

By the Committee on Criminal Justice; and 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.; permitting use of a pseudonym to designate the
4 victim of a crime involving a victim of production,
5 possession, or promotion of child pornography; revising
6 provisions concerning use of victim pseudonyms to specify
7 that they may be used in civil and criminal proceedings;
8 amending s. 800.04, F.S., relating to lewd or lascivious
9 exhibition, to conform to changes made by the act;
10 amending s. 847.0135, F.S.; conforming provisions to
11 changes made by the act; creating s. 847.002, F.S.;
12 requiring law enforcement officers to provide certain
13 information to the National Center for Missing and
14 Exploited Children; requiring law enforcement officers
15 submitting a case for prosecution that involves the
16 creation, possession, or promotion of child pornography to
17 provide specified information to prosecutors; requiring
18 prosecutors to enter specified information in a database
19 maintained by the Attorney General; creating s. 847.01357,
20 F.S.; providing a civil remedy for any person who, while
21 under the age of 18, was a victim of certain sexual abuse
22 crimes wherein any portion of that abuse was used in the
23 production of child pornography and who suffers personal
24 or psychological injury as a result of the production,
25 promotion, or possession of such images; specifying
26 damages; providing for limitation of actions; providing
27 for confidential pseudonyms to specified claimants;
28 precluding a defense to certain civil actions; permitting
29 the Attorney General to pursue cases on behalf of victims;

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30 providing for disposition of damages and attorney's fees;
31 amending s. 960.03, F.S.; expanding the definition of
32 "crime" for purposes of victim compensation to include
33 violations of s. 827.071, s. 847.0135, s. 847.0137, or s.
34 847.038, related to online sexual exploitation and child
35 pornography; defining the term "known victim of child
36 pornography;" expanding the definition of "victim" for
37 purposes of victim compensation to include a person less
38 than 18 years of age who was present at the scene of a
39 crime, saw or heard the crime, and suffered a psychiatric
40 or psychological injury because of the crime, but who was
41 not physically injured; creating s. 960.197, F.S.;

42 authorizing victim compensation awards to certain persons
43 who suffer psychiatric or psychological injury as a result
44 of certain crimes; amending ss. 90.404, 92.565, 394.912,
45 409.2355, 775.082, 775.084, 775.15, 775.21, 784.048,
46 787.01, 787.02, 787.025, 794.065, 914.16, 921.0022,
47 921.244, 938.10, 943.04354, 947.1405, 948.03, 948.06,
48 948.101, 948.30, and 948.31, F.S.; conforming provisions
49 to changes made by the act; providing an effective date.

50
51 WHEREAS, children who are sexually abused and then exploited
52 by the creation of permanent images of that sexual abuse through
53 child pornography are further harmed by the continued possession,
54 promotion, and distribution of those images on the Internet, and

55 WHEREAS, the possession of child pornography is not a
56 victimless crime, and more than 1,200 victims of child
57 pornography are known by law enforcement agencies, more than 30
58 of whom were residents of this state at the time of their abuse,

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59 | and

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

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

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

74 |
75 | Be It Enacted by the Legislature of the State of Florida:

76 |
77 | Section 1. Subsection (3) of section 92.56, Florida
78 | Statutes, is amended to read:

79 | 92.56 Judicial proceedings and court records involving
80 | sexual offenses.--

81 | (3) The state may use a pseudonym instead of the victim's
82 | name to designate the victim of a crime described in chapter 794
83 | or chapter 800, or of child abuse, aggravated child abuse, or
84 | sexual performance by a child as described in chapter 827, or any
85 | crime involving the production, possession, or promotion of child
86 | pornography as described in chapter 847, in all court records and
87 | records of court proceedings, both civil and criminal.

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

90 800.04 Lewd or lascivious offenses committed upon or in the
91 presence of persons less than 16 years of age.--

92 (7) LEWD OR LASCIVIOUS EXHIBITION.--

93 (a) A person who:

94 1. Intentionally masturbates;

95 2. Intentionally exposes the genitals in a lewd or
96 lascivious manner; or

97 3. Intentionally commits any other sexual act that does not
98 involve actual physical or sexual contact with the victim,
99 including, but not limited to, sadomasochistic abuse, sexual
100 bestiality, or the simulation of any act involving sexual
101 activity

102
103 in the presence of a victim who is less than 16 years of age,
104 commits lewd or lascivious exhibition.

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

106 ~~1. Intentionally masturbates;~~

107 ~~2. Intentionally exposes the genitals in a lewd or
108 lascivious manner; or~~

109 ~~3. Intentionally commits any other sexual act that does not
110 involve actual physical or sexual contact with the victim,
111 including, but not limited to, sadomasochistic abuse, sexual
112 bestiality, or the simulation of any act involving sexual
113 activity~~

114
115 ~~live over a computer online service, Internet service, or local
116 bulletin board service and who knows or should know or has reason~~

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117 ~~to believe that the transmission is viewed on a computer or~~
118 ~~television monitor by a victim in this state who is less than 16~~
119 ~~years of age, commits lewd or lascivious exhibition. The fact~~
120 ~~that an undercover operative or law enforcement officer was~~
121 ~~involved in the detection and investigation of an offense under~~
122 ~~this paragraph shall not constitute a defense to a prosecution~~
123 ~~under this paragraph.~~

124 (b) ~~(e)~~ An offender 18 years of age or older who commits a
125 lewd or lascivious exhibition commits a felony of the second
126 degree, punishable as provided in s. 775.082, s. 775.083, or s.
127 775.084.

128 (c) ~~(d)~~ An offender less than 18 years of age who commits a
129 lewd or lascivious exhibition commits a felony of the third
130 degree, punishable as provided in s. 775.082, s. 775.083, or s.
131 775.084.

132 Section 3. Present subsections (5), (6), and (7) of section
133 847.0135, Florida Statutes, are renumbered as subsections (6),
134 (7), and (8), respectively, and a new subsection (5) is added to
135 that section, to read:

136 847.0135 Computer pornography; traveling to meet minor;
137 penalties.--

138 (5) CERTAIN COMPUTER TRANSMISSIONS PROHIBITED.--

139 (a) A person who:

140 1. Intentionally masturbates;

141 2. Intentionally exposes the genitals in a lewd or
142 lascivious manner; or

143 3. Intentionally commits any other sexual act that does not
144 involve actual physical or sexual contact with the victim,
145 including, but not limited to, sadomasochistic abuse, sexual

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146 bestiality, or the simulation of any act involving sexual
147 activity

148
149 live over a computer online service, Internet service, or local
150 bulletin board service and who knows or should know or has reason
151 to believe that the transmission is viewed on a computer or
152 television monitor by a victim in this state who is less than 16
153 years of age, commits lewd or lascivious exhibition in violation
154 of this subsection. The fact that an undercover operative or law
155 enforcement officer was involved in the detection and
156 investigation of an offense under this subsection shall not
157 constitute a defense to a prosecution under this subsection.

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

162 (c) An offender less than 18 years of age who commits a
163 lewd or lascivious exhibition using a computer commits a felony
164 of the third degree, punishable as provided in s. 775.082, s.
165 775.083, or s. 775.084.

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

168 Section 4. Section 847.002, Florida Statutes, is created to
169 read:

170 847.002 Child pornography prosecutions.--

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

173 (a) Provide such images and any information regarding the
174 identity of a child depicted in such images to the National

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175 Center for Missing and Exploited Children, Child Victim
176 Identification Program; and

177 (b) Request the law enforcement contact information from
178 the National Center for Missing and Exploited Children, Child
179 Victim Identification Program for any images recovered which
180 contain a known victim of child pornography, as defined in s.
181 960.03.

182 (2) Any law enforcement officer submitting a case for
183 prosecution which involves the production, promotion, or
184 possession of child pornography shall submit to the designated
185 prosecutor the law enforcement agency contact information
186 provided by the National Center for Missing and Exploited
187 Children, Child Victim Identification Program for any images
188 involved in the case which contain the depiction of a known
189 victim of child pornography as defined in s. 960.03.

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

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

196 (b) The named defendant.

197 (c) The circuit court division and county.

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

199 (e) Contact information for the prosecutor assigned.

200 (f) Verification that the prosecutor is or is not in
201 possession of a victim impact statement and will use the
202 statement in sentencing.

203 Section 5. Section 847.01357, Florida Statutes, is created

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204 to read:

205 847.01357 Exploited children's civil remedy.--

206 (1) Any person who, while under the age of 18, was a victim
207 of a sexual abuse crime listed in chapter 794, chapter 800,
208 chapter 827, or chapter 847, wherein any portion of such abuse
209 was used in the production of child pornography, and who suffers
210 personal or psychological injury as a result of the production,
211 promotion, or possession of such images, may bring an action in
212 any appropriate state court against the producer, promoter, or
213 possessor of such images, regardless of whether the victim is now
214 an adult. In any action brought under this section, a prevailing
215 plaintiff shall recover the actual damages such person sustained
216 and the cost of the suit, including reasonable attorney's fees.
217 Any such victim who is awarded damages under this section shall
218 be deemed to have sustained damages of no less than \$150,000.

219 (2) Notwithstanding any other provisions of law, any action
220 commenced under this section must be filed within 3 years after
221 the later of:

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

223 (b) The notification to the victim by a member of a law
224 enforcement agency of the creation, possession, or promotion of
225 pornographic images; or

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

228 (3) Any victim who has a bona fide claim under this section
229 shall, upon request, be provided a pseudonym, pursuant to s.
230 92.56(3), which shall be issued and maintained by the Department
231 of Legal Affairs for use in all legal pleadings. This identifier
232 shall be fully recognized in all courts in this state as a valid

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233 legal identity.

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

237 (5) To prevent the further exploitation of victims for
238 monetary gain by any other person, at the victim's request and
239 pursuant to agency approval, the Office of the Attorney General
240 may pursue cases on behalf of any Florida victim under this
241 section. All damages obtained in such cases shall go to the
242 victim, and the Office of the Attorney General may seek
243 reasonable attorney's fees and costs as authorized under this
244 section.

245 Section 6. Paragraph (d) is added to subsection (3) of
246 section 960.03, Florida Statutes, present subsections (10)
247 through (13) of that section are renumbered as subsections (11)
248 through (14), respectively, a new subsection (10) is added to
249 that section, and present subsection (13) of that section is
250 amended, to read:

251 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
252 960.01-960.28, unless the context otherwise requires, the term:

253 (3) "Crime" means:

254 (d) Any violation of s. 827.071, s. 847.0135, s. 847.0137,
255 or s. 847.0138 related to online sexual exploitation and child
256 pornography.

257 (10) "Known victim of child pornography" means any person
258 who, while under the age of 18, was depicted in any image of
259 child pornography and who has been identified through a report
260 generated by a member of a law enforcement agency and provided to
261 the National Center for Missing and Exploited Children's Child

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262 Victim Identification Program.

263 (14)~~(13)~~ "Victim" means:

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

266 (b) A person less than 18 ~~16~~ years of age who was present
267 at the scene of a crime, saw or heard the crime, and suffered a
268 psychiatric or psychological injury because of the crime, but who
269 was not physically injured; or

270 (c) A person against whom a forcible felony was committed
271 and who suffers a psychiatric or psychological injury as a direct
272 result of that crime but who does not otherwise sustain a
273 personal physical injury or death;~~-~~

274 Section 7. Section 960.197, Florida Statutes, is created to
275 read:

276 960.197 Assistance to victims of online sexual exploitation
277 and child pornography.--

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

282 (a) A child less than 18 years of age who suffers
283 psychiatric or psychological injury as a direct result of online
284 sexual exploitation under any provision of s. 827.071, s.
285 847.0135, s. 847.0137, or s. 847.0138 and who does not otherwise
286 sustain a personal injury or death; or

287 (b) Any person who, while under the age of 18, was depicted
288 in any image or video, regardless of length, of child pornography
289 as defined in s. 847.001 and who has been identified by a law
290 enforcement agency or the National Center for Missing and

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291 Exploited Children as a known victim of child pornography, who
292 suffers psychiatric or psychological injury as a direct result of
293 the crime, and who does not otherwise sustain a personal injury
294 or death.

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

297 Section 8. Paragraph (b) of subsection (2) of section
298 90.404, Florida Statutes, is amended to read:

299 90.404 Character evidence; when admissible.--

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

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

306 2. For the purposes of this paragraph, the term "child
307 molestation" means conduct proscribed by s. 794.011, ~~or~~ s.
308 800.04, or s. 847.0135(5) when committed against a person 16
309 years of age or younger.

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

312 92.565 Admissibility of confession in sexual abuse cases.--

313 (2) In any criminal action in which the defendant is
314 charged with a crime against a victim under s. 794.011; s.
315 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;
316 s. 827.04, involving sexual abuse; ~~or~~ s. 827.071; or s.
317 847.0135(5), or any other crime involving sexual abuse of
318 another, or with any attempt, solicitation, or conspiracy to
319 commit any of these crimes, the defendant's memorialized

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320 confession or admission is admissible during trial without the
321 state having to prove a corpus delicti of the crime if the court
322 finds in a hearing conducted outside the presence of the jury
323 that the state is unable to show the existence of each element of
324 the crime, and having so found, further finds that the
325 defendant's confession or admission is trustworthy. Factors which
326 may be relevant in determining whether the state is unable to
327 show the existence of each element of the crime include, but are
328 not limited to, the fact that, at the time the crime was
329 committed, the victim was:

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

332 (b) Physically incapacitated due to age, infirmity, or any
333 other cause; or

334 (c) Less than 12 years of age.

335 Section 10. Paragraph (e) of subsection (9) of section
336 394.912, Florida Statutes, is amended to read:

337 394.912 Definitions.--As used in this part, the term:

338 (9) "Sexually violent offense" means:

339 (e) Lewd, lascivious, or indecent assault or act upon or in
340 presence of the child in violation of s. 800.04 or s.
341 847.0135(5);

342 Section 11. Section 409.2355, Florida Statutes, is amended
343 to read:

344 409.2355 Programs for prosecution of males over age 21 who
345 commit certain offenses involving girls under age 16.--Subject to
346 specific appropriated funds, the Department of Children and
347 Family Services is directed to establish a program by which local
348 communities, through the state attorney's office of each judicial

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349 circuit, may apply for grants to fund innovative programs for the
350 prosecution of males over the age of 21 who victimize girls under
351 the age of 16 in violation of s. 794.011, s. 794.05, s. 800.04,
352 ~~or~~ s. 827.04(3), or s. 847.0135(5).

353 Section 12. Paragraph (a) of subsection (9) of section
354 775.082, Florida Statutes, is amended to read:

355 775.082 Penalties; applicability of sentencing structures;
356 mandatory minimum sentences for certain reoffenders previously
357 released from prison.--

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

360 a. Treason;

361 b. Murder;

362 c. Manslaughter;

363 d. Sexual battery;

364 e. Carjacking;

365 f. Home-invasion robbery;

366 g. Robbery;

367 h. Arson;

368 i. Kidnapping;

369 j. Aggravated assault with a deadly weapon;

370 k. Aggravated battery;

371 l. Aggravated stalking;

372 m. Aircraft piracy;

373 n. Unlawful throwing, placing, or discharging of a
374 destructive device or bomb;

375 o. Any felony that involves the use or threat of physical
376 force or violence against an individual;

377 p. Armed burglary;

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378 q. Burglary of a dwelling or burglary of an occupied
379 structure; or

380 r. Any felony violation of s. 790.07, s. 800.04, s. 827.03,
381 ~~or~~ s. 827.071, or s. 847.0135(5);

382
383 within 3 years after being released from a state correctional
384 facility operated by the Department of Corrections or a private
385 vendor or within 3 years after being released from a correctional
386 institution of another state, the District of Columbia, the
387 United States, any possession or territory of the United States,
388 or any foreign jurisdiction, following incarceration for an
389 offense for which the sentence is punishable by more than 1 year
390 in this state.

391 2. "Prison releasee reoffender" also means any defendant
392 who commits or attempts to commit any offense listed in sub-
393 subparagraphs (a)1.a.-r. while the defendant was serving a prison
394 sentence or on escape status from a state correctional facility
395 operated by the Department of Corrections or a private vendor or
396 while the defendant was on escape status from a correctional
397 institution of another state, the District of Columbia, the
398 United States, any possession or territory of the United States,
399 or any foreign jurisdiction, following incarceration for an
400 offense for which the sentence is punishable by more than 1 year
401 in this state.

402 3. If the state attorney determines that a defendant is a
403 prison releasee reoffender as defined in subparagraph 1., the
404 state attorney may seek to have the court sentence the defendant
405 as a prison releasee reoffender. Upon proof from the state
406 attorney that establishes by a preponderance of the evidence that

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407 a defendant is a prison release reoffender as defined in this
408 section, such defendant is not eligible for sentencing under the
409 sentencing guidelines and must be sentenced as follows:

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

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

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

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

418 Section 13. Paragraph (d) of subsection (1) of section
419 775.084, Florida Statutes, is amended to read:

420 775.084 Violent career criminals; habitual felony offenders
421 and habitual violent felony offenders; three-time violent felony
422 offenders; definitions; procedure; enhanced penalties or
423 mandatory minimum prison terms.--

424 (1) As used in this act:

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

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

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

432 b. Aggravated stalking, as described in s. 784.048(3) and
433 (4);

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

435 d. Aggravated abuse of an elderly person or disabled adult,

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436 as described in s. 825.102(2);

437 e. Lewd or lascivious battery, lewd or lascivious
438 molestation, lewd or lascivious conduct, or lewd or lascivious
439 exhibition, as described in s. 800.04 or s. 847.0135(5);

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

441 g. A felony violation of chapter 790 involving the use or
442 possession of a firearm.

443 2. The defendant has been incarcerated in a state prison or
444 a federal prison.

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

448 a. While the defendant was serving a prison sentence or
449 other sentence, or court-ordered or lawfully imposed supervision
450 that is imposed as a result of a prior conviction for an
451 enumerated felony; or

452 b. Within 5 years after the conviction of the last prior
453 enumerated felony, or within 5 years after the defendant's
454 release from a prison sentence, probation, community control,
455 control release, conditional release, parole, or court-ordered or
456 lawfully imposed supervision or other sentence that is imposed as
457 a result of a prior conviction for an enumerated felony,
458 whichever is later.

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

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

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465 Section 14. Paragraph (a) of subsection (13) and paragraph
466 (a) of subsection (16) of section 775.15, Florida Statutes, are
467 amended to read:

468 775.15 Time limitations; general time limitations;
469 exceptions.--

470 (13)(a) If the victim of a violation of s. 794.011, former
471 s. 794.05, Florida Statutes 1995, s. 800.04, ~~s. 826.04~~, or s.
472 847.0135(5) is under the age of 18, the applicable period of
473 limitation, if any, does not begin to run until the victim has
474 reached the age of 18 or the violation is reported to a law
475 enforcement agency or other governmental agency, whichever occurs
476 earlier. Such law enforcement agency or other governmental agency
477 shall promptly report such allegation to the state attorney for
478 the judicial circuit in which the alleged violation occurred. If
479 the offense is a first or second degree felony violation of s.
480 794.011, and the offense is reported within 72 hours after its
481 commission, the prosecution for such offense may be commenced at
482 any time. This paragraph applies to any such offense except an
483 offense the prosecution of which would have been barred by
484 subsection (2) on or before December 31, 1984.

485 (16)(a) In addition to the time periods prescribed in this
486 section, a prosecution for any of the following offenses may be
487 commenced at any time after the date on which the identity of the
488 accused is established, or should have been established by the
489 exercise of due diligence, through the analysis of
490 deoxyribonucleic acid (DNA) evidence, if a sufficient portion of
491 the evidence collected at the time of the original investigation
492 and tested for DNA is preserved and available for testing by the
493 accused:

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

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

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

499 | 4. A lewd or lascivious offense under s. 800.04, ~~or~~ s.
500 | 825.1025, or s. 847.0135(5).

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

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

504 | 7. Carjacking under s. 812.133.

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

506 | Section 15. Paragraph (a) of subsection (4) and paragraph
507 | (b) of subsection (10) of section 775.21, Florida Statutes, are
508 | amended to read:

509 | 775.21 The Florida Sexual Predators Act.--

510 | (4) SEXUAL PREDATOR CRITERIA.--

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

516 | 1. The felony is:

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

522 | b. Any felony violation, or any attempt thereof, of s.

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523 | 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
524 | minor and the defendant is not the victim's parent or guardian;
525 | s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
526 | 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s.
527 | 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a
528 | similar law of another jurisdiction, and the offender has
529 | previously been convicted of or found to have committed, or has
530 | pled nolo contendere or guilty to, regardless of adjudication,
531 | any violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
532 | the victim is a minor and the defendant is not the victim's
533 | parent or guardian; s. 794.011, excluding s. 794.011(10); s.
534 | 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
535 | 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s.
536 | 847.0145; or s. 985.701(1); or a violation of a similar law of
537 | another jurisdiction;

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

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

544 | (10) PENALTIES.--

545 | (b) A sexual predator who has been convicted of or found to
546 | have committed, or has pled nolo contendere or guilty to,
547 | regardless of adjudication, any violation, or attempted
548 | violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
549 | the victim is a minor and the defendant is not the victim's
550 | parent or guardian; s. 794.011, excluding s. 794.011(10); s.
551 | 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s.

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552 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a
553 violation of a similar law of another jurisdiction when the
554 victim of the offense was a minor, and who works, whether for
555 compensation or as a volunteer, at any business, school, day care
556 center, park, playground, or other place where children regularly
557 congregate, commits a felony of the third degree, punishable as
558 provided in s. 775.082, s. 775.083, or s. 775.084.

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

561 784.048 Stalking; definitions; penalties.--

562 (7) Any person who, after having been sentenced for a
563 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) and
564 prohibited from contacting the victim of the offense under s.
565 921.244, willfully, maliciously, and repeatedly follows,
566 harasses, or cyberstalks the victim commits the offense of
567 aggravated stalking, a felony of the third degree, punishable as
568 provided in s. 775.082, s. 775.083, or s. 775.084.

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

572 Section 17. Paragraph (a) of subsection (3) of section
573 787.01, Florida Statutes, is amended to read:

574 787.01 Kidnapping; kidnapping of child under age 13,
575 aggravating circumstances.--

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

- 579 1. Aggravated child abuse, as defined in s. 827.03;
580 2. Sexual battery, as defined in chapter 794, against the

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581 child;

582 3. Lewd or lascivious battery, lewd or lascivious
583 molestation, lewd or lascivious conduct, or lewd or lascivious
584 exhibition, in violation of s. 800.04 or s. 847.0135(5);

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

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

589
590 commits a life felony, punishable as provided in s. 775.082, s.
591 775.083, or s. 775.084.

592 Section 18. Paragraph (a) of subsection (3) of section
593 787.02, Florida Statutes, is amended to read:

594 787.02 False imprisonment; false imprisonment of child
595 under age 13, aggravating circumstances.--

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

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

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

605 3. Lewd or lascivious battery, lewd or lascivious
606 molestation, lewd or lascivious conduct, or lewd or lascivious
607 exhibition, in violation of s. 800.04 or s. 847.0135(5);

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

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

612 Section 19. Paragraph (c) of subsection (2) of section
613 787.025, Florida Statutes, is amended to read:

614 787.025 Luring or enticing a child.--

615 (2)

616 (c) A person 18 years of age or older who, having been
617 previously convicted of a violation of chapter 794, ~~or~~ s. 800.04,
618 or s. 847.0135(5), or a violation of a similar law of another
619 jurisdiction, intentionally lures or entices, or attempts to lure
620 or entice, a child under the age of 12 into a structure,
621 dwelling, or conveyance for other than a lawful purpose commits a
622 felony of the third degree, punishable as provided in s. 775.082,
623 s. 775.083, or s. 775.084.

624 Section 20. Section 794.065, Florida Statutes, is amended
625 to read:

626 794.065 Unlawful place of residence for persons convicted
627 of certain sex offenses.--

628 (1) It is unlawful for any person who has been convicted of
629 a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5),
630 or s. 847.0145, regardless of whether adjudication has been
631 withheld, in which the victim of the offense was less than 16
632 years of age, to reside within 1,000 feet of any school, day care
633 center, park, or playground. A person who violates this section
634 and whose conviction under s. 794.011, s. 800.04, s. 827.071, s.
635 847.0135(5), or s. 847.0145 was classified as a felony of the
636 first degree or higher commits a felony of the third degree,
637 punishable as provided in s. 775.082 or s. 775.083. A person who
638 violates this section and whose conviction under s. 794.011, s.

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639 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 was classified
640 as a felony of the second or third degree commits a misdemeanor
641 of the first degree, punishable as provided in s. 775.082 or s.
642 775.083.

643 (2) This section applies to any person convicted of a
644 violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5),
645 or s. 847.0145 for offenses that occur on or after October 1,
646 2004.

647 Section 21. Section 914.16, Florida Statutes, is amended to
648 read:

649 914.16 Child abuse and sexual abuse of victims under age 16
650 or persons with mental retardation; limits on interviews.--The
651 chief judge of each judicial circuit, after consultation with the
652 state attorney and the public defender for the judicial circuit,
653 the appropriate chief law enforcement officer, and any other
654 person deemed appropriate by the chief judge, shall provide by
655 order reasonable limits on the number of interviews that a victim
656 of a violation of s. 794.011, s. 800.04, ~~or~~ s. 827.03, or s.
657 847.0135(5) who is under 16 years of age or a victim of a
658 violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102 who
659 is a person with mental retardation as defined in s. 393.063 must
660 submit to for law enforcement or discovery purposes. The order
661 shall, to the extent possible, protect the victim from the
662 psychological damage of repeated interrogations while preserving
663 the rights of the public, the victim, and the person charged with
664 the violation.

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

667 921.0022 Criminal Punishment Code; offense severity ranking

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668 | chart.--

669 | (3) OFFENSE SEVERITY RANKING CHART

670 | (d) LEVEL 4

671 |

Florida	Felony	Description
Statute	Degree	

672 |

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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673 |

499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
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674 |

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

675 |

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

676 |

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

677 |

784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
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678 |

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679 784.075 3rd Battery on detention or commitment
facility staff.

680 784.078 3rd Battery of facility employee by
throwing, tossing, or expelling certain
fluids or materials.

681 784.08 (2) (c) 3rd Battery on a person 65 years of age or
older.

682 784.081 (3) 3rd Battery on specified official or
employee.

683 784.082 (3) 3rd Battery by detained person on visitor
or other detainee.

684 784.083 (3) 3rd Battery on code inspector.

685 784.085 3rd Battery of child by throwing, tossing,
projecting, or expelling certain fluids
or materials.

686 787.03 (1) 3rd Interference with custody; wrongly
takes minor from appointed guardian.

687 787.04 (2) 3rd Take, entice, or remove child beyond
state limits with criminal intent
pending custody proceedings.

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688	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
689	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
690	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
691	790.115 (2) (c)	3rd	Possessing firearm on school property.
692	800.04 (7) <u>(c)</u> (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
693	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
694	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
695	810.06	3rd	Burglary; possession of tools.
	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.

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696 | 812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000 or more
but less than \$20,000.

697 | 812.014(2)(c)4. 3rd Grand theft, 3rd degree, a will,
-10. firearm, motor vehicle, livestock, etc.

698 | 812.0195(2) 3rd Dealing in stolen property by use of
the Internet; property stolen \$300 or
more.

699 | 817.563(1) 3rd Sell or deliver substance other than
controlled substance agreed upon,
excluding s. 893.03(5) drugs.

700 | 817.568(2)(a) 3rd Fraudulent use of personal
identification information.

701 | 817.625(2)(a) 3rd Fraudulent use of scanning device or
reencoder.

702 | 828.125(1) 2nd Kill, maim, or cause great bodily harm
or permanent breeding disability to any
registered horse or cattle.

703 | 837.02(1) 3rd Perjury in official proceedings.

704 | 837.021(1) 3rd Make contradictory statements in
official proceedings.

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705	838.022	3rd	Official misconduct.
706	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
707	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
708	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
709	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
710	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
711	<u>847.0135 (5) (c)</u>	<u>3rd</u>	<u>Lewd or lascivious exhibition using computer; offender less than 18 years.</u>
712	874.05 (1)	3rd	Encouraging or recruiting another to join a criminal street gang.
713	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).

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714	914.14 (2)	3rd	Witnesses accepting bribes.
715	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
716	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
717	918.12	3rd	Tampering with jurors.
718	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
719			
720	(e)	LEVEL 5	
721			
	Florida Statute	Felony Degree	Description
722	316.027 (1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
723	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
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

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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.

732

790.01 (2) 3rd Carrying a concealed firearm.

733

790.162 2nd Threat to throw or discharge destructive device.

734

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735	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
736	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
737	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
738	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
739	800.04 (7) <u>(b)</u> (e)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
740	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
741	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
742	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
	812.019 (1)	2nd	Stolen property; dealing in or

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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) 3rd Filing false financial statements, (a) & (3) (a) making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

748

817.568 (2) (b) 2nd Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.

749

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

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750	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
751	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
752	827.071(5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
753	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.
754	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
755	<u>847.0135(5)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious exhibition using computer; offender 18 years or older.</u>
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

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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.

761

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

762

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.,

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(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.

763

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.

764

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).

765

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

768 921.244 Order of no contact; penalties.--

769 (1) At the time of sentencing an offender convicted of a
 770 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5), the
 771 court shall order that the offender be prohibited from having any
 772 contact with the victim, directly or indirectly, including
 773 through a third person, for the duration of the sentence imposed.
 774 The court may reconsider the order upon the request of the victim
 775 if the request is made at any time after the victim has attained
 776 18 years of age. In considering the request, the court shall
 777 conduct an evidentiary hearing to determine whether a change of

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778 | circumstances has occurred which warrants a change in the court
779 | order prohibiting contact and whether it is in the best interest
780 | of the victim that the court order be modified or rescinded.

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

784 | Section 24. Subsection (1) of section 938.10, Florida
785 | Statutes, is amended to read:

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

788 | (1) If a person pleads guilty or nolo contendere to, or is
789 | found guilty of, regardless of adjudication, any offense against
790 | a minor in violation of s. 784.085, chapter 787, chapter 794, s.
791 | 796.03, s. 800.04, chapter 827, s. 847.0135(5), s. 847.0145, or
792 | s. 985.701, the court shall impose a court cost of \$101 against
793 | the offender in addition to any other cost or penalty required by
794 | law.

795 | Section 25. Subsections (1), (2), and (4) of section
796 | 943.04354, Florida Statutes, are amended to read:

797 | 943.04354 Removal of the requirement to register as a
798 | sexual offender or sexual predator in special circumstances.--

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

802 | (a) Was or will be convicted or adjudicated delinquent of a
803 | violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) or the
804 | person committed a violation of s. 794.011, ~~or~~ s. 800.04, or s.
805 | 847.0135(5) for which adjudication of guilt was or will be
806 | withheld, and the person does not have any other conviction,

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807 adjudication of delinquency, or withhold of adjudication of guilt
808 for a violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5);

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

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

814 (2) If a person meets the criteria in subsection (1) and
815 the violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) was
816 committed on or after July 1, 2007, the person may move the court
817 that will sentence or dispose of this violation to remove the
818 requirement that the person register as a sexual offender or
819 sexual predator. The person must allege in the motion that he or
820 she meets the criteria in subsection (1) and that removal of the
821 registration requirement will not conflict with federal law. The
822 state attorney must be given notice of the motion at least 21
823 days before the date of sentencing or disposition of this
824 violation and may present evidence in opposition to the requested
825 relief or may otherwise demonstrate why the motion should be
826 denied. At sentencing or disposition of this violation, the court
827 shall rule on this motion and, if the court determines the person
828 meets the criteria in subsection (1) and the removal of the
829 registration requirement will not conflict with federal law, it
830 may grant the motion and order the removal of the registration
831 requirement. If the court denies the motion, the person is not
832 authorized under this section to petition for removal of the
833 registration requirement.

834 (4) If a person provides to the Department of Law
835 Enforcement a certified copy of the court's order removing the

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836 requirement that the person register as a sexual offender or
837 sexual predator for the violation of s. 794.011, ~~or~~ s. 800.04, or
838 s. 847.0135(5), the registration requirement will not apply to
839 the person and the department shall remove all information about
840 the person from the public registry of sexual offenders and
841 sexual predators maintained by the department. However, the
842 removal of this information from the public registry does not
843 mean that the public is denied access to information about the
844 person's criminal history or record that is otherwise available
845 as a public record.

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

848 947.1405 Conditional release program.--

849 (7) (a) Any inmate who is convicted of a crime committed on
850 or after October 1, 1995, or who has been previously convicted of
851 a crime committed on or after October 1, 1995, in violation of
852 chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
853 847.0145, and is subject to conditional release supervision,
854 shall have, in addition to any other conditions imposed, the
855 following special conditions imposed by the commission:

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

862 2. If the victim was under the age of 18, a prohibition on
863 living within 1,000 feet of a school, day care center, park,
864 playground, designated public school bus stop, or other place

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865 | where children regularly congregate. A releasee who is subject to
866 | this subparagraph may not relocate to a residence that is within
867 | 1,000 feet of a public school bus stop. Beginning October 1,
868 | 2004, the commission or the department may not approve a
869 | residence that is located within 1,000 feet of a school, day care
870 | center, park, playground, designated school bus stop, or other
871 | place where children regularly congregate for any releasee who is
872 | subject to this subparagraph. On October 1, 2004, the department
873 | shall notify each affected school district of the location of the
874 | residence of a releasee 30 days prior to release and thereafter,
875 | if the releasee relocates to a new residence, shall notify any
876 | affected school district of the residence of the releasee within
877 | 30 days after relocation. If, on October 1, 2004, any public
878 | school bus stop is located within 1,000 feet of the existing
879 | residence of such releasee, the district school board shall
880 | relocate that school bus stop. Beginning October 1, 2004, a
881 | district school board may not establish or relocate a public
882 | school bus stop within 1,000 feet of the residence of a releasee
883 | who is subject to this subparagraph. The failure of the district
884 | school board to comply with this subparagraph shall not result in
885 | a violation of conditional release supervision.

886 | 3. Active participation in and successful completion of a
887 | sex offender treatment program with qualified practitioners
888 | specifically trained to treat sex offenders, at the releasee's
889 | own expense. If a qualified practitioner is not available within
890 | a 50-mile radius of the releasee's residence, the offender shall
891 | participate in other appropriate therapy.

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

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894 | by the victim, the offender's therapist, and the sentencing
895 | court.

896 | 5. If the victim was under the age of 18, a prohibition
897 | against contact with children under the age of 18 without review
898 | and approval by the commission. The commission may approve
899 | supervised contact with a child under the age of 18 if the
900 | approval is based upon a recommendation for contact issued by a
901 | qualified practitioner who is basing the recommendation on a risk
902 | assessment. Further, the sex offender must be currently enrolled
903 | in or have successfully completed a sex offender therapy program.
904 | The commission may not grant supervised contact with a child if
905 | the contact is not recommended by a qualified practitioner and
906 | may deny supervised contact with a child at any time. When
907 | considering whether to approve supervised contact with a child,
908 | the commission must review and consider the following:

909 | a. A risk assessment completed by a qualified practitioner.
910 | The qualified practitioner must prepare a written report that
911 | must include the findings of the assessment and address each of
912 | the following components:

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

914 | (II) The sex offender's history of adult charges with
915 | apparent sexual motivation;

916 | (III) The sex offender's history of adult charges without
917 | apparent sexual motivation;

918 | (IV) The sex offender's history of juvenile charges,
919 | whenever available;

920 | (V) The sex offender's offender treatment history,
921 | including a consultation from the sex offender's treating, or
922 | most recent treating, therapist;

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

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

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

928 (IX) The results of current psychological testing of the
929 sex offender if determined necessary by the qualified
930 practitioner;

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

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

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

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

941

942 The written report of the assessment must be given to the
943 commission.

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

947 c. A written consent signed by the child's parent or legal
948 guardian, if the parent or legal guardian is not the sex
949 offender, agreeing to the sex offender having supervised contact
950 with the child after receiving full disclosure of the sex
951 offender's present legal status, past criminal history, and the

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952 results of the risk assessment. The commission may not approve
953 contact with the child if the parent or legal guardian refuses to
954 give written consent for supervised contact;

955 d. A safety plan prepared by the qualified practitioner,
956 who provides treatment to the offender, in collaboration with the
957 sex offender, the child's parent or legal guardian, and the
958 child, when age appropriate, which details the acceptable
959 conditions of contact between the sex offender and the child. The
960 safety plan must be reviewed and approved by the Department of
961 Corrections before being submitted to the commission; and

962 e. Evidence that the child's parent or legal guardian, if
963 the parent or legal guardian is not the sex offender, understands
964 the need for and agrees to the safety plan and has agreed to
965 provide, or to designate another adult to provide, constant
966 supervision any time the child is in contact with the offender.

967
968 The commission may not appoint a person to conduct a risk
969 assessment and may not accept a risk assessment from a person who
970 has not demonstrated to the commission that he or she has met the
971 requirements of a qualified practitioner as defined in this
972 section.

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

977 7. Unless otherwise indicated in the treatment plan
978 provided by the sexual offender treatment program, a prohibition
979 on viewing, owning, or possessing any obscene, pornographic, or
980 sexually stimulating visual or auditory material, including

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981 | telephone, electronic media, computer programs, or computer
982 | services that are relevant to the offender's deviant behavior
983 | pattern.

984 | 8. Effective for a releasee whose crime is committed on or
985 | after July 1, 2005, a prohibition on accessing the Internet or
986 | other computer services until the offender's sex offender
987 | treatment program, after a risk assessment is completed, approves
988 | and implements a safety plan for the offender's accessing or
989 | using the Internet or other computer services.

990 | 9. A requirement that the releasee must submit two
991 | specimens of blood to the Florida Department of Law Enforcement
992 | to be registered with the DNA database.

993 | 10. A requirement that the releasee make restitution to the
994 | victim, as determined by the sentencing court or the commission,
995 | for all necessary medical and related professional services
996 | relating to physical, psychiatric, and psychological care.

997 | 11. Submission to a warrantless search by the community
998 | control or probation officer of the probationer's or community
999 | controllee's person, residence, or vehicle.

1000 | (b) For a releasee whose crime was committed on or after
1001 | October 1, 1997, in violation of chapter 794, s. 800.04, s.
1002 | 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to
1003 | conditional release supervision, in addition to any other
1004 | provision of this subsection, the commission shall impose the
1005 | following additional conditions of conditional release
1006 | supervision:

1007 | 1. As part of a treatment program, participation in a
1008 | minimum of one annual polygraph examination to obtain information
1009 | necessary for risk management and treatment and to reduce the sex

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1010 offender's denial mechanisms. The polygraph examination must be
1011 conducted by a polygrapher trained specifically in the use of the
1012 polygraph for the monitoring of sex offenders, where available,
1013 and at the expense of the sex offender. The results of the
1014 polygraph examination shall not be used as evidence in a hearing
1015 to prove that a violation of supervision has occurred.

1016 2. Maintenance of a driving log and a prohibition against
1017 driving a motor vehicle alone without the prior approval of the
1018 supervising officer.

1019 3. A prohibition against obtaining or using a post office
1020 box without the prior approval of the supervising officer.

1021 4. If there was sexual contact, a submission to, at the
1022 probationer's or community controllee's expense, an HIV test with
1023 the results to be released to the victim or the victim's parent
1024 or guardian.

1025 5. Electronic monitoring of any form when ordered by the
1026 commission.

1027 Section 27. Subsection (2) of section 948.03, Florida
1028 Statutes, is amended to read:

1029 948.03 Terms and conditions of probation.--

1030 (2) The enumeration of specific kinds of terms and
1031 conditions shall not prevent the court from adding thereto such
1032 other or others as it considers proper. However, the sentencing
1033 court may only impose a condition of supervision allowing an
1034 offender convicted of s. 794.011, s. 800.04, s. 827.071, s.
1035 847.0135(5), or s. 847.0145, to reside in another state, if the
1036 order stipulates that it is contingent upon the approval of the
1037 receiving state interstate compact authority. The court may
1038 rescind or modify at any time the terms and conditions

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1039 theretofore imposed by it upon the probationer. However, if the
1040 court withholds adjudication of guilt or imposes a period of
1041 incarceration as a condition of probation, the period shall not
1042 exceed 364 days, and incarceration shall be restricted to either
1043 a county facility, a probation and restitution center under the
1044 jurisdiction of the Department of Corrections, a probation
1045 program drug punishment phase I secure residential treatment
1046 institution, or a community residential facility owned or
1047 operated by any entity providing such services.

1048 Section 28. Paragraph (c) of subsection (8) of section
1049 948.06, Florida Statutes, is amended to read:

1050 948.06 Violation of probation or community control;
1051 revocation; modification; continuance; failure to pay restitution
1052 or cost of supervision.--

1053 (8)

1054 (c) For purposes of this section, the term "qualifying
1055 offense" means any of the following:

1056 1. Kidnapping or attempted kidnapping under s. 787.01,
1057 false imprisonment of a child under the age of 13 under s.
1058 787.02(3), or luring or enticing a child under s. 787.025(2)(b)
1059 or (c).

1060 2. Murder or attempted murder under s. 782.04, attempted
1061 felony murder under s. 782.051, or manslaughter under s. 782.07.

1062 3. Aggravated battery or attempted aggravated battery under
1063 s. 784.045.

1064 4. Sexual battery or attempted sexual battery under s.
1065 794.011(2), (3), (4), or (8)(b) or (c).

1066 5. Lewd or lascivious battery or attempted lewd or
1067 lascivious battery under s. 800.04(4), lewd or lascivious

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1068 | molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious
1069 | conduct under s. 800.04(6)(b), ~~or~~ lewd or lascivious exhibition
1070 | under s. 800.04(7)(b), or lewd or lascivious exhibition on
1071 | computer under s. 847.0135(5)(b) ~~s. 800.04(7)(c)~~.

1072 | 6. Robbery or attempted robbery under s. 812.13, carjacking
1073 | or attempted carjacking under s. 812.133, or home invasion
1074 | robbery or attempted home invasion robbery under s. 812.135.

1075 | 7. Lewd or lascivious offense upon or in the presence of an
1076 | elderly or disabled person or attempted lewd or lascivious
1077 | offense upon or in the presence of an elderly or disabled person
1078 | under s. 825.1025.

1079 | 8. Sexual performance by a child or attempted sexual
1080 | performance by a child under s. 827.071.

1081 | 9. Computer pornography under s. 847.0135(2) or (3),
1082 | transmission of child pornography under s. 847.0137, or selling
1083 | or buying of minors under s. 847.0145.

1084 | 10. Poisoning food or water under s. 859.01.

1085 | 11. Abuse of a dead human body under s. 872.06.

1086 | 12. Any burglary offense or attempted burglary offense that
1087 | is either a first degree felony or second degree felony under s.
1088 | 810.02(2) or (3).

1089 | 13. Arson or attempted arson under s. 806.01(1).

1090 | 14. Aggravated assault under s. 784.021.

1091 | 15. Aggravated stalking under s. 784.048(3), (4), (5), or
1092 | (7).

1093 | 16. Aircraft piracy under s. 860.16.

1094 | 17. Unlawful throwing, placing, or discharging of a
1095 | destructive device or bomb under s. 790.161(2), (3), or (4).

1096 | 18. Treason under s. 876.32.

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1097 19. Any offense committed in another jurisdiction which
1098 would be an offense listed in this paragraph if that offense had
1099 been committed in this state.

1100 Section 29. Subsection (2) of section 948.101, Florida
1101 Statutes, is amended to read:

1102 948.101 Terms and conditions of community control and
1103 criminal quarantine community control.--

1104 (2) The enumeration of specific kinds of terms and
1105 conditions does not prevent the court from adding thereto any
1106 other terms or conditions that the court considers proper.
1107 However, the sentencing court may only impose a condition of
1108 supervision allowing an offender convicted of s. 794.011, s.
1109 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in
1110 another state if the order stipulates that it is contingent upon
1111 the approval of the receiving state interstate compact authority.
1112 The court may rescind or modify at any time the terms and
1113 conditions theretofore imposed by it upon the offender in
1114 community control. However, if the court withholds adjudication
1115 of guilt or imposes a period of incarceration as a condition of
1116 community control, the period may not exceed 364 days, and
1117 incarceration shall be restricted to a county facility, a
1118 probation and restitution center under the jurisdiction of the
1119 Department of Corrections, a probation program drug punishment
1120 phase I secure residential treatment institution, or a community
1121 residential facility owned or operated by any entity providing
1122 such services.

1123 Section 30. Subsections (1) and (2) of section 948.30,
1124 Florida Statutes, are amended to read:

1125 948.30 Additional terms and conditions of probation or

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1126 community control for certain sex offenses.--Conditions imposed
1127 pursuant to this section do not require oral pronouncement at the
1128 time of sentencing and shall be considered standard conditions of
1129 probation or community control for offenders specified in this
1130 section.

1131 (1) Effective for probationers or community controllees
1132 whose crime was committed on or after October 1, 1995, and who
1133 are placed under supervision for violation of chapter 794, s.
1134 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, the court
1135 must impose the following conditions in addition to all other
1136 standard and special conditions imposed:

1137 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may
1138 designate another 8-hour period if the offender's employment
1139 precludes the above specified time, and the alternative is
1140 recommended by the Department of Corrections. If the court
1141 determines that imposing a curfew would endanger the victim, the
1142 court may consider alternative sanctions.

1143 (b) If the victim was under the age of 18, a prohibition on
1144 living within 1,000 feet of a school, day care center, park,
1145 playground, or other place where children regularly congregate,
1146 as prescribed by the court. The 1,000-foot distance shall be
1147 measured in a straight line from the offender's place of
1148 residence to the nearest boundary line of the school, day care
1149 center, park, playground, or other place where children
1150 congregate. The distance may not be measured by a pedestrian
1151 route or automobile route.

1152 (c) Active participation in and successful completion of a
1153 sex offender treatment program with qualified practitioners
1154 specifically trained to treat sex offenders, at the probationer's

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1155 or community controllee's own expense. If a qualified
1156 practitioner is not available within a 50-mile radius of the
1157 probationer's or community controllee's residence, the offender
1158 shall participate in other appropriate therapy.

1159 (d) A prohibition on any contact with the victim, directly
1160 or indirectly, including through a third person, unless approved
1161 by the victim, the offender's therapist, and the sentencing
1162 court.

1163 (e) If the victim was under the age of 18, a prohibition on
1164 contact with a child under the age of 18 except as provided in
1165 this paragraph. The court may approve supervised contact with a
1166 child under the age of 18 if the approval is based upon a
1167 recommendation for contact issued by a qualified practitioner who
1168 is basing the recommendation on a risk assessment. Further, the
1169 sex offender must be currently enrolled in or have successfully
1170 completed a sex offender therapy program. The court may not grant
1171 supervised contact with a child if the contact is not recommended
1172 by a qualified practitioner and may deny supervised contact with
1173 a child at any time. When considering whether to approve
1174 supervised contact with a child, the court must review and
1175 consider the following:

1176 1. A risk assessment completed by a qualified practitioner.
1177 The qualified practitioner must prepare a written report that
1178 must include the findings of the assessment and address each of
1179 the following components:

- 1180 a. The sex offender's current legal status;
- 1181 b. The sex offender's history of adult charges with
1182 apparent sexual motivation;
- 1183 c. The sex offender's history of adult charges without

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- 1184 | apparent sexual motivation;
- 1185 | d. The sex offender's history of juvenile charges, whenever
- 1186 | available;
- 1187 | e. The sex offender's offender treatment history, including
- 1188 | consultations with the sex offender's treating, or most recent
- 1189 | treating, therapist;
- 1190 | f. The sex offender's current mental status;
- 1191 | g. The sex offender's mental health and substance abuse
- 1192 | treatment history as provided by the Department of Corrections;
- 1193 | h. The sex offender's personal, social, educational, and
- 1194 | work history;
- 1195 | i. The results of current psychological testing of the sex
- 1196 | offender if determined necessary by the qualified practitioner;
- 1197 | j. A description of the proposed contact, including the
- 1198 | location, frequency, duration, and supervisory arrangement;
- 1199 | k. The child's preference and relative comfort level with
- 1200 | the proposed contact, when age appropriate;
- 1201 | l. The parent's or legal guardian's preference regarding
- 1202 | the proposed contact; and
- 1203 | m. The qualified practitioner's opinion, along with the
- 1204 | basis for that opinion, as to whether the proposed contact would
- 1205 | likely pose significant risk of emotional or physical harm to the
- 1206 | child.
- 1207 |
- 1208 | The written report of the assessment must be given to the court;
- 1209 | 2. A recommendation made as a part of the risk assessment
- 1210 | report as to whether supervised contact with the child should be
- 1211 | approved;
- 1212 | 3. A written consent signed by the child's parent or legal

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1213 guardian, if the parent or legal guardian is not the sex
1214 offender, agreeing to the sex offender having supervised contact
1215 with the child after receiving full disclosure of the sex
1216 offender's present legal status, past criminal history, and the
1217 results of the risk assessment. The court may not approve contact
1218 with the child if the parent or legal guardian refuses to give
1219 written consent for supervised contact;

1220 4. A safety plan prepared by the qualified practitioner,
1221 who provides treatment to the offender, in collaboration with the
1222 sex offender, the child's parent or legal guardian, if the parent
1223 or legal guardian is not the sex offender, and the child, when
1224 age appropriate, which details the acceptable conditions of
1225 contact between the sex offender and the child. The safety plan
1226 must be reviewed and approved by the court; and

1227 5. Evidence that the child's parent or legal guardian
1228 understands the need for and agrees to the safety plan and has
1229 agreed to provide, or to designate another adult to provide,
1230 constant supervision any time the child is in contact with the
1231 offender.

1232
1233 The court may not appoint a person to conduct a risk assessment
1234 and may not accept a risk assessment from a person who has not
1235 demonstrated to the court that he or she has met the requirements
1236 of a qualified practitioner as defined in this section.

1237 (f) If the victim was under age 18, a prohibition on
1238 working for pay or as a volunteer at any place where children
1239 regularly congregate, including, but not limited to, schools, day
1240 care centers, parks, playgrounds, pet stores, libraries, zoos,
1241 theme parks, and malls.

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1242 (g) Unless otherwise indicated in the treatment plan
1243 provided by the sexual offender treatment program, a prohibition
1244 on viewing, accessing, owning, or possessing any obscene,
1245 pornographic, or sexually stimulating visual or auditory
1246 material, including telephone, electronic media, computer
1247 programs, or computer services that are relevant to the
1248 offender's deviant behavior pattern.

1249 (h) Effective for probationers and community controllees
1250 whose crime is committed on or after July 1, 2005, a prohibition
1251 on accessing the Internet or other computer services until the
1252 offender's sex offender treatment program, after a risk
1253 assessment is completed, approves and implements a safety plan
1254 for the offender's accessing or using the Internet or other
1255 computer services.

1256 (i) A requirement that the probationer or community
1257 controllee must submit a specimen of blood or other approved
1258 biological specimen to the Department of Law Enforcement to be
1259 registered with the DNA data bank.

1260 (j) A requirement that the probationer or community
1261 controllee make restitution to the victim, as ordered by the
1262 court under s. 775.089, for all necessary medical and related
1263 professional services relating to physical, psychiatric, and
1264 psychological care.

1265 (k) Submission to a warrantless search by the community
1266 control or probation officer of the probationer's or community
1267 controllee's person, residence, or vehicle.

1268 (2) Effective for a probationer or community controllee
1269 whose crime was committed on or after October 1, 1997, and who is
1270 placed on community control or sex offender probation for a

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1271 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),
1272 or s. 847.0145, in addition to any other provision of this
1273 section, the court must impose the following conditions of
1274 probation or community control:

1275 (a) As part of a treatment program, participation at least
1276 annually in polygraph examinations to obtain information
1277 necessary for risk management and treatment and to reduce the sex
1278 offender's denial mechanisms. A polygraph examination must be
1279 conducted by a polygrapher trained specifically in the use of the
1280 polygraph for the monitoring of sex offenders, where available,
1281 and shall be paid for by the sex offender. The results of the
1282 polygraph examination shall not be used as evidence in court to
1283 prove that a violation of community supervision has occurred.

1284 (b) Maintenance of a driving log and a prohibition against
1285 driving a motor vehicle alone without the prior approval of the
1286 supervising officer.

1287 (c) A prohibition against obtaining or using a post office
1288 box without the prior approval of the supervising officer.

1289 (d) If there was sexual contact, a submission to, at the
1290 probationer's or community controllee's expense, an HIV test with
1291 the results to be released to the victim or the victim's parent
1292 or guardian.

1293 (e) Electronic monitoring when deemed necessary by the
1294 community control or probation officer and his or her supervisor,
1295 and ordered by the court at the recommendation of the Department
1296 of Corrections.

1297 Section 31. Subsection (1) of section 948.31, Florida
1298 Statutes, is amended to read:

1299 948.31 Diagnosis, evaluation, and treatment of offenders

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1300 placed on probation or community control for certain sex offenses
1301 or child exploitation.--The court shall require a diagnosis and
1302 evaluation to determine the need of a probationer or offender in
1303 community control for treatment. If the court determines that a
1304 need therefor is established by such diagnosis and evaluation
1305 process, the court shall require outpatient counseling as a term
1306 or condition of probation or community control for any person who
1307 was found guilty of any of the following, or whose plea of guilty
1308 or nolo contendere to any of the following was accepted by the
1309 court:

1310 (1) Lewd or lascivious battery, lewd or lascivious
1311 molestation, lewd or lascivious conduct, or lewd or lascivious
1312 exhibition, as defined in s. 800.04 or s. 847.0135(5).
1313

1314 Such counseling shall be required to be obtained from a community
1315 mental health center, a recognized social service agency
1316 providing mental health services, or a private mental health
1317 professional or through other professional counseling. The plan
1318 for counseling for the individual shall be provided to the court
1319 for review.

1320 Section 32. This act shall take effect October 1, 2008.