

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., prohibiting persons from
9 selling minors knowing that as a result of the sale the
10 minor will perform naked for compensation; providing
11 penalties; amending s. 800.04, F.S., deleting specified
12 provisions relating to online lewd and lascivious
13 exhibitions; amending s. 847.0135, F.S.; adding specified
14 provisions relating to online lewd and lascivious
15 exhibitions; providing penalties; creating s. 847.002,
16 F.S.; requiring law enforcement officers to provide
17 certain information to the National Center for Missing and
18 Exploited Children; requiring law enforcement officers
19 submitting a case for prosecution that involves the
20 creation, possession, or promotion of child pornography to
21 provide specified information to prosecutors; requiring
22 prosecutors to enter specified information in a database
23 maintained by the Attorney General; creating s. 847.01357,
24 F.S.; providing a civil remedy for any person who, while
25 under the age of 18, was a victim of certain sexual abuse
26 crimes wherein any portion of that abuse was used in the
27 production of child pornography and who suffers personal
28 or psychological injury as a result of the production,

29 promotion, or possession of such images; specifying
 30 damages; providing for limitation of actions; providing
 31 for pseudonyms for specified claimants; precluding a
 32 defense to certain civil actions; permitting the Attorney
 33 General to pursue cases on behalf of Florida victims;
 34 providing for disposition of damages and attorney's fees;
 35 amending s. 960.03, F.S.; expanding the definition of
 36 "crime" for purposes of victim compensation to include
 37 violations of specified offenses relating to online sexual
 38 exploitation and child pornography; defining the term
 39 "known victim of child pornography;"; expanding the
 40 definition of "victim" for purposes of victim compensation
 41 to include a person less than 18 years of age who was
 42 present at the scene of a crime, saw or heard the crime,
 43 and suffered a psychiatric or psychological injury because
 44 of the crime, but who was not physically injured; creating
 45 s. 960.197, F.S.; authorizing victim compensation awards
 46 to certain persons who suffer psychiatric or psychological
 47 injury as a result of certain crimes; amending ss. 90.404,
 48 92.565, 394.912, 409.2355, 775.082, 775.084, 775.15,
 49 775.21, 784.048, 787.01, 787.02, 787.025, 794.065, 914.16,
 50 921.0022, 921.244, 938.10, 943.04354, 947.1405, 948.03,
 51 948.06, 948.101, 948.30, and 948.31, F.S.; conforming
 52 provisions to changes made by the act; providing an
 53 effective date.

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 55 WHEREAS, children who are sexually abused and then
 56 exploited by the creation of permanent images of that sexual

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57 | abuse through child pornography are further harmed by the
58 | continued possession, promotion, and distribution of those
59 | images on the Internet, and

60 | WHEREAS, the possession of child pornography is not a
61 | victimless crime, and over 1,200 victims of child pornography
62 | are known by law enforcement, over 30 of whom were citizens of
63 | this state at the time of their abuse, and

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

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

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

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79 | Be It Enacted by the Legislature of the State of Florida:

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81 | Section 1. Subsection (3) of section 92.56, Florida
82 | Statutes, is amended to read:

83 | 92.56 Judicial proceedings and court records involving
84 | sexual offenses.--

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

93 Section 2. Section 796.035, Florida Statutes, is amended
 94 to read:

95 796.035 Selling or buying of minors into sex trafficking
 96 or prostitution; penalties.--Any parent, legal guardian, or
 97 other person having custody or control of a minor who sells or
 98 otherwise transfers custody or control of such minor, or offers
 99 to sell or otherwise transfer custody of such minor, with
 100 knowledge that, as a consequence of the sale or transfer, ~~force,~~
 101 ~~fraud, or coercion will be used to cause the minor~~ will ~~to~~
 102 engage in prostitution, perform naked for compensation, or
 103 otherwise participate in the trade of sex trafficking, commits a
 104 felony of the first degree, punishable as provided in s.
 105 775.082, s. 775.083, or s. 775.084.

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

108 800.04 Lewd or lascivious offenses committed upon or in
 109 the presence of persons less than 16 years of age.--

110 (7) LEWD OR LASCIVIOUS EXHIBITION.--

111 (a) A person who:

112 1. Intentionally masturbates;

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

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

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

~~(b) A person who:~~

~~1. Intentionally masturbates;~~

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

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

~~live over a computer online service, Internet service, or local bulletin board service and who knows or should know or has reason to believe that the transmission is viewed on a computer or television monitor by a victim in this state who is less than 16 years of age, commits lewd or lascivious exhibition. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under~~

140 ~~this paragraph shall not constitute a defense to a prosecution~~
 141 ~~under this paragraph.~~

142 (b)~~(e)~~ An offender 18 years of age or older who commits a
 143 lewd or lascivious exhibition commits a felony of the second
 144 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 145 775.084.

146 (c)~~(d)~~ An offender less than 18 years of age who commits a
 147 lewd or lascivious exhibition commits a felony of the third
 148 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 149 775.084.

150 Section 4. Subsections (5), (6), and (7) of section
 151 847.0135, Florida Statutes, are renumbered as subsections (6),
 152 (7), and (8), respectively, and a subsection (5) is added to
 153 that section, to read:

154 847.0135 Computer pornography; traveling to meet minor;
 155 penalties.--

156 (5) TRANSMISSIONS CONSTITUTING LEWD OR LASCIVIOUS
 157 EXHIBITION PROHIBITED.--

158 (a) A person who:

159 1. Intentionally masturbates;

160 2. Intentionally exposes the genitals in a lewd or
 161 lascivious manner; or

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

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

178 (b) An offender 18 years of age or older who commits a
179 lewd or lascivious exhibition using a computer commits a felony
180 of the second degree, punishable as provided in s. 775.082, s.
181 775.083, or s. 775.084.

182 (c) An offender less than 18 years of age who commits a
183 lewd or lascivious exhibition using a computer commits a felony
184 of the third degree, punishable as provided in s. 775.082, s.
185 775.083, or s. 775.084.

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

188 Section 5. Section 847.002, Florida Statutes, is created
189 to read:

190 847.002 Child pornography prosecutions.--

191 (1) Any law enforcement officer who, pursuant to a
192 criminal investigation, recovers images of child pornography
193 shall do the following:

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

196 Center for Missing and Exploited Children, Child Victim
197 Identification Program.

198 (b) Request the law enforcement contact information from
199 the National Center for Missing and Exploited Children, Child
200 Victim Identification Program, for any images recovered that
201 contain a known victim of child pornography, as defined in s.
202 960.03.

203 (2) Any law enforcement officer submitting a case for
204 prosecution that involves the production, promotion, or
205 possession of child pornography shall submit to the designated
206 prosecutor the law enforcement contact information provided by
207 the National Center for Missing and Exploited Children, Child
208 Victim Identification Program, for any images involved in the
209 case which contain the depiction of a known victim of child
210 pornography as defined in s. 960.03.

211 (3) In every filed case involving a known victim of child
212 pornography, as defined in s. 960.03, the prosecuting agency
213 shall enter the following information into the Victims in Child
214 Pornography Tracking Repeat Exploitation database maintained by
215 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
 228 victim of a sexual abuse crime listed in chapter 794, chapter
 229 800, chapter 827, or chapter 847, wherein any portion of such
 230 abuse was used in the production of child pornography, and who
 231 suffers personal or psychological injury as a result of the
 232 production, promotion, or possession of such images, may bring
 233 an action in any appropriate state court against the producer,
 234 promoter, or possessor of such images, regardless of whether the
 235 victim is now an adult. In any action brought under this
 236 section, a prevailing plaintiff shall recover the actual damages
 237 such person sustained and the cost of the suit, including
 238 reasonable attorney's fees. Any such victim who is awarded
 239 damages under this section shall be deemed to have sustained
 240 damages of no less than \$150,000.

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

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

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

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

250 (3) Any victim who has a bona fide claim under this
 251 section shall, upon request, be provided a pseudonym, pursuant

252 to s. 92.56(3), which shall be issued and maintained by the
 253 Department of Legal Affairs for use in all legal pleadings. This
 254 identifier shall be fully recognized in all courts in this state
 255 as a valid 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
 262 may pursue cases on behalf of any Florida victim under this
 263 section. All damages obtained in such cases shall go to the
 264 victim, and the Office of the Attorney General may seek
 265 reasonable attorney's fees and costs as authorized under this
 266 section.

267 Section 7. Paragraph (d) is added to subsection (3) of
 268 section 960.03, Florida Statutes, subsections (10) through (13)
 269 of that section are renumbered as subsections (11) through (14),
 270 respectively, a new subsection (10) is added to that section,
 271 and present subsection (13) of that section is 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) "Known victim of child pornography" means any person
 279 who, while under the age of 18, was depicted in any image of

280 child pornography and who has been identified through a report
 281 generated by a member of law enforcement and provided to the
 282 National Center for Missing and Exploited Children's Child
 283 Victim 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 less than 18 ~~16~~ years of age who was present
 288 at the scene of a crime, saw or heard the crime, and suffered a
 289 psychiatric or psychological injury because of the crime, but
 290 who was not physically injured; or

291 (c) A person against whom a forcible felony was committed
 292 and who suffers a psychiatric or psychological injury as a
 293 direct 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
 296 to read:

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

299 (1) Notwithstanding the criteria set forth in s. 960.13
 300 for 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 less 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
 307 otherwise sustain a personal injury or death; or

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

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
 334 cases.--

335 (2) In any criminal action in which the defendant is
 336 charged with a crime against a victim under s. 794.011; s.
 337 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;
 338 s. 827.04, involving sexual abuse; ~~or~~ s. 827.071; or s.
 339 847.0135(5), or any other crime involving sexual abuse of
 340 another, or with any attempt, solicitation, or conspiracy to
 341 commit any of these crimes, the defendant's memorialized
 342 confession or admission is admissible during trial without the
 343 state having to prove a corpus delicti of the crime if the court
 344 finds in a hearing conducted outside the presence of the jury
 345 that the state is unable to show the existence of each element
 346 of the crime, and having so found, further finds that the
 347 defendant's confession or admission is trustworthy. Factors
 348 which may be relevant in determining whether the state is unable
 349 to show the existence of each element of the crime include, but
 350 are not limited to, the fact that, at the time the crime was
 351 committed, the victim was:

- 352 (a) Physically helpless, mentally incapacitated, or
- 353 mentally defective, as those terms are defined in s. 794.011;
- 354 (b) Physically incapacitated due to age, infirmity, or any
- 355 other cause; or
- 356 (c) Less than 12 years of age.

357 Section 11. Paragraph (e) of subsection (9) of section
 358 394.912, Florida Statutes, is amended to read:

359 394.912 Definitions.--As used in this part, the term:

- 360 (9) "Sexually violent offense" means:

361 (e) Lewd, lascivious, or indecent assault or act upon or
 362 in presence of the child in violation of s. 800.04 or s.
 363 847.0135(5);

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

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

375 Section 13. Paragraph (a) of subsection (9) of section
 376 775.082, Florida Statutes, is amended to read:

377 775.082 Penalties; applicability of sentencing structures;
 378 mandatory minimum sentences for certain reoffenders previously
 379 released from prison.--

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

- 382 a. Treason;
- 383 b. Murder;
- 384 c. Manslaughter;
- 385 d. Sexual battery;
- 386 e. Carjacking;
- 387 f. Home-invasion robbery;
- 388 g. Robbery;

- 389 h. Arson;
- 390 i. Kidnapping;
- 391 j. Aggravated assault with a deadly weapon;
- 392 k. Aggravated battery;
- 393 l. Aggravated stalking;
- 394 m. Aircraft piracy;
- 395 n. Unlawful throwing, placing, or discharging of a
- 396 destructive device or bomb;
- 397 o. Any felony that involves the use or threat of physical
- 398 force or violence against an individual;
- 399 p. Armed burglary;
- 400 q. Burglary of a dwelling or burglary of an occupied
- 401 structure; or
- 402 r. Any felony violation of s. 790.07, s. 800.04, s.
- 403 827.03, ~~or~~ s. 827.071, or s. 847.0135(5);
- 404
- 405 within 3 years after being released from a state correctional
- 406 facility operated by the Department of Corrections or a private
- 407 vendor or within 3 years after being released from a
- 408 correctional institution of another state, the District of
- 409 Columbia, the United States, any possession or territory of the
- 410 United States, or any foreign jurisdiction, following
- 411 incarceration for an offense for which the sentence is
- 412 punishable by more than 1 year in this state.
- 413 2. "Prison releasee reoffender" also means any defendant
- 414 who commits or attempts to commit any offense listed in sub-
- 415 subparagraphs (a)1.a.-r. while the defendant was serving a
- 416 prison sentence or on escape status from a state correctional

417 facility operated by the Department of Corrections or a private
418 vendor or while the defendant was on escape status from a
419 correctional institution of another state, the District of
420 Columbia, the United States, any possession or territory of the
421 United States, or any foreign jurisdiction, following
422 incarceration for an offense for which the sentence is
423 punishable by more than 1 year in this state.

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

433 a. For a felony punishable by life, by a term of
434 imprisonment for life;

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

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

439 d. For a felony of the third degree, by a term of
440 imprisonment of 5 years.

441 Section 14. Paragraph (d) of subsection (1) of section
442 775.084, Florida Statutes, is amended to read:

443 775.084 Violent career criminals; habitual felony
444 offenders and habitual violent felony offenders; three-time

445 violent felony offenders; definitions; procedure; enhanced
 446 penalties or mandatory minimum prison terms.--

447 (1) As used in this act:

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

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

- 454 a. Any forcible felony, as described in s. 776.08;
- 455 b. Aggravated stalking, as described in s. 784.048(3) and
 456 (4);
- 457 c. Aggravated child abuse, as described in s. 827.03(2);
- 458 d. Aggravated abuse of an elderly person or disabled
 459 adult, as described in s. 825.102(2);
- 460 e. Lewd or lascivious battery, lewd or lascivious
 461 molestation, lewd or lascivious conduct, or lewd or lascivious
 462 exhibition, as described in s. 800.04 or s. 847.0135(5);
- 463 f. Escape, as described in s. 944.40; or
- 464 g. A felony violation of chapter 790 involving the use or
 465 possession of a firearm.

466 2. The defendant has been incarcerated in a state prison
 467 or a federal prison.

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

- 471 a. While the defendant was serving a prison sentence or
 472 other sentence, or court-ordered or lawfully imposed supervision

473 that is imposed as a result of a prior conviction for an
 474 enumerated felony; or

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

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

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

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

491 775.15 Time limitations; general time limitations;
 492 exceptions.--

493 (13)(a) If the victim of a violation of s. 794.011, former
 494 s. 794.05, Florida Statutes 1995, s. 800.04, ~~or~~ s. 826.04, or s.
 495 847.0135(5) is under the age of 18, the applicable period of
 496 limitation, if any, does not begin to run until the victim has
 497 reached the age of 18 or the violation is reported to a law
 498 enforcement agency or other governmental agency, whichever
 499 occurs earlier. Such law enforcement agency or other
 500 governmental agency shall promptly report such allegation to the

501 state attorney for the judicial circuit in which the alleged
 502 violation occurred. If the offense is a first or second degree
 503 felony violation of s. 794.011, and the offense is reported
 504 within 72 hours after its commission, the prosecution for such
 505 offense may be commenced at any time. This paragraph applies to
 506 any such offense except an offense the prosecution of which
 507 would have been barred by subsection (2) on or before December
 508 31, 1984.

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

- 518 1. Aggravated battery or any felony battery offense under
 519 chapter 784.
- 520 2. Kidnapping under s. 787.01 or false imprisonment under
 521 s. 787.02.
- 522 3. An offense of sexual battery under chapter 794.
- 523 4. A lewd or lascivious offense under s. 800.04, ~~or~~ s.
 524 825.1025, or s. 847.0135(5).
- 525 5. A burglary offense under s. 810.02.
- 526 6. A robbery offense under s. 812.13, s. 812.131, or s.
 527 812.135.
- 528 7. Carjacking under s. 812.133.

529 8. Aggravated child abuse under s. 827.03.
 530 Section 16. Paragraph (a) of subsection (4) and paragraph
 531 (b) of subsection (10) of section 775.21, Florida Statutes, are
 532 amended to read:

533 775.21 The Florida Sexual Predators Act.--

534 (4) SEXUAL PREDATOR CRITERIA.--

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

540 1. The felony is:

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

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

557 victim's parent or guardian; s. 794.011, excluding s.
 558 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
 559 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 560 847.0135(4); s. 847.0145; or s. 985.701(1); or a violation of a
 561 similar law of another jurisdiction;

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

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

568 (10) PENALTIES.--

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

583 Section 17. Subsections (7) and (8) of section 784.048,
 584 Florida Statutes, are amended to read:

585 784.048 Stalking; definitions; penalties.--

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

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

596 Section 18. Paragraph (a) of subsection (3) of section
 597 787.01, Florida Statutes, is amended to read:

598 787.01 Kidnapping; kidnapping of child under age 13,
 599 aggravating circumstances.--

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

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

613
 614 commits a life felony, punishable as provided in s. 775.082, s.
 615 775.083, or s. 775.084.

616 Section 19. Paragraph (a) of subsection (3) of section
 617 787.02, Florida Statutes, is amended to read:

618 787.02 False imprisonment; false imprisonment of child
 619 under age 13, aggravating circumstances.--

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

- 626 1. Aggravated child abuse, as defined in s. 827.03;
- 627 2. Sexual battery, as defined in chapter 794, against the
 628 child;
- 629 3. Lewd or lascivious battery, lewd or lascivious
 630 molestation, lewd or lascivious conduct, or lewd or lascivious
 631 exhibition, in violation of s. 800.04 or s. 847.0135(5);
- 632 4. A violation of s. 796.03 or s. 796.04, relating to
 633 prostitution, upon the child; or
- 634 5. Exploitation of the child or allowing the child to be
 635 exploited, in violation of s. 450.151.

636 Section 20. Paragraph (c) of subsection (2) of section
 637 787.025, Florida Statutes, is amended to read:

638 787.025 Luring or enticing a child.--

639 (2)

640 (c) A person 18 years of age or older who, having been
 641 previously convicted of a violation of chapter 794, ~~or~~ s.
 642 800.04, or s. 847.0135(5), or a violation of a similar law of
 643 another jurisdiction, intentionally lures or entices, or
 644 attempts to lure or entice, a child under the age of 12 into a
 645 structure, dwelling, or conveyance for other than a lawful
 646 purpose commits a felony of the third degree, punishable as
 647 provided in s. 775.082, s. 775.083, or s. 775.084.

648 Section 21. Section 794.065, Florida Statutes, is amended
 649 to read:

650 794.065 Unlawful place of residence for persons convicted
 651 of certain sex offenses.--

652 (1) It is unlawful for any person who has been convicted
 653 of a violation of s. 794.011, s. 800.04, s. 827.071, s.
 654 847.0135(5), or s. 847.0145, regardless of whether adjudication
 655 has been withheld, in which the victim of the offense was less
 656 than 16 years of age, to reside within 1,000 feet of any school,
 657 day care center, park, or playground. A person who violates this
 658 section and whose conviction under s. 794.011, s. 800.04, s.
 659 827.071, s. 847.0135(5), or s. 847.0145 was classified as a
 660 felony of the first degree or higher commits a felony of the
 661 third degree, punishable as provided in s. 775.082 or s.
 662 775.083. A person who violates this section and whose conviction
 663 under s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s.
 664 847.0145 was classified as a felony of the second or third
 665 degree commits a misdemeanor of the first degree, punishable as
 666 provided in s. 775.082 or s. 775.083.

667 (2) This section applies to any person convicted of a
 668 violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5),
 669 or s. 847.0145 for offenses that occur on or after October 1,
 670 2004.

671 Section 22. Section 914.16, Florida Statutes, is amended
 672 to read:

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

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

691 921.0022 Criminal Punishment Code; offense severity
 692 ranking chart.--

693 (3) OFFENSE SEVERITY RANKING CHART

694 (d) LEVEL 4

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695	Florida Statute	Felony Degree	Description
696	316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
697	499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
698	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
699	499.0051 (6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
700	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
701	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
702	784.075	3rd	Battery on detention or commitment

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facility staff.

703 784.078 3rd Battery of facility employee by
throwing, tossing, or expelling certain
fluids or materials.

704 784.08 (2) (c) 3rd Battery on a person 65 years of age or
older.

705 784.081 (3) 3rd Battery on specified official or
employee.

706 784.082 (3) 3rd Battery by detained person on visitor
or other detainee.

707 784.083 (3) 3rd Battery on code inspector.

708 784.085 3rd Battery of child by throwing, tossing,
projecting, or expelling certain fluids
or materials.

709 787.03 (1) 3rd Interference with custody; wrongly
takes minor from appointed guardian.

710 787.04 (2) 3rd Take, entice, or remove child beyond
state limits with criminal intent
pending custody proceedings.

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712	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
713	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
714	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
715	790.115 (2) (c)	3rd	Possessing firearm on school property.
716	800.04 (7) <u>(c)</u> (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
717	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
718	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
719	810.06	3rd	Burglary; possession of tools.

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720	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
721	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
722	812.014 (2) (c) 4. -10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
723	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
724	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
725	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
726	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
727	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

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728	837.02 (1)	3rd	Perjury in official proceedings.
729	837.021 (1)	3rd	Make contradictory statements in official proceedings.
730	838.022	3rd	Official misconduct.
731	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
732	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
733	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
734	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
735	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
736	<u>847.0135 (5) (c)</u>	<u>3rd</u>	<u>Lewd or lascivious exhibition using computer; offender less than 18 years.</u>

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737	874.05 (1)	3rd	Encouraging or recruiting another to join a criminal street gang.
738	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).
739	914.14 (2)	3rd	Witnesses accepting bribes.
740	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
741	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
742	918.12	3rd	Tampering with jurors.
743	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
744	(e)	LEVEL 5	
745			
746	Florida Statute	Felony Degree	Description
747	316.027 (1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.

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748	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
749	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
750	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
751	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
752	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
753	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
754	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
755	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

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756	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
757	790.01 (2)	3rd	Carrying a concealed firearm.
758	790.162	2nd	Threat to throw or discharge destructive device.
759	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
760	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
761	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
762	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
763	800.04 (7) <u>(b)</u> (e)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
764	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

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765	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
766	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
767	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
768	812.131 (2) (b)	3rd	Robbery by sudden snatching.
769	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
770	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
771	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
772	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.

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773	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.
774	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
775	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
776	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
777	827.071 (5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
778	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.

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779	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
780	<u>847.0135(5)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious exhibition using computer; offender 18 years or older.</u>
781	847.0137(2)&(3)	3rd	Transmission of pornography by electronic device or equipment.
782	847.0138(2)&(3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
783	874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
784	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
	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.

785

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.

786

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.

787

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

788

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).

789

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

792 921.244 Order of no contact; penalties.--

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

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

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

811 938.10 Additional court cost imposed in cases of certain
 812 crimes against minors.--

813 (1) If a person pleads guilty or nolo contendere to, or is
 814 found guilty of, regardless of adjudication, any offense against

815 a minor in violation of s. 784.085, chapter 787, chapter 794, s.
 816 796.03, s. 800.04, chapter 827, s. 847.0135(5), s. 847.0145, or
 817 s. 985.701, the court shall impose a court cost of \$101 against
 818 the offender in addition to any other cost or penalty required
 819 by law.

820 Section 26. Subsections (1), (2), and (4) of section
 821 943.04354, Florida Statutes, are amended to read:

822 943.04354 Removal of the requirement to register as a
 823 sexual offender or sexual predator in special circumstances.--

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

827 (a) Was or will be convicted or adjudicated delinquent of
 828 a violation of s. 794.011, ~~s. 800.04~~, or s. 847.0135(5) or
 829 the person committed a violation of s. 794.011, ~~s. 800.04~~, or
 830 s. 847.0135(5) for which adjudication of guilt was or will be
 831 withheld, and the person does not have any other conviction,
 832 adjudication of delinquency, or withhold of adjudication of
 833 guilt for a violation of s. 794.011, ~~s. 800.04~~, or s.
 834 847.0135(5);

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

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

840 (2) If a person meets the criteria in subsection (1) and
 841 the violation of s. 794.011, ~~s. 800.04~~, or s. 847.0135(5) was
 842 committed on or after July 1, 2007, the person may move the

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

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

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870 person's criminal history or record that is otherwise available
871 as a public record.

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

874 947.1405 Conditional release program.--

875 (7)(a) Any inmate who is convicted of a crime committed on
876 or after October 1, 1995, or who has been previously convicted
877 of a crime committed on or after October 1, 1995, in violation
878 of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
879 847.0145, and is subject to conditional release supervision,
880 shall have, in addition to any other conditions imposed, the
881 following special conditions imposed by the commission:

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

888 2. If the victim was under the age of 18, a prohibition on
889 living within 1,000 feet of a school, day care center, park,
890 playground, designated public school bus stop, or other place
891 where children regularly congregate. A releasee who is subject
892 to this subparagraph may not relocate to a residence that is
893 within 1,000 feet of a public school bus stop. Beginning October
894 1, 2004, the commission or the department may not approve a
895 residence that is located within 1,000 feet of a school, day
896 care center, park, playground, designated school bus stop, or
897 other place where children regularly congregate for any releasee

898 | who is subject to this subparagraph. On October 1, 2004, the
899 | department shall notify each affected school district of the
900 | location of the residence of a releasee 30 days prior to release
901 | and thereafter, if the releasee relocates to a new residence,
902 | shall notify any affected school district of the residence of
903 | the releasee within 30 days after relocation. If, on October 1,
904 | 2004, any public school bus stop is located within 1,000 feet of
905 | the existing residence of such releasee, the district school
906 | board shall relocate that school bus stop. Beginning October 1,
907 | 2004, a district school board may not establish or relocate a
908 | public school bus stop within 1,000 feet of the residence of a
909 | releasee who is subject to this subparagraph. The failure of the
910 | district school board to comply with this subparagraph shall not
911 | result in a violation of conditional release supervision.

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

918 | 4. A prohibition on any contact with the victim, directly
919 | or indirectly, including through a third person, unless approved
920 | by the victim, the offender's therapist, and the sentencing
921 | court.

922 | 5. If the victim was under the age of 18, a prohibition
923 | against contact with children under the age of 18 without review
924 | and approval by the commission. The commission may approve
925 | supervised contact with a child under the age of 18 if the

926 approval is based upon a recommendation for contact issued by a
927 qualified practitioner who is basing the recommendation on a
928 risk assessment. Further, the sex offender must be currently
929 enrolled in or have successfully completed a sex offender
930 therapy program. The commission may not grant supervised contact
931 with a child if the contact is not recommended by a qualified
932 practitioner and may deny supervised contact with a child at any
933 time. When considering whether to approve supervised contact
934 with a child, the commission must review and consider the
935 following:

936 a. A risk assessment completed by a qualified
937 practitioner. The qualified practitioner must prepare a written
938 report that must include the findings of the assessment and
939 address each of the following components:

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

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

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

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

947 (V) The sex offender's offender treatment history,
948 including a consultation from the sex offender's treating, or
949 most recent treating, therapist;

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

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

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

955 (IX) The results of current psychological testing of the
 956 sex offender if determined necessary by the qualified
 957 practitioner;

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

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

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

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

968
 969 The written report of the assessment must be given to the
 970 commission.

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

974 c. A written consent signed by the child's parent or legal
 975 guardian, if the parent or legal guardian is not the sex
 976 offender, agreeing to the sex offender having supervised contact
 977 with the child after receiving full disclosure of the sex
 978 offender's present legal status, past criminal history, and the
 979 results of the risk assessment. The commission may not approve

980 contact with the child if the parent or legal guardian refuses
981 to give written consent for supervised contact;

982 d. A safety plan prepared by the qualified practitioner,
983 who provides treatment to the offender, in collaboration with
984 the sex offender, the child's parent or legal guardian, and the
985 child, when age appropriate, which details the acceptable
986 conditions of contact between the sex offender and the child.
987 The safety plan must be reviewed and approved by the Department
988 of Corrections before being submitted to the commission; and

989 e. Evidence that the child's parent or legal guardian, if
990 the parent or legal guardian is not the sex offender,
991 understands the need for and agrees to the safety plan and has
992 agreed to provide, or to designate another adult to provide,
993 constant supervision any time the child is in contact with the
994 offender.

995
996 The commission may not appoint a person to conduct a risk
997 assessment and may not accept a risk assessment from a person
998 who has not demonstrated to the commission that he or she has
999 met the requirements of a qualified practitioner as defined in
1000 this section.

1001 6. If the victim was under age 18, a prohibition on
1002 working for pay or as a volunteer at any school, day care
1003 center, park, playground, or other place where children
1004 regularly congregate, as prescribed by the commission.

1005 7. Unless otherwise indicated in the treatment plan
1006 provided by the sexual offender treatment program, a prohibition
1007 on viewing, owning, or possessing any obscene, pornographic, or

1008 sexually stimulating visual or auditory material, including
1009 telephone, electronic media, computer programs, or computer
1010 services that are relevant to the offender's deviant behavior
1011 pattern.

1012 8. Effective for a releasee whose crime is committed on or
1013 after July 1, 2005, a prohibition on accessing the Internet or
1014 other computer services until the offender's sex offender
1015 treatment program, after a risk assessment is completed,
1016 approves and implements a safety plan for the offender's
1017 accessing or using the Internet or other computer services.

1018 9. A requirement that the releasee must submit two
1019 specimens of blood to the Florida Department of Law Enforcement
1020 to be registered with the DNA database.

1021 10. A requirement that the releasee make restitution to
1022 the victim, as determined by the sentencing court or the
1023 commission, for all necessary medical and related professional
1024 services relating to physical, psychiatric, and psychological
1025 care.

1026 11. Submission to a warrantless search by the community
1027 control or probation officer of the probationer's or community
1028 controllee's person, residence, or vehicle.

1029 (b) For a releasee whose crime was committed on or after
1030 October 1, 1997, in violation of chapter 794, s. 800.04, s.
1031 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to
1032 conditional release supervision, in addition to any other
1033 provision of this subsection, the commission shall impose the
1034 following additional conditions of conditional release
1035 supervision:

1036 1. As part of a treatment program, participation in a
 1037 minimum of one annual polygraph examination to obtain
 1038 information necessary for risk management and treatment and to
 1039 reduce the sex offender's denial mechanisms. The polygraph
 1040 examination must be conducted by a polygrapher trained
 1041 specifically in the use of the polygraph for the monitoring of
 1042 sex offenders, where available, and at the expense of the sex
 1043 offender. The results of the polygraph examination shall not be
 1044 used as evidence in a hearing to prove that a violation of
 1045 supervision has occurred.

1046 2. Maintenance of a driving log and a prohibition against
 1047 driving a motor vehicle alone without the prior approval of the
 1048 supervising officer.

1049 3. A prohibition against obtaining or using a post office
 1050 box without the prior approval of the supervising officer.

1051 4. If there was sexual contact, a submission to, at the
 1052 probationer's or community controllee's expense, an HIV test
 1053 with the results to be released to the victim or the victim's
 1054 parent or guardian.

1055 5. Electronic monitoring of any form when ordered by the
 1056 commission.

1057 Section 28. Subsection (2) of section 948.03, Florida
 1058 Statutes, is amended to read:

1059 948.03 Terms and conditions of probation.--

1060 (2) The enumeration of specific kinds of terms and
 1061 conditions shall not prevent the court from adding thereto such
 1062 other or others as it considers proper. However, the sentencing
 1063 court may only impose a condition of supervision allowing an

1064 offender convicted of s. 794.011, s. 800.04, s. 827.071, s.
 1065 847.0135(5), or s. 847.0145, to reside in another state, if the
 1066 order stipulates that it is contingent upon the approval of the
 1067 receiving state interstate compact authority. The court may
 1068 rescind or modify at any time the terms and conditions
 1069 theretofore imposed by it upon the probationer. However, if the
 1070 court withholds adjudication of guilt or imposes a period of
 1071 incarceration as a condition of probation, the period shall not
 1072 exceed 364 days, and incarceration shall be restricted to either
 1073 a county facility, a probation and restitution center under the
 1074 jurisdiction of the Department of Corrections, a probation
 1075 program drug punishment phase I secure residential treatment
 1076 institution, or a community residential facility owned or
 1077 operated by any entity providing such services.

1078 Section 29. Paragraph (c) of subsection (8) of section
 1079 948.06, Florida Statutes, is amended to read:

1080 948.06 Violation of probation or community control;
 1081 revocation; modification; continuance; failure to pay
 1082 restitution or cost of supervision.--

1083 (8)

1084 (c) For purposes of this section, the term "qualifying
 1085 offense" means any of the following:

1086 1. Kidnapping or attempted kidnapping under s. 787.01,
 1087 false imprisonment of a child under the age of 13 under s.
 1088 787.02(3), or luring or enticing a child under s. 787.025(2)(b)
 1089 or (c).

1090 2. Murder or attempted murder under s. 782.04, attempted
 1091 felony murder under s. 782.051, or manslaughter under s. 782.07.

- 1092 3. Aggravated battery or attempted aggravated battery
 1093 under s. 784.045.
- 1094 4. Sexual battery or attempted sexual battery under s.
 1095 794.011(2), (3), (4), or (8)(b) or (c).
- 1096 5. Lewd or lascivious battery or attempted lewd or
 1097 lascivious battery under s. 800.04(4), lewd or lascivious
 1098 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious
 1099 conduct under s. 800.04(6)(b), ~~or~~ lewd or lascivious exhibition
 1100 under s. 800.04(7)(b)~~(e)~~, or lewd or lascivious exhibition on
 1101 computer under s. 847.0135(5)(b).
- 1102 6. Robbery or attempted robbery under s. 812.13,
 1103 carjacking or attempted carjacking under s. 812.133, or home
 1104 invasion robbery or attempted home invasion robbery under s.
 1105 812.135.
- 1106 7. Lewd or lascivious offense upon or in the presence of
 1107 an elderly or disabled person or attempted lewd or lascivious
 1108 offense upon or in the presence of an elderly or disabled person
 1109 under s. 825.1025.
- 1110 8. Sexual performance by a child or attempted sexual
 1111 performance by a child under s. 827.071.
- 1112 9. Computer pornography under s. 847.0135(2) or (3),
 1113 transmission of child pornography under s. 847.0137, or selling
 1114 or buying of minors under s. 847.0145.
- 1115 10. Poisoning food or water under s. 859.01.
- 1116 11. Abuse of a dead human body under s. 872.06.
- 1117 12. Any burglary offense or attempted burglary offense
 1118 that is either a first degree felony or second degree felony
 1119 under s. 810.02(2) or (3).

- 1120 13. Arson or attempted arson under s. 806.01(1).
 1121 14. Aggravated assault under s. 784.021.
 1122 15. Aggravated stalking under s. 784.048(3), (4), (5), or
 1123 (7).
 1124 16. Aircraft piracy under s. 860.16.
 1125 17. Unlawful throwing, placing, or discharging of a
 1126 destructive device or bomb under s. 790.161(2), (3), or (4).
 1127 18. Treason under s. 876.32.
 1128 19. Any offense committed in another jurisdiction which
 1129 would be an offense listed in this paragraph if that offense had
 1130 been committed in this state.

1131 Section 30. Subsection (2) of section 948.101, Florida
 1132 Statutes, is amended to read:

1133 948.101 Terms and conditions of community control and
 1134 criminal quarantine community control.--

1135 (2) The enumeration of specific kinds of terms and
 1136 conditions does not prevent the court from adding thereto any
 1137 other terms or conditions that the court considers proper.
 1138 However, the sentencing court may only impose a condition of
 1139 supervision allowing an offender convicted of s. 794.011, s.
 1140 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in
 1141 another state if the order stipulates that it is contingent upon
 1142 the approval of the receiving state interstate compact
 1143 authority. The court may rescind or modify at any time the terms
 1144 and conditions theretofore imposed by it upon the offender in
 1145 community control. However, if the court withholds adjudication
 1146 of guilt or imposes a period of incarceration as a condition of
 1147 community control, the period may not exceed 364 days, and

1148 incarceration shall be restricted to a county facility, a
 1149 probation and restitution center under the jurisdiction of the
 1150 Department of Corrections, a probation program drug punishment
 1151 phase I secure residential treatment institution, or a community
 1152 residential facility owned or operated by any entity providing
 1153 such services.

1154 Section 31. Subsections (1) and (2) of section 948.30,
 1155 Florida Statutes, are amended to read:

1156 948.30 Additional terms and conditions of probation or
 1157 community control for certain sex offenses.--Conditions imposed
 1158 pursuant to this section do not require oral pronouncement at
 1159 the time of sentencing and shall be considered standard
 1160 conditions of probation or community control for offenders
 1161 specified in this section.

1162 (1) Effective for probationers or community controllees
 1163 whose crime was committed on or after October 1, 1995, and who
 1164 are placed under supervision for violation of chapter 794, s.
 1165 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, the court
 1166 must impose the following conditions in addition to all other
 1167 standard and special conditions imposed:

1168 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court
 1169 may designate another 8-hour period if the offender's employment
 1170 precludes the above specified time, and the alternative is
 1171 recommended by the Department of Corrections. If the court
 1172 determines that imposing a curfew would endanger the victim, the
 1173 court may consider alternative sanctions.

1174 (b) If the victim was under the age of 18, a prohibition
 1175 on living within 1,000 feet of a school, day care center, park,

1176 | playground, or other place where children regularly congregate,
1177 | as prescribed by the court. The 1,000-foot distance shall be
1178 | measured in a straight line from the offender's place of
1179 | residence to the nearest boundary line of the school, day care
1180 | center, park, playground, or other place where children
1181 | congregate. The distance may not be measured by a pedestrian
1182 | route or automobile route.

1183 | (c) Active participation in and successful completion of a
1184 | sex offender treatment program with qualified practitioners
1185 | specifically trained to treat sex offenders, at the
1186 | probationer's or community controllee's own expense. If a
1187 | qualified practitioner is not available within a 50-mile radius
1188 | of the probationer's or community controllee's residence, the
1189 | offender shall participate in other appropriate therapy.

1190 | (d) A prohibition on any contact with the victim, directly
1191 | or indirectly, including through a third person, unless approved
1192 | by the victim, the offender's therapist, and the sentencing
1193 | court.

1194 | (e) If the victim was under the age of 18, a prohibition
1195 | on contact with a child under the age of 18 except as provided
1196 | in this paragraph. The court may approve supervised contact with
1197 | a child under the age of 18 if the approval is based upon a
1198 | recommendation for contact issued by a qualified practitioner
1199 | who is basing the recommendation on a risk assessment. Further,
1200 | the sex offender must be currently enrolled in or have
1201 | successfully completed a sex offender therapy program. The court
1202 | may not grant supervised contact with a child if the contact is
1203 | not recommended by a qualified practitioner and may deny

1204 supervised contact with a child at any time. When considering
 1205 whether to approve supervised contact with a child, the court
 1206 must review and consider the following:

- 1207 1. A risk assessment completed by a qualified
 1208 practitioner. The qualified practitioner must prepare a written
 1209 report that must include the findings of the assessment and
 1210 address each of the following components:
 - 1211 a. The sex offender's current legal status;
 - 1212 b. The sex offender's history of adult charges with
 1213 apparent sexual motivation;
 - 1214 c. The sex offender's history of adult charges without
 1215 apparent sexual motivation;
 - 1216 d. The sex offender's history of juvenile charges,
 1217 whenever available;
 - 1218 e. The sex offender's offender treatment history,
 1219 including consultations with the sex offender's treating, or
 1220 most recent treating, therapist;
 - 1221 f. The sex offender's current mental status;
 - 1222 g. The sex offender's mental health and substance abuse
 1223 treatment history as provided by the Department of Corrections;
 - 1224 h. The sex offender's personal, social, educational, and
 1225 work history;
 - 1226 i. The results of current psychological testing of the sex
 1227 offender if determined necessary by the qualified practitioner;
 - 1228 j. A description of the proposed contact, including the
 1229 location, frequency, duration, and supervisory arrangement;
 - 1230 k. The child's preference and relative comfort level with
 1231 the proposed contact, when age appropriate;

1232 1. The parent's or legal guardian's preference regarding
 1233 the proposed contact; and

1234 m. The qualified practitioner's opinion, along with the
 1235 basis for that opinion, as to whether the proposed contact would
 1236 likely pose significant risk of emotional or physical harm to
 1237 the child.

1238
 1239 The written report of the assessment must be given to the court;

1240 2. A recommendation made as a part of the risk assessment
 1241 report as to whether supervised contact with the child should be
 1242 approved;

1243 3. A written consent signed by the child's parent or legal
 1244 guardian, if the parent or legal guardian is not the sex
 1245 offender, agreeing to the sex offender having supervised contact
 1246 with the child after receiving full disclosure of the sex
 1247 offender's present legal status, past criminal history, and the
 1248 results of the risk assessment. The court may not approve
 1249 contact with the child if the parent or legal guardian refuses
 1250 to give written consent for supervised contact;

1251 4. A safety plan prepared by the qualified practitioner,
 1252 who provides treatment to the offender, in collaboration with
 1253 the sex offender, the child's parent or legal guardian, if the
 1254 parent or legal guardian is not the sex offender, and the child,
 1255 when age appropriate, which details the acceptable conditions of
 1256 contact between the sex offender and the child. The safety plan
 1257 must be reviewed and approved by the court; and

1258 5. Evidence that the child's parent or legal guardian
 1259 understands the need for and agrees to the safety plan and has

1260 | agreed to provide, or to designate another adult to provide,
1261 | constant supervision any time the child is in contact with the
1262 | offender.

1263 |
1264 | The court may not appoint a person to conduct a risk assessment
1265 | and may not accept a risk assessment from a person who has not
1266 | demonstrated to the court that he or she has met the
1267 | requirements of a qualified practitioner as defined in this
1268 | section.

1269 | (f) If the victim was under age 18, a prohibition on
1270 | working for pay or as a volunteer at any place where children
1271 | regularly congregate, including, but not limited to, schools,
1272 | day care centers, parks, playgrounds, pet stores, libraries,
1273 | zoos, theme parks, and malls.

1274 | (g) Unless otherwise indicated in the treatment plan
1275 | provided by the sexual offender treatment program, a prohibition
1276 | on viewing, accessing, owning, or possessing any obscene,
1277 | pornographic, or sexually stimulating visual or auditory
1278 | material, including telephone, electronic media, computer
1279 | programs, or computer services that are relevant to the
1280 | offender's deviant behavior pattern.

1281 | (h) Effective for probationers and community controllees
1282 | whose crime is committed on or after July 1, 2005, a prohibition
1283 | on accessing the Internet or other computer services until the
1284 | offender's sex offender treatment program, after a risk
1285 | assessment is completed, approves and implements a safety plan
1286 | for the offender's accessing or using the Internet or other
1287 | computer services.

1288 (i) A requirement that the probationer or community
1289 controllee must submit a specimen of blood or other approved
1290 biological specimen to the Department of Law Enforcement to be
1291 registered with the DNA data bank.

1292 (j) A requirement that the probationer or community
1293 controllee make restitution to the victim, as ordered by the
1294 court under s. 775.089, for all necessary medical and related
1295 professional services relating to physical, psychiatric, and
1296 psychological care.

1297 (k) Submission to a warrantless search by the community
1298 control or probation officer of the probationer's or community
1299 controllee's person, residence, or vehicle.

1300 (2) Effective for a probationer or community controllee
1301 whose crime was committed on or after October 1, 1997, and who
1302 is placed on community control or sex offender probation for a
1303 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),
1304 or s. 847.0145, in addition to any other provision of this
1305 section, the court must impose the following conditions of
1306 probation or community control:

1307 (a) As part of a treatment program, participation at least
1308 annually in polygraph examinations to obtain information
1309 necessary for risk management and treatment and to reduce the
1310 sex offender's denial mechanisms. A polygraph examination must
1311 be conducted by a polygrapher trained specifically in the use of
1312 the polygraph for the monitoring of sex offenders, where
1313 available, and shall be paid for by the sex offender. The
1314 results of the polygraph examination shall not be used as

1315 evidence in court to prove that a violation of community
 1316 supervision has occurred.

1317 (b) Maintenance of a driving log and a prohibition against
 1318 driving a motor vehicle alone without the prior approval of the
 1319 supervising officer.

1320 (c) A prohibition against obtaining or using a post office
 1321 box without the prior approval of the supervising officer.

1322 (d) If there was sexual contact, a submission to, at the
 1323 probationer's or community controllee's expense, an HIV test
 1324 with the results to be released to the victim or the victim's
 1325 parent or guardian.

1326 (e) Electronic monitoring when deemed necessary by the
 1327 community control or probation officer and his or her
 1328 supervisor, and ordered by the court at the recommendation of
 1329 the Department of Corrections.

1330 Section 32. Subsection (1) of section 948.31, Florida
 1331 Statutes, is amended to read:

1332 948.31 Diagnosis, evaluation, and treatment of offenders
 1333 placed on probation or community control for certain sex
 1334 offenses or child exploitation.--The court shall require a
 1335 diagnosis and evaluation to determine the need of a probationer
 1336 or offender in community control for treatment. If the court
 1337 determines that a need therefor is established by such diagnosis
 1338 and evaluation process, the court shall require outpatient
 1339 counseling as a term or condition of probation or community
 1340 control for any person who was found guilty of any of the
 1341 following, or whose plea of guilty or nolo contendere to any of
 1342 the following was accepted by the court:

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1343 (1) Lewd or lascivious battery, lewd or lascivious
1344 molestation, lewd or lascivious conduct, or lewd or lascivious
1345 exhibition, as defined in s. 800.04 or s. 847.0135(5).

1346
1347 Such counseling shall be required to be obtained from a
1348 community mental health center, a recognized social service
1349 agency providing mental health services, or a private mental
1350 health professional or through other professional counseling.
1351 The plan for counseling for the individual shall be provided to
1352 the court for review.

1353 Section 33. This act shall take effect October 1, 2008.