

By Senator Gibson

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1 A bill to be entitled
2 An act relating to sexual predators and offenders;
3 creating s. 316.87, F.S.; prohibiting a person from
4 knowingly authorizing or allowing a sexual predator or
5 sexual offender to operate a motor vehicle owned or
6 under the dominion or control of that person, except
7 for certain purposes; providing a criminal penalty;
8 requiring an additional penalty if the motor vehicle
9 is used in the commission of a felony; amending s.
10 318.17, F.S.; providing that ch. 318, F.S., relating
11 to disposition of traffic infractions, is not
12 available to a person who is charged with the offense
13 of knowingly authorizing or allowing a sexual predator
14 or sexual offender to operate a motor vehicle owned or
15 under the dominion or control of that person; amending
16 s. 394.912, F.S.; redefining the term "total
17 confinement" as it relates to part V of ch. 394, F.S.,
18 to apply civil commitment procedures for care and
19 treatment of offenders in physically secured
20 facilities that are being operated or contractually
21 operated for a county; creating s. 921.2312, F.S.;
22 requiring the circuit court to have a qualified
23 practitioner conduct a risk assessment before
24 sentencing for a defendant who has been found guilty
25 of or has entered a plea of nolo contendere or guilty
26 to specified sex offenses; providing reporting
27 requirements for the risk assessment; amending s.
28 948.30, F.S.; requiring the court to order curfew as a
29 condition of probation or community control for

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30 offenders who commit certain sex offenses; amending s.
31 948.31, F.S.; directing the court to require a
32 probationer or community controllee to undergo sexual
33 offender treatment that is provided by a qualified
34 practitioner under certain circumstances as a term or
35 condition of probation or community control; providing
36 an effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

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40 Section 1. Section 316.87, Florida Statutes, is created to
41 read:

42 316.87 Unlawfully authorizing or allowing the operation of
43 a motor vehicle.-

44 (1) A person may not knowingly authorize or allow a motor
45 vehicle owned by him or her or under his or her dominion or
46 control to be operated on a highway or public street by an
47 individual who is required to register as a sexual predator
48 under s. 775.21 or as a sexual offender under s. 943.0435, s.
49 944.606, or s. 944.607, except for the sole purpose of the
50 sexual predator's or sexual offender's driving to and from work,
51 public service, or treatment. A person who violates this
52 subsection commits a misdemeanor of the second degree,
53 punishable as provided in s. 775.082 or s. 775.083.

54 (2) If a person violates subsection (1) and the motor
55 vehicle is used to commit a felony enumerated in s. 775.21(4) or
56 s. 943.0435(1) or a violation of s. 782.04, the driver license
57 of the person who violates subsection (1) shall be suspended for
58 1 year.

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59 Section 2. Section 318.17, Florida Statutes, is amended to
60 read:

61 318.17 Offenses excepted.—No provision of this chapter is
62 available to a person who is charged with any of the following
63 offenses:

64 (1) Fleeing or attempting to elude a police officer, in
65 violation of s. 316.1935.~~†~~

66 (2) Leaving the scene of a crash, in violation of ss.
67 316.027 and 316.061.~~†~~

68 (3) Driving, or being in actual physical control of, any
69 vehicle while under the influence of alcoholic beverages, any
70 chemical substance set forth in s. 877.111, or any substance
71 controlled under chapter 893, in violation of s. 316.193, or
72 driving with an unlawful blood-alcohol level.~~†~~

73 (4) Reckless driving, in violation of s. 316.192.~~†~~

74 (5) Making false crash reports, in violation of s.
75 316.067.~~†~~

76 (6) Willfully failing or refusing to comply with any lawful
77 order or direction of any police officer or member of the fire
78 department, in violation of s. 316.072(3).~~†~~

79 (7) Obstructing an officer, in violation of s. 316.545(1).~~†~~
80 ~~†~~

81 (8) Unlawfully authorizing or allowing the operation of a
82 motor vehicle by a sexual predator or sexual offender, in
83 violation of s. 316.87.

84 (9)~~(8)~~ Any other offense in chapter 316 which is classified
85 as a criminal violation.

86 Section 3. Subsection (11) of section 394.912, Florida
87 Statutes, is amended to read:

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88 394.912 Definitions.—As used in this part, the term:

89 (11) "Total confinement" means that the person is currently
90 being held in any physically secure facility being operated or
91 contractually operated for a county, the Department of
92 Corrections, the Department of Juvenile Justice, or the
93 Department of Children and Family Services. A person shall also
94 be deemed to be in total confinement for applicability of
95 provisions under this part if the person is serving an
96 incarcerative sentence under the custody of a county, the
97 Department of Corrections or the Department of Juvenile Justice
98 and is being held in any other secure facility for any reason.

99 Section 4. Section 921.2312, Florida Statutes, is created
100 to read:

101 921.2312 Risk assessment reports.—For crimes committed on
102 or after October 1, 2014, a circuit court of the state, when the
103 defendant in a criminal case has been found guilty or has
104 entered a plea of nolo contendere or guilty for an offense that
105 is listed in s. 943.0435(1)(a)1.a.(I), shall refer the case to a
106 qualified practitioner as defined in s. 948.001. The qualified
107 practitioner shall assess the defendant by considering the
108 components specified in s. 948.30(1)(e)1.a.-i. and submit a
109 written report to the circuit court at a specified time before
110 sentencing. The report must include the qualified practitioner's
111 opinion, along with the basis for that opinion, as to the
112 offender's risk of committing another sexual offense.

113 Section 5. Subsection (5) is added to section 948.30,
114 Florida Statutes, to read:

115 948.30 Additional terms and conditions of probation or
116 community control for certain sex offenses.—Conditions imposed

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117 pursuant to this section do not require oral pronouncement at
118 the time of sentencing and shall be considered standard
119 conditions of probation or community control for offenders
120 specified in this section.

121 (5) The court must order, in addition to any other
122 provision of this section, a mandatory curfew from 7 p.m. to 7
123 a.m. as a condition of the probation or community control
124 supervision. The court may designate alternate hours if the
125 offender's employment or public service precludes this specified
126 time and the alternative is recommended by the Department of
127 Corrections. The court may also limit the offender's whereabouts
128 by requiring the offender to be at home if the offender is not
129 at work, performing public service, or in treatment. If the
130 court determines that imposing a curfew would endanger the
131 victim, the court may consider alternative sanctions. This
132 subsection applies to a probationer or community controllee
133 whose crime was committed on or after October 1, 2014, who:

134 (a) Is placed on probation or community control for a
135 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
136 or s. 847.0145 relating to unlawful sexual activity involving a
137 victim 15 years of age or younger and was 18 years of age or
138 older at the time of the offense;

139 (b) Is required to register as a sexual predator pursuant
140 to s. 775.21;

141 (c) Is required to register as a sexual offender pursuant
142 to s. 943.0435, s. 944.606, or s. 944.607; or

143 (d) Has previously been convicted of a violation of chapter
144 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145
145 relating to unlawful sexual activity involving a victim 15 years

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146 of age or younger and was 18 years of age or older at the time
147 of the offense.

148 Section 6. Section 948.31, Florida Statutes, is amended to
149 read:

150 948.31 Evaluation and treatment of sexual predators and
151 offenders on probation or community control.—The court shall
152 require an evaluation by a qualified practitioner to determine
153 the need for sexual offender treatment for ~~of~~ a probationer or
154 community controllee who is required to register as a sexual
155 predator under s. 775.21 or a sexual offender under s. 943.0435,
156 s. 944.606, or s. 944.607 ~~for treatment~~. If the court determines
157 that a need ~~therefor~~ is established by the evaluation process,
158 the court shall require the probationer or community controllee
159 to undergo sexual offender treatment that is provided by a
160 qualified practitioner as defined in s. 948.001 as a term or
161 condition of probation or community control ~~for any person who~~
162 ~~is required to register as a sexual predator under s. 775.21 or~~
163 ~~sexual offender under s. 943.0435, s. 944.606, or s. 944.607.~~
164 ~~Such treatment shall be required to be obtained from a qualified~~
165 ~~practitioner as defined in s. 948.001.~~ Treatment may not be
166 administered by a qualified practitioner who has been convicted
167 or adjudicated delinquent of committing, or attempting,
168 soliciting, or conspiring to commit, any offense that is listed
169 in s. 943.0435(1)(a)1.a.(I). The court shall impose a
170 restriction against contact with minors if sexual offender
171 treatment is recommended. The evaluation and recommendations for
172 treatment of the probationer or community controllee shall be
173 provided to the court for review.

174 Section 7. This act shall take effect July 1, 2014.