

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

54
55 WHEREAS, children who are sexually abused and then
56 exploited by the creation of permanent images or movies of that

57 | sexual abuse through child pornography are further harmed by the
58 | continued possession, promotion, and distribution of those
59 | images or movies 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 or movies of child
 193 pornography shall do the following:

194 (a) Provide such images or movies to the law enforcement
 195 representative assigned to the Child Victim Identification

196 Program at the National Center for Missing and Exploited
197 Children, as required by the National Center for Missing and
198 Exploited Children guidelines.

199 (b) Request the law enforcement contact information from
200 the Child Victim Identification Program for any images or movies
201 recovered that contain an identified victim of child pornography
202 as defined in s. 960.03.

203 (c) Provide case information to the Child Victim
204 Identification Program, as required by the National Center for
205 Missing and Exploited Children guidelines, in any case where the
206 law enforcement officer identifies a previously unidentified
207 victim of child pornography.

208 (2) Any law enforcement officer submitting a case for
209 prosecution that involves the production, promotion, or
210 possession of child pornography shall submit to the designated
211 prosecutor the law enforcement contact information provided by
212 the Child Victim Identification Program at the National Center
213 for Missing and Exploited Children for any images or movies
214 involved in the case which contain the depiction of an
215 identified victim of child pornography as defined in s. 960.03.

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

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

222 (b) The named defendant.

223 (c) The circuit court division and county.

- 224 (d) Current court dates and the status of the case.
- 225 (e) Contact information for the prosecutor assigned.
- 226 (f) Verification that the prosecutor is or is not in
- 227 possession of a victim impact statement and will use the
- 228 statement in sentencing.

229 Section 6. Section 847.01357, Florida Statutes, is created
 230 to read:

231 847.01357 Exploited children's civil remedy.--

232 (1) Any person who, while under the age of 18, was a
 233 victim of a sexual abuse crime listed in chapter 794, chapter
 234 800, chapter 827, or chapter 847, wherein any portion of such
 235 abuse was used in the production of child pornography, and who
 236 suffers personal or psychological injury as a result of the
 237 production, promotion, or possession of such images or movies,
 238 may bring an action in any appropriate state court against the
 239 producer, promoter, or possessor of such images or movies,
 240 regardless of whether the victim is now an adult. In any action
 241 brought under this section, a prevailing plaintiff shall recover
 242 the actual damages such person sustained and the cost of the
 243 suit, including reasonable attorney's fees. Any such victim who
 244 is awarded damages under this section shall be deemed to have
 245 sustained damages of no less than \$150,000.

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

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

250 (b) The notification to the victim by a member of law
251 enforcement of the creation, possession, or promotion of
252 pornographic images or movies; or

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

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

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

264 (5) To prevent the further exploitation of victims for
265 monetary gain by any other person, at the victim's request and
266 pursuant to agency approval, the Office of the Attorney General
267 may pursue cases on behalf of any Florida victim under this
268 section. All damages obtained in such cases shall go to the
269 victim, and the Office of the Attorney General may seek
270 reasonable attorney's fees and costs as authorized under this
271 section.

272 Section 7. Paragraph (d) is added to subsection (3) of
273 section 960.03, Florida Statutes, subsections (9) through (13)
274 of that section are renumbered as subsections (10) through (14),
275 respectively, a new subsection (9) is added to that section, and
276 present subsection (13) of that section is amended, to read:

277 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
 278 960.01-960.28, unless the context otherwise requires, the term:

279 (3) "Crime" means:

280 (d) Any violation of s. 827.071, s. 847.0135, s. 847.0137,
 281 or s. 847.0138, related to online sexual exploitation and child
 282 pornography.

283 (9) "Identified victim of child pornography" means any
 284 person who, while under the age of 18, was depicted in any image
 285 or movie of child pornography and who has been identified
 286 through a report generated by a member of law enforcement and
 287 provided to the National Center for Missing and Exploited
 288 Children's Child Victim Identification Program.

289 (14)~~(13)~~ "Victim" means:

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

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

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

300 Section 8. Section 960.197, Florida Statutes, is created
 301 to read:

302 960.197 Assistance to victims of online sexual
 303 exploitation and child pornography.--

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

308 (a) A child less than 18 years of age who suffers
 309 psychiatric or psychological injury as a direct result of online
 310 sexual exploitation under any provision of s. 827.071, s.
 311 847.0135, s. 847.0137, or s. 847.0138, and who does not
 312 otherwise sustain a personal injury or death; or

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

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

323 Section 9. Paragraph (b) of subsection (2) of section
 324 90.404, Florida Statutes, is amended to read:

325 90.404 Character evidence; when admissible.--

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

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

332 2. For the purposes of this paragraph, the term "child
 333 molestation" means conduct proscribed by s. 794.011, ~~or~~ s.
 334 800.04, or s. 847.0135(5) when committed against a person 16
 335 years of age or younger.

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

338 92.565 Admissibility of confession in sexual abuse
 339 cases.--

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

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

359 (b) Physically incapacitated due to age, infirmity, or any
 360 other cause; or

361 (c) Less than 12 years of age.

362 Section 11. Paragraph (e) of subsection (9) of section
 363 394.912, Florida Statutes, is amended to read:

364 394.912 Definitions.--As used in this part, the term:

365 (9) "Sexually violent offense" means:

366 (e) Lewd, lascivious, or indecent assault or act upon or
 367 in presence of the child in violation of s. 800.04 or s.
 368 847.0135(5);

369 Section 12. Section 409.2355, Florida Statutes, is amended
 370 to read:

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

380 Section 13. Paragraph (a) of subsection (9) of section
 381 775.082, Florida Statutes, is amended to read:

382 775.082 Penalties; applicability of sentencing structures;
 383 mandatory minimum sentences for certain reoffenders previously
 384 released from prison.--

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

- 387 a. Treason;
- 388 b. Murder;
- 389 c. Manslaughter;
- 390 d. Sexual battery;
- 391 e. Carjacking;
- 392 f. Home-invasion robbery;
- 393 g. Robbery;
- 394 h. Arson;
- 395 i. Kidnapping;
- 396 j. Aggravated assault with a deadly weapon;
- 397 k. Aggravated battery;
- 398 l. Aggravated stalking;
- 399 m. Aircraft piracy;
- 400 n. Unlawful throwing, placing, or discharging of a
- 401 destructive device or bomb;
- 402 o. Any felony that involves the use or threat of physical
- 403 force or violence against an individual;
- 404 p. Armed burglary;
- 405 q. Burglary of a dwelling or burglary of an occupied
- 406 structure; or
- 407 r. Any felony violation of s. 790.07, s. 800.04, s.
- 408 827.03, ~~or~~ s. 827.071, or s. 847.0135(5);
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- 410 within 3 years after being released from a state correctional
- 411 facility operated by the Department of Corrections or a private
- 412 vendor or within 3 years after being released from a
- 413 correctional institution of another state, the District of
- 414 Columbia, the United States, any possession or territory of the

415 United States, or any foreign jurisdiction, following
416 incarceration for an offense for which the sentence is
417 punishable by more than 1 year in this state.

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

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

438 a. For a felony punishable by life, by a term of
439 imprisonment for life;

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

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

444 d. For a felony of the third degree, by a term of
 445 imprisonment of 5 years.

446 Section 14. Paragraph (d) of subsection (1) of section
 447 775.084, Florida Statutes, is amended to read:

448 775.084 Violent career criminals; habitual felony
 449 offenders and habitual violent felony offenders; three-time
 450 violent felony offenders; definitions; procedure; enhanced
 451 penalties or mandatory minimum prison terms.--

452 (1) As used in this act:

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

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

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

460 b. Aggravated stalking, as described in s. 784.048(3) and
 461 (4);

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

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

465 e. Lewd or lascivious battery, lewd or lascivious
 466 molestation, lewd or lascivious conduct, or lewd or lascivious
 467 exhibition, as described in s. 800.04 or s. 847.0135(5);

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

469 g. A felony violation of chapter 790 involving the use or
470 possession of a firearm.

471 2. The defendant has been incarcerated in a state prison
472 or a federal prison.

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

476 a. While the defendant was serving a prison sentence or
477 other sentence, or court-ordered or lawfully imposed supervision
478 that is imposed as a result of a prior conviction for an
479 enumerated felony; or

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

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

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

493 Section 15. Paragraph (a) of subsection (13) and paragraph
494 (a) of subsection (16) of section 775.15, Florida Statutes, are
495 amended to read:

496 775.15 Time limitations; general time limitations;
 497 exceptions.--

498 (13) (a) If the victim of a violation of s. 794.011, former
 499 s. 794.05, Florida Statutes 1995, s. 800.04, ~~or~~ s. 826.04, or s.
 500 847.0135(5) is under the age of 18, the applicable period of
 501 limitation, if any, does not begin to run until the victim has
 502 reached the age of 18 or the violation is reported to a law
 503 enforcement agency or other governmental agency, whichever
 504 occurs earlier. Such law enforcement agency or other
 505 governmental agency shall promptly report such allegation to the
 506 state attorney for the judicial circuit in which the alleged
 507 violation occurred. If the offense is a first or second degree
 508 felony violation of s. 794.011, and the offense is reported
 509 within 72 hours after its commission, the prosecution for such
 510 offense may be commenced at any time. This paragraph applies to
 511 any such offense except an offense the prosecution of which
 512 would have been barred by subsection (2) on or before December
 513 31, 1984.

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

523 1. Aggravated battery or any felony battery offense under
524 chapter 784.

525 2. Kidnapping under s. 787.01 or false imprisonment under
526 s. 787.02.

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

528 4. A lewd or lascivious offense under s. 800.04, ~~or~~ s.
529 825.1025, or s. 847.0135(5).

530 5. A burglary offense under s. 810.02.

531 6. A robbery offense under s. 812.13, s. 812.131, or s.
532 812.135.

533 7. Carjacking under s. 812.133.

534 8. Aggravated child abuse under s. 827.03.

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

538 775.21 The Florida Sexual Predators Act.--

539 (4) SEXUAL PREDATOR CRITERIA.--

540 (a) For a current offense committed on or after October 1,
541 1993, upon conviction, an offender shall be designated as a
542 "sexual predator" under subsection (5), and subject to
543 registration under subsection (6) and community and public
544 notification under subsection (7) if:

545 1. The felony is:

546 a. A capital, life, or first-degree felony violation, or
547 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
548 is a minor and the defendant is not the victim's parent or
549 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
550 violation of a similar law of another jurisdiction; or

551 b. Any felony violation, or any attempt thereof, of s.
552 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
553 minor and the defendant is not the victim's parent or guardian;
554 s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
555 796.035; s. 800.04; s. 825.1025(2)(b); s. 827.071; s.
556 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a
557 similar law of another jurisdiction, and the offender has
558 previously been convicted of or found to have committed, or has
559 pled nolo contendere or guilty to, regardless of adjudication,
560 any violation of s. 787.01, s. 787.02, or s. 787.025(2)(c),
561 where the victim is a minor and the defendant is not the
562 victim's parent or guardian; s. 794.011, excluding s.
563 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
564 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
565 847.0135(4); s. 847.0145; or s. 985.701(1); or a violation of a
566 similar law of another jurisdiction;

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

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

573 (10) PENALTIES.--

574 (b) A sexual predator who has been convicted of or found
575 to have committed, or has pled nolo contendere or guilty to,
576 regardless of adjudication, any violation, or attempted
577 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
578 the victim is a minor and the defendant is not the victim's

579 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
 580 794.05; s. 796.03; s. 796.035; s. 800.04; s. 827.071; s.
 581 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a
 582 violation of a similar law of another jurisdiction when the
 583 victim of the offense was a minor, and who works, whether for
 584 compensation or as a volunteer, at any business, school, day
 585 care center, park, playground, or other place where children
 586 regularly congregate, commits a felony of the third degree,
 587 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

590 784.048 Stalking; definitions; penalties.--

591 (7) Any person who, after having been sentenced for a
 592 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) and
 593 prohibited from contacting the victim of the offense under s.
 594 921.244, willfully, maliciously, and repeatedly follows,
 595 harasses, or cyberstalks the victim commits the offense of
 596 aggravated stalking, a felony of the third degree, punishable as
 597 provided in s. 775.082, s. 775.083, or s. 775.084.

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

601 Section 18. Paragraph (a) of subsection (3) of section
 602 787.01, Florida Statutes, is amended to read:

603 787.01 Kidnapping; kidnapping of child under age 13,
 604 aggravating circumstances.--

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

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

618
 619 commits a life felony, punishable as provided in s. 775.082, s.
 620 775.083, or s. 775.084.

621 Section 19. Paragraph (a) of subsection (3) of section
 622 787.02, Florida Statutes, is amended to read:

623 787.02 False imprisonment; false imprisonment of child
 624 under age 13, aggravating circumstances.--

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

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

632 2. Sexual battery, as defined in chapter 794, against the
633 child;

634 3. Lewd or lascivious battery, lewd or lascivious
635 molestation, lewd or lascivious conduct, or lewd or lascivious
636 exhibition, in violation of s. 800.04 or s. 847.0135(5);

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

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

641 Section 20. Paragraph (c) of subsection (2) of section
642 787.025, Florida Statutes, is amended to read:

643 787.025 Luring or enticing a child.--

644 (2)

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

653 Section 21. Section 794.065, Florida Statutes, is amended
654 to read:

655 794.065 Unlawful place of residence for persons convicted
656 of certain sex offenses.--

657 (1) It is unlawful for any person who has been convicted
658 of a violation of s. 794.011, s. 800.04, s. 827.071, s.
659 847.0135(5), or s. 847.0145, regardless of whether adjudication

660 has been withheld, in which the victim of the offense was less
 661 than 16 years of age, to reside within 1,000 feet of any school,
 662 day care center, park, or playground. A person who violates this
 663 section and whose conviction under s. 794.011, s. 800.04, s.
 664 827.071, s. 847.0135(5), or s. 847.0145 was classified as a
 665 felony of the first degree or higher commits a felony of the
 666 third degree, punishable as provided in s. 775.082 or s.
 667 775.083. A person who violates this section and whose conviction
 668 under s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s.
 669 847.0145 was classified as a felony of the second or third
 670 degree commits a misdemeanor of the first degree, punishable as
 671 provided in s. 775.082 or s. 775.083.

672 (2) This section applies to any person convicted of a
 673 violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5),
 674 or s. 847.0145 for offenses that occur on or after October 1,
 675 2004.

676 Section 22. Section 914.16, Florida Statutes, is amended
 677 to read:

678 914.16 Child abuse and sexual abuse of victims under age
 679 16 or persons with mental retardation; limits on
 680 interviews.--The chief judge of each judicial circuit, after
 681 consultation with the state attorney and the public defender for
 682 the judicial circuit, the appropriate chief law enforcement
 683 officer, and any other person deemed appropriate by the chief
 684 judge, shall provide by order reasonable limits on the number of
 685 interviews that a victim of a violation of s. 794.011, s.
 686 800.04, ~~or~~ s. 827.03, or s. 847.0135(5) who is under 16 years of
 687 age or a victim of a violation of s. 794.011, s. 800.02, s.

688 800.03, or s. 825.102 who is a person with mental retardation as
 689 defined in s. 393.063 must submit to for law enforcement or
 690 discovery purposes. The order shall, to the extent possible,
 691 protect the victim from the psychological damage of repeated
 692 interrogations while preserving the rights of the public, the
 693 victim, and the person charged with the violation.

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

696 921.0022 Criminal Punishment Code; offense severity
 697 ranking chart.--

698 (3) OFFENSE SEVERITY RANKING CHART

699 (d) LEVEL 4

700

Florida	Felony	Description
Statute	Degree	

701

316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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702

499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
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703

499.0051(2)	3rd	Failure to authenticate pedigree papers.
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704

705	499.0051 (6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
706	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
707	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
708	784.075	3rd	Battery on detention or commitment facility staff.
709	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
710	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
711	784.081 (3)	3rd	Battery on specified official or employee.
712	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
713	784.083 (3)	3rd	Battery on code inspector.

714	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
715	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
716	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
717	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
718	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
719	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
720	790.115 (2) (c)	3rd	Possessing firearm on school property.
721	800.04 (7) <u>(c)</u> (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.

722	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
723	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
724	810.06	3rd	Burglary; possession of tools.
725	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
726	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
727	812.014 (2) (c) 4. -10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
728	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
729	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.

730	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
731	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
732	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
733	837.02 (1)	3rd	Perjury in official proceedings.
734	837.021 (1)	3rd	Make contradictory statements in official proceedings.
735	838.022	3rd	Official misconduct.
736	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
737	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
738	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
	843.025	3rd	Deprive law enforcement, correctional,

or correctional probation officer of means of protection or communication.

739

843.15(1)(a) 3rd Failure to appear while on bail for felony (bond estreature or bond jumping).

740

847.0135(5)(c) 3rd Lewd or lascivious exhibition using computer; offender less than 18 years.

741

874.05(1) 3rd Encouraging or recruiting another to join a criminal street gang.

742

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).

743

914.14(2) 3rd Witnesses accepting bribes.

744

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

745

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

746

918.12 3rd Tampering with jurors.

747

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

748

749 (e) LEVEL 5

750

Florida	Felony	Description
Statute	Degree	

751

316.027(1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
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752

316.1935(4) (a)	2nd	Aggravated fleeing or eluding.
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753

322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
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754

327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
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755

381.0041(11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
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756

440.10(1) (g)	2nd	Failure to obtain workers' compensation coverage.
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757

440.105(5)	2nd	Unlawful solicitation for the purpose
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of making workers' compensation claims.

758

440.381(2) 2nd Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

759

624.401(4)(b)2. 2nd Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

760

626.902(1)(c) 2nd Representing an unauthorized insurer; repeat offender.

761

790.01(2) 3rd Carrying a concealed firearm.

762

790.162 2nd Threat to throw or discharge destructive device.

763

790.163(1) 2nd False report of deadly explosive or weapon of mass destruction.

764

790.221(1) 2nd Possession of short-barreled shotgun or machine gun.

765

790.23 2nd Felons in possession of firearms,

ammunition, or electronic weapons or devices.

766

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

767

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

768

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

769

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

770

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

771

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

772

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

773

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

shop.

774

817.034 (4) (a) 2. 2nd Communications fraud, value \$20,000 to \$50,000.

775

817.234 (11) (b) 2nd Insurance fraud; property value \$20,000 or more but less than \$100,000.

776

817.2341 (1) , (2) 3rd Filing false financial statements, (a) & (3) (a) making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

777

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.

778

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

779

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

disabled adult.

780

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

781

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

782

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.

783

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

784

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

785

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

786

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

787

788	874.05 (2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
789	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).
790	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.
791	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.
	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.

792

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.

793

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).

794

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

797 921.244 Order of no contact; penalties.--

798 (1) At the time of sentencing an offender convicted of a
 799 violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5), the
 800 court shall order that the offender be prohibited from having
 801 any contact with the victim, directly or indirectly, including
 802 through a third person, for the duration of the sentence
 803 imposed. The court may reconsider the order upon the request of
 804 the victim if the request is made at any time after the victim
 805 has attained 18 years of age. In considering the request, the

806 court shall conduct an evidentiary hearing to determine whether
 807 a change of circumstances has occurred which warrants a change
 808 in the court order prohibiting contact and whether it is in the
 809 best interest of the victim that the court order be modified or
 810 rescinded.

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

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

816 938.10 Additional court cost imposed in cases of certain
 817 crimes against minors.--

818 (1) If a person pleads guilty or nolo contendere to, or is
 819 found guilty of, regardless of adjudication, any offense against
 820 a minor in violation of s. 784.085, chapter 787, chapter 794, s.
 821 796.03, s. 800.04, chapter 827, s. 847.0135(5), s. 847.0145, or
 822 s. 985.701, the court shall impose a court cost of \$101 against
 823 the offender in addition to any other cost or penalty required
 824 by law.

825 Section 26. Subsections (1), (2), and (4) of section
 826 943.04354, Florida Statutes, are amended to read:

827 943.04354 Removal of the requirement to register as a
 828 sexual offender or sexual predator in special circumstances.--

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

832 (a) Was or will be convicted or adjudicated delinquent of
 833 a violation of s. 794.011, ~~or~~ s. 800.04, or s. 847.0135(5) or

834 the person committed a violation of s. 794.011, ~~or~~ s. 800.04, or
835 s. 847.0135(5) for which adjudication of guilt was or will be
836 withheld, and the person does not have any other conviction,
837 adjudication of delinquency, or withhold of adjudication of
838 guilt for a violation of s. 794.011, ~~or~~ s. 800.04, or s.
839 847.0135(5);

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

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

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

862 of the registration requirement. If the court denies the motion,
863 the person is not authorized under this section to petition for
864 removal of the registration requirement.

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

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

879 947.1405 Conditional release program.--

880 (7)(a) Any inmate who is convicted of a crime committed on
881 or after October 1, 1995, or who has been previously convicted
882 of a crime committed on or after October 1, 1995, in violation
883 of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
884 847.0145, and is subject to conditional release supervision,
885 shall have, in addition to any other conditions imposed, the
886 following special conditions imposed by the commission:

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

890 alternative is recommended by the Department of Corrections. If
891 the commission determines that imposing a curfew would endanger
892 the victim, the commission may consider alternative sanctions.

893 2. If the victim was under the age of 18, a prohibition on
894 living within 1,000 feet of a school, day care center, park,
895 playground, designated public school bus stop, or other place
896 where children regularly congregate. A releasee who is subject
897 to this subparagraph may not relocate to a residence that is
898 within 1,000 feet of a public school bus stop. Beginning October
899 1, 2004, the commission or the department may not approve a
900 residence that is located within 1,000 feet of a school, day
901 care center, park, playground, designated school bus stop, or
902 other place where children regularly congregate for any releasee
903 who is subject to this subparagraph. On October 1, 2004, the
904 department shall notify each affected school district of the
905 location of the residence of a releasee 30 days prior to release
906 and thereafter, if the releasee relocates to a new residence,
907 shall notify any affected school district of the residence of
908 the releasee within 30 days after relocation. If, on October 1,
909 2004, any public school bus stop is located within 1,000 feet of
910 the existing residence of such releasee, the district school
911 board shall relocate that school bus stop. Beginning October 1,
912 2004, a district school board may not establish or relocate a
913 public school bus stop within 1,000 feet of the residence of a
914 releasee who is subject to this subparagraph. The failure of the
915 district school board to comply with this subparagraph shall not
916 result in a violation of conditional release supervision.

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

923 4. A prohibition on any contact with the victim, directly
924 or indirectly, including through a third person, unless approved
925 by the victim, the offender's therapist, and the sentencing
926 court.

927 5. If the victim was under the age of 18, a prohibition
928 against contact with children under the age of 18 without review
929 and approval by the commission. The commission may approve
930 supervised contact with a child under the age of 18 if the
931 approval is based upon a recommendation for contact issued by a
932 qualified practitioner who is basing the recommendation on a
933 risk assessment. Further, the sex offender must be currently
934 enrolled in or have successfully completed a sex offender
935 therapy program. The commission may not grant supervised contact
936 with a child if the contact is not recommended by a qualified
937 practitioner and may deny supervised contact with a child at any
938 time. When considering whether to approve supervised contact
939 with a child, the commission must review and consider the
940 following:

941 a. A risk assessment completed by a qualified
942 practitioner. The qualified practitioner must prepare a written
943 report that must include the findings of the assessment and
944 address each of the following components:

- 945 (I) The sex offender's current legal status;
- 946 (II) The sex offender's history of adult charges with
- 947 apparent sexual motivation;
- 948 (III) The sex offender's history of adult charges without
- 949 apparent sexual motivation;
- 950 (IV) The sex offender's history of juvenile charges,
- 951 whenever available;
- 952 (V) The sex offender's offender treatment history,
- 953 including a consultation from the sex offender's treating, or
- 954 most recent treating, therapist;
- 955 (VI) The sex offender's current mental status;
- 956 (VII) The sex offender's mental health and substance abuse
- 957 history as provided by the Department of Corrections;
- 958 (VIII) The sex offender's personal, social, educational,
- 959 and work history;
- 960 (IX) The results of current psychological testing of the
- 961 sex offender if determined necessary by the qualified
- 962 practitioner;
- 963 (X) A description of the proposed contact, including the
- 964 location, frequency, duration, and supervisory arrangement;
- 965 (XI) The child's preference and relative comfort level
- 966 with the proposed contact, when age-appropriate;
- 967 (XII) The parent's or legal guardian's preference
- 968 regarding the proposed contact; and
- 969 (XIII) The qualified practitioner's opinion, along with
- 970 the basis for that opinion, as to whether the proposed contact
- 971 would likely pose significant risk of emotional or physical harm
- 972 to the child.

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

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

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

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

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

1001 The commission may not appoint a person to conduct a risk
1002 assessment and may not accept a risk assessment from a person
1003 who has not demonstrated to the commission that he or she has
1004 met the requirements of a qualified practitioner as defined in
1005 this section.

1006 6. If the victim was under age 18, a prohibition on
1007 working for pay or as a volunteer at any school, day care
1008 center, park, playground, or other place where children
1009 regularly congregate, as prescribed by the commission.

1010 7. Unless otherwise indicated in the treatment plan
1011 provided by the sexual offender treatment program, a prohibition
1012 on viewing, owning, or possessing any obscene, pornographic, or
1013 sexually stimulating visual or auditory material, including
1014 telephone, electronic media, computer programs, or computer
1015 services that are relevant to the offender's deviant behavior
1016 pattern.

1017 8. Effective for a releasee whose crime is committed on or
1018 after July 1, 2005, a prohibition on accessing the Internet or
1019 other computer services until the offender's sex offender
1020 treatment program, after a risk assessment is completed,
1021 approves and implements a safety plan for the offender's
1022 accessing or using the Internet or other computer services.

1023 9. A requirement that the releasee must submit two
1024 specimens of blood to the Florida Department of Law Enforcement
1025 to be registered with the DNA database.

1026 10. A requirement that the releasee make restitution to
1027 the victim, as determined by the sentencing court or the
1028 commission, for all necessary medical and related professional

1029 services relating to physical, psychiatric, and psychological
 1030 care.

1031 11. Submission to a warrantless search by the community
 1032 control or probation officer of the probationer's or community
 1033 controllee's person, residence, or vehicle.

1034 (b) For a releasee whose crime was committed on or after
 1035 October 1, 1997, in violation of chapter 794, s. 800.04, s.
 1036 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to
 1037 conditional release supervision, in addition to any other
 1038 provision of this subsection, the commission shall impose the
 1039 following additional conditions of conditional release
 1040 supervision:

1041 1. As part of a treatment program, participation in a
 1042 minimum of one annual polygraph examination to obtain
 1043 information necessary for risk management and treatment and to
 1044 reduce the sex offender's denial mechanisms. The polygraph
 1045 examination must be conducted by a polygrapher trained
 1046 specifically in the use of the polygraph for the monitoring of
 1047 sex offenders, where available, and at the expense of the sex
 1048 offender. The results of the polygraph examination shall not be
 1049 used as evidence in a hearing to prove that a violation of
 1050 supervision has occurred.

1051 2. Maintenance of a driving log and a prohibition against
 1052 driving a motor vehicle alone without the prior approval of the
 1053 supervising officer.

1054 3. A prohibition against obtaining or using a post office
 1055 box without the prior approval of the supervising officer.

1056 4. If there was sexual contact, a submission to, at the
 1057 probationer's or community controllee's expense, an HIV test
 1058 with the results to be released to the victim or the victim's
 1059 parent or guardian.

1060 5. Electronic monitoring of any form when ordered by the
 1061 commission.

1062 Section 28. Subsection (2) of section 948.03, Florida
 1063 Statutes, is amended to read:

1064 948.03 Terms and conditions of probation.--

1065 (2) The enumeration of specific kinds of terms and
 1066 conditions shall not prevent the court from adding thereto such
 1067 other or others as it considers proper. However, the sentencing
 1068 court may only impose a condition of supervision allowing an
 1069 offender convicted of s. 794.011, s. 800.04, s. 827.071, s.
 1070 847.0135(5), or s. 847.0145, to reside in another state, if the
 1071 order stipulates that it is contingent upon the approval of the
 1072 receiving state interstate compact authority. The court may
 1073 rescind or modify at any time the terms and conditions
 1074 theretofore imposed by it upon the probationer. However, if the
 1075 court withholds adjudication of guilt or imposes a period of
 1076 incarceration as a condition of probation, the period shall not
 1077 exceed 364 days, and incarceration shall be restricted to either
 1078 a county facility, a probation and restitution center under the
 1079 jurisdiction of the Department of Corrections, a probation
 1080 program drug punishment phase I secure residential treatment
 1081 institution, or a community residential facility owned or
 1082 operated by any entity providing such services.

1083 Section 29. Paragraph (c) of subsection (8) of section
 1084 948.06, Florida Statutes, is amended to read:

1085 948.06 Violation of probation or community control;
 1086 revocation; modification; continuance; failure to pay
 1087 restitution or cost of supervision.--

1088 (8)

1089 (c) For purposes of this section, the term "qualifying
 1090 offense" means any of the following:

1091 1. Kidnapping or attempted kidnapping under s. 787.01,
 1092 false imprisonment of a child under the age of 13 under s.
 1093 787.02(3), or luring or enticing a child under s. 787.025(2)(b)
 1094 or (c).

1095 2. Murder or attempted murder under s. 782.04, attempted
 1096 felony murder under s. 782.051, or manslaughter under s. 782.07.

1097 3. Aggravated battery or attempted aggravated battery
 1098 under s. 784.045.

1099 4. Sexual battery or attempted sexual battery under s.
 1100 794.011(2), (3), (4), or (8)(b) or (c).

1101 5. Lewd or lascivious battery or attempted lewd or
 1102 lascivious battery under s. 800.04(4), lewd or lascivious
 1103 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious
 1104 conduct under s. 800.04(6)(b), ~~or~~ lewd or lascivious exhibition
 1105 under s. 800.04(7)(b)~~(e)~~, or lewd or lascivious exhibition on
 1106 computer under s. 847.0135(5)(b).

1107 6. Robbery or attempted robbery under s. 812.13,
 1108 carjacking or attempted carjacking under s. 812.133, or home
 1109 invasion robbery or attempted home invasion robbery under s.
 1110 812.135.

1111 7. Lewd or lascivious offense upon or in the presence of
 1112 an elderly or disabled person or attempted lewd or lascivious
 1113 offense upon or in the presence of an elderly or disabled person
 1114 under s. 825.1025.

1115 8. Sexual performance by a child or attempted sexual
 1116 performance by a child under s. 827.071.

1117 9. Computer pornography under s. 847.0135(2) or (3),
 1118 transmission of child pornography under s. 847.0137, or selling
 1119 or buying of minors under s. 847.0145.

1120 10. Poisoning food or water under s. 859.01.

1121 11. Abuse of a dead human body under s. 872.06.

1122 12. Any burglary offense or attempted burglary offense
 1123 that is either a first degree felony or second degree felony
 1124 under s. 810.02(2) or (3).

1125 13. Arson or attempted arson under s. 806.01(1).

1126 14. Aggravated assault under s. 784.021.

1127 15. Aggravated stalking under s. 784.048(3), (4), (5), or
 1128 (7).

1129 16. Aircraft piracy under s. 860.16.

1130 17. Unlawful throwing, placing, or discharging of a
 1131 destructive device or bomb under s. 790.161(2), (3), or (4).

1132 18. Treason under s. 876.32.

1133 19. Any offense committed in another jurisdiction which
 1134 would be an offense listed in this paragraph if that offense had
 1135 been committed in this state.

1136 Section 30. Subsection (2) of section 948.101, Florida
 1137 Statutes, is amended to read:

1138 948.101 Terms and conditions of community control and
 1139 criminal quarantine community control.--

1140 (2) The enumeration of specific kinds of terms and
 1141 conditions does not prevent the court from adding thereto any
 1142 other terms or conditions that the court considers proper.
 1143 However, the sentencing court may only impose a condition of
 1144 supervision allowing an offender convicted of s. 794.011, s.
 1145 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in
 1146 another state if the order stipulates that it is contingent upon
 1147 the approval of the receiving state interstate compact
 1148 authority. The court may rescind or modify at any time the terms
 1149 and conditions theretofore imposed by it upon the offender in
 1150 community control. However, if the court withholds adjudication
 1151 of guilt or imposes a period of incarceration as a condition of
 1152 community control, the period may not exceed 364 days, and
 1153 incarceration shall be restricted to a county facility, a
 1154 probation and restitution center under the jurisdiction of the
 1155 Department of Corrections, a probation program drug punishment
 1156 phase I secure residential treatment institution, or a community
 1157 residential facility owned or operated by any entity providing
 1158 such services.

1159 Section 31. Subsections (1) and (2) of section 948.30,
 1160 Florida Statutes, are amended to read:

1161 948.30 Additional terms and conditions of probation or
 1162 community control for certain sex offenses.--Conditions imposed
 1163 pursuant to this section do not require oral pronouncement at
 1164 the time of sentencing and shall be considered standard

1165 conditions of probation or community control for offenders
1166 specified in this section.

1167 (1) Effective for probationers or community controllees
1168 whose crime was committed on or after October 1, 1995, and who
1169 are placed under supervision for violation of chapter 794, s.
1170 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, the court
1171 must impose the following conditions in addition to all other
1172 standard and special conditions imposed:

1173 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court
1174 may designate another 8-hour period if the offender's employment
1175 precludes the above specified time, and the alternative is
1176 recommended by the Department of Corrections. If the court
1177 determines that imposing a curfew would endanger the victim, the
1178 court may consider alternative sanctions.

1179 (b) If the victim was under the age of 18, a prohibition
1180 on living within 1,000 feet of a school, day care center, park,
1181 playground, or other place where children regularly congregate,
1182 as prescribed by the court. The 1,000-foot distance shall be
1183 measured in a straight line from the offender's place of
1184 residence to the nearest boundary line of the school, day care
1185 center, park, playground, or other place where children
1186 congregate. The distance may not be measured by a pedestrian
1187 route or automobile route.

1188 (c) Active participation in and successful completion of a
1189 sex offender treatment program with qualified practitioners
1190 specifically trained to treat sex offenders, at the
1191 probationer's or community controllee's own expense. If a
1192 qualified practitioner is not available within a 50-mile radius

1193 of the probationer's or community controllee's residence, the
 1194 offender shall participate in other appropriate therapy.

1195 (d) A prohibition on any contact with the victim, directly
 1196 or indirectly, including through a third person, unless approved
 1197 by the victim, the offender's therapist, and the sentencing
 1198 court.

1199 (e) If the victim was under the age of 18, a prohibition
 1200 on contact with a child under the age of 18 except as provided
 1201 in this paragraph. The court may approve supervised contact with
 1202 a child under the age of 18 if the approval is based upon a
 1203 recommendation for contact issued by a qualified practitioner
 1204 who is basing the recommendation on a risk assessment. Further,
 1205 the sex offender must be currently enrolled in or have
 1206 successfully completed a sex offender therapy program. The court
 1207 may not grant supervised contact with a child if the contact is
 1208 not recommended by a qualified practitioner and may deny
 1209 supervised contact with a child at any time. When considering
 1210 whether to approve supervised contact with a child, the court
 1211 must review and consider the following:

1212 1. A risk assessment completed by a qualified
 1213 practitioner. The qualified practitioner must prepare a written
 1214 report that must include the findings of the assessment and
 1215 address each of the following components:

- 1216 a. The sex offender's current legal status;
- 1217 b. The sex offender's history of adult charges with
 1218 apparent sexual motivation;
- 1219 c. The sex offender's history of adult charges without
 1220 apparent sexual motivation;

- 1221 d. The sex offender's history of juvenile charges,
- 1222 whenever available;
- 1223 e. The sex offender's offender treatment history,
- 1224 including consultations with the sex offender's treating, or
- 1225 most recent treating, therapist;
- 1226 f. The sex offender's current mental status;
- 1227 g. The sex offender's mental health and substance abuse
- 1228 treatment history as provided by the Department of Corrections;
- 1229 h. The sex offender's personal, social, educational, and
- 1230 work history;
- 1231 i. The results of current psychological testing of the sex
- 1232 offender if determined necessary by the qualified practitioner;
- 1233 j. A description of the proposed contact, including the
- 1234 location, frequency, duration, and supervisory arrangement;
- 1235 k. The child's preference and relative comfort level with
- 1236 the proposed contact, when age appropriate;
- 1237 l. The parent's or legal guardian's preference regarding
- 1238 the proposed contact; and
- 1239 m. The qualified practitioner's opinion, along with the
- 1240 basis for that opinion, as to whether the proposed contact would
- 1241 likely pose significant risk of emotional or physical harm to
- 1242 the child.
- 1243
- 1244 The written report of the assessment must be given to the court;
- 1245 2. A recommendation made as a part of the risk assessment
- 1246 report as to whether supervised contact with the child should be
- 1247 approved;

1248 3. A written consent signed by the child's parent or legal
1249 guardian, if the parent or legal guardian is not the sex
1250 offender, agreeing to the sex offender having supervised contact
1251 with the child after receiving full disclosure of the sex
1252 offender's present legal status, past criminal history, and the
1253 results of the risk assessment. The court may not approve
1254 contact with the child if the parent or legal guardian refuses
1255 to give written consent for supervised contact;

1256 4. A safety plan prepared by the qualified practitioner,
1257 who provides treatment to the offender, in collaboration with
1258 the sex offender, the child's parent or legal guardian, if the
1259 parent or legal guardian is not the sex offender, and the child,
1260 when age appropriate, which details the acceptable conditions of
1261 contact between the sex offender and the child. The safety plan
1262 must be reviewed and approved by the court; and

1263 5. Evidence that the child's parent or legal guardian
1264 understands the need for and agrees to the safety plan and has
1265 agreed to provide, or to designate another adult to provide,
1266 constant supervision any time the child is in contact with the
1267 offender.

1268
1269 The court may not appoint a person to conduct a risk assessment
1270 and may not accept a risk assessment from a person who has not
1271 demonstrated to the court that he or she has met the
1272 requirements of a qualified practitioner as defined in this
1273 section.

1274 (f) If the victim was under age 18, a prohibition on
1275 working for pay or as a volunteer at any place where children

1276 regularly congregate, including, but not limited to, schools,
1277 day care centers, parks, playgrounds, pet stores, libraries,
1278 zoos, theme parks, and malls.

1279 (g) Unless otherwise indicated in the treatment plan
1280 provided by the sexual offender treatment program, a prohibition
1281 on viewing, accessing, owning, or possessing any obscene,
1282 pornographic, or sexually stimulating visual or auditory
1283 material, including telephone, electronic media, computer
1284 programs, or computer services that are relevant to the
1285 offender's deviant behavior pattern.

1286 (h) Effective for probationers and community controllees
1287 whose crime is committed on or after July 1, 2005, a prohibition
1288 on accessing the Internet or other computer services until the
1289 offender's sex offender treatment program, after a risk
1290 assessment is completed, approves and implements a safety plan
1291 for the offender's accessing or using the Internet or other
1292 computer services.

1293 (i) A requirement that the probationer or community
1294 controllee must submit a specimen of blood or other approved
1295 biological specimen to the Department of Law Enforcement to be
1296 registered with the DNA data bank.

1297 (j) A requirement that the probationer or community
1298 controllee make restitution to the victim, as ordered by the
1299 court under s. 775.089, for all necessary medical and related
1300 professional services relating to physical, psychiatric, and
1301 psychological care.

1302 (k) Submission to a warrantless search by the community
1303 control or probation officer of the probationer's or community
1304 controllee's person, residence, or vehicle.

1305 (2) Effective for a probationer or community controllee
1306 whose crime was committed on or after October 1, 1997, and who
1307 is placed on community control or sex offender probation for a
1308 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),
1309 or s. 847.0145, in addition to any other provision of this
1310 section, the court must impose the following conditions of
1311 probation or community control:

1312 (a) As part of a treatment program, participation at least
1313 annually in polygraph examinations to obtain information
1314 necessary for risk management and treatment and to reduce the
1315 sex offender's denial mechanisms. A polygraph examination must
1316 be conducted by a polygrapher trained specifically in the use of
1317 the polygraph for the monitoring of sex offenders, where
1318 available, and shall be paid for by the sex offender. The
1319 results of the polygraph examination shall not be used as
1320 evidence in court to prove that a violation of community
1321 supervision has occurred.

1322 (b) Maintenance of a driving log and a prohibition against
1323 driving a motor vehicle alone without the prior approval of the
1324 supervising officer.

1325 (c) A prohibition against obtaining or using a post office
1326 box without the prior approval of the supervising officer.

1327 (d) If there was sexual contact, a submission to, at the
1328 probationer's or community controllee's expense, an HIV test

1329 with the results to be released to the victim or the victim's
 1330 parent or guardian.

1331 (e) Electronic monitoring when deemed necessary by the
 1332 community control or probation officer and his or her
 1333 supervisor, and ordered by the court at the recommendation of
 1334 the Department of Corrections.

1335 Section 32. Subsection (1) of section 948.31, Florida
 1336 Statutes, is amended to read:

1337 948.31 Diagnosis, evaluation, and treatment of offenders
 1338 placed on probation or community control for certain sex
 1339 offenses or child exploitation.--The court shall require a
 1340 diagnosis and evaluation to determine the need of a probationer
 1341 or offender in community control for treatment. If the court
 1342 determines that a need therefor is established by such diagnosis
 1343 and evaluation process, the court shall require outpatient
 1344 counseling as a term or condition of probation or community
 1345 control for any person who was found guilty of any of the
 1346 following, or whose plea of guilty or nolo contendere to any of
 1347 the following was accepted by the court:

1348 (1) Lewd or lascivious battery, lewd or lascivious
 1349 molestation, lewd or lascivious conduct, or lewd or lascivious
 1350 exhibition, as defined in s. 800.04 or s. 847.0135(5).

1351
 1352 Such counseling shall be required to be obtained from a
 1353 community mental health center, a recognized social service
 1354 agency providing mental health services, or a private mental
 1355 health professional or through other professional counseling.

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1356 | The plan for counseling for the individual shall be provided to
1357 | the court for review.

1358 | Section 33. This act shall take effect October 1, 2008.