

By Senator Posey

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1 A bill to be entitled

2 An act relating to sexual offenders; amending ss. 947.1405
3 and 948.30, F.S.; prohibiting certain specified sexual
4 offenders whose victim was under the age of 18 from
5 entering a public library without immediately notifying an
6 employee of the public library of the sex offender's
7 presence and intent to use the resources of the library;
8 defining the term "immediately"; prohibiting the sex
9 offender from entering the library until the employee
10 acknowledges the presence of the sex offender; providing
11 that a sex offender who violates the act commits a felony
12 of the third degree; providing criminal penalties;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Paragraph (a) of subsection (7) of section
18 947.1405, Florida Statutes, is amended to read:

19 947.1405 Conditional release program.--

20 (7) (a) Any inmate who is convicted of a crime committed on
21 or after October 1, 1995, or who has been previously convicted of
22 a crime committed on or after October 1, 1995, in violation of
23 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
24 subject to conditional release supervision, shall have, in
25 addition to any other conditions imposed, the following special
26 conditions imposed by the commission:

27 1. A mandatory curfew from 10 p.m. to 6 a.m. The commission
28 may designate another 8-hour period if the offender's employment
29 precludes the above specified time, and such alternative is

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30 recommended by the Department of Corrections. If the commission
31 determines that imposing a curfew would endanger the victim, the
32 commission may consider alternative sanctions.

33 2. If the victim was under the age of 18, a prohibition on
34 living within 1,000 feet of a school, day care center, park,
35 playground, designated public school bus stop, or other place
36 where children regularly congregate. A releasee who is subject to
37 this subparagraph may not relocate to a residence that is within
38 1,000 feet of a public school bus stop. Beginning October 1,
39 2004, the commission or the department may not approve a
40 residence that is located within 1,000 feet of a school, day care
41 center, park, playground, designated school bus stop, or other
42 place where children regularly congregate for any releasee who is
43 subject to this subparagraph. On October 1, 2004, the department
44 shall notify each affected school district of the location of the
45 residence of a releasee 30 days prior to release and thereafter,
46 if the releasee relocates to a new residence, shall notify any
47 affected school district of the residence of the releasee within
48 30 days after relocation. If, on October 1, 2004, any public
49 school bus stop is located within 1,000 feet of the existing
50 residence of such releasee, the district school board shall
51 relocate that school bus stop. Beginning October 1, 2004, a
52 district school board may not establish or relocate a public
53 school bus stop within 1,000 feet of the residence of a releasee
54 who is subject to this subparagraph. The failure of the district
55 school board to comply with this subparagraph shall not result in
56 a violation of conditional release supervision.

57 3. Active participation in and successful completion of a
58 sex offender treatment program with qualified practitioners

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59 specifically trained to treat sex offenders, at the releasee's
60 own expense. If a qualified practitioner is not available within
61 a 50-mile radius of the releasee's residence, the offender shall
62 participate in other appropriate therapy.

63 4. A prohibition on any contact with the victim, directly
64 or indirectly, including through a third person, unless approved
65 by the victim, the offender's therapist, and the sentencing
66 court.

67 5. If the victim was under the age of 18, a prohibition
68 against contact with children under the age of 18 without review
69 and approval by the commission. The commission may approve
70 supervised contact with a child under the age of 18 if the
71 approval is based upon a recommendation for contact issued by a
72 qualified practitioner who is basing the recommendation on a risk
73 assessment. Further, the sex offender must be currently enrolled
74 in or have successfully completed a sex offender therapy program.
75 The commission may not grant supervised contact with a child if
76 the contact is not recommended by a qualified practitioner and
77 may deny supervised contact with a child at any time. When
78 considering whether to approve supervised contact with a child,
79 the commission must review and consider the following:

80 a. A risk assessment completed by a qualified practitioner.
81 The qualified practitioner must prepare a written report that
82 must include the findings of the assessment and address each of
83 the following components:

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

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

87 (III) The sex offender's history of adult charges without

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88 | apparent sexual motivation;

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

91 | (V) The sex offender's offender treatment history,
92 | including a consultation from the sex offender's treating, or
93 | most recent treating, therapist;

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

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

97 | (VIII) The sex offender's personal, social, educational,
98 | and work history;

99 | (IX) The results of current psychological testing of the
100 | sex offender if determined necessary by the qualified
101 | practitioner;

102 | (X) A description of the proposed contact, including the
103 | location, frequency, duration, and supervisory arrangement;

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

106 | (XII) The parent's or legal guardian's preference regarding
107 | the proposed contact; and

108 | (XIII) The qualified practitioner's opinion, along with the
109 | basis for that opinion, as to whether the proposed contact would
110 | likely pose significant risk of emotional or physical harm to the
111 | child.

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113 | The written report of the assessment must be given to the
114 | commission.

115 | b. A recommendation made as a part of the risk-assessment
116 | report as to whether supervised contact with the child should be

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117 approved;

118 c. A written consent signed by the child's parent or legal
119 guardian, if the parent or legal guardian is not the sex
120 offender, agreeing to the sex offender having supervised contact
121 with the child after receiving full disclosure of the sex
122 offender's present legal status, past criminal history, and the
123 results of the risk assessment. The commission may not approve
124 contact with the child if the parent or legal guardian refuses to
125 give written consent for supervised contact;

126 d. A safety plan prepared by the qualified practitioner,
127 who provides treatment to the offender, in collaboration with the
128 sex offender, the child's parent or legal guardian, and the
129 child, when age appropriate, which details the acceptable
130 conditions of contact between the sex offender and the child. The
131 safety plan must be reviewed and approved by the Department of
132 Corrections before being submitted to the commission; and

133 e. Evidence that the child's parent or legal guardian, if
134 the parent or legal guardian is not the sex offender, understands
135 the need for and agrees to the safety plan and has agreed to
136 provide, or to designate another adult to provide, constant
137 supervision any time the child is in contact with the offender.

138
139 The commission may not appoint a person to conduct a risk
140 assessment and may not accept a risk assessment from a person who
141 has not demonstrated to the commission that he or she has met the
142 requirements of a qualified practitioner as defined in this
143 section.

144 6. If the victim was under age 18, a prohibition on working
145 for pay or as a volunteer at any school, day care center, park,

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146 playground, pet store, library, zoo, theme park, or other place
147 where children regularly congregate, as prescribed by the
148 commission.

149 7. If the victim was under the age of 18, a prohibition
150 against entering a public library without immediately notifying
151 an employee of the library of the sex offender's presence and
152 intent to use the resources of the library. As used in this
153 subparagraph, the term "immediately" means moving from the
154 entrance of the public library in a straight line to the nearest
155 work station occupied by an employee of the public library. The
156 sex offender may not move from that work station until the
157 employee acknowledges the presence of the sex offender. Any sex
158 offender who violates this subparagraph commits a felony of the
159 third degree, punishable as provided in s. 775.082, s. 775.083,
160 or s. 775.084.

161 8.7. Unless otherwise indicated in the treatment plan
162 provided by the sexual offender treatment program, a prohibition
163 on viewing, owning, or possessing any obscene, pornographic, or
164 sexually stimulating visual or auditory material, including
165 telephone, electronic media, computer programs, or computer
166 services that are relevant to the offender's deviant behavior
167 pattern.

168 9.8. Effective for a releasee whose crime is committed on
169 or after July 1, 2005, a prohibition on accessing the Internet or
170 other computer services until the offender's sex offender
171 treatment program, after a risk assessment is completed, approves
172 and implements a safety plan for the offender's accessing or
173 using the Internet or other computer services.

174 10.9. A requirement that the releasee must submit two

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175 specimens of blood to the Florida Department of Law Enforcement
176 to be registered with the DNA database.

177 ~~11.10.~~ A requirement that the releasee make restitution to
178 the victim, as determined by the sentencing court or the
179 commission, for all necessary medical and related professional
180 services relating to physical, psychiatric, and psychological
181 care.

182 ~~12.11.~~ Submission to a warrantless search by the community
183 control or probation officer of the probationer's or community
184 controllee's person, residence, or vehicle.

185 Section 2. Subsection (1) of section 948.30, Florida
186 Statutes, is amended to read:

187 948.30 Additional terms and conditions of probation or
188 community control for certain sex offenses.--Conditions imposed
189 pursuant to this section do not require oral pronouncement at the
190 time of sentencing and shall be considered standard conditions of
191 probation or community control for offenders specified in this
192 section.

193 (1) Effective for probationers or community controllees
194 whose crime was committed on or after October 1, 1995, and who
195 are placed under supervision for violation of chapter 794, s.
196 800.04, s. 827.071, or s. 847.0145, the court must impose the
197 following conditions in addition to all other standard and
198 special conditions imposed:

199 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may
200 designate another 8-hour period if the offender's employment
201 precludes the above specified time, and the alternative is
202 recommended by the Department of Corrections. If the court
203 determines that imposing a curfew would endanger the victim, the

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204 court may consider alternative sanctions.

205 (b) If the victim was under the age of 18, a prohibition on
206 living within 1,000 feet of a school, day care center, park,
207 playground, or other place where children regularly congregate,
208 as prescribed by the court. The 1,000-foot distance shall be
209 measured in a straight line from the offender's place of
210 residence to the nearest boundary line of the school, day care
211 center, park, playground, or other place where children
212 congregate. The distance may not be measured by a pedestrian
213 route or automobile route.

214 (c) Active participation in and successful completion of a
215 sex offender treatment program with qualified practitioners
216 specifically trained to treat sex offenders, at the probationer's
217 or community controllee's own expense. If a qualified
218 practitioner is not available within a 50-mile radius of the
219 probationer's or community controllee's residence, the offender
220 shall participate in other appropriate therapy.

221 (d) A prohibition on any contact with the victim, directly
222 or indirectly, including through a third person, unless approved
223 by the victim, the offender's therapist, and the sentencing
224 court.

225 (e) If the victim was under the age of 18, a prohibition on
226 contact with a child under the age of 18 except as provided in
227 this paragraph. The court may approve supervised contact with a
228 child under the age of 18 if the approval is based upon a
229 recommendation for contact issued by a qualified practitioner who
230 is basing the recommendation on a risk assessment. Further, the
231 sex offender must be currently enrolled in or have successfully
232 completed a sex offender therapy program. The court may not grant

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233 supervised contact with a child if the contact is not recommended
234 by a qualified practitioner and may deny supervised contact with
235 a child at any time. When considering whether to approve
236 supervised contact with a child, the court must review and
237 consider the following:

238 1. A risk assessment completed by a qualified practitioner.
239 The qualified practitioner must prepare a written report that
240 must include the findings of the assessment and address each of
241 the following components:

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

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

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

247 d. The sex offender's history of juvenile charges, whenever
248 available;

249 e. The sex offender's offender treatment history, including
250 consultations with the sex offender's treating, or most recent
251 treating, therapist;

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

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

255 h. The sex offender's personal, social, educational, and
256 work history;

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

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

261 k. The child's preference and relative comfort level with

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262 the proposed contact, when age appropriate;

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

265 m. The qualified practitioner's opinion, along with the
266 basis for that opinion, as to whether the proposed contact would
267 likely pose significant risk of emotional or physical harm to the
268 child.

269

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

271 2. A recommendation made as a part of the risk assessment
272 report as to whether supervised contact with the child should be
273 approved;

274 3. A written consent signed by the child's parent or legal
275 guardian, if the parent or legal guardian is not the sex
276 offender, agreeing to the sex offender having supervised contact
277 with the child after receiving full disclosure of the sex
278 offender's present legal status, past criminal history, and the
279 results of the risk assessment. The court may not approve contact
280 with the child if the parent or legal guardian refuses to give
281 written consent for supervised contact;

282 4. A safety plan prepared by the qualified practitioner,
283 who provides treatment to the offender, in collaboration with the
284 sex offender, the child's parent or legal guardian, if the parent
285 or legal guardian is not the sex offender, and the child, when
286 age appropriate, which details the acceptable conditions of
287 contact between the sex offender and the child. The safety plan
288 must be reviewed and approved by the court; and

289 5. Evidence that the child's parent or legal guardian
290 understands the need for and agrees to the safety plan and has

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291 | agreed to provide, or to designate another adult to provide,
292 | constant supervision any time the child is in contact with the
293 | offender.

294 |
295 | The court may not appoint a person to conduct a risk assessment
296 | and may not accept a risk assessment from a person who has not
297 | demonstrated to the court that he or she has met the requirements
298 | of a qualified practitioner as defined in this section.

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

304 | (g) If the victim was under the age of 18, a prohibition
305 | against entering a public library without immediately notifying
306 | an employee of the library of the sex offender's presence and
307 | intent to use the resources of the library. As used in this
308 | paragraph, the term "immediately" means moving from the entrance
309 | of the public library in a straight line to the nearest work
310 | station occupied by an employee of the public library. The sex
311 | offender may not move from that work station until the employee
312 | acknowledges the presence of the sex offender. Any sex offender
313 | who violates this paragraph commits a felony of the third degree,
314 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

315 | (h) ~~(g)~~ Unless otherwise indicated in the treatment plan
316 | provided by the sexual offender treatment program, a prohibition
317 | on viewing, accessing, owning, or possessing any obscene,
318 | pornographic, or sexually stimulating visual or auditory
319 | material, including telephone, electronic media, computer

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320 | programs, or computer services that are relevant to the
321 | offender's deviant behavior pattern.

322 | (i)~~(h)~~ Effective for probationers and community controllees
323 | whose crime is committed on or after July 1, 2005, a prohibition
324 | on accessing the Internet or other computer services until the
325 | offender's sex offender treatment program, after a risk
326 | assessment is completed, approves and implements a safety plan
327 | for the offender's accessing or using the Internet or other
328 | computer services.

329 | (j)~~(i)~~ A requirement that the probationer or community
330 | controllee must submit a specimen of blood or other approved
331 | biological specimen to the Department of Law Enforcement to be
332 | registered with the DNA data bank.

333 | (k)~~(j)~~ A requirement that the probationer or community
334 | controllee make restitution to the victim, as ordered by the
335 | court under s. 775.089, for all necessary medical and related
336 | professional services relating to physical, psychiatric, and
337 | psychological care.

338 | (l)~~(k)~~ Submission to a warrantless search by the community
339 | control or probation officer of the probationer's or community
340 | controllee's person, residence, or vehicle.

341 | Section 3. This act shall take effect July 1, 2008.