

By the Committees on Criminal and Civil Justice Appropriations;
Judiciary; Criminal Justice; and Senators Dockery and Baker

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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. 796.035, F.S.; revising provisions relating to
9 the sale or transfer of minors into sex trafficking or
10 prostitution; amending s. 800.04, F.S., relating to lewd
11 or lascivious exhibition, to conform to changes made by
12 the act; amending s. 847.0135, F.S.; conforming provisions
13 to changes made by the act; creating s. 847.002, F.S.;
14 requiring law enforcement officers to provide certain
15 information to the National Center for Missing and
16 Exploited Children; requiring law enforcement officers
17 submitting a case for prosecution that involves the
18 creation, possession, or promotion of child pornography to
19 provide specified information to prosecutors; requiring
20 prosecutors to enter specified information in a database
21 maintained by the Attorney General; creating s. 847.01357,
22 F.S.; providing a civil remedy for any person who, while
23 under the age of 18, was a victim of certain sexual abuse
24 crimes wherein any portion of that abuse was used in the
25 production of child pornography and who suffers personal
26 or psychological injury as a result of the production,
27 promotion, or possession of such images; specifying
28 damages; providing for limitation of actions; providing
29 for confidential pseudonyms to specified claimants;

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

44 authorizing victim compensation awards to certain persons
45 who suffer psychiatric or psychological injury as a result
46 of certain crimes; amending ss. 90.404, 92.565, 394.912,
47 409.2355, 775.082, 775.084, 775.15, 775.21, 784.048,
48 787.01, 787.02, 787.025, 794.065, 914.16, 921.0022,
49 921.244, 938.10, 943.04354, 947.1405, 948.03, 948.06,
50 948.101, 948.30, and 948.31, F.S.; conforming provisions
51 to changes made by the 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 more than 1,200 victims of child

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59 | pornography are known by law enforcement agencies, more than 30
60 | of whom were residents of this state at the time of their abuse,
61 | and

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

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

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

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

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

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

83 | (3) The state may use a pseudonym instead of the victim's
84 | name to designate the victim of a crime described in chapter 794
85 | or chapter 800, or of child abuse, aggravated child abuse, or
86 | sexual performance by a child as described in chapter 827, or any
87 | crime involving the production, possession, or promotion of child

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88 pornography as described in chapter 847, in all court records and
89 records of court proceedings, both civil and criminal.

90 Section 2. Section 796.035, Florida Statutes, is amended to
91 read:

92 796.035 Selling or buying of minors into sex trafficking or
93 prostitution; penalties.--Any parent, legal guardian, or other
94 person having custody or control of a minor who sells or
95 otherwise transfers custody or control of such minor, or offers
96 to sell or otherwise transfer custody of such minor, with
97 knowledge that, as a consequence of the sale or transfer, ~~force,~~
98 ~~fraud, or coercion will be used to cause the minor will to~~ engage
99 in prostitution, perform naked for compensation, or otherwise
100 participate in the trade of sex trafficking, commits a felony of
101 the first degree, punishable as provided in s. 775.082, s.
102 775.083, or s. 775.084.

103 Section 3. Subsection (7) of section 800.04, Florida
104 Statutes, is amended to read:

105 800.04 Lewd or lascivious offenses committed upon or in the
106 presence of persons less than 16 years of age.--

107 (7) LEWD OR LASCIVIOUS EXHIBITION.--

108 (a) A person who:

109 1. Intentionally masturbates;

110 2. Intentionally exposes the genitals in a lewd or
111 lascivious manner; or

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

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117
118 in the presence of a victim who is less than 16 years of age,
119 commits lewd or lascivious exhibition.

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

121 ~~1. Intentionally masturbates;~~

122 ~~2. Intentionally exposes the genitals in a lewd or~~
123 ~~lascivious manner; or~~

124 ~~3. Intentionally commits any other sexual act that does not~~
125 ~~involve actual physical or sexual contact with the victim,~~
126 ~~including, but not limited to, sadomasochistic abuse, sexual~~
127 ~~bestiality, or the simulation of any act involving sexual~~
128 ~~activity~~

129
130 ~~live over a computer online service, Internet service, or local~~
131 ~~bulletin board service and who knows or should know or has reason~~
132 ~~to believe that the transmission is viewed on a computer or~~
133 ~~television monitor by a victim in this state who is less than 16~~
134 ~~years of age, commits lewd or lascivious exhibition. The fact~~
135 ~~that an undercover operative or law enforcement officer was~~
136 ~~involved in the detection and investigation of an offense under~~
137 ~~this paragraph shall not constitute a defense to a prosecution~~
138 ~~under this paragraph.~~

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

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

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146 775.084.

147 Section 4. Present subsections (5), (6), and (7) of section
148 847.0135, Florida Statutes, are renumbered as subsections (6),
149 (7), and (8), respectively, and a new subsection (5) is added to
150 that section, to read:

151 847.0135 Computer pornography; traveling to meet minor;
152 penalties.--

153 (5) CERTAIN COMPUTER TRANSMISSIONS PROHIBITED.--

154 (a) A person who:

155 1. Intentionally masturbates;

156 2. Intentionally exposes the genitals in a lewd or
157 lascivious manner; or

158 3. Intentionally commits any other sexual act that does not
159 involve actual physical or sexual contact with the victim,
160 including, but not limited to, sadomasochistic abuse, sexual
161 bestiality, or the simulation of any act involving sexual
162 activity

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

173 (b) An offender 18 years of age or older who commits a lewd
174 or lascivious exhibition using a computer commits a felony of the

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175 second degree, punishable as provided in s. 775.082, s. 775.083,
176 or s. 775.084.

177 (c) An offender less than 18 years of age who commits a
178 lewd or lascivious exhibition using a computer commits a felony
179 of the third degree, punishable as provided in s. 775.082, s.
180 775.083, or s. 775.084.

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

183 Section 5. Section 847.002, Florida Statutes, is created to
184 read:

185 847.002 Child pornography prosecutions.--

186 (1) Any law enforcement officer who, pursuant to a criminal
187 investigation, recovers images or movies of child pornography
188 shall:

189 (a) Provide such images or movies to the law enforcement
190 agency representative assigned to the Child Victim Identification
191 Program at the National Center for Missing and Exploited
192 Children, as required by the center's guidelines.

193 (b) Request the law enforcement agency contact information
194 from the Child Victim Identification Program for any images or
195 movies recovered which contain an identified victim of child
196 pornography as defined in s. 960.03.

197 (c) Provide case information to the Child Victim
198 Identification Program, as required by the National Center for
199 Missing and Exploited Children guidelines, in any case where the
200 law enforcement officer identifies a previously unidentified
201 victim of child pornography, as defined in s. 960.03.

202 (2) Any law enforcement officer submitting a case for
203 prosecution which involves the production, promotion, or

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204 possession of child pornography shall submit to the designated
205 prosecutor the law enforcement agency contact information
206 provided by the Child Victim Identification Program at the
207 National Center for Missing and Exploited Children, for any
208 images or movies involved in the case which contain the depiction
209 of an identified victim of child pornography as defined in s.
210 960.03.

211 (3) In every filed case involving an identified victim of
212 child pornography, as defined in s. 960.03, the prosecuting
213 agency shall enter the following information into the Victims in
214 Child Pornography Tracking Repeat Exploitation database
215 maintained by the Office of the Attorney General:

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

217 (b) The named defendant.

218 (c) The circuit court division and county.

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

220 (e) Contact information for the prosecutor assigned.

221 (f) Verification that the prosecutor is or is not in
222 possession of a victim impact statement and will use the
223 statement in sentencing.

224 Section 6. Section 847.01357, Florida Statutes, is created
225 to read:

226 847.01357 Exploited children's civil remedy.--

227 (1) Any person who, while under the age of 18, was a victim
228 of a sexual abuse crime listed in chapter 794, chapter 800,
229 chapter 827, or chapter 847, where any portion of such abuse was
230 used in the production of child pornography, and who suffers
231 personal or psychological injury as a result of the production,
232 promotion, or possession of such images or movies, may bring an

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233 action in an appropriate state court against the producer,
234 promoter, or possessor of such images or movies, regardless of
235 whether the victim is now an adult. In any action brought under
236 this section, a prevailing plaintiff shall recover the actual
237 damages such person sustained and the cost of the suit, including
238 reasonable attorney's fees. Any victim who is awarded damages
239 under this section shall be deemed to have sustained damages of
240 at least \$150,000.

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

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

245 (b) The notification to the victim by a member of a law
246 enforcement agency of the creation, possession, or promotion of
247 pornographic images; or

248 (c) In the case of a victim younger than 18, within 3 years
249 after the person reaches the age of 18.

250 (3) Any victim who has a bona fide claim under this section
251 shall, upon request, be provided a pseudonym, pursuant to s.
252 92.56(3), which shall be issued and maintained by the Department
253 of Legal Affairs for use in all legal pleadings. This identifier
254 shall be fully recognized in all courts in this state as a valid
255 legal identity.

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

259 (5) To prevent the further exploitation of victims for
260 monetary gain by any other person, at the victim's request and
261 pursuant to agency approval, the Office of the Attorney General

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262 may pursue cases on behalf of any Florida victim under this
263 section. All damages obtained shall go to the victim, and the
264 Office of the Attorney General may seek reasonable attorney's
265 fees and costs as authorized under this section.

266 Section 7. Paragraph (d) is added to subsection (3) of
267 section 960.03, Florida Statutes, present subsections (10)
268 through (13) of that section are renumbered as subsections (11)
269 through (14), respectively, a new subsection (10) is added to
270 that section, and present subsection (13) of that section is
271 amended, to read:

272 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
273 960.01-960.28, unless the context otherwise requires, the term:

274 (3) "Crime" means:

275 (d) Any violation of s. 827.071, s. 847.0135, s. 847.0137,
276 or s. 847.0138, related to online sexual exploitation and child
277 pornography.

278 (10) "Identified victim of child pornography" means any
279 person who, while under the age of 18, is depicted in any image
280 or movie of child pornography and who is identified through a
281 report generated by a law enforcement agency and provided to the
282 National Center for Missing and Exploited Children's Child Victim
283 Identification Program.

284 ~~(14)-(13)~~ "Victim" means:

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

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

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291 (c) A person against whom a forcible felony was committed
292 and who suffers a psychiatric or psychological injury as a direct
293 result of that crime but who does not otherwise sustain a
294 personal physical injury or death.

295 Section 8. Section 960.197, Florida Statutes, is created to
296 read:

297 960.197 Assistance to victims of online sexual exploitation
298 and child pornography.--

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

303 (a) A child younger than 18 years of age who suffers
304 psychiatric or psychological injury as a direct result of online
305 sexual exploitation under any provision of s. 827.071, s.
306 847.0135, s. 847.0137, or s. 847.0138, and who does not otherwise
307 sustain a personal injury or death; or

308 (b) Any person who, while younger than age 18, was depicted
309 in any image or movie, regardless of length, of child pornography
310 as defined in s. 847.001, who has been identified by a law
311 enforcement agency or the National Center for Missing and
312 Exploited Children as an identified victim of child pornography,
313 who suffers psychiatric or psychological injury as a direct
314 result of the crime, and who does not otherwise sustain a
315 personal injury or death.

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

318 Section 9. Paragraph (b) of subsection (2) of section
319 90.404, Florida Statutes, is amended to read:

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320 90.404 Character evidence; when admissible.--

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

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

327 2. For the purposes of this paragraph, the term "child
328 molestation" means conduct proscribed by s. 794.011, ~~or~~ s.
329 800.04, or s. 847.0135(5) when committed against a person 16
330 years of age or younger.

331 Section 10. Subsection (2) of section 92.565, Florida
332 Statutes, is amended to read:

333 92.565 Admissibility of confession in sexual abuse cases.--

334 (2) In any criminal action in which the defendant is
335 charged with a crime against a victim under s. 794.011; s.
336 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;
337 s. 827.04, involving sexual abuse; ~~or~~ s. 827.071; or s.
338 847.0135(5), or any other crime involving sexual abuse of
339 another, or with any attempt, solicitation, or conspiracy to
340 commit any of these crimes, the defendant's memorialized
341 confession or admission is admissible during trial without the
342 state having to prove a corpus delicti of the crime if the court
343 finds in a hearing conducted outside the presence of the jury
344 that the state is unable to show the existence of each element of
345 the crime, and having so found, further finds that the
346 defendant's confession or admission is trustworthy. Factors which
347 may be relevant in determining whether the state is unable to
348 show the existence of each element of the crime include, but are

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349 | not limited to, the fact that, at the time the crime was
350 | committed, the victim was:

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

353 | (b) Physically incapacitated due to age, infirmity, or any
354 | other cause; or

355 | (c) Less than 12 years of age.

356 | Section 11. Paragraph (e) of subsection (9) of section
357 | 394.912, Florida Statutes, is amended to read:

358 | 394.912 Definitions.--As used in this part, the term:

359 | (9) "Sexually violent offense" means:

360 | (e) Lewd, lascivious, or indecent assault or act upon or in
361 | presence of the child in violation of s. 800.04 or s.
362 | 847.0135(5);

363 | Section 12. Section 409.2355, Florida Statutes, is amended
364 | to read:

365 | 409.2355 Programs for prosecution of males over age 21 who
366 | commit certain offenses involving girls under age 16.--Subject to
367 | specific appropriated funds, the Department of Children and
368 | Family Services is directed to establish a program by which local
369 | communities, through the state attorney's office of each judicial
370 | circuit, may apply for grants to fund innovative programs for the
371 | prosecution of males over the age of 21 who victimize girls under
372 | the age of 16 in violation of s. 794.011, s. 794.05, s. 800.04,
373 | ~~or~~ s. 827.04(3), or s. 847.0135(5).

374 | Section 13. Paragraph (a) of subsection (9) of section
375 | 775.082, Florida Statutes, is amended to read:

376 | 775.082 Penalties; applicability of sentencing structures;
377 | mandatory minimum sentences for certain reoffenders previously

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378 released from prison.--

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

381 a. Treason;

382 b. Murder;

383 c. Manslaughter;

384 d. Sexual battery;

385 e. Carjacking;

386 f. Home-invasion robbery;

387 g. Robbery;

388 h. Arson;

389 i. Kidnapping;

390 j. Aggravated assault with a deadly weapon;

391 k. Aggravated battery;

392 l. Aggravated stalking;

393 m. Aircraft piracy;

394 n. Unlawful throwing, placing, or discharging of a
395 destructive device or bomb;

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

398 p. Armed burglary;

399 q. Burglary of a dwelling or burglary of an occupied
400 structure; or

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

403

404 within 3 years after being released from a state correctional
405 facility operated by the Department of Corrections or a private
406 vendor or within 3 years after being released from a correctional

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407 institution of another state, the District of Columbia, the
408 United States, any possession or territory of the United States,
409 or any foreign jurisdiction, following incarceration for an
410 offense for which the sentence is punishable by more than 1 year
411 in this state.

412 2. "Prison releasee reoffender" also means any defendant
413 who commits or attempts to commit any offense listed in sub-
414 subparagraphs (a)1.a.-r. while the defendant was serving a prison
415 sentence or on escape status from a state correctional facility
416 operated by the Department of Corrections or a private vendor or
417 while the defendant was on escape status from a correctional
418 institution of another state, the District of Columbia, the
419 United States, any possession or territory of the United States,
420 or any foreign jurisdiction, following incarceration for an
421 offense for which the sentence is punishable by more than 1 year
422 in this state.

423 3. If the state attorney determines that a defendant is a
424 prison releasee reoffender as defined in subparagraph 1., the
425 state attorney may seek to have the court sentence the defendant
426 as a prison releasee reoffender. Upon proof from the state
427 attorney that establishes by a preponderance of the evidence that
428 a defendant is a prison releasee reoffender as defined in this
429 section, such defendant is not eligible for sentencing under the
430 sentencing guidelines and must be sentenced as follows:

431 a. For a felony punishable by life, by a term of
432 imprisonment for life;

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

435 c. For a felony of the second degree, by a term of

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436 imprisonment of 15 years; and

437 d. For a felony of the third degree, by a term of
438 imprisonment of 5 years.

439 Section 14. Paragraph (d) of subsection (1) of section
440 775.084, Florida Statutes, is amended to read:

441 775.084 Violent career criminals; habitual felony offenders
442 and habitual violent felony offenders; three-time violent felony
443 offenders; definitions; procedure; enhanced penalties or
444 mandatory minimum prison terms.--

445 (1) As used in this act:

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

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

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

453 b. Aggravated stalking, as described in s. 784.048(3) and
454 (4);

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

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

458 e. Lewd or lascivious battery, lewd or lascivious
459 molestation, lewd or lascivious conduct, or lewd or lascivious
460 exhibition, as described in s. 800.04 or s. 847.0135(5);

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

462 g. A felony violation of chapter 790 involving the use or
463 possession of a firearm.

464 2. The defendant has been incarcerated in a state prison or

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465 a federal prison.

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

469 a. While the defendant was serving a prison sentence or
470 other sentence, or court-ordered or lawfully imposed supervision
471 that is imposed as a result of a prior conviction for an
472 enumerated felony; or

473 b. Within 5 years after the conviction of the last prior
474 enumerated felony, or within 5 years after the defendant's
475 release from a prison sentence, probation, community control,
476 control release, conditional release, parole, or court-ordered or
477 lawfully imposed supervision or other sentence that is imposed as
478 a result of a prior conviction for an enumerated felony,
479 whichever is later.

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

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

486 Section 15. Paragraph (a) of subsection (13) and paragraph
487 (a) of subsection (16) of section 775.15, Florida Statutes, are
488 amended to read:

489 775.15 Time limitations; general time limitations;
490 exceptions.--

491 (13) (a) If the victim of a violation of s. 794.011, former
492 s. 794.05, Florida Statutes 1995, s. 800.04, ~~or~~ s. 826.04, or s.
493 847.0135(5) is under the age of 18, the applicable period of

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494 limitation, if any, does not begin to run until the victim has
495 reached the age of 18 or the violation is reported to a law
496 enforcement agency or other governmental agency, whichever occurs
497 earlier. Such law enforcement agency or other governmental agency
498 shall promptly report such allegation to the state attorney for
499 the judicial circuit in which the alleged violation occurred. If
500 the offense is a first or second degree felony violation of s.
501 794.011, and the offense is reported within 72 hours after its
502 commission, the prosecution for such offense may be commenced at
503 any time. This paragraph applies to any such offense except an
504 offense the prosecution of which would have been barred by
505 subsection (2) on or before December 31, 1984.

506 (16) (a) In addition to the time periods prescribed in this
507 section, a prosecution for any of the following offenses may be
508 commenced at any time after the date on which the identity of the
509 accused is established, or should have been established by the
510 exercise of due diligence, through the analysis of
511 deoxyribonucleic acid (DNA) evidence, if a sufficient portion of
512 the evidence collected at the time of the original investigation
513 and tested for DNA is preserved and available for testing by the
514 accused:

515 1. Aggravated battery or any felony battery offense under
516 chapter 784.

517 2. Kidnapping under s. 787.01 or false imprisonment under
518 s. 787.02.

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

520 4. A lewd or lascivious offense under s. 800.04, ~~or~~ s.
521 825.1025, or s. 847.0135(5).

522 5. A burglary offense under s. 810.02.

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523 6. A robbery offense under s. 812.13, s. 812.131, or s.
524 812.135.

525 7. Carjacking under s. 812.133.

526 8. Aggravated child abuse under s. 827.03.

527 Section 16. Paragraph (a) of subsection (4) and paragraph
528 (b) of subsection (10) of section 775.21, Florida Statutes, are
529 amended to read:

530 775.21 The Florida Sexual Predators Act.--

531 (4) SEXUAL PREDATOR CRITERIA.--

532 (a) For a current offense committed on or after October 1,
533 1993, upon conviction, an offender shall be designated as a
534 "sexual predator" under subsection (5), and subject to
535 registration under subsection (6) and community and public
536 notification under subsection (7) if:

537 1. The felony is:

538 a. A capital, life, or first-degree felony violation, or
539 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
540 is a minor and the defendant is not the victim's parent or
541 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
542 violation of a similar law of another jurisdiction; or

543 b. Any felony violation, or any attempt thereof, of s.
544 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
545 minor and the defendant is not the victim's parent or guardian;
546 s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
547 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s.
548 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a
549 similar law of another jurisdiction, and the offender has
550 previously been convicted of or found to have committed, or has
551 pled nolo contendere or guilty to, regardless of adjudication,

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552 any violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
553 the victim is a minor and the defendant is not the victim's
554 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
555 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
556 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(4); s.
557 847.0145; or s. 985.701(1); or a violation of a similar law of
558 another jurisdiction;

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

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

565 (10) PENALTIES.--

566 (b) A sexual predator who has been convicted of or found to
567 have committed, or has pled nolo contendere or guilty to,
568 regardless of adjudication, any violation, or attempted
569 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
570 the victim is a minor and the defendant is not the victim's
571 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
572 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s.
573 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a
574 violation of a similar law of another jurisdiction when the
575 victim of the offense was a minor, and who works, whether for
576 compensation or as a volunteer, at any business, school, day care
577 center, park, playground, or other place where children regularly
578 congregate, commits a felony of the third degree, punishable as
579 provided in s. 775.082, s. 775.083, or s. 775.084.

580 Section 17. Subsections (7) and (8) of section 784.048,

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581 Florida Statutes, are amended to read:

582 784.048 Stalking; definitions; penalties.--

583 (7) Any person who, after having been sentenced for a
584 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) and
585 prohibited from contacting the victim of the offense under s.
586 921.244, willfully, maliciously, and repeatedly follows,
587 harasses, or cyberstalks the victim commits the offense of
588 aggravated stalking, a felony of the third degree, punishable as
589 provided in s. 775.082, s. 775.083, or s. 775.084.

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

593 Section 18. Paragraph (a) of subsection (3) of section
594 787.01, Florida Statutes, is amended to read:

595 787.01 Kidnapping; kidnapping of child under age 13,
596 aggravating circumstances.--

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

- 600 1. Aggravated child abuse, as defined in s. 827.03;
- 601 2. Sexual battery, as defined in chapter 794, against the
602 child;
- 603 3. Lewd or lascivious battery, lewd or lascivious
604 molestation, lewd or lascivious conduct, or lewd or lascivious
605 exhibition, in violation of s. 800.04 or s. 847.0135(5);
- 606 4. A violation of s. 796.03 or s. 796.04, relating to
607 prostitution, upon the child; or
- 608 5. Exploitation of the child or allowing the child to be
609 exploited, in violation of s. 450.151,

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610
611 commits a life felony, punishable as provided in s. 775.082, s.
612 775.083, or s. 775.084.

613 Section 19. Paragraph (a) of subsection (3) of section
614 787.02, Florida Statutes, is amended to read:

615 787.02 False imprisonment; false imprisonment of child
616 under age 13, aggravating circumstances.--

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

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

624 2. Sexual battery, as defined in chapter 794, against the
625 child;

626 3. Lewd or lascivious battery, lewd or lascivious
627 molestation, lewd or lascivious conduct, or lewd or lascivious
628 exhibition, in violation of s. 800.04 or s. 847.0135(5);

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

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

633 Section 20. Paragraph (c) of subsection (2) of section
634 787.025, Florida Statutes, is amended to read:

635 787.025 Luring or enticing a child.--

636 (2)

637 (c) A person 18 years of age or older who, having been
638 previously convicted of a violation of chapter 794, ~~or~~ s. 800.04,

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639 | or s. 847.0135(5), or a violation of a similar law of another
640 | jurisdiction, intentionally lures or entices, or attempts to lure
641 | or entice, a child under the age of 12 into a structure,
642 | dwelling, or conveyance for other than a lawful purpose commits a
643 | felony of the third degree, punishable as provided in s. 775.082,
644 | s. 775.083, or s. 775.084.

645 | Section 21. Section 794.065, Florida Statutes, is amended
646 | to read:

647 | 794.065 Unlawful place of residence for persons convicted
648 | of certain sex offenses.--

649 | (1) It is unlawful for any person who has been convicted of
650 | a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5),
651 | or s. 847.0145, regardless of whether adjudication has been
652 | withheld, in which the victim of the offense was less than 16
653 | years of age, to reside within 1,000 feet of any school, day care
654 | center, park, or playground. A person who violates this section
655 | and whose conviction under s. 794.011, s. 800.04, s. 827.071, s.
656 | 847.0135(5), or s. 847.0145 was classified as a felony of the
657 | first degree or higher commits a felony of the third degree,
658 | punishable as provided in s. 775.082 or s. 775.083. A person who
659 | violates this section and whose conviction under s. 794.011, s.
660 | 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 was classified
661 | as a felony of the second or third degree commits a misdemeanor
662 | of the first degree, punishable as provided in s. 775.082 or s.
663 | 775.083.

664 | (2) This section applies to any person convicted of a
665 | violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5),
666 | or s. 847.0145 for offenses that occur on or after October 1,
667 | 2004.

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668 Section 22. Section 914.16, Florida Statutes, is amended to
 669 read:

670 914.16 Child abuse and sexual abuse of victims under age 16
 671 or persons with mental retardation; limits on interviews.--The
 672 chief judge of each judicial circuit, after consultation with the
 673 state attorney and the public defender for the judicial circuit,
 674 the appropriate chief law enforcement officer, and any other
 675 person deemed appropriate by the chief judge, shall provide by
 676 order reasonable limits on the number of interviews that a victim
 677 of a violation of s. 794.011, s. 800.04, ~~s. 827.03~~, or s.
 678 847.0135(5) who is under 16 years of age or a victim of a
 679 violation of s. 794.011, s. 800.02, s. 800.03, or s. 825.102 who
 680 is a person with mental retardation as defined in s. 393.063 must
 681 submit to for law enforcement or discovery purposes. The order
 682 shall, to the extent possible, protect the victim from the
 683 psychological damage of repeated interrogations while preserving
 684 the rights of the public, the victim, and the person charged with
 685 the violation.

686 Section 23. Paragraphs (d) and (e) of subsection (3) of
 687 section 921.0022, Florida Statutes, are amended to read:

688 921.0022 Criminal Punishment Code; offense severity ranking
 689 chart.--

690 (3) OFFENSE SEVERITY RANKING CHART

691 (d) LEVEL 4

692

Florida Statute	Felony Degree	Description
316.1935(3) (a)	2nd	Driving at high speed or with wanton

693

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disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

694

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

695

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

696

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

697

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

698

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

699

784.075 3rd Battery on detention or commitment facility staff.

700

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

701

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

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older.

702

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

703

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

704

784.083 (3) 3rd Battery on code inspector.

705

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

706

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

707

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

708

787.04 (3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

709

790.115 (1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

710

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711	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
712	790.115 (2) (c)	3rd	Possessing firearm on school property.
713	800.04 (7) <u>(c)</u> (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
714	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
715	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
716	810.06	3rd	Burglary; possession of tools.
717	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
718	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
719	812.014 (2) (c) 4. -10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
	812.0195 (2)	3rd	Dealing in stolen property by use of

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the Internet; property stolen \$300 or more.

720

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

721

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

722

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

723

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

724

837.02 (1) 3rd Perjury in official proceedings.

725

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

726

838.022 3rd Official misconduct.

727

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

728

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

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729	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
730	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
731	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
732	<u>847.0135(5)(c)</u>	<u>3rd</u>	<u>Lewd or lascivious exhibition using computer; offender less than 18 years.</u>
733	874.05(1)	3rd	Encouraging or recruiting another to join a criminal street gang.
734	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).
735	914.14(2)	3rd	Witnesses accepting bribes.
736	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
737	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.

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918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
(e)	LEVEL 5	
Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.

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750	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
751	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
752	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
753	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
754	790.01 (2)	3rd	Carrying a concealed firearm.
755	790.162	2nd	Threat to throw or discharge destructive device.
756	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
757	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or

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devices.

758

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

759

800.04 (7) (b) ~~(e)~~ 2nd Lewd or lascivious exhibition; offender 18 years or older.

760

806.111 (1) 3rd Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

761

812.0145 (2) (b) 2nd Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

762

812.015 (8) 3rd Retail theft; property stolen is valued at \$300 or more and one or more specified acts.

763

812.019 (1) 2nd Stolen property; dealing in or trafficking in.

764

812.131 (2) (b) 3rd Robbery by sudden snatching.

765

812.16 (2) 3rd Owning, operating, or conducting a chop shop.

766

817.034 (4) (a) 2. 2nd Communications fraud, value \$20,000 to

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\$50,000.

767	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
768	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.
769	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.
770	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
771	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
772	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by

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a child.

773

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

774

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.

775

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

776

847.0135 (5) (b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

777

847.0137 (2) & (3) 3rd Transmission of pornography by electronic device or equipment.

778

847.0138 (2) & (3) 3rd Transmission of material harmful to minors to a minor by electronic device or equipment.

779

874.05 (2) 2nd Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.

780

893.13 (1) (a) 1. 2nd Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b),

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(1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).

781

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.

782

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.

783

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.

784

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

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

785

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).

786

787 Section 24. Subsections (1) and (3) of section 921.244,
788 Florida Statutes, are amended to read:

789 921.244 Order of no contact; penalties.--

790 (1) At the time of sentencing an offender convicted of a
791 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5), the
792 court shall order that the offender be prohibited from having any
793 contact with the victim, directly or indirectly, including
794 through a third person, for the duration of the sentence imposed.
795 The court may reconsider the order upon the request of the victim
796 if the request is made at any time after the victim has attained
797 18 years of age. In considering the request, the court shall
798 conduct an evidentiary hearing to determine whether a change of
799 circumstances has occurred which warrants a change in the court
800 order prohibiting contact and whether it is in the best interest
801 of the victim that the court order be modified or rescinded.

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

805 Section 25. Subsection (1) of section 938.10, Florida
806 Statutes, is amended to read:

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807 938.10 Additional court cost imposed in cases of certain
808 crimes against minors.--

809 (1) If a person pleads guilty or nolo contendere to, or is
810 found guilty of, regardless of adjudication, any offense against
811 a minor in violation of s. 784.085, chapter 787, chapter 794, s.
812 796.03, s. 800.04, chapter 827, s. 847.0135(5), s. 847.0145, or
813 s. 985.701, the court shall impose a court cost of \$101 against
814 the offender in addition to any other cost or penalty required by
815 law.

816 Section 26. Subsections (1), (2), and (4) of section
817 943.04354, Florida Statutes, are amended to read:

818 943.04354 Removal of the requirement to register as a
819 sexual offender or sexual predator in special circumstances.--

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

823 (a) Was or will be convicted or adjudicated delinquent of a
824 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) or the
825 person committed a violation of s. 794.011, ~~or~~ s. 800.04, or s.
826 847.0135(5) for which adjudication of guilt was or will be
827 withheld, and the person does not have any other conviction,
828 adjudication of delinquency, or withhold of adjudication of guilt
829 for a violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5);

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

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

835 (2) If a person meets the criteria in subsection (1) and

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836 the violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) was
837 committed on or after July 1, 2007, the person may move the court
838 that will sentence or dispose of this violation to remove the
839 requirement that the person register as a sexual offender or
840 sexual predator. The person must allege in the motion that he or
841 she meets the criteria in subsection (1) and that removal of the
842 registration requirement will not conflict with federal law. The
843 state attorney must be given notice of the motion at least 21
844 days before the date of sentencing or disposition of this
845 violation and may present evidence in opposition to the requested
846 relief or may otherwise demonstrate why the motion should be
847 denied. At sentencing or disposition of this violation, the court
848 shall rule on this motion and, if the court determines the person
849 meets the criteria in subsection (1) and the removal of the
850 registration requirement will not conflict with federal law, it
851 may grant the motion and order the removal of the registration
852 requirement. If the court denies the motion, the person is not
853 authorized under this section to petition for removal of the
854 registration requirement.

855 (4) If a person provides to the Department of Law
856 Enforcement a certified copy of the court's order removing the
857 requirement that the person register as a sexual offender or
858 sexual predator for the violation of s. 794.011, ~~or~~ s. 800.04, or
859 s. 847.0135(5), the registration requirement will not apply to
860 the person and the department shall remove all information about
861 the person from the public registry of sexual offenders and
862 sexual predators maintained by the department. However, the
863 removal of this information from the public registry does not
864 mean that the public is denied access to information about the

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865 person's criminal history or record that is otherwise available
866 as a public record.

867 Section 27. Subsection (7) of section 947.1405, Florida
868 Statutes, is amended to read:

869 947.1405 Conditional release program.--

870 (7) (a) Any inmate who is convicted of a crime committed on
871 or after October 1, 1995, or who has been previously convicted of
872 a crime committed on or after October 1, 1995, in violation of
873 chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
874 847.0145, and is subject to conditional release supervision,
875 shall have, in addition to any other conditions imposed, the
876 following special conditions imposed by the commission:

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

883 2. If the victim was under the age of 18, a prohibition on
884 living within 1,000 feet of a school, day care center, park,
885 playground, designated public school bus stop, or other place
886 where children regularly congregate. A releasee who is subject to
887 this subparagraph may not relocate to a residence that is within
888 1,000 feet of a public school bus stop. Beginning October 1,
889 2004, the commission or the department may not approve a
890 residence that is located within 1,000 feet of a school, day care
891 center, park, playground, designated school bus stop, or other
892 place where children regularly congregate for any releasee who is
893 subject to this subparagraph. On October 1, 2004, the department

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894 shall notify each affected school district of the location of the
895 residence of a releasee 30 days prior to release and thereafter,
896 if the releasee relocates to a new residence, shall notify any
897 affected school district of the residence of the releasee within
898 30 days after relocation. If, on October 1, 2004, any public
899 school bus stop is located within 1,000 feet of the existing
900 residence of such releasee, the district school board shall
901 relocate that school bus stop. Beginning October 1, 2004, a
902 district school board may not establish or relocate a public
903 school bus stop within 1,000 feet of the residence of a releasee
904 who is subject to this subparagraph. The failure of the district
905 school board to comply with this subparagraph shall not result in
906 a violation of conditional release supervision.

907 3. Active participation in and successful completion of a
908 sex offender treatment program with qualified practitioners
909 specifically trained to treat sex offenders, at the releasee's
910 own expense. If a qualified practitioner is not available within
911 a 50-mile radius of the releasee's residence, the offender shall
912 participate in other appropriate therapy.

913 4. A prohibition on any contact with the victim, directly
914 or indirectly, including through a third person, unless approved
915 by the victim, the offender's therapist, and the sentencing
916 court.

917 5. If the victim was under the age of 18, a prohibition
918 against contact with children under the age of 18 without review
919 and approval by the commission. The commission may approve
920 supervised contact with a child under the age of 18 if the
921 approval is based upon a recommendation for contact issued by a
922 qualified practitioner who is basing the recommendation on a risk

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923 assessment. Further, the sex offender must be currently enrolled
924 in or have successfully completed a sex offender therapy program.
925 The commission may not grant supervised contact with a child if
926 the contact is not recommended by a qualified practitioner and
927 may deny supervised contact with a child at any time. When
928 considering whether to approve supervised contact with a child,
929 the commission must review and consider the following:

930 a. A risk assessment completed by a qualified practitioner.
931 The qualified practitioner must prepare a written report that
932 must include the findings of the assessment and address each of
933 the following components:

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

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

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

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

941 (V) The sex offender's offender treatment history,
942 including a consultation from the sex offender's treating, or
943 most recent treating, therapist;

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

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

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

949 (IX) The results of current psychological testing of the
950 sex offender if determined necessary by the qualified
951 practitioner;

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

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

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

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

962

963 The written report of the assessment must be given to the
964 commission.

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

968 c. A written consent signed by the child's parent or legal
969 guardian, if the parent or legal guardian is not the sex
970 offender, agreeing to the sex offender having supervised contact
971 with the child after receiving full disclosure of the sex
972 offender's present legal status, past criminal history, and the
973 results of the risk assessment. The commission may not approve
974 contact with the child if the parent or legal guardian refuses to
975 give written consent for supervised contact;

976 d. A safety plan prepared by the qualified practitioner,
977 who provides treatment to the offender, in collaboration with the
978 sex offender, the child's parent or legal guardian, and the
979 child, when age appropriate, which details the acceptable
980 conditions of contact between the sex offender and the child. The

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981 safety plan must be reviewed and approved by the Department of
982 Corrections before being submitted to the commission; and

983 e. Evidence that the child's parent or legal guardian, if
984 the parent or legal guardian is not the sex offender, understands
985 the need for and agrees to the safety plan and has agreed to
986 provide, or to designate another adult to provide, constant
987 supervision any time the child is in contact with the offender.

988
989 The commission may not appoint a person to conduct a risk
990 assessment and may not accept a risk assessment from a person who
991 has not demonstrated to the commission that he or she has met the
992 requirements of a qualified practitioner as defined in this
993 section.

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

998 7. Unless otherwise indicated in the treatment plan
999 provided by the sexual offender treatment program, a prohibition
1000 on viewing, owning, or possessing any obscene, pornographic, or
1001 sexually stimulating visual or auditory material, including
1002 telephone, electronic media, computer programs, or computer
1003 services that are relevant to the offender's deviant behavior
1004 pattern.

1005 8. Effective for a releasee whose crime is committed on or
1006 after July 1, 2005, a prohibition on accessing the Internet or
1007 other computer services until the offender's sex offender
1008 treatment program, after a risk assessment is completed, approves
1009 and implements a safety plan for the offender's accessing or

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1010 using the Internet or other computer services.

1011 9. A requirement that the releasee must submit two
1012 specimens of blood to the Florida Department of Law Enforcement
1013 to be registered with the DNA database.

1014 10. A requirement that the releasee make restitution to the
1015 victim, as determined by the sentencing court or the commission,
1016 for all necessary medical and related professional services
1017 relating to physical, psychiatric, and psychological care.

1018 11. Submission to a warrantless search by the community
1019 control or probation officer of the probationer's or community
1020 controllee's person, residence, or vehicle.

1021 (b) For a releasee whose crime was committed on or after
1022 October 1, 1997, in violation of chapter 794, s. 800.04, s.
1023 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to
1024 conditional release supervision, in addition to any other
1025 provision of this subsection, the commission shall impose the
1026 following additional conditions of conditional release
1027 supervision:

1028 1. As part of a treatment program, participation in a
1029 minimum of one annual polygraph examination to obtain information
1030 necessary for risk management and treatment and to reduce the sex
1031 offender's denial mechanisms. The polygraph examination must be
1032 conducted by a polygrapher trained specifically in the use of the
1033 polygraph for the monitoring of sex offenders, where available,
1034 and at the expense of the sex offender. The results of the
1035 polygraph examination shall not be used as evidence in a hearing
1036 to prove that a violation of supervision has occurred.

1037 2. Maintenance of a driving log and a prohibition against
1038 driving a motor vehicle alone without the prior approval of the

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1039 supervising officer.

1040 3. A prohibition against obtaining or using a post office
1041 box without the prior approval of the supervising officer.

1042 4. If there was sexual contact, a submission to, at the
1043 probationer's or community controllee's expense, an HIV test with
1044 the results to be released to the victim or the victim's parent
1045 or guardian.

1046 5. Electronic monitoring of any form when ordered by the
1047 commission.

1048 Section 28. Subsection (2) of section 948.03, Florida
1049 Statutes, is amended to read:

1050 948.03 Terms and conditions of probation.--

1051 (2) The enumeration of specific kinds of terms and
1052 conditions shall not prevent the court from adding thereto such
1053 other or others as it considers proper. However, the sentencing
1054 court may only impose a condition of supervision allowing an
1055 offender convicted of s. 794.011, s. 800.04, s. 827.071, s.
1056 847.0135(5), or s. 847.0145, to reside in another state, if the
1057 order stipulates that it is contingent upon the approval of the
1058 receiving state interstate compact authority. The court may
1059 rescind or modify at any time the terms and conditions
1060 theretofore imposed by it upon the probationer. However, if the
1061 court withholds adjudication of guilt or imposes a period of
1062 incarceration as a condition of probation, the period shall not
1063 exceed 364 days, and incarceration shall be restricted to either
1064 a county facility, a probation and restitution center under the
1065 jurisdiction of the Department of Corrections, a probation
1066 program drug punishment phase I secure residential treatment
1067 institution, or a community residential facility owned or

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1068 operated by any entity providing such services.

1069 Section 29. Paragraph (c) of subsection (8) of section
1070 948.06, Florida Statutes, is amended to read:

1071 948.06 Violation of probation or community control;
1072 revocation; modification; continuance; failure to pay restitution
1073 or cost of supervision.--

1074 (8)

1075 (c) For purposes of this section, the term "qualifying
1076 offense" means any of the following:

1077 1. Kidnapping or attempted kidnapping under s. 787.01,
1078 false imprisonment of a child under the age of 13 under s.
1079 787.02(3), or luring or enticing a child under s. 787.025(2) (b)
1080 or (c).

1081 2. Murder or attempted murder under s. 782.04, attempted
1082 felony murder under s. 782.051, or manslaughter under s. 782.07.

1083 3. Aggravated battery or attempted aggravated battery under
1084 s. 784.045.

1085 4. Sexual battery or attempted sexual battery under s.
1086 794.011(2), (3), (4), or (8) (b) or (c).

1087 5. Lewd or lascivious battery or attempted lewd or
1088 lascivious battery under s. 800.04(4), lewd or lascivious
1089 molestation under s. 800.04(5) (b) or (c)2., lewd or lascivious
1090 conduct under s. 800.04(6) (b), ~~or~~ lewd or lascivious exhibition
1091 under s. 800.04(7) (b), or lewd or lascivious exhibition on
1092 computer under s. 847.0135(5) (b) ~~s. 800.04(7) (c)~~.

1093 6. Robbery or attempted robbery under s. 812.13, carjacking
1094 or attempted carjacking under s. 812.133, or home invasion
1095 robbery or attempted home invasion robbery under s. 812.135.

1096 7. Lewd or lascivious offense upon or in the presence of an

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1097 elderly or disabled person or attempted lewd or lascivious
1098 offense upon or in the presence of an elderly or disabled person
1099 under s. 825.1025.

1100 8. Sexual performance by a child or attempted sexual
1101 performance by a child under s. 827.071.

1102 9. Computer pornography under s. 847.0135(2) or (3),
1103 transmission of child pornography under s. 847.0137, or selling
1104 or buying of minors under s. 847.0145.

1105 10. Poisoning food or water under s. 859.01.

1106 11. Abuse of a dead human body under s. 872.06.

1107 12. Any burglary offense or attempted burglary offense that
1108 is either a first degree felony or second degree felony under s.
1109 810.02(2) or (3).

1110 13. Arson or attempted arson under s. 806.01(1).

1111 14. Aggravated assault under s. 784.021.

1112 15. Aggravated stalking under s. 784.048(3), (4), (5), or
1113 (7).

1114 16. Aircraft piracy under s. 860.16.

1115 17. Unlawful throwing, placing, or discharging of a
1116 destructive device or bomb under s. 790.161(2), (3), or (4).

1117 18. Treason under s. 876.32.

1118 19. Any offense committed in another jurisdiction which
1119 would be an offense listed in this paragraph if that offense had
1120 been committed in this state.

1121 Section 30. Subsection (2) of section 948.101, Florida
1122 Statutes, is amended to read:

1123 948.101 Terms and conditions of community control and
1124 criminal quarantine community control.--

1125 (2) The enumeration of specific kinds of terms and

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1126 conditions does not prevent the court from adding thereto any
1127 other terms or conditions that the court considers proper.
1128 However, the sentencing court may only impose a condition of
1129 supervision allowing an offender convicted of s. 794.011, s.
1130 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in
1131 another state if the order stipulates that it is contingent upon
1132 the approval of the receiving state interstate compact authority.
1133 The court may rescind or modify at any time the terms and
1134 conditions theretofore imposed by it upon the offender in
1135 community control. However, if the court withholds adjudication
1136 of guilt or imposes a period of incarceration as a condition of
1137 community control, the period may not exceed 364 days, and
1138 incarceration shall be restricted to a county facility, a
1139 probation and restitution center under the jurisdiction of the
1140 Department of Corrections, a probation program drug punishment
1141 phase I secure residential treatment institution, or a community
1142 residential facility owned or operated by any entity providing
1143 such services.

1144 Section 31. Subsections (1) and (2) of section 948.30,
1145 Florida Statutes, are amended to read:

1146 948.30 Additional terms and conditions of probation or
1147 community control for certain sex offenses.--Conditions imposed
1148 pursuant to this section do not require oral pronouncement at the
1149 time of sentencing and shall be considered standard conditions of
1150 probation or community control for offenders specified in this
1151 section.

1152 (1) Effective for probationers or community controllees
1153 whose crime was committed on or after October 1, 1995, and who
1154 are placed under supervision for violation of chapter 794, s.

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1155 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, the court
1156 must impose the following conditions in addition to all other
1157 standard and special conditions imposed:

1158 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may
1159 designate another 8-hour period if the offender's employment
1160 precludes the above specified time, and the alternative is
1161 recommended by the Department of Corrections. If the court
1162 determines that imposing a curfew would endanger the victim, the
1163 court may consider alternative sanctions.

1164 (b) If the victim was under the age of 18, a prohibition on
1165 living within 1,000 feet of a school, day care center, park,
1166 playground, or other place where children regularly congregate,
1167 as prescribed by the court. The 1,000-foot distance shall be
1168 measured in a straight line from the offender's place of
1169 residence to the nearest boundary line of the school, day care
1170 center, park, playground, or other place where children
1171 congregate. The distance may not be measured by a pedestrian
1172 route or automobile route.

1173 (c) Active participation in and successful completion of a
1174 sex offender treatment program with qualified practitioners
1175 specifically trained to treat sex offenders, at the probationer's
1176 or community controllee's own expense. If a qualified
1177 practitioner is not available within a 50-mile radius of the
1178 probationer's or community controllee's residence, the offender
1179 shall participate in other appropriate therapy.

1180 (d) A prohibition on any contact with the victim, directly
1181 or indirectly, including through a third person, unless approved
1182 by the victim, the offender's therapist, and the sentencing
1183 court.

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1184 (e) If the victim was under the age of 18, a prohibition on
1185 contact with a child under the age of 18 except as provided in
1186 this paragraph. The court may approve supervised contact with a
1187 child under the age of 18 if the approval is based upon a
1188 recommendation for contact issued by a qualified practitioner who
1189 is basing the recommendation on a risk assessment. Further, the
1190 sex offender must be currently enrolled in or have successfully
1191 completed a sex offender therapy program. The court may not grant
1192 supervised contact with a child if the contact is not recommended
1193 by a qualified practitioner and may deny supervised contact with
1194 a child at any time. When considering whether to approve
1195 supervised contact with a child, the court must review and
1196 consider the following:

1197 1. A risk assessment completed by a qualified practitioner.
1198 The qualified practitioner must prepare a written report that
1199 must include the findings of the assessment and address each of
1200 the following components:

- 1201 a. The sex offender's current legal status;
- 1202 b. The sex offender's history of adult charges with
1203 apparent sexual motivation;
- 1204 c. The sex offender's history of adult charges without
1205 apparent sexual motivation;
- 1206 d. The sex offender's history of juvenile charges, whenever
1207 available;
- 1208 e. The sex offender's offender treatment history, including
1209 consultations with the sex offender's treating, or most recent
1210 treating, therapist;
- 1211 f. The sex offender's current mental status;
- 1212 g. The sex offender's mental health and substance abuse

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1213 treatment history as provided by the Department of Corrections;

1214 h. The sex offender's personal, social, educational, and
1215 work history;

1216 i. The results of current psychological testing of the sex
1217 offender if determined necessary by the qualified practitioner;

1218 j. A description of the proposed contact, including the
1219 location, frequency, duration, and supervisory arrangement;

1220 k. The child's preference and relative comfort level with
1221 the proposed contact, when age appropriate;

1222 l. The parent's or legal guardian's preference regarding
1223 the proposed contact; and

1224 m. The qualified practitioner's opinion, along with the
1225 basis for that opinion, as to whether the proposed contact would
1226 likely pose significant risk of emotional or physical harm to the
1227 child.

1228

1229 The written report of the assessment must be given to the court;

1230 2. A recommendation made as a part of the risk assessment
1231 report as to whether supervised contact with the child should be
1232 approved;

1233 3. A written consent signed by the child's parent or legal
1234 guardian, if the parent or legal guardian is not the sex
1235 offender, agreeing to the sex offender having supervised contact
1236 with the child after receiving full disclosure of the sex
1237 offender's present legal status, past criminal history, and the
1238 results of the risk assessment. The court may not approve contact
1239 with the child if the parent or legal guardian refuses to give
1240 written consent for supervised contact;

1241 4. A safety plan prepared by the qualified practitioner,

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1242 | who provides treatment to the offender, in collaboration with the
1243 | sex offender, the child's parent or legal guardian, if the parent
1244 | or legal guardian is not the sex offender, and the child, when
1245 | age appropriate, which details the acceptable conditions of
1246 | contact between the sex offender and the child. The safety plan
1247 | must be reviewed and approved by the court; and

1248 | 5. Evidence that the child's parent or legal guardian
1249 | understands the need for and agrees to the safety plan and has
1250 | agreed to provide, or to designate another adult to provide,
1251 | constant supervision any time the child is in contact with the
1252 | offender.

1253 |
1254 | The court may not appoint a person to conduct a risk assessment
1255 | and may not accept a risk assessment from a person who has not
1256 | demonstrated to the court that he or she has met the requirements
1257 | of a qualified practitioner as defined in this section.

1258 | (f) If the victim was under age 18, a prohibition on
1259 | working for pay or as a volunteer at any place where children
1260 | regularly congregate, including, but not limited to, schools, day
1261 | care centers, parks, playgrounds, pet stores, libraries, zoos,
1262 | theme parks, and malls.

1263 | (g) Unless otherwise indicated in the treatment plan
1264 | provided by the sexual offender treatment program, a prohibition
1265 | on viewing, accessing, owning, or possessing any obscene,
1266 | pornographic, or sexually stimulating visual or auditory
1267 | material, including telephone, electronic media, computer
1268 | programs, or computer services that are relevant to the
1269 | offender's deviant behavior pattern.

1270 | (h) Effective for probationers and community controllees

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1271 | whose crime is committed on or after July 1, 2005, a prohibition
1272 | on accessing the Internet or other computer services until the
1273 | offender's sex offender treatment program, after a risk
1274 | assessment is completed, approves and implements a safety plan
1275 | for the offender's accessing or using the Internet or other
1276 | computer services.

1277 | (i) A requirement that the probationer or community
1278 | controllee must submit a specimen of blood or other approved
1279 | biological specimen to the Department of Law Enforcement to be
1280 | registered with the DNA data bank.

1281 | (j) A requirement that the probationer or community
1282 | controllee make restitution to the victim, as ordered by the
1283 | court under s. 775.089, for all necessary medical and related
1284 | professional services relating to physical, psychiatric, and
1285 | psychological care.

1286 | (k) Submission to a warrantless search by the community
1287 | control or probation officer of the probationer's or community
1288 | controllee's person, residence, or vehicle.

1289 | (2) Effective for a probationer or community controllee
1290 | whose crime was committed on or after October 1, 1997, and who is
1291 | placed on community control or sex offender probation for a
1292 | violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),
1293 | or s. 847.0145, in addition to any other provision of this
1294 | section, the court must impose the following conditions of
1295 | probation or community control:

1296 | (a) As part of a treatment program, participation at least
1297 | annually in polygraph examinations to obtain information
1298 | necessary for risk management and treatment and to reduce the sex
1299 | offender's denial mechanisms. A polygraph examination must be

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1300 | conducted by a polygrapher trained specifically in the use of the
1301 | polygraph for the monitoring of sex offenders, where available,
1302 | and shall be paid for by the sex offender. The results of the
1303 | polygraph examination shall not be used as evidence in court to
1304 | prove that a violation of community supervision has occurred.

1305 | (b) Maintenance of a driving log and a prohibition against
1306 | driving a motor vehicle alone without the prior approval of the
1307 | supervising officer.

1308 | (c) A prohibition against obtaining or using a post office
1309 | box without the prior approval of the supervising officer.

1310 | (d) If there was sexual contact, a submission to, at the
1311 | probationer's or community controllee's expense, an HIV test with
1312 | the results to be released to the victim or the victim's parent
1313 | or guardian.

1314 | (e) Electronic monitoring when deemed necessary by the
1315 | community control or probation officer and his or her supervisor,
1316 | and ordered by the court at the recommendation of the Department
1317 | of Corrections.

1318 | Section 32. Subsection (1) of section 948.31, Florida
1319 | Statutes, is amended to read:

1320 | 948.31 Diagnosis, evaluation, and treatment of offenders
1321 | placed on probation or community control for certain sex offenses
1322 | or child exploitation.--The court shall require a diagnosis and
1323 | evaluation to determine the need of a probationer or offender in
1324 | community control for treatment. If the court determines that a
1325 | need therefor is established by such diagnosis and evaluation
1326 | process, the court shall require outpatient counseling as a term
1327 | or condition of probation or community control for any person who
1328 | was found guilty of any of the following, or whose plea of guilty

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1329 or nolo contendere to any of the following was accepted by the
1330 court:

1331 (1) Lewd or lascivious battery, lewd or lascivious
1332 molestation, lewd or lascivious conduct, or lewd or lascivious
1333 exhibition, as defined in s. 800.04 or s. 847.0135(5).
1334

1335 Such counseling shall be required to be obtained from a community
1336 mental health center, a recognized social service agency
1337 providing mental health services, or a private mental health
1338 professional or through other professional counseling. The plan
1339 for counseling for the individual shall be provided to the court
1340 for review.

1341 Section 33. This act shall take effect October 1, 2008.