1363 eligibility as required by this section or when such order does
1364 not comply with the requirements of this section.

1365 (e) An order sealing a criminal history record pursuant to
1366 this section does not require that such record be surrendered to
1367 the court, and such record shall continue to be maintained by the
1368 department and other criminal justice agencies.

1369 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal
1370 history record of a minor or an adult which is ordered sealed by
1371 a court of competent jurisdiction pursuant to this section is

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1372 confidential and exempt from the provisions of s. 119.07(1) and
1373 s. 24(a), Art. I of the State Constitution and is available only
1374 to the person who is the subject of the record, to the subject's
1375 attorney, to criminal justice agencies for their respective
1376 criminal justice purposes, which include conducting a criminal
1377 history background check for approval of firearms purchases or
1378 transfers as authorized by state or federal law, or to those
1379 entities set forth in subparagraphs (a)1., 4., 5., 6., and 8. for
1380 their respective licensing, access authorization, and employment
1381 purposes.

1382 (a) The subject of a criminal history record sealed under
1383 this section or under other provisions of law, including former
1384 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
1385 deny or fail to acknowledge the arrests covered by the sealed
1386 record, except when the subject of the record:

1387 1. Is a candidate for employment with a criminal justice
1388 agency;

1389 2. Is a defendant in a criminal prosecution;

1390 3. Concurrently or subsequently petitions for relief under
1391 this section or s. 943.0585;

1392 4. Is a candidate for admission to The Florida Bar;

1393 5. Is seeking to be employed or licensed by or to contract
1394 with the Department of Children and Family Services or the
1395 Department of Juvenile Justice or to be employed or used by such
1396 contractor or licensee in a sensitive position having direct
1397 contact with children, the developmentally disabled, the aged, or
1398 the elderly as provided in s. 110.1127(3), s. 393.063, s.
1399 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s.

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1400 409.175(2)(i), s. 415.102(4), s. 415.103, chapter 916, s.
1401 985.644, chapter 400, or chapter 429;

1402 6. Is seeking to be employed or licensed by the Department
1403 of Education, any district school board, any university
1404 laboratory school, any charter school, any private or parochial
1405 school, or any local governmental entity that licenses child care
1406 facilities;

1407 7. Is attempting to purchase a firearm from a licensed
1408 importer, licensed manufacturer, or licensed dealer and is
1409 subject to a criminal history background check under state or
1410 federal law; or

1411 8. Is seeking authorization from a Florida seaport
1412 identified in s. 311.09 for employment within or access to one or
1413 more of such seaports pursuant to s. 311.12 or s. 311.125.

1414 (b) Subject to the exceptions in paragraph (a), a person
1415 who has been granted a sealing under this section, former s.
1416 893.14, former s. 901.33, or former s. 943.058 may not be held
1417 under any provision of law of this state to commit perjury or to
1418 be otherwise liable for giving a false statement by reason of
1419 such person's failure to recite or acknowledge a sealed criminal
1420 history record.

1421 (c) Information relating to the existence of a sealed
1422 criminal record provided in accordance with the provisions of
1423 paragraph (a) is confidential and exempt from the provisions of
1424 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1425 except that the department shall disclose the sealed criminal
1426 history record to the entities set forth in subparagraphs (a)1.,
1427 4., 5., 6., and 8. for their respective licensing, access
1428 authorization, and employment purposes. It is unlawful for any

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1429 employee of an entity set forth in subparagraph (a)1.,
1430 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
1431 subparagraph (a)8. to disclose information relating to the
1432 existence of a sealed criminal history record of a person seeking
1433 employment, access authorization, or licensure with such entity
1434 or contractor, except to the person to whom the criminal history
1435 record relates or to persons having direct responsibility for
1436 employment, access authorization, or licensure decisions. Any
1437 person who violates the provisions of this paragraph commits a
1438 misdemeanor of the first degree, punishable as provided in s.
1439 775.082 or s. 775.083.

1440 (5) STATUTORY REFERENCES.--Any reference to any other
1441 chapter, section, or subdivision of the Florida Statutes in this
1442 section constitutes a general reference under the doctrine of
1443 incorporation by reference.

1444 Section 27. Paragraph (b) of subsection (1) of section
1445 944.606, Florida Statutes, is amended to read:

1446 944.606 Sexual offenders; notification upon release.--

1447 (1) As used in this section:

1448 (b) "Sexual offender" means a person who has been convicted
1449 of committing, or attempting, soliciting, or conspiring to
1450 commit, any of the criminal offenses proscribed in the following
1451 statutes in this state or similar offenses in another
1452 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
1453 the victim is a minor and the defendant is not the victim's
1454 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
1455 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
1456 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s.
1457 847.01355, s. 847.0137; s. 847.0138; s. 847.0145; or s.

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1458 985.701(1); or any similar offense committed in this state which
1459 has been redesignated from a former statute number to one of
1460 those listed in this subsection, when the department has received
1461 verified information regarding such conviction; an offender's
1462 computerized criminal history record is not, in and of itself,
1463 verified information.

1464 Section 28. Paragraph (a) of subsection (1) of section
1465 944.607, Florida Statutes, is amended to read:

1466 944.607 Notification to Department of Law Enforcement of
1467 information on sexual offenders.--

1468 (1) As used in this section, the term:

1469 (a) "Sexual offender" means a person who is in the custody
1470 or control of, or under the supervision of, the department or is
1471 in the custody of a private correctional facility:

1472 1. On or after October 1, 1997, as a result of a conviction
1473 for committing, or attempting, soliciting, or conspiring to
1474 commit, any of the criminal offenses proscribed in the following
1475 statutes in this state or similar offenses in another
1476 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
1477 the victim is a minor and the defendant is not the victim's
1478 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
1479 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
1480 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s.
1481 847.01355; s. 847.0137; s. 847.0138; s. 847.0145; or s.

1482 985.701(1); or any similar offense committed in this state which
1483 has been redesignated from a former statute number to one of
1484 those listed in this paragraph; or

1485 2. Who establishes or maintains a residence in this state
1486 and who has not been designated as a sexual predator by a court

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1487 of this state but who has been designated as a sexual predator,
1488 as a sexually violent predator, or by another sexual offender
1489 designation in another state or jurisdiction and was, as a result
1490 of such designation, subjected to registration or community or
1491 public notification, or both, or would be if the person were a
1492 resident of that state or jurisdiction, without regard as to
1493 whether the person otherwise meets the criteria for registration
1494 as a sexual offender.

1495 Section 29. Subsection (7) of section 947.1405, Florida
1496 Statutes, is amended to read:

1497 947.1405 Conditional release program.--

1498 (7) (a) Any inmate who is convicted of a crime committed on
1499 or after October 1, 1995, or who has been previously convicted of
1500 a crime committed on or after October 1, 1995, in violation of
1501 chapter 794, s. 800.04, s. 827.071, s. 847.01355, or s. 847.0145,
1502 and is subject to conditional release supervision, shall have, in
1503 addition to any other conditions imposed, the following special
1504 conditions imposed by the commission:

1505 1. A mandatory curfew from 10 p.m. to 6 a.m. The commission
1506 may designate another 8-hour period if the offender's employment
1507 precludes the above specified time, and such alternative is
1508 recommended by the Department of Corrections. If the commission
1509 determines that imposing a curfew would endanger the victim, the
1510 commission may consider alternative sanctions.

1511 2. If the victim was under the age of 18, a prohibition on
1512 living within 1,000 feet of a school, day care center, park,
1513 playground, designated public school bus stop, or other place
1514 where children regularly congregate. A releasee who is subject to
1515 this subparagraph may not relocate to a residence that is within

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1516 | 1,000 feet of a public school bus stop. Beginning October 1,
1517 | 2004, the commission or the department may not approve a
1518 | residence that is located within 1,000 feet of a school, day care
1519 | center, park, playground, designated school bus stop, or other
1520 | place where children regularly congregate for any releasee who is
1521 | subject to this subparagraph. On October 1, 2004, the department
1522 | shall notify each affected school district of the location of the
1523 | residence of a releasee 30 days prior to release and thereafter,
1524 | if the releasee relocates to a new residence, shall notify any
1525 | affected school district of the residence of the releasee within
1526 | 30 days after relocation. If, on October 1, 2004, any public
1527 | school bus stop is located within 1,000 feet of the existing
1528 | residence of such releasee, the district school board shall
1529 | relocate that school bus stop. Beginning October 1, 2004, a
1530 | district school board may not establish or relocate a public
1531 | school bus stop within 1,000 feet of the residence of a releasee
1532 | who is subject to this subparagraph. The failure of the district
1533 | school board to comply with this subparagraph shall not result in
1534 | a violation of conditional release supervision.

1535 | 3. Active participation in and successful completion of a
1536 | sex offender treatment program with qualified practitioners
1537 | specifically trained to treat sex offenders, at the releasee's
1538 | own expense. If a qualified practitioner is not available within
1539 | a 50-mile radius of the releasee's residence, the offender shall
1540 | participate in other appropriate therapy.

1541 | 4. A prohibition on any contact with the victim, directly
1542 | or indirectly, including through a third person, unless approved
1543 | by the victim, the offender's therapist, and the sentencing
1544 | court.

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1545 5. If the victim was under the age of 18, a prohibition
1546 against contact with children under the age of 18 without review
1547 and approval by the commission. The commission may approve
1548 supervised contact with a child under the age of 18 if the
1549 approval is based upon a recommendation for contact issued by a
1550 qualified practitioner who is basing the recommendation on a risk
1551 assessment. Further, the sex offender must be currently enrolled
1552 in or have successfully completed a sex offender therapy program.
1553 The commission may not grant supervised contact with a child if
1554 the contact is not recommended by a qualified practitioner and
1555 may deny supervised contact with a child at any time. When
1556 considering whether to approve supervised contact with a child,
1557 the commission must review and consider the following:

1558 a. A risk assessment completed by a qualified practitioner.
1559 The qualified practitioner must prepare a written report that
1560 must include the findings of the assessment and address each of
1561 the following components:

1562 (I) The sex offender's current legal status;

1563 (II) The sex offender's history of adult charges with
1564 apparent sexual motivation;

1565 (III) The sex offender's history of adult charges without
1566 apparent sexual motivation;

1567 (IV) The sex offender's history of juvenile charges,
1568 whenever available;

1569 (V) The sex offender's offender treatment history,
1570 including a consultation from the sex offender's treating, or
1571 most recent treating, therapist;

1572 (VI) The sex offender's current mental status;

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1573 (VII) The sex offender's mental health and substance abuse
1574 history as provided by the Department of Corrections;

1575 (VIII) The sex offender's personal, social, educational,
1576 and work history;

1577 (IX) The results of current psychological testing of the
1578 sex offender if determined necessary by the qualified
1579 practitioner;

1580 (X) A description of the proposed contact, including the
1581 location, frequency, duration, and supervisory arrangement;

1582 (XI) The child's preference and relative comfort level with
1583 the proposed contact, when age-appropriate;

1584 (XII) The parent's or legal guardian's preference regarding
1585 the proposed contact; and

1586 (XIII) The qualified practitioner's opinion, along with the
1587 basis for that opinion, as to whether the proposed contact would
1588 likely pose significant risk of emotional or physical harm to the
1589 child.

1590

1591 The written report of the assessment must be given to the
1592 commission.

1593 b. A recommendation made as a part of the risk-assessment
1594 report as to whether supervised contact with the child should be
1595 approved;

1596 c. A written consent signed by the child's parent or legal
1597 guardian, if the parent or legal guardian is not the sex
1598 offender, agreeing to the sex offender having supervised contact
1599 with the child after receiving full disclosure of the sex
1600 offender's present legal status, past criminal history, and the
1601 results of the risk assessment. The commission may not approve

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1602 | contact with the child if the parent or legal guardian refuses to
1603 | give written consent for supervised contact;

1604 | d. A safety plan prepared by the qualified practitioner,
1605 | who provides treatment to the offender, in collaboration with the
1606 | sex offender, the child's parent or legal guardian, and the
1607 | child, when age appropriate, which details the acceptable
1608 | conditions of contact between the sex offender and the child. The
1609 | safety plan must be reviewed and approved by the Department of
1610 | Corrections before being submitted to the commission; and

1611 | e. Evidence that the child's parent or legal guardian, if
1612 | the parent or legal guardian is not the sex offender, understands
1613 | the need for and agrees to the safety plan and has agreed to
1614 | provide, or to designate another adult to provide, constant
1615 | supervision any time the child is in contact with the offender.

1616 |
1617 | The commission may not appoint a person to conduct a risk
1618 | assessment and may not accept a risk assessment from a person who
1619 | has not demonstrated to the commission that he or she has met the
1620 | requirements of a qualified practitioner as defined in this
1621 | section.

1622 | 6. If the victim was under age 18, a prohibition on working
1623 | for pay or as a volunteer at any school, day care center, park,
1624 | playground, or other place where children regularly congregate,
1625 | as prescribed by the commission.

1626 | 7. Unless otherwise indicated in the treatment plan
1627 | provided by the sexual offender treatment program, a prohibition
1628 | on viewing, owning, or possessing any obscene, pornographic, or
1629 | sexually stimulating visual or auditory material, including
1630 | telephone, electronic media, computer programs, or computer

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1631 services that are relevant to the offender's deviant behavior
1632 pattern.

1633 8. Effective for a releasee whose crime is committed on or
1634 after July 1, 2005, a prohibition on accessing the Internet or
1635 other computer services until the offender's sex offender
1636 treatment program, after a risk assessment is completed, approves
1637 and implements a safety plan for the offender's accessing or
1638 using the Internet or other computer services.

1639 9. A requirement that the releasee must submit two
1640 specimens of blood to the Florida Department of Law Enforcement
1641 to be registered with the DNA database.

1642 10. A requirement that the releasee make restitution to the
1643 victim, as determined by the sentencing court or the commission,
1644 for all necessary medical and related professional services
1645 relating to physical, psychiatric, and psychological care.

1646 11. Submission to a warrantless search by the community
1647 control or probation officer of the probationer's or community
1648 controllee's person, residence, or vehicle.

1649 (b) For a releasee whose crime was committed on or after
1650 October 1, 1997, in violation of chapter 794, s. 800.04, s.
1651 827.071, s. 847.01355, or s. 847.0145, and who is subject to
1652 conditional release supervision, in addition to any other
1653 provision of this subsection, the commission shall impose the
1654 following additional conditions of conditional release
1655 supervision:

1656 1. As part of a treatment program, participation in a
1657 minimum of one annual polygraph examination to obtain information
1658 necessary for risk management and treatment and to reduce the sex
1659 offender's denial mechanisms. The polygraph examination must be

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1660 conducted by a polygrapher trained specifically in the use of the
1661 polygraph for the monitoring of sex offenders, where available,
1662 and at the expense of the sex offender. The results of the
1663 polygraph examination shall not be used as evidence in a hearing
1664 to prove that a violation of supervision has occurred.

1665 2. Maintenance of a driving log and a prohibition against
1666 driving a motor vehicle alone without the prior approval of the
1667 supervising officer.

1668 3. A prohibition against obtaining or using a post office
1669 box without the prior approval of the supervising officer.

1670 4. If there was sexual contact, a submission to, at the
1671 probationer's or community controllee's expense, an HIV test with
1672 the results to be released to the victim or the victim's parent
1673 or guardian.

1674 5. Electronic monitoring of any form when ordered by the
1675 commission.

1676 Section 30. Subsection (2) of section 948.013, Florida
1677 Statutes, is amended to read:

1678 948.013 Administrative probation.--

1679 (2) Effective for an offense committed on or after July 1,
1680 1998, a person is ineligible for placement on administrative
1681 probation if the person is sentenced to or is serving a term of
1682 probation or community control, regardless of the conviction or
1683 adjudication, for committing, or attempting, conspiring, or
1684 soliciting to commit, any of the felony offenses described in s.
1685 787.01 or s. 787.02, where the victim is a minor and the
1686 defendant is not the victim's parent; s. 787.025; chapter 794; s.
1687 796.03; s. 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.0133; s.
1688 847.0135; s. 847.01355; or s. 847.0145.

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1689 Section 31. Subsection (2) of section 948.03, Florida
1690 Statutes, is amended to read:

1691 948.03 Terms and conditions of probation.--

1692 (2) The enumeration of specific kinds of terms and
1693 conditions shall not prevent the court from adding thereto such
1694 other or others as it considers proper. However, the sentencing
1695 court may only impose a condition of supervision allowing an
1696 offender convicted of s. 794.011, s. 800.04, s. 827.071, s.
1697 847.01355, or s. 847.0145, to reside in another state, if the
1698 order stipulates that it is contingent upon the approval of the
1699 receiving state interstate compact authority. The court may
1700 rescind or modify at any time the terms and conditions
1701 theretofore imposed by it upon the probationer. However, if the
1702 court withholds adjudication of guilt or imposes a period of
1703 incarceration as a condition of probation, the period shall not
1704 exceed 364 days, and incarceration shall be restricted to either
1705 a county facility, a probation and restitution center under the
1706 jurisdiction of the Department of Corrections, a probation
1707 program drug punishment phase I secure residential treatment
1708 institution, or a community residential facility owned or
1709 operated by any entity providing such services.

1710 Section 32. Paragraph (c) of subsection (8) of section
1711 948.06, Florida Statutes, is amended to read:

1712 948.06 Violation of probation or community control;
1713 revocation; modification; continuance; failure to pay restitution
1714 or cost of supervision.--

1715 (8)

1716 (c) For purposes of this section, the term "qualifying
1717 offense" means any of the following:

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- 1718 1. Kidnapping or attempted kidnapping under s. 787.01,
1719 false imprisonment of a child under the age of 13 under s.
1720 787.02(3), or luring or enticing a child under s. 787.025(2) (b)
1721 or (c).
- 1722 2. Murder or attempted murder under s. 782.04, attempted
1723 felony murder under s. 782.051, or manslaughter under s. 782.07.
- 1724 3. Aggravated battery or attempted aggravated battery under
1725 s. 784.045.
- 1726 4. Sexual battery or attempted sexual battery under s.
1727 794.011(2), (3), (4), or (8) (b) or (c).
- 1728 5. Lewd or lascivious battery or attempted lewd or
1729 lascivious battery under s. 800.04(4), lewd or lascivious
1730 molestation under s. 800.04(5) (b) or (c)2., lewd or lascivious
1731 conduct under s. 800.04(6) (b), ~~or~~ lewd or lascivious exhibition
1732 under s. 800.04(7) (b)-(e), or lewd or lascivious exhibition on
1733 computer under s. 847.01355(2).
- 1734 6. Robbery or attempted robbery under s. 812.13, carjacking
1735 or attempted carjacking under s. 812.133, or home invasion
1736 robbery or attempted home invasion robbery under s. 812.135.
- 1737 7. Lewd or lascivious offense upon or in the presence of an
1738 elderly or disabled person or attempted lewd or lascivious
1739 offense upon or in the presence of an elderly or disabled person
1740 under s. 825.1025.
- 1741 8. Sexual performance by a child or attempted sexual
1742 performance by a child under s. 827.071.
- 1743 9. Computer pornography under s. 847.0135(2) or (3),
1744 transmission of child pornography under s. 847.0137, or selling
1745 or buying of minors under s. 847.0145.
- 1746 10. Poisoning food or water under s. 859.01.

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- 1747 11. Abuse of a dead human body under s. 872.06.
- 1748 12. Any burglary offense or attempted burglary offense that
- 1749 is either a first degree felony or second degree felony under s.
- 1750 810.02(2) or (3).
- 1751 13. Arson or attempted arson under s. 806.01(1).
- 1752 14. Aggravated assault under s. 784.021.
- 1753 15. Aggravated stalking under s. 784.048(3), (4), (5), or
- 1754 (7).
- 1755 16. Aircraft piracy under s. 860.16.
- 1756 17. Unlawful throwing, placing, or discharging of a
- 1757 destructive device or bomb under s. 790.161(2), (3), or (4).
- 1758 18. Treason under s. 876.32.
- 1759 19. Any offense committed in another jurisdiction which
- 1760 would be an offense listed in this paragraph if that offense had
- 1761 been committed in this state.
- 1762 Section 33. Subsection (2) of section 948.101, Florida
- 1763 Statutes, is amended to read:
- 1764 948.101 Terms and conditions of community control and
- 1765 criminal quarantine community control.--
- 1766 (2) The enumeration of specific kinds of terms and
- 1767 conditions does not prevent the court from adding thereto any
- 1768 other terms or conditions that the court considers proper.
- 1769 However, the sentencing court may only impose a condition of
- 1770 supervision allowing an offender convicted of s. 794.011, s.
- 1771 800.04, s. 827.071, s. 847.01355, or s. 847.0145 to reside in
- 1772 another state if the order stipulates that it is contingent upon
- 1773 the approval of the receiving state interstate compact authority.
- 1774 The court may rescind or modify at any time the terms and
- 1775 conditions theretofore imposed by it upon the offender in

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1776 community control. However, if the court withholds adjudication
1777 of guilt or imposes a period of incarceration as a condition of
1778 community control, the period may not exceed 364 days, and
1779 incarceration shall be restricted to a county facility, a
1780 probation and restitution center under the jurisdiction of the
1781 Department of Corrections, a probation program drug punishment
1782 phase I secure residential treatment institution, or a community
1783 residential facility owned or operated by any entity providing
1784 such services.

1785 Section 34. Subsections (1) and (2) of section 948.30,
1786 Florida Statutes, are amended to read:

1787 948.30 Additional terms and conditions of probation or
1788 community control for certain sex offenses.--Conditions imposed
1789 pursuant to this section do not require oral pronouncement at the
1790 time of sentencing and shall be considered standard conditions of
1791 probation or community control for offenders specified in this
1792 section.

1793 (1) Effective for probationers or community controllees
1794 whose crime was committed on or after October 1, 1995, and who
1795 are placed under supervision for violation of chapter 794, s.
1796 800.04, s. 827.071, s. 847.01355, or s. 847.0145, the court must
1797 impose the following conditions in addition to all other standard
1798 and special conditions imposed:

1799 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may
1800 designate another 8-hour period if the offender's employment
1801 precludes the above specified time, and the alternative is
1802 recommended by the Department of Corrections. If the court
1803 determines that imposing a curfew would endanger the victim, the
1804 court may consider alternative sanctions.

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1805 (b) If the victim was under the age of 18, a prohibition on
1806 living within 1,000 feet of a school, day care center, park,
1807 playground, or other place where children regularly congregate,
1808 as prescribed by the court. The 1,000-foot distance shall be
1809 measured in a straight line from the offender's place of
1810 residence to the nearest boundary line of the school, day care
1811 center, park, playground, or other place where children
1812 congregate. The distance may not be measured by a pedestrian
1813 route or automobile route.

1814 (c) Active participation in and successful completion of a
1815 sex offender treatment program with qualified practitioners
1816 specifically trained to treat sex offenders, at the probationer's
1817 or community controllee's own expense. If a qualified
1818 practitioner is not available within a 50-mile radius of the
1819 probationer's or community controllee's residence, the offender
1820 shall participate in other appropriate therapy.

1821 (d) A prohibition on any contact with the victim, directly
1822 or indirectly, including through a third person, unless approved
1823 by the victim, the offender's therapist, and the sentencing
1824 court.

1825 (e) If the victim was under the age of 18, a prohibition on
1826 contact with a child under the age of 18 except as provided in
1827 this paragraph. The court may approve supervised contact with a
1828 child under the age of 18 if the approval is based upon a
1829 recommendation for contact issued by a qualified practitioner who
1830 is basing the recommendation on a risk assessment. Further, the
1831 sex offender must be currently enrolled in or have successfully
1832 completed a sex offender therapy program. The court may not grant
1833 supervised contact with a child if the contact is not recommended

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1834 by a qualified practitioner and may deny supervised contact with
1835 a child at any time. When considering whether to approve
1836 supervised contact with a child, the court must review and
1837 consider the following:

1838 1. A risk assessment completed by a qualified practitioner.
1839 The qualified practitioner must prepare a written report that
1840 must include the findings of the assessment and address each of
1841 the following components:

1842 a. The sex offender's current legal status;

1843 b. The sex offender's history of adult charges with
1844 apparent sexual motivation;

1845 c. The sex offender's history of adult charges without
1846 apparent sexual motivation;

1847 d. The sex offender's history of juvenile charges, whenever
1848 available;

1849 e. The sex offender's offender treatment history, including
1850 consultations with the sex offender's treating, or most recent
1851 treating, therapist;

1852 f. The sex offender's current mental status;

1853 g. The sex offender's mental health and substance abuse
1854 treatment history as provided by the Department of Corrections;

1855 h. The sex offender's personal, social, educational, and
1856 work history;

1857 i. The results of current psychological testing of the sex
1858 offender if determined necessary by the qualified practitioner;

1859 j. A description of the proposed contact, including the
1860 location, frequency, duration, and supervisory arrangement;

1861 k. The child's preference and relative comfort level with
1862 the proposed contact, when age appropriate;

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1863 1. The parent's or legal guardian's preference regarding
1864 the proposed contact; and

1865 m. The qualified practitioner's opinion, along with the
1866 basis for that opinion, as to whether the proposed contact would
1867 likely pose significant risk of emotional or physical harm to the
1868 child.

1869
1870 The written report of the assessment must be given to the court;

1871 2. A recommendation made as a part of the risk assessment
1872 report as to whether supervised contact with the child should be
1873 approved;

1874 3. A written consent signed by the child's parent or legal
1875 guardian, if the parent or legal guardian is not the sex
1876 offender, agreeing to the sex offender having supervised contact
1877 with the child after receiving full disclosure of the sex
1878 offender's present legal status, past criminal history, and the
1879 results of the risk assessment. The court may not approve contact
1880 with the child if the parent or legal guardian refuses to give
1881 written consent for supervised contact;

1882 4. A safety plan prepared by the qualified practitioner,
1883 who provides treatment to the offender, in collaboration with the
1884 sex offender, the child's parent or legal guardian, if the parent
1885 or legal guardian is not the sex offender, and the child, when
1886 age appropriate, which details the acceptable conditions of
1887 contact between the sex offender and the child. The safety plan
1888 must be reviewed and approved by the court; and

1889 5. Evidence that the child's parent or legal guardian
1890 understands the need for and agrees to the safety plan and has
1891 agreed to provide, or to designate another adult to provide,

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1892 constant supervision any time the child is in contact with the
1893 offender.

1894

1895 The court may not appoint a person to conduct a risk assessment
1896 and may not accept a risk assessment from a person who has not
1897 demonstrated to the court that he or she has met the requirements
1898 of a qualified practitioner as defined in this section.

1899 (f) If the victim was under age 18, a prohibition on
1900 working for pay or as a volunteer at any place where children
1901 regularly congregate, including, but not limited to, schools, day
1902 care centers, parks, playgrounds, pet stores, libraries, zoos,
1903 theme parks, and malls.

1904 (g) Unless otherwise indicated in the treatment plan
1905 provided by the sexual offender treatment program, a prohibition
1906 on viewing, accessing, owning, or possessing any obscene,
1907 pornographic, or sexually stimulating visual or auditory
1908 material, including telephone, electronic media, computer
1909 programs, or computer services that are relevant to the
1910 offender's deviant behavior pattern.

1911 (h) Effective for probationers and community controllees
1912 whose crime is committed on or after July 1, 2005, a prohibition
1913 on accessing the Internet or other computer services until the
1914 offender's sex offender treatment program, after a risk
1915 assessment is completed, approves and implements a safety plan
1916 for the offender's accessing or using the Internet or other
1917 computer services.

1918 (i) A requirement that the probationer or community
1919 controllee must submit a specimen of blood or other approved

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1920 biological specimen to the Department of Law Enforcement to be
1921 registered with the DNA data bank.

1922 (j) A requirement that the probationer or community
1923 controllee make restitution to the victim, as ordered by the
1924 court under s. 775.089, for all necessary medical and related
1925 professional services relating to physical, psychiatric, and
1926 psychological care.

1927 (k) Submission to a warrantless search by the community
1928 control or probation officer of the probationer's or community
1929 controllee's person, residence, or vehicle.

1930 (2) Effective for a probationer or community controllee
1931 whose crime was committed on or after October 1, 1997, and who is
1932 placed on community control or sex offender probation for a
1933 violation of chapter 794, s. 800.04, s. 827.071, s. 847.01355, or
1934 s. 847.0145, in addition to any other provision of this section,
1935 the court must impose the following conditions of probation or
1936 community control:

1937 (a) As part of a treatment program, participation at least
1938 annually in polygraph examinations to obtain information
1939 necessary for risk management and treatment and to reduce the sex
1940 offender's denial mechanisms. A polygraph examination must be
1941 conducted by a polygrapher trained specifically in the use of the
1942 polygraph for the monitoring of sex offenders, where available,
1943 and shall be paid for by the sex offender. The results of the
1944 polygraph examination shall not be used as evidence in court to
1945 prove that a violation of community supervision has occurred.

1946 (b) Maintenance of a driving log and a prohibition against
1947 driving a motor vehicle alone without the prior approval of the
1948 supervising officer.

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1949 (c) A prohibition against obtaining or using a post office
1950 box without the prior approval of the supervising officer.

1951 (d) If there was sexual contact, a submission to, at the
1952 probationer's or community controllee's expense, an HIV test with
1953 the results to be released to the victim or the victim's parent
1954 or guardian.

1955 (e) Electronic monitoring when deemed necessary by the
1956 community control or probation officer and his or her supervisor,
1957 and ordered by the court at the recommendation of the Department
1958 of Corrections.

1959 Section 35. Subsection (1) of section 948.31, Florida
1960 Statutes, is amended to read:

1961 948.31 Diagnosis, evaluation, and treatment of offenders
1962 placed on probation or community control for certain sex offenses
1963 or child exploitation.--The court shall require a diagnosis and
1964 evaluation to determine the need of a probationer or offender in
1965 community control for treatment. If the court determines that a
1966 need therefor is established by such diagnosis and evaluation
1967 process, the court shall require outpatient counseling as a term
1968 or condition of probation or community control for any person who
1969 was found guilty of any of the following, or whose plea of guilty
1970 or nolo contendere to any of the following was accepted by the
1971 court:

1972 (1) Lewd or lascivious battery, lewd or lascivious
1973 molestation, lewd or lascivious conduct, or lewd or lascivious
1974 exhibition, as defined in s. 800.04 or s. 847.01355.

1975
1976 Such counseling shall be required to be obtained from a community
1977 mental health center, a recognized social service agency

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1978 providing mental health services, or a private mental health
1979 professional or through other professional counseling. The plan
1980 for counseling for the individual shall be provided to the court
1981 for review.

1982 Section 36. Subsection (1) of section 948.32, Florida
1983 Statutes, is amended to read:

1984 948.32 Requirements of law enforcement agency upon arrest
1985 of persons for certain sex offenses.--

1986 (1) When any state or local law enforcement agency
1987 investigates or arrests a person for committing, or attempting,
1988 soliciting, or conspiring to commit, a violation of s.
1989 787.025(2)(c), chapter 794, s. 796.03, s. 800.04, s. 827.071, s.
1990 847.0133, s. 847.0135, s. 847.01355, or s. 847.0145, the law
1991 enforcement agency shall contact the Department of Corrections to
1992 verify whether the person under investigation or under arrest is
1993 on probation, community control, parole, conditional release, or
1994 control release.

1995 Section 37. This act shall take effect July 1, 2008.