

1 A bill to be entitled
2 An act relating to child pornography; amending ss.
3 16.56, 39.01, 39.0132, 39.0139, 39.301, 39.509,
4 90.404, 92.56, 92.561, 92.565, 435.04, 456.074,
5 480.041, 480.043, 743.067, 772.102, and 775.082, F.S.;
6 conforming provisions to changes made by the act;
7 amending s. 775.0847, F.S.; revising definitions;
8 conforming provisions to changes made by the act;
9 amending ss. 775.0877, 775.21, 775.215, 784.046,
10 794.0115, 794.024, 794.056, and 796.001, F.S.;
11 conforming provisions to changes made by the act;
12 repealing s. 827.071, F.S., relating to sexual
13 performance by a child; amending s. 847.001, F.S.;
14 revising definitions; creating s. 847.003, F.S.;
15 providing definitions; prohibiting a person from using
16 a child in a sexual performance or promoting a sexual
17 performance by a child; providing penalties; amending
18 ss. 847.0135 and 847.01357, F.S.; conforming
19 provisions to changes made by the act; amending s.
20 847.0137, F.S.; revising and providing definitions;
21 prohibiting a person from possessing, with the intent
22 to promote, child pornography; prohibiting a person
23 from knowingly possessing, controlling, or
24 intentionally viewing child pornography; providing
25 penalties; providing application and construction;
26 amending ss. 856.022, 895.02, 905.34, 934.07, 938.085,

27 | 938.10, 943.0435, 943.04354, 943.0585, 943.059,
 28 | 944.606, and 944.607, F.S.; conforming provisions to
 29 | changes made by the act; amending s. 947.1405, F.S.;
 30 | requiring certain conditions of supervision to be
 31 | imposed on conditional releasees convicted of
 32 | specified offenses; amending s. 948.013, F.S.;
 33 | prohibiting certain offenders from being placed on
 34 | administrative probation; amending ss. 948.03, 948.04,
 35 | 948.06, 948.062, and 948.101, F.S.; conforming
 36 | provisions to changes made by the act; amending s.
 37 | 948.30, F.S.; requiring that certain conditions of
 38 | supervision be imposed on offenders convicted of
 39 | specified offenses; amending ss. 948.32, 960.03,
 40 | 960.197, 985.04, 985.475, 1012.315, and 921.0022,
 41 | F.S.; conforming provisions to changes made by the
 42 | act; reenacting s. 944.11(2), F.S., to incorporate the
 43 | amendment made by the act to s. 847.001, F.S., in a
 44 | reference thereto; providing a directive to the
 45 | Division of Law Revision and Information; providing an
 46 | effective date.

47 |
 48 | Be It Enacted by the Legislature of the State of Florida:

49 |
 50 | Section 1. Paragraph (a) of subsection (1) of section
 51 | 16.56, Florida Statutes, is amended to read:
 52 | 16.56 Office of Statewide Prosecution.—

53 (1) There is created in the Department of Legal Affairs an
54 Office of Statewide Prosecution. The office shall be a separate
55 "budget entity" as that term is defined in chapter 216. The
56 office may:

57 (a) Investigate and prosecute the offenses of:

58 1. Bribery, burglary, criminal usury, extortion, gambling,
59 kidnapping, larceny, murder, prostitution, perjury, robbery,
60 carjacking, and home-invasion robbery;

61 2. Any crime involving narcotic or other dangerous drugs;

62 3. Any violation of ~~the provisions of~~ the Florida RICO
63 (Racketeer Influenced and Corrupt Organization) Act, including
64 any offense listed in the definition of racketeering activity in
65 s. 895.02(1)(a), providing such listed offense is investigated
66 in connection with a violation of s. 895.03 and is charged in a
67 separate count of an information or indictment containing a
68 count charging a violation of s. 895.03, the prosecution of
69 which listed offense may continue independently if the
70 prosecution of the violation of s. 895.03 is terminated for any
71 reason;

72 4. Any violation of ~~the provisions of~~ the Florida Anti-
73 Fencing Act;

74 5. Any violation of ~~the provisions of~~ the Florida
75 Antitrust Act of 1980, as amended;

76 6. Any crime involving, or resulting in, fraud or deceit
77 upon any person;

78 7. Any violation of s. 847.0135, relating to computer

79 | pornography and child exploitation prevention, or any offense
 80 | related to a violation of former s. 827.071, s. 847.003, s.
 81 | 847.0135, or s. 847.0137 ~~any violation of chapter 827~~ where the
 82 | crime is facilitated by or connected to the use of the Internet
 83 | or any device capable of electronic data storage or
 84 | transmission;

- 85 | 8. Any violation of ~~the provisions of~~ chapter 815;
- 86 | 9. Any criminal violation of part I of chapter 499;
- 87 | 10. Any violation of ~~the provisions of~~ the Florida Motor
 88 | Fuel Tax Relief Act of 2004;
- 89 | 11. Any criminal violation of s. 409.920 or s. 409.9201;
- 90 | 12. Any crime involving voter registration, voting, or
 91 | candidate or issue petition activities;
- 92 | 13. Any criminal violation of the Florida Money Laundering
 93 | Act;
- 94 | 14. Any criminal violation of the Florida Securities and
 95 | Investor Protection Act; or
- 96 | 15. Any violation of ~~the provisions of~~ chapter 787, as
 97 | well as any and all offenses related to a violation of ~~the~~
 98 | ~~provisions of~~ chapter 787;

99 |
 100 | or any attempt, solicitation, or conspiracy to commit any of the
 101 | crimes specifically enumerated above. The office shall have such
 102 | power only when any such offense is occurring, or has occurred,
 103 | in two or more judicial circuits as part of a related
 104 | transaction, or when any such offense is connected with an

105 organized criminal conspiracy affecting two or more judicial
 106 circuits. Informations or indictments charging such offenses
 107 shall contain general allegations stating the judicial circuits
 108 and counties in which crimes are alleged to have occurred or the
 109 judicial circuits and counties in which crimes affecting such
 110 circuits or counties are alleged to have been connected with an
 111 organized criminal conspiracy.

112 Section 2. Paragraph (c) of subsection (30) and paragraph
 113 (g) of subsection (69) of section 39.01, Florida Statutes, are
 114 amended to read:

115 39.01 Definitions.—When used in this chapter, unless the
 116 context otherwise requires:

117 (30) "Harm" to a child's health or welfare can occur when
 118 any person:

119 (c) Allows, encourages, or forces the sexual exploitation
 120 of a child, which includes allowing, encouraging, or forcing a
 121 child to:

- 122 1. Solicit for or engage in prostitution; or
- 123 2. Engage in a sexual performance, as defined by former s.
 124 827.081 or s. 847.003 ~~chapter 827.~~

125 (69) "Sexual abuse of a child" for purposes of finding a
 126 child to be dependent means one or more of the following acts:

127 (g) The sexual exploitation of a child, which includes the
 128 act of a child offering to engage in or engaging in
 129 prostitution, provided that the child is not under arrest or is
 130 not being prosecuted in a delinquency or criminal proceeding for

131 a violation of any offense in chapter 796 based on such
 132 behavior; or allowing, encouraging, or forcing a child to:

- 133 1. Solicit for or engage in prostitution;
- 134 2. Engage in a sexual performance, as defined by former s.
 135 827.071 or s. 847.003 ~~chapter 827~~; or
- 136 3. Participate in the trade of human trafficking as
 137 provided in s. 787.06(3)(g).

138 Section 3. Paragraph (b) of subsection (4) of section
 139 39.0132, Florida Statutes, is amended to read:

140 39.0132 Oaths, records, and confidential information.—
 141 (4)

142 (b) The department shall disclose to the school
 143 superintendent the presence of any child in the care and custody
 144 or under the jurisdiction or supervision of the department who
 145 has a known history of criminal sexual behavior with other
 146 juveniles; is an alleged juvenile sex offender, as defined in s.
 147 39.01; or has pled guilty or nolo contendere to, or has been
 148 found to have committed, a violation of chapter 794, chapter
 149 796, chapter 800, former s. 827.071, s. 847.003, ~~or s. 847.0133,~~
 150 or s. 847.0137, regardless of adjudication. Any employee of a
 151 district school board who knowingly and willfully discloses such
 152 information to an unauthorized person commits a misdemeanor of
 153 the second degree, punishable as provided in s. 775.082 or s.
 154 775.083.

155 Section 4. Paragraph (a) of subsection (3) of section
 156 39.0139, Florida Statutes, is amended to read:

157 | 39.0139 Visitation or other contact; restrictions.—

158 | (3) PRESUMPTION OF DETRIMENT.—

159 | (a) A rebuttable presumption of detriment to a child is
160 | created when:

161 | 1. A court of competent jurisdiction has found probable
162 | cause exists that a parent or caregiver has sexually abused a
163 | child as defined in s. 39.01;

164 | 2. A parent or caregiver has been found guilty of,
165 | regardless of adjudication, or has entered a plea of guilty or
166 | nolo contendere to, charges under the following statutes or
167 | substantially similar statutes of other jurisdictions:

168 | a. Section 787.04, relating to removing minors from the
169 | state or concealing minors contrary to court order;

170 | b. Section 794.011, relating to sexual battery;

171 | c. Section 798.02, relating to lewd and lascivious
172 | behavior;

173 | d. Chapter 800, relating to lewdness and indecent
174 | exposure;

175 | e. Section 826.04, relating to incest; ~~or~~

176 | f. Chapter 827, relating to the abuse of children; ~~or~~

177 | g. Section 847.003, relating to sexual performance by a
178 | child; or

179 | h. Section 847.0137, relating to child pornography; or

180 | 3. A court of competent jurisdiction has determined a
181 | parent or caregiver to be a sexual predator as defined in s.
182 | 775.21 or a parent or caregiver has received a substantially

183 similar designation under laws of another jurisdiction.

184 Section 5. Paragraph (b) of subsection (2) of section
185 39.301, Florida Statutes, is amended to read:

186 39.301 Initiation of protective investigations.—

187 (2)

188 (b) As used in this subsection, the term "criminal
189 conduct" means:

190 1. A child is known or suspected to be the victim of child
191 abuse, as defined in s. 827.03, or of neglect of a child, as
192 defined in s. 827.03.

193 2. A child is known or suspected to have died as a result
194 of abuse or neglect.

195 3. A child is known or suspected to be the victim of
196 aggravated child abuse, as defined in s. 827.03.

197 4. A child is known or suspected to be the victim of
198 sexual battery, as defined in s. 847.001 ~~827.071~~, or of sexual
199 abuse, as defined in s. 39.01.

200 5. A child is known or suspected to be the victim of
201 institutional child abuse or neglect, as defined in s. 39.01,
202 and as provided for in s. 39.302(1).

203 6. A child is known or suspected to be a victim of human
204 trafficking, as provided in s. 787.06.

205 Section 6. Paragraph (a) of subsection (6) of section
206 39.509, Florida Statutes, is amended to read:

207 39.509 Grandparents rights.—Notwithstanding any other
208 provision of law, a maternal or paternal grandparent as well as

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209 a stepgrandparent is entitled to reasonable visitation with his
210 or her grandchild who has been adjudicated a dependent child and
211 taken from the physical custody of the parent unless the court
212 finds that such visitation is not in the best interest of the
213 child or that such visitation would interfere with the goals of
214 the case plan. Reasonable visitation may be unsupervised and,
215 where appropriate and feasible, may be frequent and continuing.
216 Any order for visitation or other contact must conform to the
217 provisions of s. 39.0139.

218 (6) In determining whether grandparental visitation is not
219 in the child's best interest, consideration may be given to the
220 following:

221 (a) The finding of guilt, regardless of adjudication, or
222 entry or plea of guilty or nolo contendere to charges under the
223 following statutes, or similar statutes of other jurisdictions:
224 s. 787.04, relating to removing minors from the state or
225 concealing minors contrary to court order; s. 794.011, relating
226 to sexual battery; s. 798.02, relating to lewd and lascivious
227 behavior; chapter 800, relating to lewdness and indecent
228 exposure; s. 826.04, relating to incest; ~~or~~ chapter 827,
229 relating to the abuse of children, s. 847.003, relating to
230 sexual performance by a child; or s. 847.0137, relating to child
231 pornography.

232 Section 7. Paragraphs (b) and (c) of subsection (2) of
233 section 90.404, Florida Statutes, are amended to read:

234 90.404 Character evidence; when admissible.—

235 (2) OTHER CRIMES, WRONGS, OR ACTS.—

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

241 2. For the purposes of this paragraph, the term "child
242 molestation" means conduct proscribed by s. 787.025(2)(c), s.
243 787.06(3)(g), former s. 787.06(3)(h), s. 794.011, excluding s.
244 794.011(10), s. 794.05, former s. 796.03, former s. 796.035, s.
245 800.04, former s. 827.071, s. 847.003, s. 847.0135(5), s.
246 847.0137, s. 847.0145, or s. 985.701(1) when committed against a
247 person 16 years of age or younger.

248 (c)1. In a criminal case in which the defendant is charged
249 with a sexual offense, evidence of the defendant's commission of
250 other crimes, wrongs, or acts involving a sexual offense is
251 admissible and may be considered for its bearing on any matter
252 to which it is relevant.

253 2. For the purposes of this paragraph, the term "sexual
254 offense" means conduct proscribed by s. 787.025(2)(c), s.
255 787.06(3)(b), (d), (f), or (g), former s. 787.06(3)(h), s.
256 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03,
257 former s. 796.035, s. 825.1025(2)(b), former s. 827.071, s.
258 847.003, s. 847.0135(5), s. 847.0137, s. 847.0145, or s.
259 985.701(1).

260 Section 8. Subsections (2), (3), and (5) of section 92.56,

261 Florida Statutes, are amended to read:

262 92.56 Judicial proceedings and court records involving
 263 sexual offenses and human trafficking.—

264 (2) A defendant charged with a crime described in s.
 265 787.06(3)(a)1., (c)1., or (e)1.; s. 787.06(3)(b), (d), (f), or
 266 (g); chapter 794; ~~or chapter 800;~~ ~~or~~ with child abuse or ~~or~~
 267 aggravated child abuse, ~~or sexual performance by a child as~~
 268 described in chapter 827; or with sexual performance by a child
 269 as described in former s. 827.071 or s. 847.003~~;~~ may apply to
 270 the trial court for an order of disclosure of information in
 271 court records held confidential and exempt pursuant to s.
 272 119.0714(1)(h) or maintained as confidential and exempt pursuant
 273 to court order under this section. Such identifying information
 274 concerning the victim may be released to the defendant or his or
 275 her attorney in order to prepare the defense. The confidential
 276 and exempt status of this information may not be construed to
 277 prevent the disclosure of the victim's identity to the
 278 defendant; however, the defendant may not disclose the victim's
 279 identity to any person other than the defendant's attorney or
 280 any other person directly involved in the preparation of the
 281 defense. A willful and knowing disclosure of the identity of the
 282 victim to any other person by the defendant constitutes
 283 contempt.

284 (3) The state may use a pseudonym instead of the victim's
 285 name to designate the victim of a crime described in s.
 286 787.06(3)(a)1., (c)1., or (e)1.; ~~in~~ s. 787.06(3)(b), (d), (f),

287 or (g); ~~or in~~ chapter 794; or chapter 800; ~~or~~ of child abuse
 288 or aggravated child abuse, ~~or sexual performance by a child as~~
 289 described in chapter 827; of sexual performance by a child as
 290 described in former s. 827.071 or s. 847.003; ~~or~~ of any crime
 291 involving the production, possession, or promotion of child
 292 pornography as described in chapter 847, in all court records
 293 and records of court proceedings, both civil and criminal.

294 (5) This section does not prohibit the publication or
 295 broadcast of the substance of trial testimony in a prosecution
 296 for an offense described in s. 787.06(3)(a)1., (c)1., or (e)1.; s.
 297 s. 787.06(3)(b), (d), (f), or (g); ~~chapter 794;~~ or chapter
 298 800; ~~or~~ a crime of child abuse or aggravated child abuse, ~~or~~
 299 ~~sexual performance by a child,~~ as described in chapter 827; or
 300 sexual performance by a child as described in former s. 827.071
 301 or s. 847.003, but the publication or broadcast may not include
 302 an identifying photograph, an identifiable voice, or the name or
 303 address of the victim, unless the victim has consented in
 304 writing to the publication and filed such consent with the court
 305 or unless the court has declared such records not confidential
 306 and exempt as provided for in subsection (1).

307 Section 9. Subsection (1) of section 92.561, Florida
 308 Statutes, is amended to read:

309 92.561 Prohibition on reproduction of child pornography.—

310 (1) In a criminal proceeding, any property or material
 311 that portrays sexual performance by a child as defined in former
 312 s. 827.071 or s. 847.003, or constitutes child pornography as

313 defined in s. 847.0137 ~~847.001~~, must remain secured or locked in
 314 the care, custody, and control of a law enforcement agency, the
 315 state attorney, or the court.

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

318 92.565 Admissibility of confession in sexual abuse cases.—

319 (2) In any criminal action in which the defendant is
 320 charged with a crime against a victim under s. 794.011; s.
 321 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;
 322 s. 827.04, involving sexual abuse; former s. 827.071; s.
 323 847.003; ~~or~~ s. 847.0135(5); or s. 847.0137, or any other crime
 324 involving sexual abuse of another, or with any attempt,
 325 solicitation, or conspiracy to commit any of these crimes, the
 326 defendant's memorialized confession or admission is admissible
 327 during trial without the state having to prove a corpus delicti
 328 of the crime if the court finds in a hearing conducted outside
 329 the presence of the jury that the state is unable to show the
 330 existence of each element of the crime, and having so found,
 331 further finds that the defendant's confession or admission is
 332 trustworthy. Factors which may be relevant in determining
 333 whether the state is unable to show the existence of each
 334 element of the crime include, but are not limited to, the fact
 335 that, at the time the crime was committed, the victim was:

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

338 (b) Physically incapacitated due to age, infirmity, or any

339 other cause; or

340 (c) Less than 12 years of age.

341 Section 11. Paragraphs (ll) and (qq) of subsection (2) of
 342 section 435.04, Florida Statutes, are amended to read:

343 435.04 Level 2 screening standards.—

344 (2) The security background investigations under this
 345 section must ensure that no persons subject to the provisions of
 346 this section have been arrested for and are awaiting final
 347 disposition of, have been found guilty of, regardless of
 348 adjudication, or entered a plea of nolo contendere or guilty to,
 349 or have been adjudicated delinquent and the record has not been
 350 sealed or expunged for, any offense prohibited under any of the
 351 following provisions of state law or similar law of another
 352 jurisdiction:

353 (ll) Former s. Section 827.071, relating to sexual
 354 performance by a child.

355 (qq) Chapter 847, relating to obscenity and child
 356 pornography ~~obscene literature~~.

357 Section 12. Paragraph (o) of subsection (5) of section
 358 456.074, Florida Statutes, is amended, paragraphs (r) and (s) of
 359 that subsection are redesignated as paragraphs (s) and (t),
 360 respectively, and a new paragraph (r) is added to that
 361 subsection, to read:

362 456.074 Certain health care practitioners; immediate
 363 suspension of license.—

364 (5) The department shall issue an emergency order

365 suspending the license of a massage therapist or establishment
366 as defined in chapter 480 upon receipt of information that the
367 massage therapist, a person with an ownership interest in the
368 establishment, or, for a corporation that has more than \$250,000
369 of business assets in this state, the owner, officer, or
370 individual directly involved in the management of the
371 establishment has been convicted or found guilty of, or has
372 entered a plea of guilty or nolo contendere to, regardless of
373 adjudication, a felony offense under any of the following
374 provisions of state law or a similar provision in another
375 jurisdiction:

376 (o) Former s. Section 827.071 or s. 847.003, relating to
377 sexual performance by a child.

378 (r) Section 847.0137, relating to child pornography.

379 Section 13. Paragraph (o) of subsection (7) of section
380 480.041, Florida Statutes, is amended, paragraphs (r) and (s) of
381 that subsection are redesignated as paragraphs (s) and (t),
382 respectively, and a new paragraph (r) is added to that
383 subsection, to read:

384 480.041 Massage therapists; qualifications; licensure;
385 endorsement.—

386 (7) The board shall deny an application for a new or
387 renewal license if an applicant has been convicted or found
388 guilty of, or enters a plea of guilty or nolo contendere to,
389 regardless of adjudication, a felony offense under any of the
390 following provisions of state law or a similar provision in

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391 another jurisdiction:

392 (o) Former s. Section 827.071 or s. 847.003, relating to
393 sexual performance by a child.

394 (r) Section 847.0137, relating to child pornography.

395 Section 14. Paragraph (o) of subsection (8) of section
396 480.043, Florida Statutes, is amended, paragraphs (r) and (s) of
397 that subsection are redesignated as paragraphs (s) and (t),
398 respectively, and a new paragraph (r) is added to that
399 subsection, to read:

400 480.043 Massage establishments; requisites; licensure;
401 inspection.—

402 (8) The department shall deny an application for a new or
403 renewal license if a person with an ownership interest in the
404 establishment or, for a corporation that has more than \$250,000
405 of business assets in this state, the owner, officer, or
406 individual directly involved in the management of the
407 establishment has been convicted or found guilty of, or entered
408 a plea of guilty or nolo contendere to, regardless of
409 adjudication, a felony offense under any of the following
410 provisions of state law or a similar provision in another
411 jurisdiction:

412 (o) Former s. Section 827.071 or s. 847.003, relating to
413 sexual performance by a child.

414 (r) Section 847.0137, relating to child pornography.

415 Section 15. Paragraph (b) of subsection (3) of section
416 743.067, Florida Statutes, is amended to read:

417 743.067 Unaccompanied homeless youths.—

418 (3) An unaccompanied homeless youth may:

419 (b) Notwithstanding s. 394.4625(1), consent to medical,
 420 dental, psychological, substance abuse, and surgical diagnosis
 421 and treatment, including preventative care and care by a
 422 facility licensed under chapter 394, chapter 395, or chapter 397
 423 and any forensic medical examination for the purpose of
 424 investigating any felony offense under chapter 784, chapter 787,
 425 chapter 794, chapter 800, ~~or~~ chapter 827, s. 847.003, or s.
 426 847.0137, for:

427 1. Himself or herself; or

428 2. His or her child, if the unaccompanied homeless youth
 429 is unmarried, is the parent of the child, and has actual custody
 430 of the child.

431 Section 16. Paragraph (a) of subsection (1) of section
 432 772.102, Florida Statutes, is amended to read:

433 772.102 Definitions.—As used in this chapter, the term:

434 (1) "Criminal activity" means to commit, to attempt to
 435 commit, to conspire to commit, or to solicit, coerce, or
 436 intimidate another person to commit:

437 (a) Any crime that is chargeable by indictment or
 438 information under the following provisions:

439 1. Section 210.18, relating to evasion of payment of
 440 cigarette taxes.

441 2. Section 414.39, relating to public assistance fraud.

442 3. Section 440.105 or s. 440.106, relating to workers'

- 443 compensation.
- 444 4. Part IV of chapter 501, relating to telemarketing.
- 445 5. Chapter 517, relating to securities transactions.
- 446 6. Section 550.235 or s. 550.3551, relating to dogracing
- 447 and horseracing.
- 448 7. Chapter 550, relating to jai alai frontons.
- 449 8. Chapter 552, relating to the manufacture, distribution,
- 450 and use of explosives.
- 451 9. Chapter 562, relating to beverage law enforcement.
- 452 10. Section 624.401, relating to transacting insurance
- 453 without a certificate of authority, s. 624.437(4)(c)1., relating
- 454 to operating an unauthorized multiple-employer welfare
- 455 arrangement, or s. 626.902(1)(b), relating to representing or
- 456 aiding an unauthorized insurer.
- 457 11. Chapter 687, relating to interest and usurious
- 458 practices.
- 459 12. Section 721.08, s. 721.09, or s. 721.13, relating to
- 460 real estate timeshare plans.
- 461 13. Chapter 782, relating to homicide.
- 462 14. Chapter 784, relating to assault and battery.
- 463 15. Chapter 787, relating to kidnapping or human
- 464 trafficking.
- 465 16. Chapter 790, relating to weapons and firearms.
- 466 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
- 467 relating to prostitution.
- 468 18. Chapter 806, relating to arson.

469 19. Section 810.02(2)(c), relating to specified burglary
470 of a dwelling or structure.

471 20. Chapter 812, relating to theft, robbery, and related
472 crimes.

473 21. Chapter 815, relating to computer-related crimes.

474 22. Chapter 817, relating to fraudulent practices, false
475 pretenses, fraud generally, and credit card crimes.

476 23. Former s. Section 827.071, relating to commercial
477 sexual exploitation of children.

478 24. Chapter 831, relating to forgery and counterfeiting.

479 25. Chapter 832, relating to issuance of worthless checks
480 and drafts.

481 26. Section 836.05, relating to extortion.

482 27. Chapter 837, relating to perjury.

483 28. Chapter 838, relating to bribery and misuse of public
484 office.

485 29. Chapter 843, relating to obstruction of justice.

486 30. Section 847.003, relating to sexual performance by a
487 child.

488 ~~31.30.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
489 or s. 847.07, relating to obscene literature and profanity.

490 ~~32.31.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
491 s. 849.25, relating to gambling.

492 ~~33.32.~~ Chapter 893, relating to drug abuse prevention and
493 control.

494 ~~34.33.~~ Section 914.22 or s. 914.23, relating to witnesses,

495 victims, or informants.

496 ~~35.34.~~ Section 918.12 or s. 918.13, relating to tampering
497 with jurors and evidence.

498 Section 17. Paragraph (a) of subsection (9) of section
499 775.082, Florida Statutes, is amended to read:

500 775.082 Penalties; applicability of sentencing structures;
501 mandatory minimum sentences for certain reoffenders previously
502 released from prison.—

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

- 505 a. Treason;
- 506 b. Murder;
- 507 c. Manslaughter;
- 508 d. Sexual battery;
- 509 e. Carjacking;
- 510 f. Home-invasion robbery;
- 511 g. Robbery;
- 512 h. Arson;
- 513 i. Kidnapping;
- 514 j. Aggravated assault with a deadly weapon;
- 515 k. Aggravated battery;
- 516 l. Aggravated stalking;
- 517 m. Aircraft piracy;
- 518 n. Unlawful throwing, placing, or discharging of a
519 destructive device or bomb;
- 520 o. Any felony that involves the use or threat of physical

521 force or violence against an individual;

522 p. Armed burglary;

523 q. Burglary of a dwelling or burglary of an occupied

524 structure; or

525 r. Any felony violation of s. 790.07, s. 800.04, s.

526 827.03, former s. 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s.

527 847.0137;

528

529 within 3 years after being released from a state correctional

530 facility operated by the Department of Corrections or a private

531 vendor or within 3 years after being released from a

532 correctional institution of another state, the District of

533 Columbia, the United States, any possession or territory of the

534 United States, or any foreign jurisdiction, following

535 incarceration for an offense for which the sentence is

536 punishable by more than 1 year in this state.

537 2. "Prison releasee reoffender" also means any defendant

538 who commits or attempts to commit any offense listed in sub-

539 subparagraphs (a)1.a.-r. while the defendant was serving a

540 prison sentence or on escape status from a state correctional

541 facility operated by the Department of Corrections or a private

542 vendor or while the defendant was on escape status from a

543 correctional institution of another state, the District of

544 Columbia, the United States, any possession or territory of the

545 United States, or any foreign jurisdiction, following

546 incarceration for an offense for which the sentence is

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547 punishable by more than 1 year in this state.

548 3. If the state attorney determines that a defendant is a
549 prison releasee reoffender as defined in subparagraph 1., the
550 state attorney may seek to have the court sentence the defendant
551 as a prison releasee reoffender. Upon proof from the state
552 attorney that establishes by a preponderance of the evidence
553 that a defendant is a prison releasee reoffender as defined in
554 this section, such defendant is not eligible for sentencing
555 under the sentencing guidelines and must be sentenced as
556 follows:

557 a. For a felony punishable by life, by a term of
558 imprisonment for life;

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

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

563 d. For a felony of the third degree, by a term of
564 imprisonment of 5 years.

565 Section 18. Paragraphs (b) and (f) of subsection (1) and
566 subsection (2) of section 775.0847, Florida Statutes, are
567 amended to read:

568 775.0847 Possession or promotion of certain visual
569 depictions ~~images~~ of child pornography; reclassification.—

570 (1) For purposes of this section:

571 (b) "Child pornography" has the same meaning as provided
572 in s. 847.0137 ~~means any image depicting a minor engaged in~~

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573 ~~sexual conduct.~~

574 (f) "Sexual conduct" means actual or simulated sexual
575 intercourse, deviate sexual intercourse, sexual bestiality,
576 masturbation, or sadomasochistic abuse; actual or simulated lewd
577 exhibition of the genitals; actual physical contact with a
578 person's clothed or unclothed genitals, pubic area, buttocks,
579 or, if such person is a female, breast with the intent to arouse
580 or gratify the sexual desire of either party; or any act or
581 conduct which constitutes sexual battery or simulates that
582 sexual battery is being or will be committed. A mother's
583 breastfeeding of her baby does not under any circumstance
584 constitute "sexual conduct."

585 (2) A violation of former s. 827.071, s. 847.003, s.
586 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to
587 the next higher degree as provided in subsection (3) if:

588 (a) The offender possesses 10 or more visual depictions or
589 images of any form of child pornography regardless of content;
590 and

591 (b) The content of at least one visual depiction or image
592 contains one or more of the following:

- 593 1. A child who is younger than the age of 5.
- 594 2. Sadomasochistic abuse involving a child.
- 595 3. Sexual battery involving a child.
- 596 4. Sexual bestiality involving a child.
- 597 5. Any movie involving a child, regardless of length and
598 regardless of whether the movie contains sound.

599 Section 19. Paragraph (1) of subsection (1) of section
600 775.0877, Florida Statutes, is amended to read:

601 775.0877 Criminal transmission of HIV; procedures;
602 penalties.—

603 (1) In any case in which a person has been convicted of or
604 has pled nolo contendere or guilty to, regardless of whether
605 adjudication is withheld, any of the following offenses, or the
606 attempt thereof, which offense or attempted offense involves the
607 transmission of body fluids from one person to another:

608 (1) Former s. Section 827.071 or s. 847.003, relating to
609 sexual performance by a child ~~person less than 18 years of age;~~

610
611 the court shall order the offender to undergo HIV testing, to be
612 performed under the direction of the Department of Health in
613 accordance with s. 381.004, unless the offender has undergone
614 HIV testing voluntarily or pursuant to procedures established in
615 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
616 rule providing for HIV testing of criminal offenders or inmates,
617 subsequent to her or his arrest for an offense enumerated in
618 paragraphs (a)-(n) for which she or he was convicted or to which
619 she or he pled nolo contendere or guilty. The results of an HIV
620 test performed on an offender pursuant to this subsection are
621 not admissible in any criminal proceeding arising out of the
622 alleged offense.

623 Section 20. Paragraph (a) of subsection (4) and paragraph
624 (b) of subsection (10) of section 775.21, Florida Statutes, are

625 amended to read:

626 775.21 The Florida Sexual Predators Act.—

627 (4) SEXUAL PREDATOR CRITERIA.—

628 (a) For a current offense committed on or after October 1,
629 1993, upon conviction, an offender shall be designated as a
630 "sexual predator" under subsection (5), and subject to
631 registration under subsection (6) and community and public
632 notification under subsection (7) if:

633 1. The felony is:

634 a. A capital, life, or first degree felony violation, or
635 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
636 is a minor and the defendant is not the victim's parent or
637 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
638 violation of a similar law of another jurisdiction; or

639 b. Any felony violation, or any attempt thereof, of s.
640 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
641 787.025(2)(c), where the victim is a minor and the defendant is
642 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
643 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
644 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
645 800.04; s. 810.145(8)(b); s. 825.1025; former s. 827.071; s.
646 847.003; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
647 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a
648 similar law of another jurisdiction, and the offender has
649 previously been convicted of or found to have committed, or has
650 pled nolo contendere or guilty to, regardless of adjudication,

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651 any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
652 787.02, or s. 787.025(2)(c), where the victim is a minor and the
653 defendant is not the victim's parent or guardian; s.
654 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
655 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
656 former s. 796.035; s. 800.04; s. 825.1025; former s. 827.071; s.
657 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
658 847.0137; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a
659 violation of a similar law of another jurisdiction;

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

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

666 (10) PENALTIES.—

667 (b) A sexual predator who has been convicted of or found
668 to have committed, or has pled nolo contendere or guilty to,
669 regardless of adjudication, any violation, or attempted
670 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
671 the victim is a minor and the defendant is not the victim's
672 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
673 794.05; former s. 796.03; former s. 796.035; s. 800.04; former
674 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135(5); s.
675 847.0137; s. 847.0145; or s. 985.701(1); or a violation of a
676 similar law of another jurisdiction when the victim of the

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677 offense was a minor, and who works, whether for compensation or
678 as a volunteer, at any business, school, child care facility,
679 park, playground, or other place where children regularly
680 congregate, commits a felony of the third degree, punishable as
681 provided in s. 775.082, s. 775.083, or s. 775.084.

682 Section 21. Subsection (2) and paragraphs (a) and (c) of
683 subsection (3) of section 775.215, Florida Statutes, are amended
684 to read:

685 775.215 Residency restriction for persons convicted of
686 certain sex offenses.—

687 (2) (a) A person who has been convicted of a violation of
688 s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
689 847.0135(5), or s. 847.0145, regardless of whether adjudication
690 has been withheld, in which the victim of the offense was less
691 than 16 years of age, may not reside within 1,000 feet of any
692 school, child care facility, park, or playground. However, a
693 person does not violate this subsection and may not be forced to
694 relocate if he or she is living in a residence that meets the
695 requirements of this subsection and a school, child care
696 facility, park, or playground is subsequently established within
697 1,000 feet of his or her residence.

698 (b) A person who violates this subsection and whose
699 conviction under s. 794.011, s. 800.04, former s. 827.071, s.
700 847.003, s. 847.0135(5), or s. 847.0145 was classified as a
701 felony of the first degree or higher commits a felony of the
702 third degree, punishable as provided in s. 775.082 or s.

703 775.083. A person who violates this subsection and whose
704 conviction under s. 794.011, s. 800.04, former s. 827.071, s.
705 847.003, s. 847.0135(5), or s. 847.0145 was classified as a
706 felony of the second or third degree commits a misdemeanor of
707 the first degree, punishable as provided in s. 775.082 or s.
708 775.083.

709 (c) This subsection applies to any person convicted of a
710 violation of s. 794.011, s. 800.04, former s. 827.071, s.
711 847.003, s. 847.0135(5), or s. 847.0145 for offenses that occur
712 on or after October 1, 2004, excluding persons who have been
713 removed from the requirement to register as a sexual offender or
714 sexual predator pursuant to s. 943.04354.

715 (3) (a) A person who has been convicted of an offense in
716 another jurisdiction that is similar to a violation of s.
717 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
718 847.0135(5), or s. 847.0145, regardless of whether adjudication
719 has been withheld, in which the victim of the offense was less
720 than 16 years of age, may not reside within 1,000 feet of any
721 school, child care facility, park, or playground. However, a
722 person does not violate this subsection and may not be forced to
723 relocate if he or she is living in a residence that meets the
724 requirements of this subsection and a school, child care
725 facility, park, or playground is subsequently established within
726 1,000 feet of his or her residence.

727 (c) This subsection applies to any person convicted of an
728 offense in another jurisdiction that is similar to a violation

729 of s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
 730 847.0135(5), or s. 847.0145 if such offense occurred on or after
 731 May 26, 2010, excluding persons who have been removed from the
 732 requirement to register as a sexual offender or sexual predator
 733 pursuant to s. 943.04354.

734 Section 22. Paragraph (c) of subsection (1) of section
 735 784.046, Florida Statutes, is amended to read:

736 784.046 Action by victim of repeat violence, sexual
 737 violence, or dating violence for protective injunction; dating
 738 violence investigations, notice to victims, and reporting;
 739 pretrial release violations; public records exemption.—

740 (1) As used in this section, the term:

741 (c) "Sexual violence" means any one incident of:

- 742 1. Sexual battery, as defined in chapter 794;
- 743 2. A lewd or lascivious act, as defined in chapter 800,
 744 committed upon or in the presence of a person younger than 16
 745 years of age;
- 746 3. Luring or enticing a child, as described in chapter
 747 787;
- 748 4. Sexual performance by a child, as described in former
 749 s. 827.071 or s. 847.003 ~~chapter 827~~; or
- 750 5. Any other forcible felony wherein a sexual act is
 751 committed or attempted,
 752
 753 regardless of whether criminal charges based on the incident
 754 were filed, reduced, or dismissed by the state attorney.

755 Section 23. Subsection (2) of section 794.0115, Florida
 756 Statutes, is amended to read:

757 794.0115 Dangerous sexual felony offender; mandatory
 758 sentencing.—

759 (2) Any person who is convicted of a violation of s.
 760 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.
 761 800.04(4) or (5); s. 825.1025(2) or (3); former s. 827.071(2),
 762 (3), or (4); s. 847.003; s. 847.0137(2)(a); or s. 847.0145; or
 763 of any similar offense under a former designation, which offense
 764 the person committed when he or she was 18 years of age or
 765 older, and the person:

766 (a) Caused serious personal injury to the victim as a
 767 result of the commission of the offense;

768 (b) Used or threatened to use a deadly weapon during the
 769 commission of the offense;

770 (c) Victimized more than one person during the course of
 771 the criminal episode applicable to the offense;

772 (d) Committed the offense while under the jurisdiction of
 773 a court for a felony offense under the laws of this state, for
 774 an offense that is a felony in another jurisdiction, or for an
 775 offense that would be a felony if that offense were committed in
 776 this state; or

777 (e) Has previously been convicted of a violation of s.
 778 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.
 779 800.04(4) or (5); s. 825.1025(2) or (3); former s. 827.071(2),
 780 (3), or (4); s. 847.003; s. 847.0137(2)(a); or s. 847.0145; of

781 any offense under a former statutory designation which is
 782 similar in elements to an offense described in this paragraph;
 783 or of any offense that is a felony in another jurisdiction, or
 784 would be a felony if that offense were committed in this state,
 785 and which is similar in elements to an offense described in this
 786 paragraph,

787
 788 is a dangerous sexual felony offender, who must be sentenced to
 789 a mandatory minimum term of 25 years imprisonment up to, and
 790 including, life imprisonment. If the offense described in this
 791 subsection was committed on or after October 1, 2014, a person
 792 who qualifies as a dangerous sexual felony offender pursuant to
 793 this subsection must be sentenced to a mandatory minimum term of
 794 50 years imprisonment up to, and including, life imprisonment.

795 Section 24. Subsection (1) of section 794.024, Florida
 796 Statutes, is amended to read:

797 794.024 Unlawful to disclose identifying information.—

798 (1) A public employee or officer who has access to the
 799 photograph, name, or address of a person who is alleged to be
 800 the victim of an offense described in this chapter, chapter 800,
 801 s. 827.03, s. 827.04, former ~~or~~ s. 827.071, s. 847.003, or s.
 802 847.0137 may not willfully and knowingly disclose it to a person
 803 who is not assisting in the investigation or prosecution of the
 804 alleged offense or to any person other than the defendant, the
 805 defendant's attorney, a person specified in an order entered by
 806 the court having jurisdiction of the alleged offense, or

807 organizations authorized to receive such information made exempt
 808 by s. 119.071(2)(h), or to a rape crisis center or sexual
 809 assault counselor, as defined in s. 90.5035(1)(b), who will be
 810 offering services to the victim.

811 Section 25. Subsection (1) of section 794.056, Florida
 812 Statutes, is amended to read:

813 794.056 Rape Crisis Program Trust Fund.—

814 (1) The Rape Crisis Program Trust Fund is created within
 815 the Department of Health for the purpose of providing funds for
 816 rape crisis centers in this state. Trust fund moneys shall be
 817 used exclusively for the purpose of providing services for
 818 victims of sexual assault. Funds credited to the trust fund
 819 consist of those funds collected as an additional court
 820 assessment in each case in which a defendant pleads guilty or
 821 nolo contendere to, or is found guilty of, regardless of
 822 adjudication, an offense provided in s. 775.21(6) and (10)(a),
 823 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 824 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 825 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 826 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 827 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
 828 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
 829 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 830 825.1025; former s. 827.071; s. 836.10; s. 847.003; s. 847.0133;
 831 s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c),
 832 (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1). Funds

833 credited to the trust fund also shall include revenues provided
 834 by law, moneys appropriated by the Legislature, and grants from
 835 public or private entities.

836 Section 26. Section 796.001, Florida Statutes, is amended
 837 to read:

838 796.001 Offenses by adults involving minors; intent.—It is
 839 the intent of the Legislature that adults who involve minors in
 840 any behavior prohibited under this chapter be prosecuted under
 841 other laws of this state, such as, but not limited to, s.
 842 787.06, chapter 794, chapter 800, s. 810.145, former s. 827.071
 843 ~~chapter 827~~, and chapter 847. The Legislature finds that
 844 prosecution of such adults under this chapter is inappropriate
 845 since a minor is unable to consent to such behavior.

846 Section 27. Section 827.071, Florida Statutes, is
 847 repealed.

848 Section 28. Subsections (3) and (16) of section 847.001,
 849 Florida Statutes, are amended to read:

850 847.001 Definitions.—As used in this chapter, the term:

851 (3) "Child pornography" has the same meaning as provided
 852 in s. 847.0137 ~~means any image depicting a minor engaged in~~
 853 ~~sexual conduct.~~

854 (16) "Sexual conduct" means actual or simulated sexual
 855 intercourse, deviate sexual intercourse, sexual bestiality,
 856 masturbation, or sadomasochistic abuse; actual or simulated lewd
 857 exhibition of the genitals; actual physical contact with a
 858 person's clothed or unclothed genitals, pubic area, buttocks,

859 or, if such person is a female, breast with the intent to arouse
 860 or gratify the sexual desire of either party; or any act or
 861 conduct which constitutes sexual battery or simulates that
 862 sexual battery is being or will be committed. A mother's
 863 breastfeeding of her baby does not under any circumstance
 864 constitute "sexual conduct."

865 Section 29. Section 847.003, Florida Statutes, is created
 866 to read:

867 847.003 Sexual performance by a child; penalties.-

868 (1) As used in this section, the term:

869 (a) "Performance" means any play, motion picture,
 870 photograph, or dance or any other visual representation
 871 exhibited before an audience.

872 (b) "Promote" means to procure, manufacture, issue, sell,
 873 give, provide, lend, mail, deliver, transfer, transmute,
 874 publish, distribute, circulate, disseminate, present, exhibit,
 875 or advertise or to offer or agree to do the same.

876 (c) "Sexual performance" means any performance or part
 877 thereof which includes sexual conduct by a minor.

878 (2) A person who, knowing the character and content
 879 thereof, employs, authorizes, or induces a minor to engage in a
 880 sexual performance or, being a parent, legal guardian, or
 881 custodian of such minor, consents to the participation by such
 882 minor in a sexual performance commits the offense of use of a
 883 child in a sexual performance, a felony of the second degree,
 884 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

885 (3) A person who, knowing the character and content
 886 thereof, produces, directs, or promotes any performance that
 887 includes sexual conduct by a minor commits the offense of
 888 promoting a sexual performance by a child, a felony of the
 889 second degree, punishable as provided in s. 775.082, s. 775.083,
 890 or s. 775.084.

891 Section 30. Subsections (3) and (4) of section 847.0135,
 892 Florida Statutes, are amended to read:

893 847.0135 Computer pornography; prohibited computer usage;
 894 traveling to meet minor; penalties.—

895 (3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES
 896 PROHIBITED.—Any person who knowingly uses a computer online
 897 service, Internet service, local bulletin board service, or any
 898 other device capable of electronic data storage or transmission
 899 to:

900 (a) Seduce, solicit, lure, or entice, or attempt to
 901 seduce, solicit, lure, or entice, a child or another person
 902 believed by the person to be a child, to commit any illegal act
 903 described in chapter 794, chapter 800, former s. 827.071 ~~or~~
 904 ~~chapter 827,~~ s. 847.003, or s. 847.0137 or to otherwise engage
 905 in any unlawful sexual conduct with a child or with another
 906 person believed by the person to be a child; or

907 (b) Solicit, lure, or entice, or attempt to solicit, lure,
 908 or entice a parent, legal guardian, or custodian of a child or a
 909 person believed to be a parent, legal guardian, or custodian of
 910 a child to consent to the participation of such child in any act

911 described in chapter 794, chapter 800, former s. 827.071 ~~or~~
 912 ~~chapter 827, s. 847.003, or s. 847.0137,~~ or to otherwise engage
 913 in any sexual conduct,

914
 915 commits a felony of the third degree, punishable as provided in
 916 s. 775.082, s. 775.083, or s. 775.084. Any person who, in
 917 violating this subsection, misrepresents his or her age, commits
 918 a felony of the second degree, punishable as provided in s.
 919 775.082, s. 775.083, or s. 775.084. Each separate use of a
 920 computer online service, Internet service, local bulletin board
 921 service, or any other device capable of electronic data storage
 922 or transmission wherein an offense described in this section is
 923 committed may be charged as a separate offense.

924 (4) TRAVELING TO MEET A MINOR.—Any person who travels any
 925 distance either within this state, to this state, or from this
 926 state by any means, who attempts to do so, or who causes another
 927 to do so or to attempt to do so for the purpose of engaging in
 928 any illegal act described in chapter 794, chapter 800, former s.
 929 827.071 ~~or chapter 827, s. 847.003, or s. 847.0137,~~ or to
 930 otherwise engage in other unlawful sexual conduct with a child
 931 or with another person believed by the person to be a child
 932 after using a computer online service, Internet service, local
 933 bulletin board service, or any other device capable of
 934 electronic data storage or transmission to:

935 (a) Seduce, solicit, lure, or entice or attempt to seduce,
 936 solicit, lure, or entice a child or another person believed by

937 the person to be a child, to engage in any illegal act described
 938 in chapter 794, chapter 800, former s. 827.071 ~~or chapter 827,~~
 939 s. 847.003, or s. 847.0137, or to otherwise engage in other
 940 unlawful sexual conduct with a child; or

941 (b) Solicit, lure, or entice or attempt to solicit, lure,
 942 or entice a parent, legal guardian, or custodian of a child or a
 943 person believed to be a parent, legal guardian, or custodian of
 944 a child to consent to the participation of such child in any act
 945 described in chapter 794, chapter 800, former s. 827.071 ~~or~~
 946 ~~chapter 827,~~ s. 847.003, or s. 847.0137, or to otherwise engage
 947 in any sexual conduct,

948
 949 commits a felony of the second degree, punishable as provided in
 950 s. 775.082, s. 775.083, or s. 775.084.

951 Section 31. Subsection (1) of section 847.01357, Florida
 952 Statutes, is amended to read:

953 847.01357 Exploited children's civil remedy.—

954 (1) Any person who, while under the age of 18, was a
 955 victim of a sexual abuse crime listed in chapter 794, chapter
 956 800, former s. 827.071 ~~chapter 827,~~ or chapter 847, where any
 957 portion of such abuse was used in the production of child
 958 pornography, and who suffers personal or psychological injury as
 959 a result of the production, promotion, or possession of such
 960 images or movies, may bring an action in an appropriate state
 961 court against the producer, promoter, or possessor of such
 962 images or movies, regardless of whether the victim is now an

963 adult. In any action brought under this section, a prevailing
 964 plaintiff shall recover the actual damages such person sustained
 965 and the cost of the suit, including reasonable attorney
 966 ~~attorney's~~ fees. Any victim who is awarded damages under this
 967 section shall be deemed to have sustained damages of at least
 968 \$150,000.

969 Section 32. Section 847.0137, Florida Statutes, is amended
 970 to read:

971 847.0137 Child pornography; Transmission of pornography by
 972 ~~electronic device or equipment~~ prohibited acts; penalties.-

973 (1) For purposes of this section:

974 (a) "Child pornography" means a visual depiction of sexual
 975 conduct, where:

976 1. The production of such visual depiction involves the
 977 use of a minor engaging in sexual conduct; or

978 2. Such visual depiction has been created, adapted, or
 979 modified to appear that an identifiable minor is engaging in
 980 sexual conduct.

981 (b) "Identifiable minor" means a person who is
 982 recognizable as an actual person by the person's face, likeness,
 983 or other distinguishing characteristic, such as a unique
 984 birthmark, or other recognizable feature and:

985 1. Who was a minor at the time the visual depiction was
 986 created, adapted, or modified; or

987 2. Whose image as a minor was used in creating, adapting,
 988 or modifying the visual depiction.

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989 (c) "Intentionally view" means to deliberately,
990 purposefully, and voluntarily view. Proof of intentional viewing
991 requires establishing that a person deliberately, purposefully,
992 and voluntarily viewed more than one visual depiction over any
993 period of time.

994 (d)-(a) "Minor" means any person less than 18 years of age.

995 (e) "Promote" means to procure, manufacture, issue, sell,
996 give, provide, lend, mail, deliver, transfer, transmute,
997 publish, distribute, circulate, disseminate, present, exhibit,
998 or advertise or to offer or agree to do the same.

999 (f)-(b) "Transmit" means the act of sending and causing to
1000 be delivered any visual depiction image, information, or data
1001 from one or more persons or places to one or more other persons
1002 or places over or through any medium, including the Internet, by
1003 use of any electronic equipment or device.

1004 (g) "Visual depiction" includes, but is not limited to,
1005 any photograph, picture, motion picture, film, video,
1006 representation, or computer or computer-generated image or
1007 picture, whether made or produced by electronic, mechanical, or
1008 other means. The term also includes undeveloped film and
1009 videotape, data stored on computer disk or by electronic means
1010 which is capable of conversion into a visual image, and data
1011 that is capable of conversion into a visual image that has been
1012 transmitted by any means, whether stored in a permanent or
1013 nonpermanent format.

1014 (2) (a) It is unlawful for a person to possess, with the

1015 intent to promote, child pornography. The possession of three or
1016 more visual depictions of child pornography is prima facie
1017 evidence of an intent to promote. A person who violates this
1018 paragraph commits a felony of the second degree, punishable as
1019 provided in s. 775.082, s. 775.083, or s. 775.084.

1020 (b) It is unlawful for a person to knowingly possess,
1021 control, or intentionally view child pornography. The
1022 possession, control, or intentional viewing of each visual
1023 depiction of child pornography is a separate offense. If such
1024 visual depiction includes sexual conduct by more than one minor,
1025 each such minor in each such visual depiction that is knowingly
1026 possessed, controlled, or intentionally viewed is a separate
1027 offense. A person who violates this paragraph commits a felony
1028 of the third degree, punishable as provided in s. 775.082, s.
1029 775.083, or s. 775.084.

1030 (c) This subsection does not apply to child pornography
1031 possessed, controlled, or intentionally viewed as part of a law
1032 enforcement investigation.

1033 (d) Prosecution of a person for an offense under this
1034 subsection does not prohibit prosecution of that person in this
1035 state for a violation of any law of this state, including a law
1036 providing for greater penalties than prescribed in this section
1037 or any other crime punishing the sexual performance or sexual
1038 exploitation of children.

1039 (3) (a) ~~(2)~~ Notwithstanding ss. 847.012 and 847.0133, a any
1040 person in this state who knew or reasonably should have known

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1041 that he or she was transmitting child pornography, ~~as defined in~~
1042 ~~s. 847.001~~, to another person in this state or in another
1043 jurisdiction commits a felony of the third degree, punishable as
1044 provided in s. 775.082, s. 775.083, or s. 775.084.

1045 (b) ~~(3)~~ Notwithstanding ss. 847.012 and 847.0133, a ~~any~~
1046 person in any jurisdiction other than this state who knew or
1047 reasonably should have known that he or she was transmitting
1048 child pornography, ~~as defined in s. 847.001~~, to another ~~any~~
1049 person in this state commits a felony of the third degree,
1050 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1051 (c) ~~(4)~~ This section does ~~shall~~ not be construed to
1052 prohibit prosecution of a person in this state or another
1053 jurisdiction for a violation of any law of this state, including
1054 a law providing for greater penalties than prescribed in this
1055 section, for the transmission of child pornography, ~~as defined~~
1056 ~~in s. 847.001~~, to another ~~any~~ person in this state.

1057 (d) ~~(5)~~ A person is subject to prosecution in this state
1058 pursuant to chapter 910 for any act or conduct proscribed by
1059 this section, including a person in a jurisdiction other than
1060 this state, if the act or conduct violates paragraph (b)
1061 ~~subsection (3)~~.

1062 (e) This subsection does ~~The provisions of this section do~~
1063 not apply to subscription-based transmissions such as list
1064 servers.

1065 Section 33. Subsection (1) of section 856.022, Florida
1066 Statutes, is amended to read:

1067 856.022 Loitering or prowling by certain offenders in
 1068 close proximity to children; penalty.—

1069 (1) Except as provided in subsection (2), this section
 1070 applies to a person convicted of committing, or attempting,
 1071 soliciting, or conspiring to commit, any of the criminal
 1072 offenses proscribed in the following statutes in this state or
 1073 similar offenses in another jurisdiction against a victim who
 1074 was under 18 years of age at the time of the offense: s. 787.01,
 1075 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 1076 the offender was not the victim's parent or guardian; s.
 1077 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;
 1078 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025;
 1079 former s. 827.071; s. 847.003; s. 847.0133; s. 847.0135,
 1080 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 1081 s. 985.701(1); or any similar offense committed in this state
 1082 which has been redesignated from a former statute number to one
 1083 of those listed in this subsection, if the person has not
 1084 received a pardon for any felony or similar law of another
 1085 jurisdiction necessary for the operation of this subsection and
 1086 a conviction of a felony or similar law of another jurisdiction
 1087 necessary for the operation of this subsection has not been set
 1088 aside in any postconviction proceeding.

1089 Section 34. Paragraph (a) of subsection (1) of section
 1090 895.02, Florida Statutes, is amended to read:

1091 895.02 Definitions.—As used in ss. 895.01–895.08, the
 1092 term:

1093 (1) "Racketeering activity" means to commit, to attempt to
 1094 commit, to conspire to commit, or to solicit, coerce, or
 1095 intimidate another person to commit:

1096 (a) Any crime that is chargeable by petition, indictment,
 1097 or information under the following provisions of the Florida
 1098 Statutes:

1099 1. Section 210.18, relating to evasion of payment of
 1100 cigarette taxes.

1101 2. Section 316.1935, relating to fleeing or attempting to
 1102 elude a law enforcement officer and aggravated fleeing or
 1103 eluding.

1104 3. Section 403.727(3)(b), relating to environmental
 1105 control.

1106 4. Section 409.920 or s. 409.9201, relating to Medicaid
 1107 fraud.

1108 5. Section 414.39, relating to public assistance fraud.

1109 6. Section 440.105 or s. 440.106, relating to workers'
 1110 compensation.

1111 7. Section 443.071(4), relating to creation of a
 1112 fictitious employer scheme to commit reemployment assistance
 1113 fraud.

1114 8. Section 465.0161, relating to distribution of medicinal
 1115 drugs without a permit as an Internet pharmacy.

1116 9. Section 499.0051, relating to crimes involving
 1117 contraband and adulterated drugs.

1118 10. Part IV of chapter 501, relating to telemarketing.

- 1119 | 11. Chapter 517, relating to sale of securities and
- 1120 | investor protection.
- 1121 | 12. Section 550.235 or s. 550.3551, relating to dogracing
- 1122 | and horseracing.
- 1123 | 13. Chapter 550, relating to jai alai frontons.
- 1124 | 14. Section 551.109, relating to slot machine gaming.
- 1125 | 15. Chapter 552, relating to the manufacture,
- 1126 | distribution, and use of explosives.
- 1127 | 16. Chapter 560, relating to money transmitters, if the
- 1128 | violation is punishable as a felony.
- 1129 | 17. Chapter 562, relating to beverage law enforcement.
- 1130 | 18. Section 624.401, relating to transacting insurance
- 1131 | without a certificate of authority, s. 624.437(4)(c)1., relating
- 1132 | to operating an unauthorized multiple-employer welfare
- 1133 | arrangement, or s. 626.902(1)(b), relating to representing or
- 1134 | aiding an unauthorized insurer.
- 1135 | 19. Section 655.50, relating to reports of currency
- 1136 | transactions, when such violation is punishable as a felony.
- 1137 | 20. Chapter 687, relating to interest and usurious
- 1138 | practices.
- 1139 | 21. Section 721.08, s. 721.09, or s. 721.13, relating to
- 1140 | real estate timeshare plans.
- 1141 | 22. Section 775.13(5)(b), relating to registration of
- 1142 | persons found to have committed any offense for the purpose of
- 1143 | benefiting, promoting, or furthering the interests of a criminal
- 1144 | gang.

- 1145 23. Section 777.03, relating to commission of crimes by
 1146 accessories after the fact.
- 1147 24. Chapter 782, relating to homicide.
- 1148 25. Chapter 784, relating to assault and battery.
- 1149 26. Chapter 787, relating to kidnapping or human
 1150 trafficking.
- 1151 27. Chapter 790, relating to weapons and firearms.
- 1152 28. Chapter 794, relating to sexual battery, but only if
 1153 such crime was committed with the intent to benefit, promote, or
 1154 further the interests of a criminal gang, or for the purpose of
 1155 increasing a criminal gang member's own standing or position
 1156 within a criminal gang.
- 1157 29. Former section 796.03, former s. 796.035, s. 796.04,
 1158 s. 796.05, or s. 796.07, relating to prostitution.
- 1159 30. Chapter 806, relating to arson and criminal mischief.
- 1160 31. Chapter 810, relating to burglary and trespass.
- 1161 32. Chapter 812, relating to theft, robbery, and related
 1162 crimes.
- 1163 33. Chapter 815, relating to computer-related crimes.
- 1164 34. Chapter 817, relating to fraudulent practices, false
 1165 pretenses, fraud generally, and credit card crimes.
- 1166 35. Chapter 825, relating to abuse, neglect, or
 1167 exploitation of an elderly person or disabled adult.
- 1168 36. Former s. Section 827.071, relating to commercial
 1169 sexual exploitation of children.
- 1170 37. Section 828.122, relating to fighting or baiting

1171 animals.

1172 38. Chapter 831, relating to forgery and counterfeiting.

1173 39. Chapter 832, relating to issuance of worthless checks
1174 and drafts.

1175 40. Section 836.05, relating to extortion.

1176 41. Chapter 837, relating to perjury.

1177 42. Chapter 838, relating to bribery and misuse of public
1178 office.

1179 43. Chapter 843, relating to obstruction of justice.

1180 44. Section 847.003, relating to sexual performance by a
1181 child.

1182 ~~45.44.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
1183 or s. 847.07, relating to obscene literature and profanity.

1184 ~~46.45.~~ Chapter 849, relating to gambling, lottery,
1185 gambling or gaming devices, slot machines, or any of the
1186 provisions within that chapter.

1187 ~~47.46.~~ Chapter 874, relating to criminal gangs.

1188 ~~48.47.~~ Chapter 893, relating to drug abuse prevention and
1189 control.

1190 ~~49.48.~~ Chapter 896, relating to offenses related to
1191 financial transactions.

1192 ~~50.49.~~ Sections 914.22 and 914.23, relating to tampering
1193 with or harassing a witness, victim, or informant, and
1194 retaliation against a witness, victim, or informant.

1195 ~~51.50.~~ Sections 918.12 and 918.13, relating to tampering
1196 with jurors and evidence.

1197 Section 35. Subsection (8) of section 905.34, Florida
 1198 Statutes, is amended to read:
 1199 905.34 Powers and duties; law applicable.—The jurisdiction
 1200 of a statewide grand jury impaneled under this chapter shall
 1201 extend throughout the state. The subject matter jurisdiction of
 1202 the statewide grand jury shall be limited to the offenses of:
 1203 (8) Any violation of s. 847.003, s. 847.0135, s. 847.0137,
 1204 or s. 847.0138 relating to computer pornography and child
 1205 exploitation prevention, or any offense related to a violation
 1206 of s. 847.003, s. 847.0135, s. 847.0137, or s. 847.0138 or any
 1207 violation of former s. 827.071 ~~chapter 827~~ where the crime is
 1208 facilitated by or connected to the use of the Internet or any
 1209 device capable of electronic data storage or transmission;
 1210
 1211 or any attempt, solicitation, or conspiracy to commit any
 1212 violation of the crimes specifically enumerated above, when any
 1213 such offense is occurring, or has occurred, in two or more
 1214 judicial circuits as part of a related transaction or when any
 1215 such offense is connected with an organized criminal conspiracy
 1216 affecting two or more judicial circuits. The statewide grand
 1217 jury may return indictments and presentments irrespective of the
 1218 county or judicial circuit where the offense is committed or
 1219 triable. If an indictment is returned, it shall be certified and
 1220 transferred for trial to the county where the offense was
 1221 committed. The powers and duties of, and law applicable to,
 1222 county grand juries shall apply to a statewide grand jury except

1223 when such powers, duties, and law are inconsistent with the
 1224 provisions of ss. 905.31-905.40.

1225 Section 36. Paragraph (a) of subsection (1) of section
 1226 934.07, Florida Statutes, is amended to read:

1227 934.07 Authorization for interception of wire, oral, or
 1228 electronic communications.—

1229 (1) The Governor, the Attorney General, the statewide
 1230 prosecutor, or any state attorney may authorize an application
 1231 to a judge of competent jurisdiction for, and such judge may
 1232 grant in conformity with ss. 934.03-934.09 an order authorizing
 1233 or approving the interception of, wire, oral, or electronic
 1234 communications by:

1235 (a) The Department of Law Enforcement or any law
 1236 enforcement agency as defined in s. 934.02 having responsibility
 1237 for the investigation of the offense as to which the application
 1238 is made when such interception may provide or has provided
 1239 evidence of the commission of the offense of murder, kidnapping,
 1240 aircraft piracy, arson, gambling, robbery, burglary, theft,
 1241 dealing in stolen property, criminal usury, bribery, or
 1242 extortion; any felony violation of ss. 790.161-790.166,
 1243 inclusive; any violation of s. 787.06; any violation of chapter
 1244 893; any violation of the provisions of the Florida Anti-Fencing
 1245 Act; any violation of chapter 895; any violation of chapter 896;
 1246 any violation of chapter 815; any violation of chapter 847; any
 1247 violation of former s. 827.071; any violation of s. 944.40; or
 1248 any conspiracy or solicitation to commit any violation of the

1249 laws of this state relating to the crimes specifically
 1250 enumerated in this paragraph.

1251 Section 37. Section 938.085, Florida Statutes, is amended
 1252 to read:

1253 938.085 Additional cost to fund rape crisis centers.—In
 1254 addition to any sanction imposed when a person pleads guilty or
 1255 nolo contendere to, or is found guilty of, regardless of
 1256 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
 1257 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
 1258 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 1259 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 1260 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
 1261 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
 1262 796.07(2)(a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
 1263 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; former
 1264 s. 827.071; s. 836.10; s. 847.003; s. 847.0133; s. 847.0135(2);
 1265 s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
 1266 (13), and (14)(c); or s. 985.701(1), the court shall impose a
 1267 surcharge of \$151. Payment of the surcharge shall be a condition
 1268 of probation, community control, or any other court-ordered
 1269 supervision. The sum of \$150 of the surcharge shall be deposited
 1270 into the Rape Crisis Program Trust Fund established within the
 1271 Department of Health by chapter 2003-140, Laws of Florida. The
 1272 clerk of the court shall retain \$1 of each surcharge that the
 1273 clerk of the court collects as a service charge of the clerk's
 1274 office.

1275 Section 38. Subsection (1) of section 938.10, Florida
 1276 Statutes, is amended to read:

1277 938.10 Additional court cost imposed in cases of certain
 1278 crimes.—

1279 (1) If a person pleads guilty or nolo contendere to, or is
 1280 found guilty of, regardless of adjudication, any offense against
 1281 a minor in violation of s. 784.085, chapter 787, chapter 794,
 1282 former s. 796.03, former s. 796.035, s. 800.04, chapter 827,
 1283 former s. 827.071, s. 847.003, s. 847.012, s. 847.0133, s.
 1284 847.0135(5), s. 847.0137, s. 847.0138, s. 847.0145, s.
 1285 893.147(3), or s. 985.701, or any offense in violation of s.
 1286 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the
 1287 court shall impose a court cost of \$151 against the offender in
 1288 addition to any other cost or penalty required by law.

1289 Section 39. Paragraph (a) of subsection (1) of section
 1290 943.0435, Florida Statutes, is amended to read:

1291 943.0435 Sexual offenders required to register with the
 1292 department; penalty.—

1293 (1) As used in this section, the term:

1294 (a)1. "Sexual offender" means a person who meets the
 1295 criteria in sub-subparagraph a., sub-subparagraph b., sub-
 1296 subparagraph c., or sub-subparagraph d., as follows:

1297 a.(I) Has been convicted of committing, or attempting,
 1298 soliciting, or conspiring to commit, any of the criminal
 1299 offenses proscribed in the following statutes in this state or
 1300 similar offenses in another jurisdiction: s. 393.135(2); s.

1301 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 1302 the victim is a minor and the defendant is not the victim's
 1303 parent or guardian; s. 787.06(3)(b), (d), (f), or (g); former s.
 1304 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05;
 1305 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
 1306 s. 825.1025; former s. 827.071; s. 847.003; s. 847.0133; s.
 1307 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
 1308 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar
 1309 offense committed in this state which has been redesignated from
 1310 a former statute number to one of those listed in this sub-sub-
 1311 subparagraph; and

1312 (II) Has been released on or after October 1, 1997, from
 1313 the sanction imposed for any conviction of an offense described
 1314 in sub-sub-subparagraph (I). For purposes of sub-sub-
 1315 subparagraph (I), a sanction imposed in this state or in any
 1316 other jurisdiction includes, but is not limited to, a fine,
 1317 probation, community control, parole, conditional release,
 1318 control release, or incarceration in a state prison, federal
 1319 prison, private correctional facility, or local detention
 1320 facility;

1321 b. Establishes or maintains a residence in this state and
 1322 who has not been designated as a sexual predator by a court of
 1323 this state but who has been designated as a sexual predator, as
 1324 a sexually violent predator, or by another sexual offender
 1325 designation in another state or jurisdiction and was, as a
 1326 result of such designation, subjected to registration or

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1327 community or public notification, or both, or would be if the
1328 person were a resident of that state or jurisdiction, without
1329 regard to whether the person otherwise meets the criteria for
1330 registration as a sexual offender;

1331 c. Establishes or maintains a residence in this state who
1332 is in the custody or control of, or under the supervision of,
1333 any other state or jurisdiction as a result of a conviction for
1334 committing, or attempting, soliciting, or conspiring to commit,
1335 any of the criminal offenses proscribed in the following
1336 statutes or similar offense in another jurisdiction: s.
1337 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
1338 787.025(2)(c), where the victim is a minor and the defendant is
1339 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
1340 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
1341 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
1342 800.04; s. 810.145(8); s. 825.1025; former s. 827.071; s.
1343 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
1344 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
1345 985.701(1); or any similar offense committed in this state which
1346 has been redesignated from a former statute number to one of
1347 those listed in this sub-subparagraph; or

1348 d. On or after July 1, 2007, has been adjudicated
1349 delinquent for committing, or attempting, soliciting, or
1350 conspiring to commit, any of the criminal offenses proscribed in
1351 the following statutes in this state or similar offenses in
1352 another jurisdiction when the juvenile was 14 years of age or

1353 older at the time of the offense:

1354 (I) Section 794.011, excluding s. 794.011(10);

1355 (II) Section 800.04(4)(a)2. where the victim is under 12
 1356 years of age or where the court finds sexual activity by the use
 1357 of force or coercion;

1358 (III) Section 800.04(5)(c)1. where the court finds
 1359 molestation involving unclothed genitals; or

1360 (IV) Section 800.04(5)(d) where the court finds the use of
 1361 force or coercion and unclothed genitals.

1362 2. For all qualifying offenses listed in sub-subparagraph
 1363 (1)(a)1.d., the court shall make a written finding of the age of
 1364 the offender at the time of the offense.

1365
 1366 For each violation of a qualifying offense listed in this
 1367 subsection, except for a violation of s. 794.011, the court
 1368 shall make a written finding of the age of the victim at the
 1369 time of the offense. For a violation of s. 800.04(4), the court
 1370 shall also make a written finding indicating whether the offense
 1371 involved sexual activity and indicating whether the offense
 1372 involved force or coercion. For a violation of s. 800.04(5), the
 1373 court shall also make a written finding that the offense did or
 1374 did not involve unclothed genitals or genital area and that the
 1375 offense did or did not involve the use of force or coercion.

1376 Section 40. Paragraph (a) of subsection (1) and subsection
 1377 (3) of section 943.04354, Florida Statutes, are amended to read:
 1378 943.04354 Removal of the requirement to register as a

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1379 sexual offender or sexual predator in special circumstances.—

1380 (1) For purposes of this section, a person shall be
1381 considered for removal of the requirement to register as a
1382 sexual offender or sexual predator only if the person:

1383 (a) Was convicted, regardless of adjudication, or
1384 adjudicated delinquent of a violation of s. 794.011, s. 800.04,
1385 former s. 827.071, s. 847.003, ~~s. 847.0135(5)~~, or s. 847.0137
1386 or of a similar offense in another jurisdiction and if the
1387 person does not have any other conviction, regardless of
1388 adjudication, or adjudication of delinquency for a violation of
1389 s. 794.011, s. 800.04, former s. 827.071, s. 847.003, ~~s.~~
1390 847.0135(5), or s. 847.0137 or for a similar offense in another
1391 jurisdiction;

1392 (3) If a person provides to the Department of Law
1393 Enforcement a certified copy of the court's order removing the
1394 requirement that the person register as a sexual offender or
1395 sexual predator for the violation of s. 794.011, s. 800.04,
1396 former s. 827.071, s. 847.003, ~~s. 847.0135(5)~~, or s. 847.0137
1397 or a similar offense in another jurisdiction, the registration
1398 requirement will not apply to the person and the department
1399 shall remove all information about the person from the public
1400 registry of sexual offenders and sexual predators maintained by
1401 the department. However, the removal of this information from
1402 the public registry does not mean that the public is denied
1403 access to information about the person's criminal history or
1404 record that is otherwise available as a public record.

1405 Section 41. Section 943.0585, Florida Statutes, is amended
 1406 to read:

1407 943.0585 Court-ordered expunction of criminal history
 1408 records.—The courts of this state have jurisdiction over their
 1409 own procedures, including the maintenance, expunction, and
 1410 correction of judicial records containing criminal history
 1411 information to the extent such procedures are not inconsistent
 1412 with the conditions, responsibilities, and duties established by
 1413 this section. Any court of competent jurisdiction may order a
 1414 criminal justice agency to expunge the criminal history record
 1415 of a minor or an adult who complies with the requirements of
 1416 this section. The court shall not order a criminal justice
 1417 agency to expunge a criminal history record until the person
 1418 seeking to expunge a criminal history record has applied for and
 1419 received a certificate of eligibility for expunction pursuant to
 1420 subsection (2) or subsection (5). A criminal history record that
 1421 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
 1422 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
 1423 s. 825.1025, former s. 827.071, chapter 839, s. 847.003, s.
 1424 847.0133, s. 847.0135, s. 847.0137, s. 847.0145, s. 893.135, s.
 1425 916.1075, a violation enumerated in s. 907.041, or any violation
 1426 specified as a predicate offense for registration as a sexual
 1427 predator pursuant to s. 775.21, without regard to whether that
 1428 offense alone is sufficient to require such registration, or for
 1429 registration as a sexual offender pursuant to s. 943.0435, may
 1430 not be expunged, without regard to whether adjudication was

1431 withheld, if the defendant was found guilty of or pled guilty or
 1432 nolo contendere to the offense, or if the defendant, as a minor,
 1433 was found to have committed, or pled guilty or nolo contendere
 1434 to committing, the offense as a delinquent act. The court may
 1435 only order expunction of a criminal history record pertaining to
 1436 one arrest or one incident of alleged criminal activity, except
 1437 as provided in this section. The court may, at its sole
 1438 discretion, order the expunction of a criminal history record
 1439 pertaining to more than one arrest if the additional arrests
 1440 directly relate to the original arrest. If the court intends to
 1441 order the expunction of records pertaining to such additional
 1442 arrests, such intent must be specified in the order. A criminal
 1443 justice agency may not expunge any record pertaining to such
 1444 additional arrests if the order to expunge does not articulate
 1445 the intention of the court to expunge a record pertaining to
 1446 more than one arrest. This section does not prevent the court
 1447 from ordering the expunction of only a portion of a criminal
 1448 history record pertaining to one arrest or one incident of
 1449 alleged criminal activity. Notwithstanding any law to the
 1450 contrary, a criminal justice agency may comply with laws, court
 1451 orders, and official requests of other jurisdictions relating to
 1452 expunction, correction, or confidential handling of criminal
 1453 history records or information derived therefrom. This section
 1454 does not confer any right to the expunction of any criminal
 1455 history record, and any request for expunction of a criminal
 1456 history record may be denied at the sole discretion of the

1457 court.

1458 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each
 1459 petition to a court to expunge a criminal history record is
 1460 complete only when accompanied by:

1461 (a) A valid certificate of eligibility for expunction
 1462 issued by the department pursuant to subsection (2).

1463 (b) The petitioner's sworn statement attesting that the
 1464 petitioner:

1465 1. Has never, prior to the date on which the petition is
 1466 filed, been adjudicated guilty of a criminal offense or
 1467 comparable ordinance violation, or been adjudicated delinquent
 1468 for committing any felony or a misdemeanor specified in s.
 1469 943.051(3)(b).

1470 2. Has not been adjudicated guilty of, or adjudicated
 1471 delinquent for committing, any of the acts stemming from the
 1472 arrest or alleged criminal activity to which the petition
 1473 pertains.

1474 3. Has never secured a prior sealing or expunction of a
 1475 criminal history record under this section, s. 943.059, former
 1476 s. 893.14, former s. 901.33, or former s. 943.058, unless
 1477 expunction is sought of a criminal history record previously
 1478 sealed for 10 years pursuant to paragraph (2)(h) and the record
 1479 is otherwise eligible for expunction.

1480 4. Is eligible for such an expunction to the best of his
 1481 or her knowledge or belief and does not have any other petition
 1482 to expunge or any petition to seal pending before any court.

1483
1484 Any person who knowingly provides false information on such
1485 sworn statement to the court commits a felony of the third
1486 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1487 775.084.

1488 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
1489 petitioning the court to expunge a criminal history record, a
1490 person seeking to expunge a criminal history record shall apply
1491 to the department for a certificate of eligibility for
1492 expunction. The department shall, by rule adopted pursuant to
1493 chapter 120, establish procedures pertaining to the application
1494 for and issuance of certificates of eligibility for expunction.
1495 A certificate of eligibility for expunction is valid for 12
1496 months after the date stamped on the certificate when issued by
1497 the department. After that time, the petitioner must reapply to
1498 the department for a new certificate of eligibility. Eligibility
1499 for a renewed certification of eligibility must be based on the
1500 status of the applicant and the law in effect at the time of the
1501 renewal application. The department shall issue a certificate of
1502 eligibility for expunction to a person who is the subject of a
1503 criminal history record if that person:

1504 (a) Has obtained, and submitted to the department, a
1505 written, certified statement from the appropriate state attorney
1506 or statewide prosecutor which indicates:

1507 1. That an indictment, information, or other charging
1508 document was not filed or issued in the case.

1509 2. That an indictment, information, or other charging
 1510 document, if filed or issued in the case, was dismissed or nolle
 1511 prosequi by the state attorney or statewide prosecutor, or was
 1512 dismissed by a court of competent jurisdiction, and that none of
 1513 the charges related to the arrest or alleged criminal activity
 1514 to which the petition to expunge pertains resulted in a trial,
 1515 without regard to whether the outcome of the trial was other
 1516 than an adjudication of guilt.

1517 3. That the criminal history record does not relate to a
 1518 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 1519 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
 1520 former s. 827.071, chapter 839, s. 847.003, s. 847.0133, s.
 1521 847.0135, s. 847.0137, s. 847.0145, s. 893.135, s. 916.1075, a
 1522 violation enumerated in s. 907.041, or any violation specified
 1523 as a predicate offense for registration as a sexual predator
 1524 pursuant to s. 775.21, without regard to whether that offense
 1525 alone is sufficient to require such registration, or for
 1526 registration as a sexual offender pursuant to s. 943.0435, where
 1527 the defendant was found guilty of, or pled guilty or nolo
 1528 contendere to any such offense, or that the defendant, as a
 1529 minor, was found to have committed, or pled guilty or nolo
 1530 contendere to committing, such an offense as a delinquent act,
 1531 without regard to whether adjudication was withheld.

1532 (b) Remits a \$75 processing fee to the department for
 1533 placement in the Department of Law Enforcement Operating Trust
 1534 Fund, unless such fee is waived by the executive director.

1535 (c) Has submitted to the department a certified copy of
1536 the disposition of the charge to which the petition to expunge
1537 pertains.

1538 (d) Has never, prior to the date on which the application
1539 for a certificate of eligibility is filed, been adjudicated
1540 guilty of a criminal offense or comparable ordinance violation,
1541 or been adjudicated delinquent for committing any felony or a
1542 misdemeanor specified in s. 943.051(3)(b).

1543 (e) Has not been adjudicated guilty of, or adjudicated
1544 delinquent for committing, any of the acts stemming from the
1545 arrest or alleged criminal activity to which the petition to
1546 expunge pertains.

1547 (f) Has never secured a prior sealing or expunction of a
1548 criminal history record under this section, s. 943.059, former
1549 s. 893.14, former s. 901.33, or former s. 943.058, unless
1550 expunction is sought of a criminal history record previously
1551 sealed for 10 years pursuant to paragraph (h) and the record is
1552 otherwise eligible for expunction.

1553 (g) Is no longer under court supervision applicable to the
1554 disposition of the arrest or alleged criminal activity to which
1555 the petition to expunge pertains.

1556 (h) Has previously obtained a court order sealing the
1557 record under this section, former s. 893.14, former s. 901.33,
1558 or former s. 943.058 for a minimum of 10 years because
1559 adjudication was withheld or because all charges related to the
1560 arrest or alleged criminal activity to which the petition to

1561 expunge pertains were not dismissed prior to trial, without
1562 regard to whether the outcome of the trial was other than an
1563 adjudication of guilt. The requirement for the record to have
1564 previously been sealed for a minimum of 10 years does not apply
1565 when a plea was not entered or all charges related to the arrest
1566 or alleged criminal activity to which the petition to expunge
1567 pertains were dismissed prior to trial.

1568 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

1569 (a) In judicial proceedings under this section, a copy of
1570 the completed petition to expunge shall be served upon the
1571 appropriate state attorney or the statewide prosecutor and upon
1572 the arresting agency; however, it is not necessary to make any
1573 agency other than the state a party. The appropriate state
1574 attorney or the statewide prosecutor and the arresting agency
1575 may respond to the court regarding the completed petition to
1576 expunge.

1577 (b) If relief is granted by the court, the clerk of the
1578 court shall certify copies of the order to the appropriate state
1579 attorney or the statewide prosecutor and the arresting agency.
1580 The arresting agency is responsible for forwarding the order to
1581 any other agency to which the arresting agency disseminated the
1582 criminal history record information to which the order pertains.
1583 The department shall forward the order to expunge to the Federal
1584 Bureau of Investigation. The clerk of the court shall certify a
1585 copy of the order to any other agency which the records of the
1586 court reflect has received the criminal history record from the

1587 court.

1588 (c) For an order to expunge entered by a court prior to
1589 July 1, 1992, the department shall notify the appropriate state
1590 attorney or statewide prosecutor of an order to expunge which is
1591 contrary to law because the person who is the subject of the
1592 record has previously been convicted of a crime or comparable
1593 ordinance violation or has had a prior criminal history record
1594 sealed or expunged. Upon receipt of such notice, the appropriate
1595 state attorney or statewide prosecutor shall take action, within
1596 60 days, to correct the record and petition the court to void
1597 the order to expunge. The department shall seal the record until
1598 such time as the order is voided by the court.

1599 (d) On or after July 1, 1992, the department or any other
1600 criminal justice agency is not required to act on an order to
1601 expunge entered by a court when such order does not comply with
1602 the requirements of this section. Upon receipt of such an order,
1603 the department must notify the issuing court, the appropriate
1604 state attorney or statewide prosecutor, the petitioner or the
1605 petitioner's attorney, and the arresting agency of the reason
1606 for noncompliance. The appropriate state attorney or statewide
1607 prosecutor shall take action within 60 days to correct the
1608 record and petition the court to void the order. No cause of
1609 action, including contempt of court, shall arise against any
1610 criminal justice agency for failure to comply with an order to
1611 expunge when the petitioner for such order failed to obtain the
1612 certificate of eligibility as required by this section or such

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1613 order does not otherwise comply with the requirements of this
1614 section.

1615 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
1616 criminal history record of a minor or an adult which is ordered
1617 expunged by a court of competent jurisdiction pursuant to this
1618 section must be physically destroyed or obliterated by any
1619 criminal justice agency having custody of such record; except
1620 that any criminal history record in the custody of the
1621 department must be retained in all cases. A criminal history
1622 record ordered expunged that is retained by the department is
1623 confidential and exempt from the provisions of s. 119.07(1) and
1624 s. 24(a), Art. I of the State Constitution and not available to
1625 any person or entity except upon order of a court of competent
1626 jurisdiction. A criminal justice agency may retain a notation
1627 indicating compliance with an order to expunge.

1628 (a) The person who is the subject of a criminal history
1629 record that is expunged under this section or under other
1630 provisions of law, including former s. 893.14, former s. 901.33,
1631 and former s. 943.058, may lawfully deny or fail to acknowledge
1632 the arrests covered by the expunged record, except when the
1633 subject of the record:

- 1634 1. Is a candidate for employment with a criminal justice
1635 agency;
- 1636 2. Is a defendant in a criminal prosecution;
- 1637 3. Concurrently or subsequently petitions for relief under
1638 this section, s. 943.0583, or s. 943.059;

- 1639 4. Is a candidate for admission to The Florida Bar;
- 1640 5. Is seeking to be employed or licensed by or to contract
- 1641 with the Department of Children and Families, the Division of
- 1642 Vocational Rehabilitation within the Department of Education,
- 1643 the Agency for Health Care Administration, the Agency for
- 1644 Persons with Disabilities, the Department of Health, the
- 1645 Department of Elderly Affairs, or the Department of Juvenile
- 1646 Justice or to be employed or used by such contractor or licensee
- 1647 in a sensitive position having direct contact with children, the
- 1648 disabled, or the elderly;
- 1649 6. Is seeking to be employed or licensed by the Department
- 1650 of Education, any district school board, any university
- 1651 laboratory school, any charter school, any private or parochial
- 1652 school, or any local governmental entity that licenses child
- 1653 care facilities;
- 1654 7. Is seeking to be licensed by the Division of Insurance
- 1655 Agent and Agency Services within the Department of Financial
- 1656 Services; or
- 1657 8. Is seeking to be appointed as a guardian pursuant to s.
- 1658 744.3125.
- 1659 (b) Subject to the exceptions in paragraph (a), a person
- 1660 who has been granted an expunction under this section, former s.
- 1661 893.14, former s. 901.33, or former s. 943.058 may not be held
- 1662 under any provision of law of this state to commit perjury or to
- 1663 be otherwise liable for giving a false statement by reason of
- 1664 such person's failure to recite or acknowledge an expunged

1665 criminal history record.

1666 (c) Information relating to the existence of an expunged
1667 criminal history record which is provided in accordance with
1668 paragraph (a) is confidential and exempt from the provisions of
1669 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1670 except that the department shall disclose the existence of a
1671 criminal history record ordered expunged to the entities set
1672 forth in subparagraphs (a)1., 4., 5., 6., 7., and 8. for their
1673 respective licensing, access authorization, and employment
1674 purposes, and to criminal justice agencies for their respective
1675 criminal justice purposes. It is unlawful for any employee of an
1676 entity set forth in subparagraph (a)1., subparagraph (a)4.,
1677 subparagraph (a)5., subparagraph (a)6., subparagraph (a)7., or
1678 subparagraph (a)8. to disclose information relating to the
1679 existence of an expunged criminal history record of a person
1680 seeking employment, access authorization, or licensure with such
1681 entity or contractor, except to the person to whom the criminal
1682 history record relates or to persons having direct
1683 responsibility for employment, access authorization, or
1684 licensure decisions. Any person who violates this paragraph
1685 commits a misdemeanor of the first degree, punishable as
1686 provided in s. 775.082 or s. 775.083.

1687 (5) EXCEPTION FOR LAWFUL SELF-DEFENSE.—Notwithstanding the
1688 eligibility requirements prescribed in paragraph (1)(b) and
1689 subsection (2), the department shall issue a certificate of
1690 eligibility for expunction under this subsection to a person who

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1691 is the subject of a criminal history record if that person:

1692 (a) Has obtained, and submitted to the department, on a
1693 form provided by the department, a written, certified statement
1694 from the appropriate state attorney or statewide prosecutor
1695 which states whether an information, indictment, or other
1696 charging document was not filed or was dismissed by the state
1697 attorney, or dismissed by the court, because it was found that
1698 the person acted in lawful self-defense pursuant to the
1699 provisions related to justifiable use of force in chapter 776.

1700 (b) Each petition to a court to expunge a criminal history
1701 record pursuant to this subsection is complete only when
1702 accompanied by:

1703 1. A valid certificate of eligibility for expunction
1704 issued by the department pursuant to this subsection.

1705 2. The petitioner's sworn statement attesting that the
1706 petitioner is eligible for such an expunction to the best of his
1707 or her knowledge or belief.

1708
1709 Any person who knowingly provides false information on such
1710 sworn statement to the court commits a felony of the third
1711 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1712 775.084.

1713 (c) This subsection does not confer any right to the
1714 expunction of a criminal history record, and any request for
1715 expunction of a criminal history record may be denied at the
1716 discretion of the court.

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1717 (d) Subsections (3) and (4) shall apply to expunction
1718 ordered under this subsection.

1719 (e) The department shall, by rule adopted pursuant to
1720 chapter 120, establish procedures pertaining to the application
1721 for and issuance of certificates of eligibility for expunction
1722 under this subsection.

1723 (6) STATUTORY REFERENCES.—Any reference to any other
1724 chapter, section, or subdivision of the Florida Statutes in this
1725 section constitutes a general reference under the doctrine of
1726 incorporation by reference.

1727 Section 42. Section 943.059, Florida Statutes, is amended
1728 to read:

1729 943.059 Court-ordered sealing of criminal history
1730 records.—The courts of this state shall continue to have
1731 jurisdiction over their own procedures, including the
1732 maintenance, sealing, and correction of judicial records
1733 containing criminal history information to the extent such
1734 procedures are not inconsistent with the conditions,
1735 responsibilities, and duties established by this section. Any
1736 court of competent jurisdiction may order a criminal justice
1737 agency to seal the criminal history record of a minor or an
1738 adult who complies with the requirements of this section. The
1739 court shall not order a criminal justice agency to seal a
1740 criminal history record until the person seeking to seal a
1741 criminal history record has applied for and received a
1742 certificate of eligibility for sealing pursuant to subsection

1743 (2). A criminal history record that relates to a violation of s.
1744 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
1745 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, former s.
1746 827.071, chapter 839, s. 847.003, s. 847.0133, s. 847.0135, s.
1747 847.0137, s. 847.0145, s. 893.135, s. 916.1075, a violation
1748 enumerated in s. 907.041, or any violation specified as a
1749 predicate offense for registration as a sexual predator pursuant
1750 to s. 775.21, without regard to whether that offense alone is
1751 sufficient to require such registration, or for registration as
1752 a sexual offender pursuant to s. 943.0435, may not be sealed,
1753 without regard to whether adjudication was withheld, if the
1754 defendant was found guilty of or pled guilty or nolo contendere
1755 to the offense, or if the defendant, as a minor, was found to
1756 have committed or pled guilty or nolo contendere to committing
1757 the offense as a delinquent act. The court may only order
1758 sealing of a criminal history record pertaining to one arrest or
1759 one incident of alleged criminal activity, except as provided in
1760 this section. The court may, at its sole discretion, order the
1761 sealing of a criminal history record pertaining to more than one
1762 arrest if the additional arrests directly relate to the original
1763 arrest. If the court intends to order the sealing of records
1764 pertaining to such additional arrests, such intent must be
1765 specified in the order. A criminal justice agency may not seal
1766 any record pertaining to such additional arrests if the order to
1767 seal does not articulate the intention of the court to seal
1768 records pertaining to more than one arrest. This section does

1769 not prevent the court from ordering the sealing of only a
1770 portion of a criminal history record pertaining to one arrest or
1771 one incident of alleged criminal activity. Notwithstanding any
1772 law to the contrary, a criminal justice agency may comply with
1773 laws, court orders, and official requests of other jurisdictions
1774 relating to sealing, correction, or confidential handling of
1775 criminal history records or information derived therefrom. This
1776 section does not confer any right to the sealing of any criminal
1777 history record, and any request for sealing a criminal history
1778 record may be denied at the sole discretion of the court.

1779 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each
1780 petition to a court to seal a criminal history record is
1781 complete only when accompanied by:

1782 (a) A valid certificate of eligibility for sealing issued
1783 by the department pursuant to subsection (2).

1784 (b) The petitioner's sworn statement attesting that the
1785 petitioner:

1786 1. Has never, prior to the date on which the petition is
1787 filed, been adjudicated guilty of a criminal offense or
1788 comparable ordinance violation, or been adjudicated delinquent
1789 for committing any felony or a misdemeanor specified in s.
1790 943.051(3)(b).

1791 2. Has not been adjudicated guilty of or adjudicated
1792 delinquent for committing any of the acts stemming from the
1793 arrest or alleged criminal activity to which the petition to
1794 seal pertains.

1795 3. Has never secured a prior sealing or expunction of a
 1796 criminal history record under this section, s. 943.0585, former
 1797 s. 893.14, former s. 901.33, or former s. 943.058.

1798 4. Is eligible for such a sealing to the best of his or
 1799 her knowledge or belief and does not have any other petition to
 1800 seal or any petition to expunge pending before any court.

1801
 1802 Any person who knowingly provides false information on such
 1803 sworn statement to the court commits a felony of the third
 1804 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1805 775.084.

1806 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
 1807 petitioning the court to seal a criminal history record, a
 1808 person seeking to seal a criminal history record shall apply to
 1809 the department for a certificate of eligibility for sealing. The
 1810 department shall, by rule adopted pursuant to chapter 120,
 1811 establish procedures pertaining to the application for and
 1812 issuance of certificates of eligibility for sealing. A
 1813 certificate of eligibility for sealing is valid for 12 months
 1814 after the date stamped on the certificate when issued by the
 1815 department. After that time, the petitioner must reapply to the
 1816 department for a new certificate of eligibility. Eligibility for
 1817 a renewed certification of eligibility must be based on the
 1818 status of the applicant and the law in effect at the time of the
 1819 renewal application. The department shall issue a certificate of
 1820 eligibility for sealing to a person who is the subject of a

1821 criminal history record provided that such person:

1822 (a) Has submitted to the department a certified copy of
 1823 the disposition of the charge to which the petition to seal
 1824 pertains.

1825 (b) Remits a \$75 processing fee to the department for
 1826 placement in the Department of Law Enforcement Operating Trust
 1827 Fund, unless such fee is waived by the executive director.

1828 (c) Has never, prior to the date on which the application
 1829 for a certificate of eligibility is filed, been adjudicated
 1830 guilty of a criminal offense or comparable ordinance violation,
 1831 or been adjudicated delinquent for committing any felony or a
 1832 misdemeanor specified in s. 943.051(3)(b).

1833 (d) Has not been adjudicated guilty of or adjudicated
 1834 delinquent for committing any of the acts stemming from the
 1835 arrest or alleged criminal activity to which the petition to
 1836 seal pertains.

1837 (e) Has never secured a prior sealing or expunction of a
 1838 criminal history record under this section, s. 943.0585, former
 1839 s. 893.14, former s. 901.33, or former s. 943.058.

1840 (f) Is no longer under court supervision applicable to the
 1841 disposition of the arrest or alleged criminal activity to which
 1842 the petition to seal pertains.

1843 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

1844 (a) In judicial proceedings under this section, a copy of
 1845 the completed petition to seal shall be served upon the
 1846 appropriate state attorney or the statewide prosecutor and upon

1847 the arresting agency; however, it is not necessary to make any
1848 agency other than the state a party. The appropriate state
1849 attorney or the statewide prosecutor and the arresting agency
1850 may respond to the court regarding the completed petition to
1851 seal.

1852 (b) If relief is granted by the court, the clerk of the
1853 court shall certify copies of the order to the appropriate state
1854 attorney or the statewide prosecutor and to the arresting
1855 agency. The arresting agency is responsible for forwarding the
1856 order to any other agency to which the arresting agency
1857 disseminated the criminal history record information to which
1858 the order pertains. The department shall forward the order to
1859 seal to the Federal Bureau of Investigation. The clerk of the
1860 court shall certify a copy of the order to any other agency
1861 which the records of the court reflect has received the criminal
1862 history record from the court.

1863 (c) For an order to seal entered by a court prior to July
1864 1, 1992, the department shall notify the appropriate state
1865 attorney or statewide prosecutor of any order to seal which is
1866 contrary to law because the person who is the subject of the
1867 record has previously been convicted of a crime or comparable
1868 ordinance violation or has had a prior criminal history record
1869 sealed or expunged. Upon receipt of such notice, the appropriate
1870 state attorney or statewide prosecutor shall take action, within
1871 60 days, to correct the record and petition the court to void
1872 the order to seal. The department shall seal the record until

1873 such time as the order is voided by the court.

1874 (d) On or after July 1, 1992, the department or any other
1875 criminal justice agency is not required to act on an order to
1876 seal entered by a court when such order does not comply with the
1877 requirements of this section. Upon receipt of such an order, the
1878 department must notify the issuing court, the appropriate state
1879 attorney or statewide prosecutor, the petitioner or the
1880 petitioner's attorney, and the arresting agency of the reason
1881 for noncompliance. The appropriate state attorney or statewide
1882 prosecutor shall take action within 60 days to correct the
1883 record and petition the court to void the order. No cause of
1884 action, including contempt of court, shall arise against any
1885 criminal justice agency for failure to comply with an order to
1886 seal when the petitioner for such order failed to obtain the
1887 certificate of eligibility as required by this section or when
1888 such order does not comply with the requirements of this
1889 section.

1890 (e) An order sealing a criminal history record pursuant to
1891 this section does not require that such record be surrendered to
1892 the court, and such record shall continue to be maintained by
1893 the department and other criminal justice agencies.

1894 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
1895 history record of a minor or an adult which is ordered sealed by
1896 a court pursuant to this section is confidential and exempt from
1897 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
1898 Constitution and is available only to the person who is the

1899 | subject of the record, to the subject's attorney, to criminal
 1900 | justice agencies for their respective criminal justice purposes,
 1901 | which include conducting a criminal history background check for
 1902 | approval of firearms purchases or transfers as authorized by
 1903 | state or federal law, to judges in the state courts system for
 1904 | the purpose of assisting them in their case-related
 1905 | decisionmaking responsibilities, as set forth in s. 943.053(5),
 1906 | or to those entities set forth in subparagraphs (a)1., 4., 5.,
 1907 | 6., 8., 9., and 10. for their respective licensing, access
 1908 | authorization, and employment purposes.

1909 | (a) The subject of a criminal history record sealed under
 1910 | this section or under other provisions of law, including former
 1911 | s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1912 | deny or fail to acknowledge the arrests covered by the sealed
 1913 | record, except when the subject of the record:

- 1914 | 1. Is a candidate for employment with a criminal justice
 1915 | agency;
- 1916 | 2. Is a defendant in a criminal prosecution;
- 1917 | 3. Concurrently or subsequently petitions for relief under
 1918 | this section, s. 943.0583, or s. 943.0585;
- 1919 | 4. Is a candidate for admission to The Florida Bar;
- 1920 | 5. Is seeking to be employed or licensed by or to contract
 1921 | with the Department of Children and Families, the Division of
 1922 | Vocational Rehabilitation within the Department of Education,
 1923 | the Agency for Health Care Administration, the Agency for
 1924 | Persons with Disabilities, the Department of Health, the

1925 Department of Elderly Affairs, or the Department of Juvenile
 1926 Justice or to be employed or used by such contractor or licensee
 1927 in a sensitive position having direct contact with children, the
 1928 disabled, or the elderly;

1929 6. Is seeking to be employed or licensed by the Department
 1930 of Education, a district school board, a university laboratory
 1931 school, a charter school, a private or parochial school, or a
 1932 local governmental entity that licenses child care facilities;

1933 7. Is attempting to purchase a firearm from a licensed
 1934 importer, licensed manufacturer, or licensed dealer and is
 1935 subject to a criminal history check under state or federal law;

1936 8. Is seeking to be licensed by the Division of Insurance
 1937 Agent and Agency Services within the Department of Financial
 1938 Services;

1939 9. Is seeking to be appointed as a guardian pursuant to s.
 1940 744.3125; or

1941 10. Is seeking to be licensed by the Bureau of License
 1942 Issuance of the Division of Licensing within the Department of
 1943 Agriculture and Consumer Services to carry a concealed weapon or
 1944 concealed firearm. This subparagraph applies only in the
 1945 determination of an applicant's eligibility under s. 790.06.

1946 (b) Subject to the exceptions in paragraph (a), a person
 1947 who has been granted a sealing under this section, former s.
 1948 893.14, former s. 901.33, or former s. 943.058 may not be held
 1949 under any provision of law of this state to commit perjury or to
 1950 be otherwise liable for giving a false statement by reason of

1951 such person's failure to recite or acknowledge a sealed criminal
1952 history record.

1953 (c) Information relating to the existence of a sealed
1954 criminal record provided in accordance with the provisions of
1955 paragraph (a) is confidential and exempt from the provisions of
1956 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1957 except that the department shall disclose the sealed criminal
1958 history record to the entities set forth in subparagraphs (a)1.,
1959 4., 5., 6., 8., 9., and 10. for their respective licensing,
1960 access authorization, and employment purposes. An employee of an
1961 entity set forth in subparagraph (a)1., subparagraph (a)4.,
1962 subparagraph (a)5., subparagraph (a)6., subparagraph (a)8.,
1963 subparagraph (a)9., or subparagraph (a)10. may not disclose
1964 information relating to the existence of a sealed criminal
1965 history record of a person seeking employment, access
1966 authorization, or licensure with such entity or contractor,
1967 except to the person to whom the criminal history record relates
1968 or to persons having direct responsibility for employment,
1969 access authorization, or licensure decisions. A person who
1970 violates the provisions of this paragraph commits a misdemeanor
1971 of the first degree, punishable as provided in s. 775.082 or s.
1972 775.083.

1973 (5) STATUTORY REFERENCES.—Any reference to any other
1974 chapter, section, or subdivision of the Florida Statutes in this
1975 section constitutes a general reference under the doctrine of
1976 incorporation by reference.

1977 Section 43. Paragraph (b) of subsection (1) of section
 1978 944.606, Florida Statutes, is amended to read:
 1979 944.606 Sexual offenders; notification upon release.—
 1980 (1) As used in this section:
 1981 (b) "Sexual offender" means a person who has been
 1982 convicted of committing, or attempting, soliciting, or
 1983 conspiring to commit, any of the criminal offenses proscribed in
 1984 the following statutes in this state or similar offenses in
 1985 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
 1986 s. 787.02, or s. 787.025(2) (c), where the victim is a minor and
 1987 the defendant is not the victim's parent or guardian; s.
 1988 787.06(3) (b), (d), (f), or (g); former s. 787.06(3) (h); s.
 1989 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
 1990 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; former
 1991 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s.
 1992 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.
 1993 916.1075(2); or s. 985.701(1); or any similar offense committed
 1994 in this state which has been redesignated from a former statute
 1995 number to one of those listed in this subsection, when the
 1996 department has received verified information regarding such
 1997 conviction; an offender's computerized criminal history record
 1998 is not, in and of itself, verified information.
 1999 Section 44. Paragraph (a) of subsection (1) of section
 2000 944.607, Florida Statutes, is amended to read:
 2001 944.607 Notification to Department of Law Enforcement of
 2002 information on sexual offenders.—

2003 (1) As used in this section, the term:

2004 (a) "Sexual offender" means a person who is in the custody

2005 or control of, or under the supervision of, the department or is

2006 in the custody of a private correctional facility:

2007 1. On or after October 1, 1997, as a result of a

2008 conviction for committing, or attempting, soliciting, or

2009 conspiring to commit, any of the criminal offenses proscribed in

2010 the following statutes in this state or similar offenses in

2011 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,

2012 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and

2013 the defendant is not the victim's parent or guardian; s.

2014 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.

2015 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;

2016 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; former

2017 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s.

2018 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.

2019 916.1075(2); or s. 985.701(1); or any similar offense committed

2020 in this state which has been redesignated from a former statute

2021 number to one of those listed in this paragraph; or

2022 2. Who establishes or maintains a residence in this state

2023 and who has not been designated as a sexual predator by a court

2024 of this state but who has been designated as a sexual predator,

2025 as a sexually violent predator, or by another sexual offender

2026 designation in another state or jurisdiction and was, as a

2027 result of such designation, subjected to registration or

2028 community or public notification, or both, or would be if the

2029 person were a resident of that state or jurisdiction, without
 2030 regard as to whether the person otherwise meets the criteria for
 2031 registration as a sexual offender.

2032 Section 45. Subsections (7), (10), and (14) of section
 2033 947.1405, Florida Statutes, are amended, and subsection (15) is
 2034 added to that section, to read:

2035 947.1405 Conditional release program.—

2036 (7) (a) Any inmate who is convicted of a crime committed on
 2037 or after October 1, 1995, or who has been previously convicted
 2038 of a crime committed on or after October 1, 1995, in violation
 2039 of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or
 2040 s. 847.0145, and is subject to conditional release supervision,
 2041 shall have, in addition to any other conditions imposed, the
 2042 following special conditions imposed by the commission:

2043 1. A mandatory curfew from 10 p.m. to 6 a.m. The
 2044 commission may designate another 8-hour period if the offender's
 2045 employment precludes the above specified time, and such
 2046 alternative is recommended by the Department of Corrections. If
 2047 the commission determines that imposing a curfew would endanger
 2048 the victim, the commission may consider alternative sanctions.

2049 2. If the victim was under the age of 18, a prohibition on
 2050 living within 1,000 feet of a school, child care facility, park,
 2051 playground, designated public school bus stop, or other place
 2052 where children regularly congregate. A releasee who is subject
 2053 to this subparagraph may not relocate to a residence that is
 2054 within 1,000 feet of a public school bus stop. Beginning October

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2055 1, 2004, the commission or the department may not approve a
2056 residence that is located within 1,000 feet of a school, child
2057 care facility, park, playground, designated school bus stop, or
2058 other place where children regularly congregate for any releasee
2059 who is subject to this subparagraph. On October 1, 2004, the
2060 department shall notify each affected school district of the
2061 location of the residence of a releasee 30 days prior to release
2062 and thereafter, if the releasee relocates to a new residence,
2063 shall notify any affected school district of the residence of
2064 the releasee within 30 days after relocation. If, on October 1,
2065 2004, any public school bus stop is located within 1,000 feet of
2066 the existing residence of such releasee, the district school
2067 board shall relocate that school bus stop. Beginning October 1,
2068 2004, a district school board may not establish or relocate a
2069 public school bus stop within 1,000 feet of the residence of a
2070 releasee who is subject to this subparagraph. The failure of the
2071 district school board to comply with this subparagraph shall not
2072 result in a violation of conditional release supervision. A
2073 releasee who is subject to this subparagraph may not be forced
2074 to relocate and does not violate his or her conditional release
2075 supervision if he or she is living in a residence that meets the
2076 requirements of this subparagraph and a school, child care
2077 facility, park, playground, designated public school bus stop,
2078 or other place where children regularly congregate is
2079 subsequently established within 1,000 feet of his or her
2080 residence.

2081 3. Active participation in and successful completion of a
2082 sex offender treatment program with qualified practitioners
2083 specifically trained to treat sex offenders, at the releasee's
2084 own expense. If a qualified practitioner is not available within
2085 a 50-mile radius of the releasee's residence, the offender shall
2086 participate in other appropriate therapy.

2087 4. A prohibition on any contact with the victim, directly
2088 or indirectly, including through a third person, unless approved
2089 by the victim, a qualified practitioner in the sexual offender
2090 treatment program, and the sentencing court.

2091 5. If the victim was under the age of 18, a prohibition
2092 against contact with children under the age of 18 without review
2093 and approval by the commission. The commission may approve
2094 supervised contact with a child under the age of 18 if the
2095 approval is based upon a recommendation for contact issued by a
2096 qualified practitioner who is basing the recommendation on a
2097 risk assessment. Further, the sex offender must be currently
2098 enrolled in or have successfully completed a sex offender
2099 therapy program. The commission may not grant supervised contact
2100 with a child if the contact is not recommended by a qualified
2101 practitioner and may deny supervised contact with a child at any
2102 time. When considering whether to approve supervised contact
2103 with a child, the commission must review and consider the
2104 following:

2105 a. A risk assessment completed by a qualified
2106 practitioner. The qualified practitioner must prepare a written

2107 | report that must include the findings of the assessment and
 2108 | address each of the following components:

- 2109 | (I) The sex offender's current legal status;
- 2110 | (II) The sex offender's history of adult charges with
 2111 | apparent sexual motivation;
- 2112 | (III) The sex offender's history of adult charges without
 2113 | apparent sexual motivation;
- 2114 | (IV) The sex offender's history of juvenile charges,
 2115 | whenever available;
- 2116 | (V) The sex offender's offender treatment history,
 2117 | including a consultation from the sex offender's treating, or
 2118 | most recent treating, therapist;
- 2119 | (VI) The sex offender's current mental status;
- 2120 | (VII) The sex offender's mental health and substance abuse
 2121 | history as provided by the Department of Corrections;
- 2122 | (VIII) The sex offender's personal, social, educational,
 2123 | and work history;
- 2124 | (IX) The results of current psychological testing of the
 2125 | sex offender if determined necessary by the qualified
 2126 | practitioner;
- 2127 | (X) A description of the proposed contact, including the
 2128 | location, frequency, duration, and supervisory arrangement;
- 2129 | (XI) The child's preference and relative comfort level
 2130 | with the proposed contact, when age-appropriate;
- 2131 | (XII) The parent's or legal guardian's preference
 2132 | regarding the proposed contact; and

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2133 (XIII) The qualified practitioner's opinion, along with
2134 the basis for that opinion, as to whether the proposed contact
2135 would likely pose significant risk of emotional or physical harm
2136 to the child.

2137

2138 The written report of the assessment must be given to the
2139 commission.

2140 b. A recommendation made as a part of the risk-assessment
2141 report as to whether supervised contact with the child should be
2142 approved;

2143 c. A written consent signed by the child's parent or legal
2144 guardian, if the parent or legal guardian is not the sex
2145 offender, agreeing to the sex offender having supervised contact
2146 with the child after receiving full disclosure of the sex
2147 offender's present legal status, past criminal history, and the
2148 results of the risk assessment. The commission may not approve
2149 contact with the child if the parent or legal guardian refuses
2150 to give written consent for supervised contact;

2151 d. A safety plan prepared by the qualified practitioner,
2152 who provides treatment to the offender, in collaboration with
2153 the sex offender, the child's parent or legal guardian, and the
2154 child, when age appropriate, which details the acceptable
2155 conditions of contact between the sex offender and the child.
2156 The safety plan must be reviewed and approved by the Department
2157 of Corrections before being submitted to the commission; and

2158 e. Evidence that the child's parent or legal guardian, if

2159 the parent or legal guardian is not the sex offender,
2160 understands the need for and agrees to the safety plan and has
2161 agreed to provide, or to designate another adult to provide,
2162 constant supervision any time the child is in contact with the
2163 offender.

2164
2165 The commission may not appoint a person to conduct a risk
2166 assessment and may not accept a risk assessment from a person
2167 who has not demonstrated to the commission that he or she has
2168 met the requirements of a qualified practitioner as defined in
2169 this section.

2170 6. If the victim was under age 18, a prohibition on
2171 working for pay or as a volunteer at any school, child care
2172 facility, park, playground, or other place where children
2173 regularly congregate, as prescribed by the commission.

2174 7. Unless otherwise indicated in the treatment plan
2175 provided by a qualified practitioner in the sexual offender
2176 treatment program, a prohibition on viewing, owning, or
2177 possessing any obscene, pornographic, or sexually stimulating
2178 visual or auditory material, including telephone, electronic
2179 media, computer programs, or computer services that are relevant
2180 to the offender's deviant behavior pattern.

2181 8. Effective for a releasee whose crime is committed on or
2182 after July 1, 2005, a prohibition on accessing the Internet or
2183 other computer services until a qualified practitioner in the
2184 offender's sex offender treatment program, after a risk

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2185 assessment is completed, approves and implements a safety plan
2186 for the offender's accessing or using the Internet or other
2187 computer services.

2188 9. A requirement that the releasee must submit two
2189 specimens of blood to the Department of Law Enforcement to be
2190 registered with the DNA database.

2191 10. A requirement that the releasee make restitution to
2192 the victim, as determined by the sentencing court or the
2193 commission, for all necessary medical and related professional
2194 services relating to physical, psychiatric, and psychological
2195 care.

2196 11. Submission to a warrantless search by the community
2197 control or probation officer of the probationer's or community
2198 controllee's person, residence, or vehicle.

2199 (b) For a releasee whose crime was committed on or after
2200 October 1, 1997, in violation of chapter 794, s. 800.04, former
2201 s. 827.071, s. 847.0135(5), or s. 847.0145, and who is subject
2202 to conditional release supervision, in addition to any other
2203 provision of this subsection, the commission shall impose the
2204 following additional conditions of conditional release
2205 supervision:

2206 1. As part of a treatment program, participation in a
2207 minimum of one annual polygraph examination to obtain
2208 information necessary for risk management and treatment and to
2209 reduce the sex offender's denial mechanisms. The polygraph
2210 examination must be conducted by a polygrapher who is a member

2211 of a national or state polygraph association and who is
2212 certified as a postconviction sex offender polygrapher, where
2213 available, and at the expense of the releasee. The results of
2214 the examination shall be provided to the releasee's probation
2215 officer and qualified practitioner and may not be used as
2216 evidence in a hearing to prove that a violation of supervision
2217 has occurred.

2218 2. Maintenance of a driving log and a prohibition against
2219 driving a motor vehicle alone without the prior approval of the
2220 supervising officer.

2221 3. A prohibition against obtaining or using a post office
2222 box without the prior approval of the supervising officer.

2223 4. If there was sexual contact, a submission to, at the
2224 releasee's expense, an HIV test with the results to be released
2225 to the victim or the victim's parent or guardian.

2226 5. Electronic monitoring of any form when ordered by the
2227 commission. Any person who has been placed under supervision and
2228 is electronically monitored by the department must pay the
2229 department for the cost of the electronic monitoring service at
2230 a rate that may not exceed the full cost of the monitoring
2231 service. Funds collected under this subparagraph shall be
2232 deposited into the General Revenue Fund. The department may
2233 exempt a person from the payment of all or any part of the
2234 electronic monitoring service cost if the department finds that
2235 any of the factors listed in s. 948.09(3) exist.

2236 (10) Effective for a releasee whose crime was committed on

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2237 or after September 1, 2005, in violation of chapter 794, s.
2238 800.04(4), (5), or (6), former s. 827.071, or s. 847.0145, and
2239 the unlawful activity involved a victim who was 15 years of age
2240 or younger and the offender is 18 years of age or older or for a
2241 releasee who is designated as a sexual predator pursuant to s.
2242 775.21, in addition to any other provision of this section, the
2243 commission must order electronic monitoring for the duration of
2244 the releasee's supervision.

2245 (14) Effective for a releasee whose crime was committed on
2246 or after October 1, 2014, in violation of chapter 794, s.
2247 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, in
2248 addition to any other provision of this section, the commission
2249 must impose a condition prohibiting the releasee from viewing,
2250 accessing, owning, or possessing any obscene, pornographic, or
2251 sexually stimulating visual or auditory material unless
2252 otherwise indicated in the treatment plan provided by a
2253 qualified practitioner in the sexual offender treatment program.
2254 Visual or auditory material includes, but is not limited to,
2255 telephone, electronic media, computer programs, and computer
2256 services.

2257 (15) (a) Effective for a releasee whose crime was committed
2258 on or after October 1, 2015, in violation of s. 847.003 or s.
2259 847.0135(4), in addition to any other provision of this section,
2260 the commission must impose the conditions specified in
2261 subsections (7), (10), (12), and (14).

2262 (b) Effective for a releasee whose crime was committed on

2263 or after October 1, 2015, in violation of s. 847.0137, in
 2264 addition to any other provision of this section, the commission
 2265 must impose the conditions specified in subsections (7) and
 2266 (14).

2267 Section 46. Subsection (2) of section 948.013, Florida
 2268 Statutes, is amended, and subsection (3) is added to that
 2269 section, to read:

2270 948.013 Administrative probation.—

2271 (2) Effective for an offense committed on or after July 1,
 2272 1998, a person is ineligible for placement on administrative
 2273 probation if the person is sentenced to or is serving a term of
 2274 probation or community control, regardless of the conviction or
 2275 adjudication, for committing, or attempting, conspiring, or
 2276 soliciting to commit, any of the felony offenses described in s.
 2277 787.01 or s. 787.02, where the victim is a minor and the
 2278 defendant is not the victim's parent; s. 787.025; s.
 2279 787.06(3)(g); chapter 794; former s. 796.03; s. 800.04; s.
 2280 825.1025(2)(b); former s. 827.071; s. 847.0133; s. 847.0135; or
 2281 s. 847.0145.

2282 (3) Effective for an offense committed on or after October
 2283 1, 2015, a person is ineligible for placement on administrative
 2284 probation if the person is sentenced to or is serving a term of
 2285 probation or community control, regardless of the conviction or
 2286 adjudication, for committing, or attempting, conspiring, or
 2287 soliciting to commit, any of the felony offenses described in s.
 2288 847.003 or s. 847.0137.

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2289 Section 47. Subsection (2) of section 948.03, Florida
 2290 Statutes, is amended to read:

2291 948.03 Terms and conditions of probation.—

2292 (2) The enumeration of specific kinds of terms and
 2293 conditions shall not prevent the court from adding thereto such
 2294 other or others as it considers proper. However, the sentencing
 2295 court may only impose a condition of supervision allowing an
 2296 offender convicted of s. 794.011, s. 800.04, former s. 827.071,
 2297 s. 847.003, s. 847.0135(5), or s. 847.0145, to reside in another
 2298 state, if the order stipulates that it is contingent upon the
 2299 approval of the receiving state interstate compact authority.
 2300 The court may rescind or modify at any time the terms and
 2301 conditions theretofore imposed by it upon the probationer.
 2302 However, if the court withholds adjudication of guilt or imposes
 2303 a period of incarceration as a condition of probation, the
 2304 period shall not exceed 364 days, and incarceration shall be
 2305 restricted to either a county facility, a probation and
 2306 restitution center under the jurisdiction of the Department of
 2307 Corrections, a probation program drug punishment phase I secure
 2308 residential treatment institution, or a community residential
 2309 facility owned or operated by any entity providing such
 2310 services.

2311 Section 48. Subsection (1) of section 948.04, Florida
 2312 Statutes, is amended to read:

2313 948.04 Period of probation; duty of probationer; early
 2314 termination.—

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2315 (1) Defendants found guilty of felonies who are placed on
 2316 probation shall be under supervision not to exceed 2 years
 2317 unless otherwise specified by the court. No defendant placed on
 2318 probation pursuant to s. 948.012(1) is subject to the probation
 2319 limitations of this subsection. A defendant who is placed on
 2320 probation or community control for a violation of chapter 794,
 2321 ~~or~~ chapter 827, or s. 847.003 is subject to the maximum level of
 2322 supervision provided by the supervising agency, and that
 2323 supervision shall continue through the full term of the court-
 2324 imposed probation or community control.

2325 Section 49. Subsection (4) and paragraph (c) of subsection
 2326 (8) of section 948.06, Florida Statutes, are amended to read:

2327 948.06 Violation of probation or community control;
 2328 revocation; modification; continuance; failure to pay
 2329 restitution or cost of supervision.—

2330 (4) Notwithstanding any other provision of this section, a
 2331 felony probationer or an offender in community control who is
 2332 arrested for violating his or her probation or community control
 2333 in a material respect may be taken before the court in the
 2334 county or circuit in which the probationer or offender was
 2335 arrested. That court shall advise him or her of the charge of a
 2336 violation and, if such charge is admitted, shall cause him or
 2337 her to be brought before the court that granted the probation or
 2338 community control. If the violation is not admitted by the
 2339 probationer or offender, the court may commit him or her or
 2340 release him or her with or without bail to await further

2341 hearing. However, if the probationer or offender is under
2342 supervision for any criminal offense proscribed in chapter 794,
2343 s. 800.04(4), (5), (6), former s. 827.071, or s. 847.0145, or is
2344 a registered sexual predator or a registered sexual offender, or
2345 is under supervision for a criminal offense for which he or she
2346 would meet the registration criteria in s. 775.21, s. 943.0435,
2347 or s. 944.607 but for the effective date of those sections, the
2348 court must make a finding that the probationer or offender is
2349 not a danger to the public prior to release with or without
2350 bail. In determining the danger posed by the offender's or
2351 probationer's release, the court may consider the nature and
2352 circumstances of the violation and any new offenses charged; the
2353 offender's or probationer's past and present conduct, including
2354 convictions of crimes; any record of arrests without conviction
2355 for crimes involving violence or sexual crimes; any other
2356 evidence of allegations of unlawful sexual conduct or the use of
2357 violence by the offender or probationer; the offender's or
2358 probationer's family ties, length of residence in the community,
2359 employment history, and mental condition; his or her history and
2360 conduct during the probation or community control supervision
2361 from which the violation arises and any other previous
2362 supervisions, including disciplinary records of previous
2363 incarcerations; the likelihood that the offender or probationer
2364 will engage again in a criminal course of conduct; the weight of
2365 the evidence against the offender or probationer; and any other
2366 facts the court considers relevant. The court, as soon as is

2367 practicable, shall give the probationer or offender an
2368 opportunity to be fully heard on his or her behalf in person or
2369 by counsel. After the hearing, the court shall make findings of
2370 fact and forward the findings to the court that granted the
2371 probation or community control and to the probationer or
2372 offender or his or her attorney. The findings of fact by the
2373 hearing court are binding on the court that granted the
2374 probation or community control. Upon the probationer or offender
2375 being brought before it, the court that granted the probation or
2376 community control may revoke, modify, or continue the probation
2377 or community control or may place the probationer into community
2378 control as provided in this section. However, the probationer or
2379 offender shall not be released and shall not be admitted to
2380 bail, but shall be brought before the court that granted the
2381 probation or community control if any violation of felony
2382 probation or community control other than a failure to pay costs
2383 or fines or make restitution payments is alleged to have been
2384 committed by:

2385 (a) A violent felony offender of special concern, as
2386 defined in this section;

2387 (b) A person who is on felony probation or community
2388 control for any offense committed on or after the effective date
2389 of this act and who is arrested for a qualifying offense as
2390 defined in this section; or

2391 (c) A person who is on felony probation or community
2392 control and has previously been found by a court to be a

2393 habitual violent felony offender as defined in s. 775.084(1)(b),
 2394 a three-time violent felony offender as defined in s.
 2395 775.084(1)(c), or a sexual predator under s. 775.21, and who is
 2396 arrested for committing a qualifying offense as defined in this
 2397 section on or after the effective date of this act.

2398 (8)

2399 (c) For purposes of this section, the term "qualifying
 2400 offense" means any of the following:

2401 1. Kidnapping or attempted kidnapping under s. 787.01,
 2402 false imprisonment of a child under the age of 13 under s.
 2403 787.02(3), or luring or enticing a child under s. 787.025(2)(b)
 2404 or (c).

2405 2. Murder or attempted murder under s. 782.04, attempted
 2406 felony murder under s. 782.051, or manslaughter under s. 782.07.

2407 3. Aggravated battery or attempted aggravated battery
 2408 under s. 784.045.

2409 4. Sexual battery or attempted sexual battery under s.
 2410 794.011(2), (3), (4), or (8)(b) or (c).

2411 5. Lewd or lascivious battery or attempted lewd or
 2412 lascivious battery under s. 800.04(4), lewd or lascivious
 2413 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious
 2414 conduct under s. 800.04(6)(b), lewd or lascivious exhibition
 2415 under s. 800.04(7)(b), or lewd or lascivious exhibition on
 2416 computer under s. 847.0135(5)(b).

2417 6. Robbery or attempted robbery under s. 812.13,
 2418 carjacking or attempted carjacking under s. 812.133, or home

2419 invasion robbery or attempted home invasion robbery under s.
 2420 812.135.

2421 7. Lewd or lascivious offense upon or in the presence of
 2422 an elderly or disabled person or attempted lewd or lascivious
 2423 offense upon or in the presence of an elderly or disabled person
 2424 under s. 825.1025.

2425 8. Sexual performance by a child or attempted sexual
 2426 performance by a child under former s. 827.071 or s. 847.003.

2427 9. Computer pornography under s. 847.0135(2) or (3),
 2428 ~~transmission of~~ child pornography under s. 847.0137, or selling
 2429 or buying of minors under s. 847.0145.

2430 10. Poisoning food or water under s. 859.01.

2431 11. Abuse of a dead human body under s. 872.06.

2432 12. Any burglary offense or attempted burglary offense
 2433 that is either a first degree felony or second degree felony
 2434 under s. 810.02(2) or (3).

2435 13. Arson or attempted arson under s. 806.01(1).

2436 14. Aggravated assault under s. 784.021.

2437 15. Aggravated stalking under s. 784.048(3), (4), (5), or
 2438 (7).

2439 16. Aircraft piracy under s. 860.16.

2440 17. Unlawful throwing, placing, or discharging of a
 2441 destructive device or bomb under s. 790.161(2), (3), or (4).

2442 18. Treason under s. 876.32.

2443 19. Any offense committed in another jurisdiction which
 2444 would be an offense listed in this paragraph if that offense had

2445 | been committed in this state.

2446 | Section 50. Paragraph (c) of subsection (1) of section
2447 | 948.062, Florida Statutes, is amended to read:

2448 | 948.062 Reviewing and reporting serious offenses committed
2449 | by offenders placed on probation or community control.—

2450 | (1) The department shall review the circumstances related
2451 | to an offender placed on probation or community control who has
2452 | been arrested while on supervision for the following offenses:

2453 | (c) Any sexual performance by a child as provided in
2454 | former s. 827.071 or s. 847.003;

2455 | Section 51. Subsection (2) of section 948.101, Florida
2456 | Statutes, is amended to read:

2457 | 948.101 Terms and conditions of community control.—

2458 | (2) The enumeration of specific kinds of terms and
2459 | conditions does not prevent the court from adding any other
2460 | terms or conditions that the court considers proper. However,
2461 | the sentencing court may only impose a condition of supervision
2462 | allowing an offender convicted of s. 794.011, s. 800.04, former
2463 | s. 827.071, s. 847.003, s. 847.0135(5), or s. 847.0145 to reside
2464 | in another state if the order stipulates that it is contingent
2465 | upon the approval of the receiving state interstate compact
2466 | authority. The court may rescind or modify at any time the terms
2467 | and conditions theretofore imposed by it upon the offender in
2468 | community control. However, if the court withholds adjudication
2469 | of guilt or imposes a period of incarceration as a condition of
2470 | community control, the period may not exceed 364 days, and

2471 incarceration shall be restricted to a county facility, a
 2472 probation and restitution center under the jurisdiction of the
 2473 Department of Corrections, a probation program drug punishment
 2474 phase I secure residential treatment institution, or a community
 2475 residential facility owned or operated by any entity providing
 2476 such services.

2477 Section 52. Subsections (1) and (2), paragraphs (a) and
 2478 (c) of subsection (3), and subsection (5) of section 948.30,
 2479 Florida Statutes, are amended, and subsection (6) is added to
 2480 that section, to read:

2481 948.30 Additional terms and conditions of probation or
 2482 community control for certain sex offenses.—Conditions imposed
 2483 pursuant to this section do not require oral pronouncement at
 2484 the time of sentencing and shall be considered standard
 2485 conditions of probation or community control for offenders
 2486 specified in this section.

2487 (1) Effective for probationers or community controllees
 2488 whose crime was committed on or after October 1, 1995, and who
 2489 are placed under supervision for violation of chapter 794, s.
 2490 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, the
 2491 court must impose the following conditions in addition to all
 2492 other standard and special conditions imposed:

2493 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court
 2494 may designate another 8-hour period if the offender's employment
 2495 precludes the above specified time, and the alternative is
 2496 recommended by the Department of Corrections. If the court

2497 determines that imposing a curfew would endanger the victim, the
2498 court may consider alternative sanctions.

2499 (b) If the victim was under the age of 18, a prohibition
2500 on living within 1,000 feet of a school, child care facility,
2501 park, playground, or other place where children regularly
2502 congregate, as prescribed by the court. The 1,000-foot distance
2503 shall be measured in a straight line from the offender's place
2504 of residence to the nearest boundary line of the school, child
2505 care facility, park, playground, or other place where children
2506 congregate. The distance may not be measured by a pedestrian
2507 route or automobile route. A probationer or community controllee
2508 who is subject to this paragraph may not be forced to relocate
2509 and does not violate his or her probation or community control
2510 if he or she is living in a residence that meets the
2511 requirements of this paragraph and a school, child care
2512 facility, park, playground, or other place where children
2513 regularly congregate is subsequently established within 1,000
2514 feet of his or her residence.

2515 (c) Active participation in and successful completion of a
2516 sex offender treatment program with qualified practitioners
2517 specifically trained to treat sex offenders, at the
2518 probationer's or community controllee's own expense. If a
2519 qualified practitioner is not available within a 50-mile radius
2520 of the probationer's or community controllee's residence, the
2521 offender shall participate in other appropriate therapy.

2522 (d) A prohibition on any contact with the victim, directly

2523 or indirectly, including through a third person, unless approved
2524 by the victim, a qualified practitioner in the sexual offender
2525 treatment program, and the sentencing court.

2526 (e) If the victim was under the age of 18, a prohibition
2527 on contact with a child under the age of 18 except as provided
2528 in this paragraph. The court may approve supervised contact with
2529 a child under the age of 18 if the approval is based upon a
2530 recommendation for contact issued by a qualified practitioner
2531 who is basing the recommendation on a risk assessment. Further,
2532 the sex offender must be currently enrolled in or have
2533 successfully completed a sex offender therapy program. The court
2534 may not grant supervised contact with a child if the contact is
2535 not recommended by a qualified practitioner and may deny
2536 supervised contact with a child at any time. When considering
2537 whether to approve supervised contact with a child, the court
2538 must review and consider the following:

2539 1. A risk assessment completed by a qualified
2540 practitioner. The qualified practitioner must prepare a written
2541 report that must include the findings of the assessment and
2542 address each of the following components:

- 2543 a. The sex offender's current legal status;
- 2544 b. The sex offender's history of adult charges with
2545 apparent sexual motivation;
- 2546 c. The sex offender's history of adult charges without
2547 apparent sexual motivation;
- 2548 d. The sex offender's history of juvenile charges,

2549 whenever available;

2550 e. The sex offender's offender treatment history,

2551 including consultations with the sex offender's treating, or

2552 most recent treating, therapist;

2553 f. The sex offender's current mental status;

2554 g. The sex offender's mental health and substance abuse

2555 treatment history as provided by the Department of Corrections;

2556 h. The sex offender's personal, social, educational, and

2557 work history;

2558 i. The results of current psychological testing of the sex

2559 offender if determined necessary by the qualified practitioner;

2560 j. A description of the proposed contact, including the

2561 location, frequency, duration, and supervisory arrangement;

2562 k. The child's preference and relative comfort level with

2563 the proposed contact, when age appropriate;

2564 l. The parent's or legal guardian's preference regarding

2565 the proposed contact; and

2566 m. The qualified practitioner's opinion, along with the

2567 basis for that opinion, as to whether the proposed contact would

2568 likely pose significant risk of emotional or physical harm to

2569 the child.

2570

2571 The written report of the assessment must be given to the court;

2572 2. A recommendation made as a part of the risk assessment

2573 report as to whether supervised contact with the child should be

2574 approved;

2575 3. A written consent signed by the child's parent or legal
 2576 guardian, if the parent or legal guardian is not the sex
 2577 offender, agreeing to the sex offender having supervised contact
 2578 with the child after receiving full disclosure of the sex
 2579 offender's present legal status, past criminal history, and the
 2580 results of the risk assessment. The court may not approve
 2581 contact with the child if the parent or legal guardian refuses
 2582 to give written consent for supervised contact;

2583 4. A safety plan prepared by the qualified practitioner,
 2584 who provides treatment to the offender, in collaboration with
 2585 the sex offender, the child's parent or legal guardian, if the
 2586 parent or legal guardian is not the sex offender, and the child,
 2587 when age appropriate, which details the acceptable conditions of
 2588 contact between the sex offender and the child. The safety plan
 2589 must be reviewed and approved by the court; and

2590 5. Evidence that the child's parent or legal guardian
 2591 understands the need for and agrees to the safety plan and has
 2592 agreed to provide, or to designate another adult to provide,
 2593 constant supervision any time the child is in contact with the
 2594 offender.

2595
 2596 The court may not appoint a person to conduct a risk assessment
 2597 and may not accept a risk assessment from a person who has not
 2598 demonstrated to the court that he or she has met the
 2599 requirements of a qualified practitioner as defined in this
 2600 section.

2601 (f) If the victim was under age 18, a prohibition on
2602 working for pay or as a volunteer at any place where children
2603 regularly congregate, including, but not limited to, schools,
2604 child care facilities, parks, playgrounds, pet stores,
2605 libraries, zoos, theme parks, and malls.

2606 (g) Unless otherwise indicated in the treatment plan
2607 provided by a qualified practitioner in the sexual offender
2608 treatment program, a prohibition on viewing, accessing, owning,
2609 or possessing any obscene, pornographic, or sexually stimulating
2610 visual or auditory material, including telephone, electronic
2611 media, computer programs, or computer services that are relevant
2612 to the offender's deviant behavior pattern.

2613 (h) Effective for probationers and community controllees
2614 whose crime is committed on or after July 1, 2005, a prohibition
2615 on accessing the Internet or other computer services until a
2616 qualified practitioner in the offender's sex offender treatment
2617 program, after a risk assessment is completed, approves and
2618 implements a safety plan for the offender's accessing or using
2619 the Internet or other computer services.

2620 (i) A requirement that the probationer or community
2621 controllee must submit a specimen of blood or other approved
2622 biological specimen to the Department of Law Enforcement to be
2623 registered with the DNA data bank.

2624 (j) A requirement that the probationer or community
2625 controllee make restitution to the victim, as ordered by the
2626 court under s. 775.089, for all necessary medical and related

2627 professional services relating to physical, psychiatric, and
2628 psychological care.

2629 (k) Submission to a warrantless search by the community
2630 control or probation officer of the probationer's or community
2631 controllee's person, residence, or vehicle.

2632 (2) Effective for a probationer or community controllee
2633 whose crime was committed on or after October 1, 1997, and who
2634 is placed on community control or sex offender probation for a
2635 violation of chapter 794, s. 800.04, former s. 827.071, s.
2636 847.0135(5), or s. 847.0145, in addition to any other provision
2637 of this section, the court must impose the following conditions
2638 of probation or community control:

2639 (a) As part of a treatment program, participation at least
2640 annually in polygraph examinations to obtain information
2641 necessary for risk management and treatment and to reduce the
2642 sex offender's denial mechanisms. A polygraph examination must
2643 be conducted by a polygrapher who is a member of a national or
2644 state polygraph association and who is certified as a
2645 postconviction sex offender polygrapher, where available, and
2646 shall be paid for by the probationer or community controllee.
2647 The results of the polygraph examination shall be provided to
2648 the probationer's or community controllee's probation officer
2649 and qualified practitioner and shall not be used as evidence in
2650 court to prove that a violation of community supervision has
2651 occurred.

2652 (b) Maintenance of a driving log and a prohibition against

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2653 driving a motor vehicle alone without the prior approval of the
2654 supervising officer.

2655 (c) A prohibition against obtaining or using a post office
2656 box without the prior approval of the supervising officer.

2657 (d) If there was sexual contact, a submission to, at the
2658 probationer's or community controllee's expense, an HIV test
2659 with the results to be released to the victim or the victim's
2660 parent or guardian.

2661 (e) Electronic monitoring when deemed necessary by the
2662 community control or probation officer and his or her
2663 supervisor, and ordered by the court at the recommendation of
2664 the Department of Corrections.

2665 (3) Effective for a probationer or community controllee
2666 whose crime was committed on or after September 1, 2005, and
2667 who:

2668 (a) Is placed on probation or community control for a
2669 violation of chapter 794, s. 800.04(4), (5), or (6), former s.
2670 827.071, or s. 847.0145 and the unlawful sexual activity
2671 involved a victim 15 years of age or younger and the offender is
2672 18 years of age or older;

2673 (c) Has previously been convicted of a violation of
2674 chapter 794, s. 800.04(4), (5), or (6), former s. 827.071, or s.
2675 847.0145 and the unlawful sexual activity involved a victim 15
2676 years of age or younger and the offender is 18 years of age or
2677 older,

2678

2679 the court must order, in addition to any other provision of this
2680 section, mandatory electronic monitoring as a condition of the
2681 probation or community control supervision.

2682 (5) Effective for a probationer or community controllee
2683 whose crime was committed on or after October 1, 2014, and who
2684 is placed on probation or community control for a violation of
2685 chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s.
2686 847.0145, in addition to all other conditions imposed, the court
2687 must impose a condition prohibiting the probationer or community
2688 controllee from viewing, accessing, owning, or possessing any
2689 obscene, pornographic, or sexually stimulating visual or
2690 auditory material unless otherwise indicated in the treatment
2691 plan provided by a qualified practitioner in the sexual offender
2692 treatment program. Visual or auditory material includes, but is
2693 not limited to, telephone, electronic media, computer programs,
2694 and computer services.

2695 (6) Effective for a probationer or community controllee
2696 whose crime was committed on or after October 1, 2015, and who
2697 is placed under supervision for violation of s. 847.003, s.
2698 847.0135(4), or s. 847.0137, the court must impose the
2699 conditions specified in subsections (1)-(5) in addition to all
2700 other standard and special conditions imposed.

2701 Section 53. Subsection (1) of section 948.32, Florida
2702 Statutes, is amended to read:

2703 948.32 Requirements of law enforcement agency upon arrest
2704 of persons for certain sex offenses.—

2705 (1) When any state or local law enforcement agency
 2706 investigates or arrests a person for committing, or attempting,
 2707 soliciting, or conspiring to commit, a violation of s.
 2708 787.025(2)(c), s. 787.06(3)(g), chapter 794, former s. 796.03,
 2709 s. 800.04, former s. 827.071, s. 847.003, s. 847.0133, s.
 2710 847.0135, or s. 847.0145, the law enforcement agency shall
 2711 contact the Department of Corrections to verify whether the
 2712 person under investigation or under arrest is on probation,
 2713 community control, parole, conditional release, or control
 2714 release.

2715 Section 54. Paragraph (d) of subsection (3) and subsection
 2716 (10) of section 960.03, Florida Statutes, are amended to read:

2717 960.03 Definitions; ss. 960.01-960.28.—As used in ss.
 2718 960.01-960.28, unless the context otherwise requires, the term:

2719 (3) "Crime" means:

2720 (d) A violation of former s. 827.071, s. 847.003, s.
 2721 847.0135, s. 847.0137, or s. 847.0138, related to online sexual
 2722 exploitation and child pornography.

2723 (10) "Identified victim of child pornography" means any
 2724 person who, while under the age of 18, is depicted in any visual
 2725 depiction ~~image or movie~~ of child pornography, as defined in s.
 2726 847.0137, and who is identified through a report generated by a
 2727 law enforcement agency and provided to the National Center for
 2728 Missing and Exploited Children's Child Victim Identification
 2729 Program.

2730 Section 55. Section 960.197, Florida Statutes, is amended

2731 to read:

2732 960.197 Assistance to victims of online sexual
2733 exploitation and child pornography.—

2734 (1) Notwithstanding the criteria set forth in s. 960.13
2735 for crime victim compensation awards, the department may award
2736 compensation for counseling and other mental health services to
2737 treat psychological injury or trauma to:

2738 (a) A child younger than 18 years of age who suffers
2739 psychiatric or psychological injury as a direct result of online
2740 sexual exploitation under former ~~any provision of~~ s. 827.071, s.
2741 847.003, s. 847.0135, s. 847.0137, or s. 847.0138~~7~~ and who does
2742 not otherwise sustain a personal injury or death; or

2743 (b) Any person who, while younger than age 18, was
2744 depicted in any visual depiction ~~image or movie, regardless of~~
2745 ~~length~~, of child pornography as defined in s. 847.0137 ~~847.001~~,
2746 who has been identified by a law enforcement agency or the
2747 National Center for Missing and Exploited Children as an
2748 identified victim of child pornography, who suffers psychiatric
2749 or psychological injury as a direct result of the crime, and who
2750 does not otherwise sustain a personal injury or death.

2751 (2) Compensation under this section is not contingent upon
2752 pursuit of a criminal investigation or prosecution.

2753 Section 56. Paragraph (d) of subsection (4) of section
2754 985.04, Florida Statutes, is amended to read:

2755 985.04 Oaths; records; confidential information.—

2756 (4)

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2757 (d) The department shall disclose to the school
2758 superintendent the presence of any child in the care and custody
2759 or under the jurisdiction or supervision of the department who
2760 has a known history of criminal sexual behavior with other
2761 juveniles; is alleged to have committed juvenile sexual abuse as
2762 defined in s. 39.01; or has pled guilty or nolo contendere to,
2763 or has been found to have committed, a violation of chapter 794,
2764 chapter 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s.
2765 847.0133, or s. 847.0137, regardless of adjudication. Any
2766 employee of a district school board who knowingly and willfully
2767 discloses such information to an unauthorized person commits a
2768 misdemeanor of the second degree, punishable as provided in s.
2769 775.082 or s. 775.083.

2770 Section 57. Paragraph (a) of subsection (1) of section
2771 985.475, Florida Statutes, is amended to read:

2772 985.475 Juvenile sexual offenders.—

2773 (1) CRITERIA.—A "juvenile sexual offender" means:

2774 (a) A juvenile who has been found by the court under s.
2775 985.35 to have committed a violation of chapter 794, chapter
2776 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s. 847.0133,
2777 or s. 847.0137;

2778 Section 58. Paragraph (mm) of subsection (1) of section
2779 1012.315, Florida Statutes, is amended to read:

2780 1012.315 Disqualification from employment.—A person is
2781 ineligible for educator certification, and instructional
2782 personnel and school administrators, as defined in s. 1012.01,

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2783 are ineligible for employment in any position that requires
 2784 direct contact with students in a district school system,
 2785 charter school, or private school that accepts scholarship
 2786 students under s. 1002.39 or s. 1002.395, if the person,
 2787 instructional personnel, or school administrator has been
 2788 convicted of:

2789 (1) Any felony offense prohibited under any of the
 2790 following statutes:

2791 (mm) Former s. Section 827.071, relating to sexual
 2792 performance by a child.

2793 Section 59. Paragraphs (e), (f), and (h) of subsection (3)
 2794 of section 921.0022, Florida Statutes, are amended to read:

2795 921.0022 Criminal Punishment Code; offense severity
 2796 ranking chart.—

2797 (3) OFFENSE SEVERITY RANKING CHART

2798 (e) LEVEL 5

2799

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.

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2802	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
2803	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
2804	379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
2805	379.3671 (2) (c) 3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
2806	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
2807	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
2808	440.105 (5)	2nd	Unlawful solicitation for the

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2809			purpose of making workers' compensation claims.
	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
2810			
	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
2811			
	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
2812			
	790.01 (2)	3rd	Carrying a concealed firearm.
2813			
	790.162	2nd	Threat to throw or discharge destructive device.
2814			
	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
2815			

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2816	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
2817	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
2818	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
2819	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
2820	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
2821	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

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2822	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
2823	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
2824	812.131 (2) (b)	3rd	Robbery by sudden snatching.
2825	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
2826	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
2827	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
2828	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

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2829	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.
2830	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
2831	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
2832	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
2833	827.071 (5)	3rd	Possess, control, or

2834			intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
	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.
2835			
	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
2836			
	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
2837			
	<u>847.0137 (2) (a)</u>	<u>2nd</u>	<u>Possess child pornography with intent to promote.</u>
2838			
	<u>847.0137 (2) (b)</u>	<u>3rd</u>	<u>Possess, control, or intentionally view child pornography.</u>
2839			

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2840	<u>847.0137(3)</u> 847.0137 (2) & (3)	3rd	Transmission of <u>child</u> pornography by electronic device or equipment.
2841	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
2842	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
2843	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
2844	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1.,

(2) (c) 2., (2) (c) 3., (2) (c) 5.,
 (2) (c) 6., (2) (c) 7., (2) (c) 8.,
 (2) (c) 9., (3), or (4) drugs)
 within 1,000 feet of a child
 care facility, school, or
 state, county, or municipal
 park or publicly owned
 recreational facility or
 community center.

2845

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.

2846

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

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2847			specified business site.
	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.
2848	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).
2849	893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
2850			
2851	(f) LEVEL 6		
2852			
	Florida	Felony	
	Statute	Degree	Description
2853	316.027(2)(b)	2nd	Leaving the scene of a crash

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			involving serious bodily injury.
2854	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
2855	499.0051 (3)	2nd	Knowing forgery of pedigree papers.
2856	499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
2857	499.0051 (5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
2858	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
2859	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
2860	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
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2862	784.041	3rd	Felony battery; domestic battery by strangulation.
2863	784.048 (3)	3rd	Aggravated stalking; credible threat.
2864	784.048 (5)	3rd	Aggravated stalking of person under 16.
2865	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
2866	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
2867	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
2868	784.081 (2)	2nd	Aggravated assault on specified official or employee.
2869	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.

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2870	784.083 (2)	2nd	Aggravated assault on code inspector.
2871	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
2872	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
2873	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
2874	790.164 (1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
2875	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity

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2876			by custodial adult.
	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
2877			
	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
2878			
	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
2879			
	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
2880			
	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
2881			
	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
2882			
	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or

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2883			more, but less than \$100,000, grand theft in 2nd degree.
	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
2884			
	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
2885			
	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
2886			
	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
2887			
	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
2888			
	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
2889			
	825.102 (3) (c)	3rd	Neglect of an elderly person or

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2890			disabled adult.
	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
2891			
	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
2892			
	827.03 (2) (c)	3rd	Abuse of a child.
2893			
	827.03 (2) (d)	3rd	Neglect of a child.
2894			
	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
2895			
	836.05	2nd	Threats; extortion.
2896			
	836.10	2nd	Written threats to kill or do bodily injury.
2897			
	843.12	3rd	Aids or assists person to escape.
2898			

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2899	<u>847.003</u>	<u>2nd</u>	<u>Use or induce a child in a sexual performance, or promote or direct such performance.</u>
2900	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
2901	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
2902	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
2903	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great

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2904			bodily harm.
2905	944.40	2nd	Escapes.
2906	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
2907	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
2908	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
2909	(h) LEVEL 8		
2910	Florida	Felony	
2911	Statute	Degree	Description
2912	316.193 (3)(c)3.a.	2nd	DUI manslaughter.
	316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.

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2913	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
2914	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
2915	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
2916	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
2917	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
2918	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial

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			institutions.
2919	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
2920	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
2921	782.051 (2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04 (3).
2922	782.071 (1) (b)	1st	Committing vehicular homicide and failing to render aid or give information.
2923	782.072 (2)	1st	Committing vessel homicide and failing to render aid or give

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2924			information.
2925	787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
2926	787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
2927	787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
2928	787.06(3)(e)1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
2929	787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.

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2930	790.161 (3)	1st	Discharging a destructive device which results in bodily harm or property damage.
2931	794.011 (5) (a)	1st	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
2932	794.011 (5) (b)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
2933	794.011 (5) (c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.
	794.011 (5) (d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely

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			to cause serious injury; prior conviction for specified sex offense.
2934	794.08 (3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
2935	800.04 (4) (b)	2nd	Lewd or lascivious battery.
2936	800.04 (4) (c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
2937	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
2938	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
2939	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
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2941	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
2942	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
2943	812.13 (2) (b)	1st	Robbery with a weapon.
2944	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
2945	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
2946	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document;

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			defendant is incarcerated or under supervision.
2947	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
2948	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
2949	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
2950	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
2951	825.103 (3) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
2952	837.02 (2)	2nd	Perjury in official proceedings

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2953	837.021(2)	2nd	relating to prosecution of a capital felony.
2954	<u>847.0135(3)</u>	<u>2nd</u>	<u>Solicitation of a child, via a computer service, to commit an unlawful sex act while misrepresenting one's age.</u>
2955	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
2956	860.16	1st	Aircraft piracy.
2957	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
2958	893.13(2)(b)	1st	Purchase in excess of 10 grams

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			of any substance specified in s. 893.03(1) (a) or (b).
2959	893.13(6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
2960	893.135(1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
2961	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
2962	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
2963	893.135 (1) (c) 2.c.	1st	Trafficking in hydrocodone, 50 grams or more, less than 200 grams.
2964	893.135 (1) (c) 3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.

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2965	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
2966	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
2967	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
2968	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
2969	893.135 (1) (h) 1.b.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
2970	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
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2972	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
2973	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
2974	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
2975	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
2976	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
	896.101 (5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

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2997 | is directed to rename chapter 847, Florida Statutes, as
2998 | "Obscenity; Child Pornography."
2999 | Section 62. This act shall take effect October 1, 2015.