

By the Committee on Fiscal Policy; and Senators Flores and Grimsley

594-04398-16

20161294c1

1                                   A bill to be entitled  
2           An act relating to offenses involving minors and  
3           vulnerable persons; amending ss. 92.53 and 92.54,  
4           F.S.; increasing the maximum age at which a victim or  
5           witness under may be allowed to testify via closed  
6           circuit television rather than in a courtroom in  
7           certain circumstances; amending s. 92.55, F.S.;  
8           revising the definition of the term "sexual offense  
9           victim or witness"; increasing the maximum age of  
10          victims and witnesses for whom the court may enter  
11          protective orders; authorizing certain advocates to  
12          file motions for such orders on behalf of certain  
13          persons; amending s. 741.281, F.S.; requiring a court  
14          to order that a defendant attend and complete a  
15          parenting course if domestic violence was committed  
16          upon or in the presence of a child; amending s.  
17          741.283, F.S.; increasing the minimum sentence that a  
18          court is required to order a person to serve if he or  
19          she is adjudicated guilty of domestic violence and  
20          intentionally causes bodily harm to another person;  
21          amending s. 775.08435, F.S.; prohibiting a court from  
22          withholding adjudication for a third degree felony  
23          offense of domestic violence; providing exceptions;  
24          amending s. 782.04, F.S.; including human trafficking  
25          as an underlying felony offense to support a felony  
26          murder conviction; amending s. 787.06, F.S.;  
27          reclassifying specified felony offenses under certain  
28          circumstances; prohibiting certain defenses to  
29          prosecution under certain circumstances; amending s.  
30          794.022, F.S.; including human trafficking and lewd  
31          and lascivious offenses in the rules of evidence

594-04398-16

20161294c1

32 applicable to sexually-related offenses; amending ss.  
33 90.404, 775.21, 943.0435, 944.606, and 944.607, F.S.;  
34 conforming provisions to changes made by the act;  
35 reenacting s. 924.07(1)(m), F.S., relating to an  
36 appeal by the state, to incorporate the amendment made  
37 to s. 775.08135, F.S., in a reference thereto;  
38 providing an effective date.  
39

40 Be It Enacted by the Legislature of the State of Florida:  
41

42 Section 1. Section 92.53, Florida Statutes, is amended to  
43 read:

44 92.53 Videotaping the testimony of a victim or witness  
45 under age 18 ~~16~~ or who has an intellectual disability.—

46 (1) On motion and hearing in camera and a finding that  
47 there is a substantial likelihood that a victim or witness who  
48 is under the age of 18 ~~16~~ or who has an intellectual disability  
49 as defined in s. 393.063 would suffer at least moderate  
50 emotional or mental harm due to the presence of the defendant if  
51 such victim or witness is required to testify in open court, or  
52 is unavailable as defined in s. 90.804(1), the trial court may  
53 order the videotaping of the testimony of the victim or witness  
54 in a case, whether civil or criminal in nature, in which  
55 videotaped testimony is to be used at trial in lieu of trial  
56 testimony in open court.

57 (2) The motion may be filed by:

58 (a) The victim or witness, or the victim's or witness's  
59 attorney, parent, legal guardian, or guardian ad litem;

60 (b) A trial judge on his or her own motion;

594-04398-16

20161294c1

61 (c) Any party in a civil proceeding; or

62 (d) The prosecuting attorney or the defendant, or the  
63 defendant's counsel.

64 (3) The judge shall preside, or shall appoint a special  
65 master to preside, at the videotaping unless:

66 (a) The child or the person who has the intellectual  
67 disability is represented by a guardian ad litem or counsel;

68 (b) The representative of the victim or witness and the  
69 counsel for each party stipulate that the requirement for the  
70 presence of the judge or special master may be waived; and

71 (c) The court finds at a hearing on the motion that the  
72 presence of a judge or special master is not necessary to  
73 protect the victim or witness.

74 (4) The defendant and the defendant's counsel must be  
75 present at the videotaping unless the defendant has waived this  
76 right. The court may require the defendant to view the testimony  
77 from outside the presence of the child or the person who has an  
78 intellectual disability by means of a two-way mirror or another  
79 similar method that ensures that the defendant can observe and  
80 hear the testimony of the victim or witness in person, but the  
81 victim or witness cannot hear or see the defendant. The  
82 defendant and the attorney for the defendant may communicate by  
83 any appropriate private method.

84 (5) Any party, or the court on its own motion, may request  
85 the aid of an interpreter, as provided in s. 90.606, to aid the  
86 parties in formulating methods of questioning the child or  
87 person who has the intellectual disability and in interpreting  
88 the answers of the child or person during proceedings conducted  
89 under this section.

594-04398-16

20161294c1

90 (6) The motion referred to in subsection (1) may be made at  
91 any time with reasonable notice to each party to the cause, and  
92 videotaping of testimony may be made any time after the court  
93 grants the motion. The videotaped testimony is admissible as  
94 evidence in the trial of the cause; however, such testimony is  
95 not admissible in any trial or proceeding in which such witness  
96 testifies by use of closed circuit television pursuant to s.  
97 92.54.

98 (7) The court shall make specific findings of fact, on the  
99 record, as to the basis for its ruling under this section.

100 Section 2. Section 92.54, Florida Statutes, is amended to  
101 read:

102 92.54 Use of closed circuit television in proceedings  
103 involving a victim or witness under the age of 18 ~~16~~ or who has  
104 an intellectual disability.-

105 (1) Upon motion and hearing in camera and upon a finding  
106 that there is a substantial likelihood that a victim or witness  
107 under the age of 18 ~~16~~ or who has an intellectual disability  
108 will suffer at least moderate emotional or mental harm due to  
109 the presence of the defendant if such victim or witness is  
110 required to testify in open court, or is unavailable as defined  
111 in s. 90.804(1), the trial court may order that the testimony of  
112 the victim or witness be taken outside of the courtroom and  
113 shown by means of closed circuit television.

114 (2) The motion may be filed by the victim or witness; the  
115 attorney, parent, legal guardian, or guardian ad litem of the  
116 victim or witness; the prosecutor; the defendant or the  
117 defendant's counsel; or the trial judge on his or her own  
118 motion.

594-04398-16

20161294c1

119 (3) Only the judge, the prosecutor, the defendant, the  
120 attorney for the defendant, the operators of the videotape  
121 equipment, an interpreter, and some other person who, in the  
122 opinion of the court, contributes to the well-being of the child  
123 or the person who has an intellectual disability and who will  
124 not be a witness in the case may be in the room during the  
125 recording of the testimony.

126 (4) During the victim's or witness's testimony by closed  
127 circuit television, the court may require the defendant to view  
128 the testimony from the courtroom. In such a case, the court  
129 shall permit the defendant to observe and hear the testimony of  
130 the victim or witness, but must ensure that the victim or  
131 witness cannot hear or see the defendant. The defendant's right  
132 to assistance of counsel, which includes the right to immediate  
133 and direct communication with counsel conducting cross-  
134 examination, must be protected and, upon the defendant's  
135 request, such communication must be provided by any appropriate  
136 electronic method.

137 (5) The court shall make specific findings of fact, on the  
138 record, as to the basis for its ruling under this section.

139 Section 3. Section 92.55, Florida Statutes, is amended to  
140 read:

141 92.55 Judicial or other proceedings involving victim or  
142 witness under the age of 18 ~~16~~, a person who has an intellectual  
143 disability, or a sexual offense victim or witness; special  
144 protections; use of registered service or therapy animals.-

145 (1) For purposes of this section, the term:

146 (a) "Sexual offense victim or witness" means a person who  
147 was under the age of 18 ~~16~~ when he or she was the victim of or a

594-04398-16

20161294c1

148 witness to a sexual offense.

149 (b) "Sexual offense" means any offense specified in s.  
150 775.21(4)(a)1. or s. 943.0435(1)(a)1.a.(I).

151 (2) Upon motion of any party, upon motion of a parent,  
152 guardian, attorney, ~~or~~ guardian ad litem, or other advocate  
153 appointed by the court under s. 914.17 for a victim or witness  
154 under the age of 18 ~~16~~, a person who has an intellectual  
155 disability, or a sexual offense victim or witness, or upon its  
156 own motion, the court may enter any order necessary to protect  
157 the victim or witness in any judicial proceeding or other  
158 official proceeding from severe emotional or mental harm due to  
159 the presence of the defendant if the victim or witness is  
160 required to testify in open court. Such orders must relate to  
161 the taking of testimony and include, but are not limited to:

162 (a) Interviewing or the taking of depositions as part of a  
163 civil or criminal proceeding.

164 (b) Examination and cross-examination for the purpose of  
165 qualifying as a witness or testifying in any proceeding.

166 (c) The use of testimony taken outside of the courtroom,  
167 including proceedings under ss. 92.53 and 92.54.

168 (3) In ruling upon the motion, the court shall consider:

169 (a) The age of the child, the nature of the offense or act,  
170 the relationship of the child to the parties in the case or to  
171 the defendant in a criminal action, the degree of emotional  
172 trauma that will result to the child as a consequence of the  
173 defendant's presence, and any other fact that the court deems  
174 relevant;

175 (b) The age of the person who has an intellectual  
176 disability, the functional capacity of such person, the nature

594-04398-16

20161294c1

177 of the offenses or act, the relationship of the person to the  
178 parties in the case or to the defendant in a criminal action,  
179 the degree of emotional trauma that will result to the person as  
180 a consequence of the defendant's presence, and any other fact  
181 that the court deems relevant; or

182 (c) The age of the sexual offense victim or witness when  
183 the sexual offense occurred, the relationship of the sexual  
184 offense victim or witness to the parties in the case or to the  
185 defendant in a criminal action, the degree of emotional trauma  
186 that will result to the sexual offense victim or witness as a  
187 consequence of the defendant's presence, and any other fact that  
188 the court deems relevant.

189 (4) In addition to such other relief provided by law, the  
190 court may enter orders limiting the number of times that a  
191 child, a person who has an intellectual disability, or a sexual  
192 offense victim or witness may be interviewed, prohibiting  
193 depositions of the victim or witness, requiring the submission  
194 of questions before the examination of the victim or witness,  
195 setting the place and conditions for interviewing the victim or  
196 witness or for conducting any other proceeding, or permitting or  
197 prohibiting the attendance of any person at any proceeding. The  
198 court shall enter any order necessary to protect the rights of  
199 all parties, including the defendant in any criminal action.

200 (5) The court may set any other conditions it finds just  
201 and appropriate when taking the testimony of a child victim or  
202 witness or a sexual offense victim or witness, including the use  
203 of a service or therapy animal that has been evaluated and  
204 registered according to national standards, in any proceeding  
205 involving a sexual offense. When deciding whether to permit a

594-04398-16

20161294c1

206 child victim or witness or sexual offense victim or witness to  
207 testify with the assistance of a registered service or therapy  
208 animal, the court shall consider the age of the child victim or  
209 witness, the age of the sexual offense victim or witness at the  
210 time the sexual offense occurred, the interests of the child  
211 victim or witness or sexual offense victim or witness, the  
212 rights of the parties to the litigation, and any other relevant  
213 factor that would facilitate the testimony by the child victim  
214 or witness or sexual offense victim or witness.

215 Section 4. Section 741.281, Florida Statutes, is amended to  
216 read:

217 741.281 Court to order batterers' intervention program  
218 attendance.—If a person is found guilty of, has adjudication  
219 withheld on, or pleads nolo contendere to a crime of domestic  
220 violence, as defined in s. 741.28, that person shall be ordered  
221 by the court to a minimum term of 1 year's probation and the  
222 court shall order that the defendant attend and complete a  
223 batterers' intervention program and, if a crime of domestic  
224 violence was committed upon or in the presence of a child, a  
225 parenting course as a condition of probation. The court must  
226 impose the condition of the batterers' intervention program and  
227 parenting course for a defendant under this section, but the  
228 court, in its discretion, may determine not to impose the  
229 condition if it states on the record why a batterers'  
230 intervention program and the parenting course might be  
231 inappropriate. The court must impose the condition of the  
232 batterers' intervention program for a defendant placed on  
233 probation unless the court determines that the person does not  
234 qualify for the batterers' intervention program pursuant to s.



594-04398-16

20161294c1

235 741.325. The imposition of probation under this section does not  
236 preclude the court from imposing any sentence of imprisonment  
237 authorized by s. 775.082.

238 Section 5. Section 741.283, Florida Statutes, is amended to  
239 read:

240 741.283 Minimum term of imprisonment for domestic  
241 violence.—If a person is adjudicated guilty of a crime of  
242 domestic violence, as defined in s. 741.28, and the person has  
243 intentionally caused bodily harm to another person, the court  
244 shall order the person to serve a minimum of 30 ~~5~~ days in the  
245 county jail as part of the sentence imposed, unless the court  
246 sentences the person to a nonsuspended period of incarceration  
247 in a state correctional facility. This section does not preclude  
248 the court from sentencing the person to probation, community  
249 control, or an additional period of incarceration.

250 Section 6. Subsection (1) of section 775.08435, Florida  
251 Statutes, is amended to read:

252 775.08435 Prohibition on withholding adjudication in felony  
253 cases.—

254 (1) Notwithstanding the provisions of s. 948.01, the court  
255 may not withhold adjudication of guilt upon the defendant for:

256 (a) Any capital, life, or first degree felony offense.

257 (b) A second degree felony offense unless:

258 1. The state attorney requests in writing that adjudication  
259 be withheld; or

260 2. The court makes written findings that the withholding of  
261 adjudication is reasonably justified based on circumstances or  
262 factors in accordance with those set forth in s. 921.0026.

263

594-04398-16

20161294c1

264 Notwithstanding any provision of this section, no adjudication  
265 of guilt shall be withheld for a second degree felony offense if  
266 the defendant has a prior withholding of adjudication for a  
267 felony that did not arise from the same transaction as the  
268 current felony offense.

269 (c) A third degree felony offense if the defendant has a  
270 prior withholding of adjudication for a felony offense that did  
271 not arise from the same transaction as the current felony  
272 offense unless:

273 1. The state attorney requests in writing that adjudication  
274 be withheld; or

275 2. The court makes written findings that the withholding of  
276 adjudication is reasonably justified based on circumstances or  
277 factors in accordance with those set forth in s. 921.0026.

278 (d) A third degree felony offense of domestic violence, as  
279 defined in s. 741.28, unless:

280 1. The state attorney requests in writing that adjudication  
281 be withheld; or

282 2. The court makes written findings that the withholding of  
283 adjudication is reasonably justified based on circumstances or  
284 factors in accordance with those set forth in s. 921.0026.

285  
286 Notwithstanding any provision of this section, no adjudication  
287 of guilt shall be withheld for a third degree felony offense if  
288 the defendant has two or more prior withholdings of adjudication  
289 for a felony that did not arise from the same transaction as the  
290 current felony offense.

291 Section 7. Subsections (1), (3), and (4) of section 782.04,  
292 Florida Statutes, are amended to read:

594-04398-16

20161294c1

- 293 782.04 Murder.—
- 294 (1)(a) The unlawful killing of a human being:
- 295 1. When perpetrated from a premeditated design to effect
- 296 the death of the person killed or any human being;
- 297 2. When committed by a person engaged in the perpetration
- 298 of, or in the attempt to perpetrate, any:
- 299 a. Trafficking offense prohibited by s. 893.135(1),
- 300 b. Arson,
- 301 c. Sexual battery,
- 302 d. Robbery,
- 303 e. Burglary,
- 304 f. Kidnapping,
- 305 g. Escape,
- 306 h. Aggravated child abuse,
- 307 i. Aggravated abuse of an elderly person or disabled adult,
- 308 j. Aircraft piracy,
- 309 k. Unlawful throwing, placing, or discharging of a
- 310 destructive device or bomb,
- 311 l. Carjacking,
- 312 m. Home-invasion robbery,
- 313 n. Aggravated stalking,
- 314 o. Murder of another human being,
- 315 p. Resisting an officer with violence to his or her person,
- 316 q. Aggravated fleeing or eluding with serious bodily injury
- 317 or death,
- 318 r. Felony that is an act of terrorism or is in furtherance
- 319 of an act of terrorism, ~~or~~
- 320 s. Human trafficking, or
- 321 3. Which resulted from the unlawful distribution of any

594-04398-16

20161294c1

322 substance controlled under s. 893.03(1), cocaine as described in  
323 s. 893.03(2)(a)4., opium or any synthetic or natural salt,  
324 compound, derivative, or preparation of opium, or methadone by a  
325 person 18 years of age or older, when such drug is proven to be  
326 the proximate cause of the death of the user,

327

328 is murder in the first degree and constitutes a capital felony,  
329 punishable as provided in s. 775.082.

330 (b) In all cases under this section, the procedure set  
331 forth in s. 921.141 shall be followed in order to determine  
332 sentence of death or life imprisonment.

333 (3) When a human being is killed during the perpetration  
334 of, or during the attempt to perpetrate, any:

335 (a) Trafficking offense prohibited by s. 893.135(1),

336 (b) Arson,

337 (c) Sexual battery,

338 (d) Robbery,

339 (e) Burglary,

340 (f) Kidnapping,

341 (g) Escape,

342 (h) Aggravated child abuse,

343 (i) Aggravated abuse of an elderly person or disabled  
344 adult,

345 (j) Aircraft piracy,

346 (k) Unlawful throwing, placing, or discharging of a  
347 destructive device or bomb,

348 (l) Carjacking,

349 (m) Home-invasion robbery,

350 (n) Aggravated stalking,

594-04398-16

20161294c1

- 351 (o) Murder of another human being,  
352 (p) Aggravated fleeing or eluding with serious bodily  
353 injury or death,  
354 (q) Resisting an officer with violence to his or her  
355 person, ~~or~~  
356 (r) Felony that is an act of terrorism or is in furtherance  
357 of an act of terrorism, or  
358 (s) Human trafficking,  
359  
360 by a person other than the person engaged in the perpetration of  
361 or in the attempt to perpetrate such felony, the person  
362 perpetrating or attempting to perpetrate such felony commits  
363 murder in the second degree, which constitutes a felony of the  
364 first degree, punishable by imprisonment for a term of years not  
365 exceeding life or as provided in s. 775.082, s. 775.083, or s.  
366 775.084.
- 367 (4) The unlawful killing of a human being, when perpetrated  
368 without any design to effect death, by a person engaged in the  
369 perpetration of, or in the attempt to perpetrate, any felony  
370 other than any:
- 371 (a) Trafficking offense prohibited by s. 893.135(1),  
372 (b) Arson,  
373 (c) Sexual battery,  
374 (d) Robbery,  
375 (e) Burglary,  
376 (f) Kidnapping,  
377 (g) Escape,  
378 (h) Aggravated child abuse,  
379 (i) Aggravated abuse of an elderly person or disabled

594-04398-16

20161294c1

380 adult,  
381 (j) Aircraft piracy,  
382 (k) Unlawful throwing, placing, or discharging of a  
383 destructive device or bomb,  
384 (l) Unlawful distribution of any substance controlled under  
385 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or  
386 opium or any synthetic or natural salt, compound, derivative, or  
387 preparation of opium by a person 18 years of age or older, when  
388 such drug is proven to be the proximate cause of the death of  
389 the user,  
390 (m) Carjacking,  
391 (n) Home-invasion robbery,  
392 (o) Aggravated stalking,  
393 (p) Murder of another human being,  
394 (q) Aggravated fleeing or eluding with serious bodily  
395 injury or death,  
396 (r) Resisting an officer with violence to his or her  
397 person, ~~or~~  
398 (s) Felony that is an act of terrorism or is in furtherance  
399 of an act of terrorism, or  
400 (t) Human trafficking,

401  
402 is murder in the third degree and constitutes a felony of the  
403 second degree, punishable as provided in s. 775.082, s. 775.083,  
404 or s. 775.084.

405 Section 8. Paragraph (b) of subsection (4) of section  
406 787.06, Florida Statutes, is amended, present subsections (8)  
407 and (9) of that section are redesignated as subsection (9) and  
408 (11), respectively, and new subsections (8) and (10) are added

594-04398-16

20161294c1

409 to that section, to read:

410 787.06 Human trafficking.—

411 (4)

412 (b) Any person who, for the purpose of committing or  
413 facilitating an offense under this section, permanently brands,  
414 or directs to be branded, a victim of an offense under this  
415 section commits a second degree felony, punishable as provided  
416 in s. 775.082, s. 775.083, or s. 775.084. For purposes of this  
417 subsection, the term "permanently branded" means a mark on the  
418 individual's body that, if it can be removed or repaired at all,  
419 can only be removed or repaired by surgical means, laser  
420 treatment, or other medical procedure.

421 (8) The degree of an offense shall be reclassified as  
422 follows if a person causes great bodily harm, permanent  
423 disability, or permanent disfigurement to another person during  
424 the commission of an offense under this section:

425 (a) A felony of the second degree shall be reclassified as  
426 a felony of the first degree.

427 (b) A felony of the first degree shall be reclassified as a  
428 life felony.

429 (10) A victim's lack of chastity or the willingness or  
430 consent of a victim is not a defense to prosecution under this  
431 section if the victim was under 18 years of age at the time of  
432 the offense.

433 Section 9. Section 794.022, Florida Statutes, is amended to  
434 read:

435 794.022 Rules of evidence.—

436 (1) The testimony of the victim need not be corroborated in  
437 a prosecution under s. 787.06, s. 794.011, or s. 800.04.

594-04398-16

20161294c1

438 (2) Specific instances of prior consensual sexual activity  
439 between the victim and any person other than the offender may  
440 ~~shall~~ not be admitted into evidence in a prosecution under s.  
441 787.06, s. 794.011, or s. 800.04. However, such evidence may be  
442 admitted if it is first established to the court in a proceeding  
443 in camera that such evidence may prove that the defendant was  
444 not the source of the semen, pregnancy, injury, or disease; or,  
445 when consent by the victim is at issue, such evidence may be  
446 admitted if it is first established to the court in a proceeding  
447 in camera that such evidence tends to establish a pattern of  
448 conduct or behavior on the part of the victim which is so  
449 similar to the conduct or behavior in the case that it is  
450 relevant to the issue of consent.

451 (3) Notwithstanding any other provision of law, reputation  
452 evidence relating to a victim's prior sexual conduct or evidence  
453 presented for the purpose of showing that manner of dress of the  
454 victim at the time of the offense incited the sexual battery may  
455 ~~shall~~ not be admitted into evidence in a prosecution under s.  
456 787.06, s. 794.011, or s. 800.04.

457 (4) When consent of the victim is a defense to prosecution  
458 under s. 787.06, s. 794.011, or s. 800.04, evidence of the  
459 victim's mental incapacity or defect is admissible to prove that  
460 the consent was not intelligent, knowing, or voluntary; and the  
461 court shall instruct the jury accordingly.

462 (5) An offender's use of a prophylactic device, or a  
463 victim's request that an offender use a prophylactic device, is  
464 not, by itself, relevant to either the issue of whether or not  
465 the offense was committed or the issue of whether or not the  
466 victim consented.



594-04398-16

20161294c1

467 Section 10. Paragraph (b) of subsection (1) of section  
468 90.404, Florida Statutes, is republished, and paragraphs (b) and  
469 (c) of subsection (2) of that section are amended, to read:

470 90.404 Character evidence; when admissible.—

471 (1) CHARACTER EVIDENCE GENERALLY.—Evidence of a person's  
472 character or a trait of character is inadmissible to prove  
473 action in conformity with it on a particular occasion, except:

474 (b) *Character of victim.*—

475 1. Except as provided in s. 794.022, evidence of a  
476 pertinent trait of character of the victim of the crime offered  
477 by an accused, or by the prosecution to rebut the trait; or

478 2. Evidence of a character trait of peacefulness of the  
479 victim offered by the prosecution in a homicide case to rebut  
480 evidence that the victim was the aggressor.

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

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

487 2. For the purposes of this paragraph, the term "child  
488 molestation" means conduct proscribed by s. 787.025(2)(c), s.  
489 787.06(3)(g), ~~former~~ s. 787.06(3)(h), Florida Statutes 2012, s.  
490 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03,  
491 former s. 796.035, s. 800.04, s. 827.071, s. 847.0135(5), s.  
492 847.0145, or s. 985.701(1) when committed against a person 16  
493 years of age or younger.

494 (c)1. In a criminal case in which the defendant is charged  
495 with a sexual offense, evidence of the defendant's commission of

594-04398-16

20161294c1

496 other crimes, wrongs, or acts involving a sexual offense is  
497 admissible and may be considered for its bearing on any matter  
498 to which it is relevant.

499 2. For the purposes of this paragraph, the term "sexual  
500 offense" means conduct proscribed by s. 787.025(2)(c), s.  
501 787.06(3)(b), (d), (f), or (g), ~~former~~ s. 787.06(3)(h), Florida  
502 Statutes 2012, s. 794.011, excluding s. 794.011(10), s. 794.05,  
503 former s. 796.03, former s. 796.035, s. 825.1025(2)(b), s.  
504 827.071, s. 847.0135(5), s. 847.0145, or s. 985.701(1).

505 Section 11. Paragraph (a) of subsection (4) of section  
506 775.21, Florida Statutes, is amended to read:

507 775.21 The Florida Sexual Predators Act.—

508 (4) SEXUAL PREDATOR CRITERIA.—

509 (a) For a current offense committed on or after October 1,  
510 1993, upon conviction, an offender shall be designated as a  
511 "sexual predator" under subsection (5), and subject to  
512 registration under subsection (6) and community and public  
513 notification under subsection (7) if:

514 1. The felony is:

515 a. A capital, life, or first degree felony violation, or  
516 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
517 is a minor and the defendant is not the victim's parent or  
518 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a  
519 violation of a similar law of another jurisdiction; or

520 b. Any felony violation, or any attempt thereof, of s.  
521 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
522 787.025(2)(c), where the victim is a minor and the defendant is  
523 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),  
524 or (g); ~~former~~ s. 787.06(3)(h), Florida Statutes 2012; s.

594-04398-16

20161294c1

525 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;  
526 former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s.  
527 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s.  
528 916.1075(2); or s. 985.701(1); or a violation of a similar law  
529 of another jurisdiction, and the offender has previously been  
530 convicted of or found to have committed, or has pled nolo  
531 contendere or guilty to, regardless of adjudication, any  
532 violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.  
533 787.02, or s. 787.025(2)(c), where the victim is a minor and the  
534 defendant is not the victim's parent or guardian; s.  
535 787.06(3)(b), (d), (f), or (g); ~~former~~ s. 787.06(3)(h), Florida  
536 Statutes 2012; s. 794.011, excluding s. 794.011(10); s. 794.05;  
537 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.  
538 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.  
539 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a  
540 similar law of another jurisdiction;

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

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

547 Section 12. Paragraph (a) of subsection (1) of section  
548 943.0435, Florida Statutes, is amended to read:

549 943.0435 Sexual offenders required to register with the  
550 department; penalty.—

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

552 (a)1. "Sexual offender" means a person who meets the  
553 criteria in sub-subparagraph a., sub-subparagraph b., sub-

594-04398-16

20161294c1

554 subparagraph c., or sub-subparagraph d., as follows:

555 a.(I) Has been convicted of committing, or attempting,  
556 soliciting, or conspiring to commit, any of the criminal  
557 offenses proscribed in the following statutes in this state or  
558 similar offenses in another jurisdiction: s. 393.135(2); s.  
559 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
560 the victim is a minor and the defendant is not the victim's  
561 parent or guardian; s. 787.06(3)(b), (d), (f), or (g); ~~former s.~~  
562 787.06(3)(h), Florida Statutes 2012; s. 794.011, excluding s.  
563 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.  
564 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s.  
565 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.  
566 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar  
567 offense committed in this state which has been redesignated from  
568 a former statute number to one of those listed in this sub-sub-  
569 subparagraph; and

570 (II) Has been released on or after October 1, 1997, from  
571 the sanction imposed for any conviction of an offense described  
572 in sub-sub-subparagraph (I). For purposes of sub-sub-  
573 subparagraph (I), a sanction imposed in this state or in any  
574 other jurisdiction includes, but is not limited to, a fine,  
575 probation, community control, parole, conditional release,  
576 control release, or incarceration in a state prison, federal  
577 prison, private correctional facility, or local detention  
578 facility;

579 b. Establishes or maintains a residence in this state and  
580 who has not been designated as a sexual predator by a court of  
581 this state but who has been designated as a sexual predator, as  
582 a sexually violent predator, or by another sexual offender

594-04398-16

20161294c1

583 designation in another state or jurisdiction and was, as a  
584 result of such designation, subjected to registration or  
585 community or public notification, or both, or would be if the  
586 person were a resident of that state or jurisdiction, without  
587 regard to whether the person otherwise meets the criteria for  
588 registration as a sexual offender;

589 c. Establishes or maintains a residence in this state who  
590 is in the custody or control of, or under the supervision of,  
591 any other state or jurisdiction as a result of a conviction for  
592 committing, or attempting, soliciting, or conspiring to commit,  
593 any of the criminal offenses proscribed in the following  
594 statutes or similar offense in another jurisdiction: s.  
595 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
596 787.025(2)(c), where the victim is a minor and the defendant is  
597 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),  
598 or (g); ~~former~~ s. 787.06(3)(h), Florida Statutes 2012; s.  
599 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;  
600 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.  
601 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.  
602 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.  
603 985.701(1); or any similar offense committed in this state which  
604 has been redesignated from a former statute number to one of  
605 those listed in this sub-subparagraph; or

606 d. On or after July 1, 2007, has been adjudicated  
607 delinquent for committing, or attempting, soliciting, or  
608 conspiring to commit, any of the criminal offenses proscribed in  
609 the following statutes in this state or similar offenses in  
610 another jurisdiction when the juvenile was 14 years of age or  
611 older at the time of the offense:

594-04398-16

20161294c1

- 612 (I) Section 794.011, excluding s. 794.011(10);
- 613 (II) Section 800.04(4)(a)2. where the victim is under 12
- 614 years of age or where the court finds sexual activity by the use
- 615 of force or coercion;
- 616 (III) Section 800.04(5)(c)1. where the court finds
- 617 molestation involving unclothed genitals; or
- 618 (IV) Section 800.04(5)(d) where the court finds the use of
- 619 force or coercion and unclothed genitals.
- 620 2. For all qualifying offenses listed in sub-subparagraph
- 621 (1)(a)1.d., the court shall make a written finding of the age of
- 622 the offender at the time of the offense.

623

624 For each violation of a qualifying offense listed in this

625 subsection, except for a violation of s. 794.011, the court

626 shall make a written finding of the age of the victim at the

627 time of the offense. For a violation of s. 800.04(4), the court

628 shall also make a written finding indicating whether the offense

629 involved sexual activity and indicating whether the offense

630 involved force or coercion. For a violation of s. 800.04(5), the

631 court shall also make a written finding that the offense did or

632 did not involve unclothed genitals or genital area and that the

633 offense did or did not involve the use of force or coercion.

634 Section 13. Paragraph (b) of subsection (1) of section

635 944.606, Florida Statutes, is amended to read:

636 944.606 Sexual offenders; notification upon release.-

637 (1) As used in this section:

638 (b) "Sexual offender" means a person who has been convicted

639 of committing, or attempting, soliciting, or conspiring to

640 commit, any of the criminal offenses proscribed in the following

594-04398-16

20161294c1

641 statutes in this state or similar offenses in another  
 642 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.  
 643 787.02, or s. 787.025(2)(c), where the victim is a minor and the  
 644 defendant is not the victim's parent or guardian; s.  
 645 787.06(3)(b), (d), (f), or (g); ~~former~~ s. 787.06(3)(h), Florida  
 646 Statutes 2012; s. 794.011, excluding s. 794.011(10); s. 794.05;  
 647 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);  
 648 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.  
 649 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.  
 650 916.1075(2); or s. 985.701(1); or any similar offense committed  
 651 in this state which has been redesignated from a former statute  
 652 number to one of those listed in this subsection, when the  
 653 department has received verified information regarding such  
 654 conviction; an offender's computerized criminal history record  
 655 is not, in and of itself, verified information.

656 Section 14. Paragraph (a) of subsection (1) of section  
 657 944.607, Florida Statutes, is amended to read:

658 944.607 Notification to Department of Law Enforcement of  
 659 information on sexual offenders.—

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

661 (a) "Sexual offender" means a person who is in the custody  
 662 or control of, or under the supervision of, the department or is  
 663 in the custody of a private correctional facility:

664 1. On or after October 1, 1997, as a result of a conviction  
 665 for committing, or attempting, soliciting, or conspiring to  
 666 commit, any of the criminal offenses proscribed in the following  
 667 statutes in this state or similar offenses in another  
 668 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.  
 669 787.02, or s. 787.025(2)(c), where the victim is a minor and the

594-04398-16

20161294c1

670 defendant is not the victim's parent or guardian; s.  
671 787.06(3)(b), (d), (f), or (g); ~~former~~ s. 787.06(3)(h), Florida  
672 Statutes 2012; s. 794.011, excluding s. 794.011(10); s. 794.05;  
673 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);  
674 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.  
675 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.  
676 916.1075(2); or s. 985.701(1); or any similar offense committed  
677 in this state which has been redesignated from a former statute  
678 number to one of those listed in this paragraph; or

679 2. Who establishes or maintains a residence in this state  
680 and who has not been designated as a sexual predator by a court  
681 of this state but who has been designated as a sexual predator,  
682 as a sexually violent predator, or by another sexual offender  
683 designation in another state or jurisdiction and was, as a  
684 result of such designation, subjected to registration or  
685 community or public notification, or both, or would be if the  
686 person were a resident of that state or jurisdiction, without  
687 regard as to whether the person otherwise meets the criteria for  
688 registration as a sexual offender.

689 Section 15. For the purpose of incorporating the amendment  
690 made by this act to section 775.08435, Florida Statutes, in a  
691 reference thereto, paragraph (m) of subsection (1) of section  
692 924.07, Florida Statutes, is reenacted to read:

693 924.07 Appeal by state.—

694 (1) The state may appeal from:

695 (m) An order withholding adjudication of guilt in violation  
696 of s. 775.08435.

697 Section 16. This act shall take effect July 1, 2016.