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LEGISLATIVE ACTION

Senate

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House

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Floor: 4/AD/2R

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04/29/2010 11:00 AM

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Senators Crist and Aronberg moved the following:

Senate Amendment (with title amendment)

Delete lines 1051 - 1769

and insert:

Section 9. Section 947.005, Florida Statutes, is amended to read:

947.005 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(1)~~(8)~~ "Authority" means the Control Release Authority.

(2) "Child care facility" has the same meaning as provided in s. 402.302.

(3)~~(1)~~ "Commission" means the Parole Commission.

(4)~~(2)~~ "Department" means the Department of Corrections.



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14 (5)

15 (6) "Park" has the same meaning as provided in s. 775.215.

16 (7) "Playground" has the same meaning as provided in s.
17 775.215.

18 (8)-(4) "Presumptive parole release date" means the
19 tentative parole release date as determined by objective parole
20 guidelines.

21 (9)-(7) "Provisional release date" means the date projected
22 for the prisoner's release from custody as determined pursuant
23 to s. 944.277.

24 (10)-(9) "Qualified practitioner" means a social worker,
25 mental health counselor, or a marriage and family therapist
26 licensed under chapter 491 who, as determined by rule of the
27 respective board, has the coursework, training, qualifications,
28 and experience to evaluate and treat sexual offenders; a
29 psychiatrist licensed under chapter 458 or chapter 459; or, a
30 psychologist licensed under chapter 490, ~~or a social worker, a~~
31 mental health counselor, or a marriage and family therapist
32 licensed under chapter 491 who practices in accordance with his
33 or her respective practice act.

34 (11)-(10) "Risk assessment" means an assessment completed by
35 an independent qualified practitioner to evaluate the level of
36 risk associated when a sex offender has contact with a child.

37 (12)-(11) "Safety plan" means a written document prepared by
38 the qualified practitioner, in collaboration with the sex
39 offender, the child's parent or legal guardian, and, when
40 appropriate, the child, which establishes clear roles and
41 responsibilities for each individual involved in any contact
42 between the child and the sex offender.



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43 (13) "School" has the same meaning as provided in s.
44 775.215.

45 (14)~~(3)~~ "Secretary" means the Secretary of Corrections.

46 (15)~~(6)~~ "Tentative release date" means the date projected
47 for the prisoner's release from custody by virtue of gain-time
48 granted or forfeited pursuant to s. 944.275(3)(a).

49 Section 10. Subsection (7) of section 947.1405, Florida
50 Statutes, is amended, and subsection (12) is added to that
51 section, to read:

52 947.1405 Conditional release program.—

53 (7)(a) Any inmate who is convicted of a crime committed on
54 or after October 1, 1995, or who has been previously convicted
55 of a crime committed on or after October 1, 1995, in violation
56 of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
57 847.0145, and is subject to conditional release supervision,
58 shall have, in addition to any other conditions imposed, the
59 following special conditions imposed by the commission:

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

66 2. If the victim was under the age of 18, a prohibition on
67 living within 1,000 feet of a school, child care facility ~~day~~
68 ~~care center~~, park, playground, designated public school bus
69 stop, or other place where children regularly congregate. A
70 releasee who is subject to this subparagraph may not relocate to
71 a residence that is within 1,000 feet of a public school bus



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72 stop. Beginning October 1, 2004, the commission or the
73 department may not approve a residence that is located within
74 1,000 feet of a school, child care facility ~~day care center~~,
75 park, playground, designated school bus stop, or other place
76 where children regularly congregate for any releasee who is
77 subject to this subparagraph. On October 1, 2004, the department
78 shall notify each affected school district of the location of
79 the residence of a releasee 30 days prior to release and
80 thereafter, if the releasee relocates to a new residence, shall
81 notify any affected school district of the residence of the
82 releasee within 30 days after relocation. If, on October 1,
83 2004, any public school bus stop is located within 1,000 feet of
84 the existing residence of such releasee, the district school
85 board shall relocate that school bus stop. Beginning October 1,
86 2004, a district school board may not establish or relocate a
87 public school bus stop within 1,000 feet of the residence of a
88 releasee who is subject to this subparagraph. The failure of the
89 district school board to comply with this subparagraph shall not
90 result in a violation of conditional release supervision. A
91 releasee who is subject to this subparagraph may not be forced
92 to relocate and does not violate his or her conditional release
93 supervision if he or she is living in a residence that meets the
94 requirements of this subparagraph and a school, child care
95 facility, park, playground, designated public school bus stop,
96 or other place where children regularly congregate is
97 subsequently established within 1,000 feet of his or her
98 residence.

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



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

105 4. A prohibition on any contact with the victim, directly
106 or indirectly, including through a third person, unless approved
107 by the victim, a qualified practitioner in the sexual offender
108 treatment program ~~the offender's therapist~~, and the sentencing
109 court.

110 5. If the victim was under the age of 18, a prohibition
111 against contact with children under the age of 18 without review
112 and approval by the commission. The commission may approve
113 supervised contact with a child under the age of 18 if the
114 approval is based upon a recommendation for contact issued by a
115 qualified practitioner who is basing the recommendation on a
116 risk assessment. Further, the sex offender must be currently
117 enrolled in or have successfully completed a sex offender
118 therapy program. The commission may not grant supervised contact
119 with a child if the contact is not recommended by a qualified
120 practitioner and may deny supervised contact with a child at any
121 time. When considering whether to approve supervised contact
122 with a child, the commission must review and consider the
123 following:

124 a. A risk assessment completed by a qualified practitioner.
125 The qualified practitioner must prepare a written report that
126 must include the findings of the assessment and address each of
127 the following components:

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

129 (II) The sex offender's history of adult charges with



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130 apparent sexual motivation;
131 (III) The sex offender's history of adult charges without
132 apparent sexual motivation;
133 (IV) The sex offender's history of juvenile charges,
134 whenever available;
135 (V) The sex offender's offender treatment history,
136 including a consultation from the sex offender's treating, or
137 most recent treating, therapist;
138 (VI) The sex offender's current mental status;
139 (VII) The sex offender's mental health and substance abuse
140 history as provided by the Department of Corrections;
141 (VIII) The sex offender's personal, social, educational,
142 and work history;
143 (IX) The results of current psychological testing of the
144 sex offender if determined necessary by the qualified
145 practitioner;
146 (X) A description of the proposed contact, including the
147 location, frequency, duration, and supervisory arrangement;
148 (XI) The child's preference and relative comfort level with
149 the proposed contact, when age-appropriate;
150 (XII) The parent's or legal guardian's preference regarding
151 the proposed contact; and
152 (XIII) The qualified practitioner's opinion, along with the
153 basis for that opinion, as to whether the proposed contact would
154 likely pose significant risk of emotional or physical harm to
155 the child.
156
157 The written report of the assessment must be given to the
158 commission.



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

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

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

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

183
184 The commission may not appoint a person to conduct a risk
185 assessment and may not accept a risk assessment from a person
186 who has not demonstrated to the commission that he or she has
187 met the requirements of a qualified practitioner as defined in



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188 this section.

189 6. If the victim was under age 18, a prohibition on working
190 for pay or as a volunteer at any school, child care facility ~~day~~
191 ~~care center~~, park, playground, or other place where children
192 regularly congregate, as prescribed by the commission.

193 7. Unless otherwise indicated in the treatment plan
194 provided by a qualified practitioner in the sexual offender
195 treatment program, a prohibition on viewing, owning, or
196 possessing any obscene, pornographic, or sexually stimulating
197 visual or auditory material, including telephone, electronic
198 media, computer programs, or computer services that are relevant
199 to the offender's deviant behavior pattern.

200 8. Effective for a releasee whose crime is committed on or
201 after July 1, 2005, a prohibition on accessing the Internet or
202 other computer services until a qualified practitioner in the
203 offender's sex offender treatment program, after a risk
204 assessment is completed, approves and implements a safety plan
205 for the offender's accessing or using the Internet or other
206 computer services.

207 9. A requirement that the releasee must submit two
208 specimens of blood to the ~~Florida~~ Department of Law Enforcement
209 to be registered with the DNA database.

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

214 11. Submission to a warrantless search by the community
215 control or probation officer of the probationer's or community
216 controllee's person, residence, or vehicle.



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217 (b) For a releasee whose crime was committed on or after
218 October 1, 1997, in violation of chapter 794, s. 800.04, s.
219 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to
220 conditional release supervision, in addition to any other
221 provision of this subsection, the commission shall impose the
222 following additional conditions of conditional release
223 supervision:

224 1. As part of a treatment program, participation in a
225 minimum of one annual polygraph examination to obtain
226 information necessary for risk management and treatment and to
227 reduce the sex offender's denial mechanisms. The polygraph
228 examination must be conducted by a polygrapher who is a member
229 of a national or state polygraph association and who is
230 certified as a postconviction sex offender polygrapher trained
231 specifically in the use of the polygraph for the monitoring of
232 sex offenders, where available, and at the expense of the
233 releasee sex offender. The results of the examination shall be
234 provided to the releasee's probation officer and qualified
235 practitioner and may not be used as evidence in a hearing to
236 prove that a violation of supervision has occurred.

237 2. Maintenance of a driving log and a prohibition against
238 driving a motor vehicle alone without the prior approval of the
239 supervising officer.

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

242 4. If there was sexual contact, a submission to, at the
243 releasee's probationer's or community controllee's expense, an
244 HIV test with the results to be released to the victim or the
245 victim's parent or guardian.



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246 5. Electronic monitoring of any form when ordered by the
247 commission. Any person who has been placed under supervision and
248 is electronically monitored by the department must pay the
249 department for the cost of the electronic monitoring service at
250 a rate that may not exceed the full cost of the monitoring
251 service. Funds collected under this subparagraph shall be
252 deposited into the General Revenue Fund. The department may
253 exempt a person from the payment of all or any part of the
254 electronic monitoring service cost if the department finds that
255 any of the factors listed in s. 948.09(3) exist.

256 (12) In addition to all other conditions imposed, for a
257 releasee who is subject to conditional release for a crime that
258 was committed on or after the effective date of this act, and
259 who has been convicted at any time of committing, or attempting,
260 soliciting, or conspiring to commit, any of the criminal
261 offenses listed in s. 943.0435(1)(a)1.a.(I), or a similar
262 offense in another jurisdiction against a victim who was under
263 18 years of age at the time of the offense, if the releasee has
264 not received a pardon for any felony or similar law of another
265 jurisdiction necessary for the operation of this subsection, if
266 a conviction of a felony or similar law of another jurisdiction
267 necessary for the operation of this subsection has not been set
268 aside in any postconviction proceeding, or if the releasee has
269 not been removed from the requirement to register as a sexual
270 offender or sexual predator pursuant to s. 943.04354, the
271 commission must impose the following conditions:

272 (a) A prohibition on visiting schools, child care
273 facilities, parks, and playgrounds without prior approval from
274 the releasee's supervising officer. The commission may also



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275 designate additional prohibited locations to protect a victim.
276 The prohibition ordered under this paragraph does not prohibit
277 the releasee from visiting a school, child care facility, park,
278 or playground for the sole purpose of attending a religious
279 service as defined in s. 775.0861 or picking up or dropping off
280 the releasee's child or grandchild at a child care facility or
281 school.

282 (b) A prohibition on distributing candy or other items to
283 children on Halloween; wearing a Santa Claus costume, or other
284 costume to appeal to children, on or preceding Christmas;
285 wearing an Easter Bunny costume, or other costume to appeal to
286 children, on or preceding Easter; entertaining at children's
287 parties; or wearing a clown costume without prior approval from
288 the commission.

289 Section 11. Section 948.001, Florida Statutes, is amended
290 to read:

291 948.001 Definitions.—As used in this chapter, the term:

292 (1) "Administrative probation" means a form of noncontact
293 supervision in which an offender who presents a low risk of harm
294 to the community may, upon satisfactory completion of half the
295 term of probation, be transferred by the Department of
296 Corrections to nonreporting status until expiration of the term
297 of supervision.

298 (2) "Child care facility" has the same meaning as provided
299 in s. 402.302.

300 (3) ~~(2)~~ "Community control" means a form of intensive,
301 supervised custody in the community, including surveillance on
302 weekends and holidays, administered by officers with restricted
303 caseloads. Community control is an individualized program in



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304 which the freedom of an offender is restricted within the
305 community, home, or noninstitutional residential placement and
306 specific sanctions are imposed and enforced.

307 (4)~~(9)~~ "Community residential drug punishment center" means
308 a residential drug punishment center designated by the
309 Department of Corrections. The Department of Corrections shall
310 adopt rules as necessary to define and operate such a center.

311 (5)~~(3)~~ "Criminal quarantine community control" means
312 intensive supervision, by officers with restricted caseloads,
313 with a condition of 24-hour-per-day electronic monitoring, and a
314 condition of confinement to a designated residence during
315 designated hours.

316 (6)~~(4)~~ "Drug offender probation" means a form of intensive
317 supervision that ~~which~~ emphasizes treatment of drug offenders in
318 accordance with individualized treatment plans administered by
319 officers with restricted caseloads. Caseloads should be
320 restricted to a maximum of 50 cases per officer in order to
321 ensure an adequate level of staffing.

322 (7) "Park" has the same meaning as provided in s. 775.215.

323 (8) "Playground" has the same meaning as provided in s.
324 775.215.

325 (9)~~(5)~~ "Probation" means a form of community supervision
326 requiring specified contacts with parole and probation officers
327 and other terms and conditions as provided in s. 948.03.

328 (10)~~(6)~~ "Qualified practitioner" means a social worker,
329 mental health counselor, or a marriage and family therapist
330 licensed under chapter 491 who, as determined by rule of the
331 respective board, has the coursework, training, qualifications,
332 and experience to evaluate and treat sexual offenders; a



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333 psychiatrist licensed under chapter 458 or chapter 459; or, a
334 psychologist licensed under chapter 490, ~~or a social worker, a~~
335 ~~mental health counselor, or a marriage and family therapist~~
336 ~~licensed under chapter 491 who practices in accordance with his~~
337 ~~or her respective practice act.~~

338 (11) ~~(7)~~ "Risk assessment" means an assessment completed by
339 a ~~an independent~~ qualified practitioner to evaluate the level of
340 risk associated when a sex offender has contact with a child.

341 (12) ~~(8)~~ "Safety plan" means a written document prepared by
342 the qualified practitioner, in collaboration with the sex
343 offender, the child's parent or legal guardian, and, when
344 appropriate, the child which establishes clear roles and
345 responsibilities for each individual involved in any contact
346 between the child and the sex offender.

347 (13) "School" has the same meaning as provided in s.
348 775.215.

349 (14) ~~(10)~~ "Sex offender probation" or "sex offender
350 community control" means a form of intensive supervision, with
351 or without electronic monitoring, which emphasizes treatment and
352 supervision of a sex offender in accordance with an
353 individualized treatment plan administered by an officer who has
354 a restricted caseload and specialized training. An officer who
355 supervises an offender placed on sex offender probation or sex
356 offender community control must meet as necessary with a
357 treatment provider and polygraph examiner to develop and
358 implement the supervision and treatment plan, if a treatment
359 provider and polygraph examiner specially trained in the
360 treatment and monitoring of sex offenders are reasonably
361 available.



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362 Section 12. Subsection (1) and paragraph (a) of subsection
363 (2) of section 948.30, Florida Statutes, are amended, and
364 subsection (4) is added to that section, to read:

365 948.30 Additional terms and conditions of probation or
366 community control for certain sex offenses.—Conditions imposed
367 pursuant to this section do not require oral pronouncement at
368 the time of sentencing and shall be considered standard
369 conditions of probation or community control for offenders
370 specified in this section.

371 (1) Effective for probationers or community controllees
372 whose crime was committed on or after October 1, 1995, and who
373 are placed under supervision for violation of chapter 794, s.
374 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, the court
375 must impose the following conditions in addition to all other
376 standard and special conditions imposed:

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

383 (b) If the victim was under the age of 18, a prohibition on
384 living within 1,000 feet of a school, child care facility ~~day~~
385 ~~care center~~, park, playground, or other place where children
386 regularly congregate, as prescribed by the court. The 1,000-foot
387 distance shall be measured in a straight line from the
388 offender's place of residence to the nearest boundary line of
389 the school, child care facility ~~day care center~~, park,
390 playground, or other place where children congregate. The



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391 distance may not be measured by a pedestrian route or automobile
392 route. A probationer or community controllee who is subject to
393 this paragraph may not be forced to relocate and does not
394 violate his or her probation or community control if he or she
395 is living in a residence that meets the requirements of this
396 paragraph and a school, child care facility, park, playground,
397 or other place where children regularly congregate is
398 subsequently established within 1,000 feet of his or her
399 residence.

400 (c) Active participation in and successful completion of a
401 sex offender treatment program with qualified practitioners
402 specifically trained to treat sex offenders, at the
403 probationer's or community controllee's own expense. If a
404 qualified practitioner is not available within a 50-mile radius
405 of the probationer's or community controllee's residence, the
406 offender shall participate in other appropriate therapy.

407 (d) A prohibition on any contact with the victim, directly
408 or indirectly, including through a third person, unless approved
409 by the victim, a qualified practitioner in the sexual offender
410 treatment program ~~the offender's therapist~~, and the sentencing
411 court.

412 (e) If the victim was under the age of 18, a prohibition on
413 contact with a child under the age of 18 except as provided in
414 this paragraph. The court may approve supervised contact with a
415 child under the age of 18 if the approval is based upon a
416 recommendation for contact issued by a qualified practitioner
417 who is basing the recommendation on a risk assessment. Further,
418 the sex offender must be currently enrolled in or have
419 successfully completed a sex offender therapy program. The court



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420 may not grant supervised contact with a child if the contact is
421 not recommended by a qualified practitioner and may deny
422 supervised contact with a child at any time. When considering
423 whether to approve supervised contact with a child, the court
424 must review and consider the following:

425 1. A risk assessment completed by a qualified practitioner.
426 The qualified practitioner must prepare a written report that
427 must include the findings of the assessment and address each of
428 the following components:

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

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

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

434 d. The sex offender's history of juvenile charges, whenever
435 available;

436 e. The sex offender's offender treatment history, including
437 consultations with the sex offender's treating, or most recent
438 treating, therapist;

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

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

442 h. The sex offender's personal, social, educational, and
443 work history;

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

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

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



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449 the proposed contact, when age appropriate;

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

452 m. The qualified practitioner's opinion, along with the
453 basis for that opinion, as to whether the proposed contact would
454 likely pose significant risk of emotional or physical harm to
455 the child.

456

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

458 2. A recommendation made as a part of the risk assessment
459 report as to whether supervised contact with the child should be
460 approved;

461 3. A written consent signed by the child's parent or legal
462 guardian, if the parent or legal guardian is not the sex
463 offender, agreeing to the sex offender having supervised contact
464 with the child after receiving full disclosure of the sex
465 offender's present legal status, past criminal history, and the
466 results of the risk assessment. The court may not approve
467 contact with the child if the parent or legal guardian refuses
468 to give written consent for supervised contact;

469 4. A safety plan prepared by the qualified practitioner,
470 who provides treatment to the offender, in collaboration with
471 the sex offender, the child's parent or legal guardian, if the
472 parent or legal guardian is not the sex offender, and the child,
473 when age appropriate, which details the acceptable conditions of
474 contact between the sex offender and the child. The safety plan
475 must be reviewed and approved by the court; and

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



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478 agreed to provide, or to designate another adult to provide,
479 constant supervision any time the child is in contact with the
480 offender.

481
482 The court may not appoint a person to conduct a risk assessment
483 and may not accept a risk assessment from a person who has not
484 demonstrated to the court that he or she has met the
485 requirements of a qualified practitioner as defined in this
486 section.

487 (f) If the victim was under age 18, a prohibition on
488 working for pay or as a volunteer at any place where children
489 regularly congregate, including, but not limited to, schools,
490 child care facilities ~~day care centers~~, parks, playgrounds, pet
491 stores, libraries, zoos, theme parks, and malls.

492 (g) Unless otherwise indicated in the treatment plan
493 provided by a qualified practitioner in the sexual offender
494 treatment program, a prohibition on viewing, accessing, owning,
495 or possessing any obscene, pornographic, or sexually stimulating
496 visual or auditory material, including telephone, electronic
497 media, computer programs, or computer services that are relevant
498 to the offender's deviant behavior pattern.

499 (h) Effective for probationers and community controllees
500 whose crime is committed on or after July 1, 2005, a prohibition
501 on accessing the Internet or other computer services until a
502 qualified practitioner in the offender's sex offender treatment
503 program, after a risk assessment is completed, approves and
504 implements a safety plan for the offender's accessing or using
505 the Internet or other computer services.

506 (i) A requirement that the probationer or community



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507 controllee must submit a specimen of blood or other approved
508 biological specimen to the Department of Law Enforcement to be
509 registered with the DNA data bank.

510 (j) A requirement that the probationer or community
511 controllee make restitution to the victim, as ordered by the
512 court under s. 775.089, for all necessary medical and related
513 professional services relating to physical, psychiatric, and
514 psychological care.

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

518 (2) Effective for a probationer or community controllee
519 whose crime was committed on or after October 1, 1997, and who
520 is placed on community control or sex offender probation for a
521 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),
522 or s. 847.0145, in addition to any other provision of this
523 section, the court must impose the following conditions of
524 probation or community control:

525 (a) As part of a treatment program, participation at least
526 annually in polygraph examinations to obtain information
527 necessary for risk management and treatment and to reduce the
528 sex offender's denial mechanisms. A polygraph examination must
529 be conducted by a polygrapher who is a member of a national or
530 state polygraph association and who is certified as a
531 postconviction sex offender polygrapher ~~trained specifically in~~
532 ~~the use of the polygraph for the monitoring of sex offenders,~~
533 where available, and shall be paid for by the probationer or
534 community controllee ~~sex offender~~. The results of the polygraph
535 examination shall be provided to the probationer's or community



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536 controllee's probation officer and qualified practitioner and
537 shall not be used as evidence in court to prove that a violation
538 of community supervision has occurred.

539 (4) In addition to all other conditions imposed, for a
540 probationer or community controllee who is subject to
541 supervision for a crime that was committed on or after the
542 effective date of this act, and who has been convicted at any
543 time of committing, or attempting, soliciting, or conspiring to
544 commit, any of the criminal offenses listed in s.
545 943.0435(1)(a)1.a.(I), or a similar offense in another
546 jurisdiction, against a victim who was under the age of 18 at
547 the time of the offense; if the offender has not received a
548 pardon for any felony or similar law of another jurisdiction
549 necessary for the operation of this subsection, if a conviction
550 of a felony or similar law of another jurisdiction necessary for
551 the operation of this subsection has not been set aside in any
552 postconviction proceeding, or if the offender has not been
553 removed from the requirement to register as a sexual offender or
554 sexual predator pursuant to s. 943.04354, the court must impose
555 the following conditions:

556 (a) A prohibition on visiting schools, child care
557 facilities, parks, and playgrounds, without prior approval from
558 the offender's supervising officer. The court may also designate
559 additional locations to protect a victim. The prohibition
560 ordered under this paragraph does not prohibit the offender from
561 visiting a school, child care facility, park, or playground for
562 the sole purpose of attending a religious service as defined in
563 s. 775.0861 or picking up or dropping off the offender's
564 children or grandchildren at a child care facility or school.



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565 (b) A prohibition on distributing candy or other items to
566 children on Halloween; wearing a Santa Claus costume, or other
567 costume to appeal to children, on or preceding Christmas;
568 wearing an Easter Bunny costume, or other costume to appeal to
569 children, on or preceding Easter; entertaining at children's
570 parties; or wearing a clown costume; without prior approval from
571 the court.

572 Section 13. Section 948.31, Florida Statutes, is amended to
573 read:

574 948.31 ~~Diagnosis, Evaluation, and treatment of~~ sexual
575 predators and offenders placed on probation or community control
576 ~~for certain sex offenses or child exploitation.~~ The court shall
577 require an a diagnosis and evaluation by a qualified
578 practitioner to determine the need of a probationer or community
579 controlee offender in community control for treatment. If the
580 court determines that a need therefor is established by the such
581 ~~diagnosis and evaluation process,~~ the court shall require sexual
582 offender treatment outpatient counseling as a term or condition
583 of probation or community control for any person who is required
584 to register as a sexual predator under s. 775.21 or sexual
585 offender under s. 943.0435, s. 944.606, or s. 944.607. ~~was found~~
586 ~~guilty of any of the following, or whose plea of guilty or nolo~~
587 ~~contendere to any of the following was accepted by the court:~~

588 ~~(1) Lewd or lascivious battery, lewd or lascivious~~
589 ~~molestation, lewd or lascivious conduct, or lewd or lascivious~~
590 ~~exhibition, as defined in s. 800.04 or s. 847.0135(5).~~

591 ~~(2) Sexual battery, as defined in chapter 794, against a~~
592 ~~child.~~

593 ~~(3) Exploitation of a child as provided in s. 450.151, or~~



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594 ~~for prostitution.~~

595

596 Such treatment counseling shall be required to be obtained from
597 a qualified practitioner as defined in s. 948.001. Treatment may
598 not be administered by a qualified practitioner who has been
599 convicted or adjudicated delinquent of committing, or
600 attempting, soliciting, or conspiring to commit, any offense
601 that is listed in s. 943.0435(1)(a)1.a.(I). The court shall
602 impose a restriction against contact with minors if sexual
603 offender treatment is recommended a community mental health
604 center, a recognized social service agency providing mental
605 health services, or a private mental health professional or
606 through other professional counseling. The evaluation and
607 recommendations plan for treatment of counseling for the
608 probationer or community controlee individual shall be provided
609 to the court for review.

610 Section 14. Paragraph (a) of subsection (3) of section
611 985.481, Florida Statutes, is amended to read:

612 985.481 Sexual offenders adjudicated delinquent;
613 notification upon release.-

614 (3)(a) The department must provide information regarding
615 any sexual offender who is being released after serving a period
616 of residential commitment under the department for any offense,
617 as follows:

618 1. The department must provide the sexual offender's name,
619 any change in the offender's name by reason of marriage or other
620 legal process, and any alias, if known; the correctional
621 facility from which the sexual offender is released; the sexual
622 offender's social security number, race, sex, date of birth,



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623 height, weight, and hair and eye color; address of any planned
624 permanent residence or temporary residence, within the state or
625 out of state, including a rural route address and a post office
626 box; if no permanent or temporary address, any transient
627 residence within the state; address, location or description,
628 and dates of any known future temporary residence within the
629 state or out of state; date and county of disposition and each
630 crime for which there was a disposition; a copy of the
631 offender's fingerprints and a digitized photograph taken within
632 60 days before release; the date of release of the sexual
633 offender; and home telephone number and any cellular telephone
634 number; ~~and the offender's intended residence address, if known.~~
635 The department shall notify the Department of Law Enforcement if
636 the sexual offender escapes, absconds, or dies. If the sexual
637 offender is in the custody of a private correctional facility,
638 the facility shall take the digitized photograph of the sexual
639 offender within 60 days before the sexual offender's release and
640 also place it in the sexual offender's file. If the sexual
641 offender is in the custody of a local jail, the custodian of the
642 local jail shall register the offender within 3 business days
643 after intake of the offender for any reason and upon release,
644 and shall notify the Department of Law Enforcement of the sexual
645 offender's release and provide to the Department of Law
646 Enforcement the information specified in this subparagraph and
647 any information specified in subparagraph 2. which the
648 Department of Law Enforcement requests.

649 2. The department may provide any other information
650 considered necessary, including criminal and delinquency
651 records, when available.



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652 Section 15. Paragraph (a) of subsection (4), paragraph (a)
653 of subsection (6), and paragraph (b) of subsection (13) of
654 section 985.4815, Florida Statutes, are amended to read:

655 985.4815 Notification to Department of Law Enforcement of
656 information on juvenile sexual offenders.-

657 (4) A sexual offender, as described in this section, who is
658 under the supervision of the department but who is not committed
659 must register with the department within 3 business days after
660 adjudication and disposition for a registrable offense and
661 otherwise provide information as required by this subsection.

662 (a) The sexual offender shall provide his or her name; date
663 of birth; social security number; race; sex; height; weight;
664 hair and eye color; tattoos or other identifying marks; ~~and~~
665 permanent or legal residence and address of temporary residence
666 within the state or out of state while the sexual offender is in
667 the care or custody or under the jurisdiction or supervision of
668 the department in this state, including any rural route address
669 or post office box; if no permanent or temporary address, any
670 transient residence; address, location or description, and dates
671 of any current or known future temporary residence within the
672 state or out of state; and the name and address of each school
673 attended. The department shall verify the address of each sexual
674 offender and shall report to the Department of Law Enforcement
675 any failure by a sexual offender to comply with registration
676 requirements.

677 (6) (a) The information provided to the Department of Law
678 Enforcement must include the following:

679 1. The information obtained from the sexual offender under
680 subsection (4).



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681 2. The sexual offender's most current address and place of
682 permanent, ~~or~~ temporary, or transient residence within the state
683 or out of state, and address, location or description, and dates
684 of any current or known future temporary residence within the
685 state or out of state, while the sexual offender is in the care
686 or custody or under the jurisdiction or supervision of the
687 department in this state, including the name of the county or
688 municipality in which the offender permanently or temporarily
689 resides, or has a transient residence, and address, location or
690 description, and dates of any current or known future temporary
691 residence within the state or out of state; and, if known, the
692 intended place of permanent, ~~or~~ temporary, or transient
693 residence, and address, location or description, and dates of
694 any current or known future temporary residence within the state
695 or out of state upon satisfaction of all sanctions.

696 3. The legal status of the sexual offender and the
697 scheduled termination date of that legal status.

698 4. The location of, and local telephone number for, any
699 department office that is responsible for supervising the sexual
700 offender.

701 5. An indication of whether the victim of the offense that
702 resulted in the offender's status as a sexual offender was a
703 minor.

704 6. The offense or offenses at adjudication and disposition
705 that resulted in the determination of the offender's status as a
706 sex offender.

707 7. A digitized photograph of the sexual offender, which
708 must have been taken within 60 days before the offender was
709 released from the custody of the department or a private



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710 correctional facility by expiration of sentence under s.
711 944.275, or within 60 days after the onset of the department's
712 supervision of any sexual offender who is on probation,
713 postcommitment probation, residential commitment, nonresidential
714 commitment, licensed child-caring commitment, community control,
715 conditional release, parole, provisional release, or control
716 release or who is supervised by the department under the
717 Interstate Compact Agreement for Probationers and Parolees. If
718 the sexual offender is in the custody of a private correctional
719 facility, the facility shall take a digitized photograph of the
720 sexual offender within the time period provided in this
721 subparagraph and shall provide the photograph to the department.

722 (13)

723 (b) The sheriff's office may determine the appropriate
724 times and days for reporting by the sexual offender, which shall
725 be consistent with the reporting requirements of this
726 subsection. Reregistration shall include any changes to the
727 following information:

728 1. Name; social security number; age; race; sex; date of
729 birth; height; weight; hair and eye color; address of any
730 permanent residence and address of any current temporary
731 residence, within the state or out of state, including a rural
732 route address and a post office box; if no permanent or
733 temporary address, any transient residence; address, location or
734 description, and dates of any current or known future temporary
735 residence within the state or out of state; name and address of
736 each school attended; date and place of any employment; vehicle
737 make, model, color, and license tag number; fingerprints; and
738 photograph. A post office box shall not be provided in lieu of a



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739 physical residential address.

740 2. If the sexual offender is enrolled, employed, or
741 carrying on a vocation at an institution of higher education in
742 this state, the sexual offender shall also provide to the
743 department the name, address, and county of each institution,
744 including each campus attended, and the sexual offender's
745 enrollment or employment status.

746 3. If the sexual offender's place of residence is a motor
747 vehicle, trailer, mobile home, or manufactured home, as defined
748 in chapter 320, the sexual offender shall also provide the
749 vehicle identification number; the license tag number; the
750 registration number; and a description, including color scheme,
751 of the motor vehicle, trailer, mobile home, or manufactured
752 home. If the sexual offender's place of residence is a vessel,
753 live-aboard vessel, or houseboat, as defined in chapter 327, the
754 sexual offender shall also provide the hull identification
755 number; the manufacturer's serial number; the name of the
756 vessel, live-aboard vessel, or houseboat; the registration
757 number; and a description, including color scheme, of the
758 vessel, live-aboard vessel, or houseboat.

759 4. Any sexual offender who fails to report in person as
760 required at the sheriff's office, or who fails to respond to any
761 address verification correspondence from the department within 3
762 weeks after the date of the correspondence, commits a felony of
763 the third degree, punishable as provided in ss. 775.082,
764 775.083, and 775.084.

765 Section 16. The Legislature intends that nothing in this
766 act reduce or diminish a court's jurisdiction.

767 Section 17. If any provision of this act or its application



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768 to any person or circumstance is held invalid, the invalidity
769 does not affect other provisions or applications of this act
770 which can be given effect without the invalid provision or
771 application, and to this end the provisions of this act are
772 declared severable.

773 Section 18. The Division of Statutory Revision is directed
774 to replace the phrase "the effective date of this act" wherever
775 it occurs in this act with the date this act becomes a law.

776
777

778 ===== T I T L E A M E N D M E N T =====

779 And the title is amended as follows:

780 Delete lines 44 - 72

781 and insert:

782 Corrections but who are not incarcerated; amending s.
783 947.005, F.S.; providing additional definitions;
784 amending s. 947.1405, F.S.; conforming terminology to
785 changes made by the act; providing that a releasee
786 living in an approved residence before the
787 establishment of a school, child care facility, park,
788 or playground within 1,000 feet of the residence may
789 not be forced to relocate and does not violate his or
790 her conditional release supervision; revising
791 provisions relating to polygraph examinations of
792 specified conditional releasees who have committed
793 specified sexual offenses; providing additional
794 restrictions for certain conditional releasees who
795 have committed specified sexual offenses against
796 minors or have similar convictions in another



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797 jurisdiction; amending s. 948.001, F.S.; revising and
798 providing definitions; amending s. 948.30, F.S.;
799 conforming terminology to changes made by the act;
800 providing that a probationer or community controllee
801 living in an approved residence before the
802 establishment of a school, child care facility, park,
803 or playground within 1,000 feet of the residence may
804 not be forced to relocate and does not violate his or
805 her probation or community control; revising
806 provisions relating to polygraph examinations of
807 specified probationers or community controllees who
808 have committed specified sexual offenses; providing
809 additional restrictions for certain probationers or
810 community controllees who committed specified sexual
811 offenses against minors or who have similar
812 convictions in another jurisdiction; amending s.
813 948.31, F.S.; deleting a requirement for diagnosis of
814 certain sexual predators and sexual offenders on
815 community control; revising provisions relating to
816 treatment for such offenders and predators; amending
817 s. 985.481, F.S.; providing additional address
818 reporting requirements for sexual offenders
819 adjudicated delinquent; amending s. 985.4815, F.S.;
820 revising provisions relating to address and residence
821 reporting requirements for sexual offenders
822 adjudicated delinquent; providing legislative intent;
823 providing severability; providing a directive to the
824 Division of Statutory Revision;