

By Senator Book

32-01236A-17

20171558__

1 A bill to be entitled
2 An act relating to child exploitation; amending s.
3 16.56, F.S.; revising the offenses that may be
4 investigated and prosecuted by the Office of Statewide
5 Prosecution; amending s. 39.01, F.S.; conforming
6 provisions to changes made by the act; amending s.
7 39.0132, F.S.; revising the types of offenses
8 committed by a child in the custody of the Department
9 of Children and Families which require the department
10 to provide notice to the school superintendent;
11 conforming provisions to changes made by the act;
12 amending s. 39.0139, F.S.; revising the type of
13 offenses that create a rebuttable presumption of
14 detriment for judicial determinations related to
15 contact between a parent or caregiver and certain
16 child victims; conforming provisions to changes made
17 by the act; amending s. 39.301, F.S.; conforming
18 provisions to changes made by the act; amending s.
19 39.509, F.S.; revising the offenses that may be
20 considered in determining whether grandparental
21 visitation is in the child's best interest; conforming
22 provisions to changes made by the act; amending s.
23 90.404, F.S.; conforming provisions to changes made by
24 the act; amending s. 92.56, F.S.; revising the
25 offenses for which a criminal defendant may seek an
26 order of disclosure for certain confidential and
27 exempt court records, for which the state may use a
28 pseudonym instead of the victim's name, and for which
29 a publication or broadcast of trial testimony may not

32-01236A-17

20171558__

30 include certain victim identifying information;
31 conforming provisions to changes made by the act;
32 amending ss. 92.561, 92.565, and 435.04, F.S.;
33 conforming provisions to changes made by the act;
34 amending s. 435.07, F.S.; revising the offenses that
35 disqualify certain child care personnel from specified
36 employment; conforming provisions to changes made by
37 the act; amending s. 456.074, F.S.; revising the
38 offenses for which the licenses of massage therapists
39 and massage establishments must be suspended;
40 conforming provisions to changes made by the act;
41 amending ss. 480.041 and 480.043, F.S.; revising the
42 offenses for which applications for licensure as a
43 massage therapist or massage establishment must be
44 denied; conforming provisions to changes made by the
45 act; amending s. 743.067, F.S.; revising the offenses
46 for which an unaccompanied homeless youth may consent
47 to specified treatment, care, and examination;
48 conforming provisions to changes made by the act;
49 amending ss. 772.102 and 775.082, F.S.; conforming
50 provisions to changes made by the act; amending s.
51 775.0847, F.S.; revising definitions; conforming
52 provisions to changes made by the act; amending ss.
53 775.0877, 775.21, 775.215, 784.046, and 794.0115,
54 F.S.; conforming provisions to changes made by the
55 act; amending s. 794.024, F.S.; revising the offenses
56 for which certain victim information may not be
57 disclosed by public employees or officers; providing
58 penalties; conforming provisions to changes made by

32-01236A-17

20171558__

59 the act; amending ss. 794.056 and 796.001, F.S.;

60 conforming provisions to changes made by the act;

61 repealing s. 827.071, F.S., relating to sexual

62 performance by a child; amending s. 847.001, F.S.;

63 revising definitions; creating s. 847.003, F.S.;

64 providing definitions; prohibiting a person from using

65 a child in a sexual performance or promoting a sexual

66 performance by a child; providing penalties; amending

67 s. 847.0135, F.S.; providing for separate offenses of

68 computer pornography and child exploitation under

69 certain circumstances; conforming provisions to

70 changes made by the act; amending s. 847.01357, F.S.;

71 conforming provisions to changes made by the act;

72 amending s. 847.0137, F.S.; revising and providing

73 definitions; prohibiting a person from possessing,

74 with the intent to promote, child pornography;

75 prohibiting a person from knowingly possessing,

76 controlling, or intentionally viewing child

77 pornography; providing penalties; providing

78 application and construction; providing for separate

79 offenses of transmission of child pornography under

80 certain circumstances; amending ss. 856.022, 895.02,

81 905.34, and 934.07, F.S.; conforming provisions to

82 changes made by the act; amending s. 938.085, F.S.;

83 revising the offenses for which a surcharge to be

84 deposited into the Rape Crisis Program Trust Fund

85 shall be imposed; conforming provisions to changes

86 made by the act; amending s. 938.10, F.S.; revising

87 the offenses for which an additional court cost shall

32-01236A-17

20171558__

88 be imposed; conforming provisions to changes made by
89 the act; amending ss. 943.0435, 943.04354, 943.0585,
90 943.059, 944.606, 944.607, 947.1405, 948.013, 948.03,
91 and 948.04, F.S.; conforming provisions to changes
92 made by the act; amending s. 948.06, F.S.; revising
93 the offenses that constitute a qualifying offense for
94 purposes relating to a violation of probation or
95 community control; conforming provisions to changes
96 made by the act; amending ss. 948.062, 948.101,
97 948.30, 948.32, 960.03, and 960.197, F.S.; conforming
98 provisions to changes made by the act; amending s.
99 985.04, F.S.; revising the types of offenses committed
100 by a child in certain custody or supervision of the
101 Department of Juvenile Justice which require the
102 department to provide notice to the school
103 superintendent; conforming provisions to changes made
104 by the act; amending ss. 985.475 and 1012.315, F.S.;
105 conforming provisions to changes made by the act;
106 amending s. 921.0022, F.S.; ranking the offense of
107 solicitation of a child via a computer service while
108 misrepresenting one's age on level 8 of the offense
109 severity ranking chart; conforming provisions to
110 changes made by the act; providing a directive to the
111 Division of Law Revision and Information; reenacting
112 ss. 39.402(9) (a), 39.506(6), 39.509(6) (b),
113 39.521(3) (d), 39.524(1), 39.806(1) (d) and (n),
114 63.089(4) (b), 63.092(3), 68.07(3) (i) and (6),
115 92.55(1) (b), 92.605(1) (b), 322.141(3), 381.004(2) (h),
116 384.29(1) (c) and (3), 390.01114(2) (b) and (e),

32-01236A-17

20171558__

117 393.067(4)(h), (7), and (9), 394.495(4)(p),
 118 394.9125(2)(a), 397.4872(2)(a) and (c), 409.1678
 119 (1)(c) and (6)(a) and (b), 435.07(4)(b), 655.50(3)(g),
 120 741.313(1)(e), 775.084(4)(j), 775.0862(2),
 121 775.13(4)(e) and (f), 775.21(3)(b), (5)(d), (6)(f),
 122 and (10)(c), 775.24(2), 775.25, 775.261(3)(b),
 123 784.049(2)(d), 794.011(2)(a), (3), (4), and (5),
 124 794.03, 794.075(1), 847.002(1)(b), (2), and (3),
 125 847.012(3)(b), 847.01357(3), 847.0138(2) and (3),
 126 896.101(2)(g) and (10), 903.0351(1)(b) and (c),
 127 903.046(2)(m), 905.34(3), 921.0022(3)(g),
 128 921.141(6)(o), 921.187(1)(n), 943.0435(3), (4)(a), and
 129 (5), 943.0436(2), 943.325(2)(g), 944.11(2),
 130 944.607(4)(a) and (9), 944.608(7), 944.609(4),
 131 944.70(1), 947.13(1)(f), 947.1405(2)(c) and (12),
 132 947.141(1), (2), and (7), 948.06(8)(b) and (d),
 133 948.063, 948.064(4), 948.08(7)(a), 948.12(3),
 134 948.30(3)(b) and (4), 948.31, 951.27, 960.003(2)(a)
 135 and (b) and (3)(a), 960.065(5), 984.03(2),
 136 985.0301(5)(c), 985.04(6)(b), 985.441(1)(c),
 137 985.4815(9), and 1012.467(2)(g), F.S., relating to
 138 placement in a shelter, arraignment hearings,
 139 grandparents rights, disposition hearings, safe-harbor
 140 placement, grounds for termination of parental rights,
 141 proceedings to terminate parental rights pending
 142 adoption, report to the court of intended placement by
 143 an adoption entity, change of name, proceedings
 144 involving certain victims or witnesses, production of
 145 certain records, color or markings of certain licenses

32-01236A-17

20171558__

146 or identification cards, HIV testing, confidentiality,
147 the Parental Notice of Abortion Act, facility
148 licensure, the child and adolescent mental health
149 system of care, authority of a state attorney to refer
150 a person for civil commitment, exemption from
151 disqualification, specialized residential options for
152 children who are victims of sexual exploitation,
153 exemptions from disqualification, the Florida Control
154 of Money Laundering and Terrorist Financing in
155 Financial Institutions Act, unlawful action against
156 employees seeking protection, violent career
157 criminals, habitual felony offenders, and habitual
158 violent felony offenders, sexual offenses against
159 students by authority figures, registration of
160 convicted felons, the Florida Sexual Predators Act,
161 the duty of the court to uphold laws governing sexual
162 predators and sexual offenders, prosecutions for acts
163 or omissions, the Florida Career Offender Registration
164 Act, sexual cyberharassment, sexual battery,
165 publishing or broadcasting information identifying
166 sexual offense victims, sexual predators and erectile
167 dysfunction drugs, child pornography prosecutions, a
168 prohibition against the sale or distribution of
169 harmful materials to minors or the use of minors in
170 production, civil remedies for exploited children,
171 transmission of material harmful to minors to a minor
172 by electronic devices, the Florida Money Laundering
173 Act, restrictions on pretrial release pending
174 probation-violation hearings or community-control-

32-01236A-17

20171558__

175 violation hearings, purposes of and criteria for bail
176 determination, the powers and duties of a statewide
177 grand jury, the offense severity ranking chart of the
178 Criminal Punishment Code, sentence of death or life
179 imprisonment for capital felonies, disposition and
180 sentencing alternatives, the requirement that sexual
181 offenders register with the Department of Law
182 Enforcement, the duty of the court to uphold laws
183 governing sexual predators and sexual offenders, the
184 DNA database, regulation by the Department of
185 Corrections of the admission of books, notification to
186 the Department of Law Enforcement of information on
187 sexual offenders, notification to the Department of
188 Law Enforcement concerning career offenders, career
189 offenders and notification upon release, conditions
190 for release from incarceration, powers and duties of
191 the Florida Commission on Offender Review, the
192 conditional release program, violations of conditional
193 release, control release, conditional medical release,
194 or addiction-recovery supervision, violation of
195 probation or community control, violations of
196 probation or community control by designated sexual
197 offenders and sexual predators, notification of status
198 as a violent felony offender of special concern, the
199 pretrial intervention program, intensive supervision
200 for postprison release of violent offenders,
201 additional terms and conditions of probation or
202 community control for certain sex offenses, evaluation
203 and treatment of sexual predators and offenders on

32-01236A-17

20171558__

204 probation or community control, blood tests of
205 inmates, hepatitis and HIV testing for persons charged
206 with or alleged by petition for delinquency to have
207 committed certain offenses, eligibility for awards,
208 definitions relating to children and families in need
209 of services, jurisdiction, oaths, records, and
210 confidential information, commitment, notification to
211 Department of Law Enforcement of information on
212 juvenile sexual offenders, and noninstructional
213 contractors permitted access to school grounds,
214 respectively, to incorporate the amendments made by
215 the act in cross-references to amended provisions;
216 providing an effective date.

217

218 Be It Enacted by the Legislature of the State of Florida:

219

220 Section 1. Paragraph (a) of subsection (1) of section
221 16.56, Florida Statutes, is amended, and paragraph (b) of that
222 subsection is republished, to read:

223 16.56 Office of Statewide Prosecution.—

224 (1) There is created in the Department of Legal Affairs an
225 Office of Statewide Prosecution. The office shall be a separate
226 “budget entity” as that term is defined in chapter 216. The
227 office may:

228 (a) Investigate and prosecute the offenses of:

229 1. Bribery, burglary, criminal usury, extortion, gambling,
230 kidnapping, larceny, murder, prostitution, perjury, robbery,
231 carjacking, and home-invasion robbery;

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

32-01236A-17

20171558__

233 3. Any violation of the Florida RICO (Racketeer Influenced
234 and Corrupt Organization) Act, including any offense listed in
235 the definition of racketeering activity in s. 895.02(8)(a),
236 providing such listed offense is investigated in connection with
237 a violation of s. 895.03 and is charged in a separate count of
238 an information or indictment containing a count charging a
239 violation of s. 895.03, the prosecution of which listed offense
240 may continue independently if the prosecution of the violation
241 of s. 895.03 is terminated for any reason;

242 4. Any violation of the Florida Anti-Fencing Act;

243 5. Any violation of the Florida Antitrust Act of 1980, as
244 amended;

245 6. Any crime involving, or resulting in, fraud or deceit
246 upon any person;

247 7. Any violation of s. 847.0135, relating to computer
248 pornography and child exploitation ~~prevention~~, or any offense
249 related to a violation of former s. 827.071, s. 847.003, s.
250 847.0135, or s. 847.0137 when ~~any violation of chapter 827 where~~
251 the crime is facilitated by or connected to the use of the
252 Internet or any device capable of electronic data storage or
253 transmission;

254 8. Any violation of chapter 815;

255 9. Any criminal violation of part I of chapter 499;

256 10. Any violation of the Florida Motor Fuel Tax Relief Act
257 of 2004;

258 11. Any criminal violation of s. 409.920 or s. 409.9201;

259 12. Any crime involving voter registration, voting, or
260 candidate or issue petition activities;

261 13. Any criminal violation of the Florida Money Laundering

32-01236A-17

20171558__

262 Act;

263 14. Any criminal violation of the Florida Securities and
264 Investor Protection Act; or

265 15. Any violation of chapter 787, as well as any and all
266 offenses related to a violation of chapter 787;

267
268 or any attempt, solicitation, or conspiracy to commit any of the
269 crimes specifically enumerated above. The office shall have such
270 power only when any such offense is occurring, or has occurred,
271 in two or more judicial circuits as part of a related
272 transaction, or when any such offense is connected with an
273 organized criminal conspiracy affecting two or more judicial
274 circuits. Informations or indictments charging such offenses
275 shall contain general allegations stating the judicial circuits
276 and counties in which crimes are alleged to have occurred or the
277 judicial circuits and counties in which crimes affecting such
278 circuits or counties are alleged to have been connected with an
279 organized criminal conspiracy.

280 (b) Investigate and prosecute any crime enumerated in
281 paragraph (a) facilitated by or connected to the use of the
282 Internet. Any such crime is a crime occurring in every judicial
283 circuit within the state.

284 Section 2. Paragraph (c) of subsection (30) and paragraph
285 (g) of subsection (70) of section 39.01, Florida Statutes, are
286 amended to read:

287 39.01 Definitions.—When used in this chapter, unless the
288 context otherwise requires:

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

32-01236A-17

20171558__

291 (c) Allows, encourages, or forces the sexual exploitation
292 of a child, which includes allowing, encouraging, or forcing a
293 child to:

- 294 1. Solicit for or engage in prostitution; or
295 2. Engage in a sexual performance, as defined by former s.
296 827.071 or s. 847.003 ~~chapter 827~~.

297 (70) "Sexual abuse of a child" for purposes of finding a
298 child to be dependent means one or more of the following acts:

299 (g) The sexual exploitation of a child, which includes the
300 act of a child offering to engage in or engaging in
301 prostitution, or the act of allowing, encouraging, or forcing a
302 child to:

- 303 1. Solicit for or engage in prostitution;
304 2. Engage in a sexual performance, as defined by former s.
305 827.071 or s. 847.003 ~~chapter 827~~; or
306 3. Participate in the trade of human trafficking as
307 provided in s. 787.06(3)(g).

308 Section 3. Paragraph (b) of subsection (4) of section
309 39.0132, Florida Statutes, is amended to read:

310 39.0132 Oaths, records, and confidential information.-

311 (4)

312 (b) The department shall disclose to the school
313 superintendent the presence of a ~~any~~ child in the care and
314 custody or under the jurisdiction or supervision of the
315 department who has a known history of criminal sexual behavior
316 with other juveniles; is an alleged juvenile sex offender, as
317 defined in s. 39.01; or has pled guilty or nolo contendere to,
318 or has been found to have committed, a violation of chapter 794,
319 chapter 796, chapter 800, former s. 827.071, s. 847.003, ~~or s.~~

32-01236A-17

20171558__

320 847.0133, s. 847.0135(5), or s. 847.0137, regardless of
321 adjudication. An ~~Any~~ employee of a district school board who
322 knowingly and willfully discloses such information to an
323 unauthorized person commits a misdemeanor of the second degree,
324 punishable as provided in s. 775.082 or s. 775.083.

325 Section 4. Paragraph (a) of subsection (3) of section
326 39.0139, Florida Statutes, is amended to read:

327 39.0139 Visitation or other contact; restrictions.—

328 (3) PRESUMPTION OF DETRIMENT.—

329 (a) A rebuttable presumption of detriment to a child is
330 created when:

331 1. A court of competent jurisdiction has found probable
332 cause exists that a parent or caregiver has sexually abused a
333 child as defined in s. 39.01;

334 2. A parent or caregiver has been found guilty of,
335 regardless of adjudication, or has entered a plea of guilty or
336 nolo contendere to, charges under the following statutes or
337 substantially similar statutes of other jurisdictions:

338 a. Section 787.04, relating to removing minors from the
339 state or concealing minors contrary to court order;

340 b. Section 794.011, relating to sexual battery;

341 c. Section 798.02, relating to lewd and lascivious
342 behavior;

343 d. Chapter 800, relating to lewdness and indecent exposure;

344 e. Section 826.04, relating to incest; ~~or~~

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

346 g. Section 847.003, relating to sexual performance by a
347 child;

348 h. Section 847.0135, excluding s. 847.0135(6), relating to

32-01236A-17

20171558__

349 computer pornography and child exploitation; or

350 i. Section 847.0137, relating to child pornography; or

351 3. A court of competent jurisdiction has determined a
352 parent or caregiver to be a sexual predator as defined in s.
353 775.21 or a parent or caregiver has received a substantially
354 similar designation under laws of another jurisdiction.

355 Section 5. Paragraph (b) of subsection (2) of section
356 39.301, Florida Statutes, is amended to read:

357 39.301 Initiation of protective investigations.-

358 (2)

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

361 1. A child is known or suspected to be the victim of child
362 abuse, as defined in s. 827.03, or of neglect of a child, as
363 defined in s. 827.03.

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

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

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

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

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

376 Section 6. Paragraph (a) of subsection (6) of section
377 39.509, Florida Statutes, is amended to read:

32-01236A-17

20171558__

378 39.509 Grandparents rights.—Notwithstanding any other
379 provision of law, a maternal or paternal grandparent as well as
380 a stepgrandparent is entitled to reasonable visitation with his
381 or her grandchild who has been adjudicated a dependent child and
382 taken from the physical custody of the parent unless the court
383 finds that such visitation is not in the best interest of the
384 child or that such visitation would interfere with the goals of
385 the case plan. Reasonable visitation may be unsupervised and,
386 where appropriate and feasible, may be frequent and continuing.
387 Any order for visitation or other contact must conform to the
388 provisions of s. 39.0139.

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

392 (a) The finding of guilt, regardless of adjudication, or
393 entry or plea of guilty or nolo contendere to charges under the
394 following statutes, or similar statutes of other jurisdictions:
395 s. 787.04, relating to removing minors from the state or
396 concealing minors contrary to court order; s. 794.011, relating
397 to sexual battery; s. 798.02, relating to lewd and lascivious
398 behavior; chapter 800, relating to lewdness and indecent
399 exposure; s. 826.04, relating to incest; ~~or~~ chapter 827,
400 relating to the abuse of children; s. 847.003, relating to
401 sexual performance by a child; s. 847.0135, excluding s.
402 847.0135(6), relating to computer pornography and child
403 exploitation; or s. 847.0137, relating to child pornography.

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

406 90.404 Character evidence; when admissible.—

32-01236A-17

20171558__

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

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

413 2. For the purposes of this paragraph, the term "child
414 molestation" means conduct proscribed by s. 787.025(2)(c), s.
415 787.06(3)(g), former s. 787.06(3)(h), s. 794.011, excluding s.
416 794.011(10), s. 794.05, former s. 796.03, former s. 796.035, s.
417 800.04, former s. 827.071, s. 847.003, s. 847.0135(5), s.
418 847.0137(2), s. 847.0145, or s. 985.701(1) when committed
419 against a person 16 years of age or younger.

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

425 2. For the purposes of this paragraph, the term "sexual
426 offense" means conduct proscribed by s. 787.025(2)(c), s.
427 787.06(3)(b), (d), (f), or (g), former s. 787.06(3)(h), s.
428 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03,
429 former s. 796.035, s. 825.1025(2)(b), former s. 827.071, s.
430 847.003, s. 847.0135(5), s. 847.0137(2), s. 847.0145, or s.
431 985.701(1).

432 Section 8. Subsections (2), (3), and (5) of section 92.56,
433 Florida Statutes, are amended to read:

434 92.56 Judicial proceedings and court records involving
435 sexual offenses and human trafficking.—

32-01236A-17

20171558__

436 (2) A defendant charged with a crime described in s.
 437 787.06(3)(a)1., (c)1., or (e)1.;s. 787.06(3)(b), (d), (f), or
 438 (g);chapter 794;~~or chapter 800;~~or with child abuse or
 439 aggravated child abuse,~~or sexual performance by a child~~ as
 440 described in chapter 827;with sexual performance by a child as
 441 described in former s. 827.071; or with a sexual offense
 442 described in chapter 847 may apply to the trial court for an
 443 order of disclosure of information in court records held
 444 confidential and exempt pursuant to s. 119.0714(1)(h) or
 445 maintained as confidential and exempt pursuant to court order
 446 under this section. Such identifying information concerning the
 447 victim may be released to the defendant or his or her attorney
 448 in order to prepare the defense. The confidential and exempt
 449 status of this information may not be construed to prevent the
 450 disclosure of the victim's identity to the defendant; however,
 451 the defendant may not disclose the victim's identity to any
 452 person other than the defendant's attorney or any other person
 453 directly involved in the preparation of the defense. A willful
 454 and knowing disclosure of the identity of the victim to any
 455 other person by the defendant constitutes contempt.

456 (3) The state may use a pseudonym instead of the victim's
 457 name to designate the victim of a crime described in s.
 458 787.06(3)(a)1., (c)1., or (e)1.;in ~~in~~ s. 787.06(3)(b), (d), (f),
 459 or (g);or in ~~or in~~ chapter 794;or chapter 800;~~or~~or of child abuse
 460 or aggravated child abuse,~~or sexual performance by a child~~ as
 461 described in chapter 827;of sexual performance by a child as
 462 described in former s. 827.071;~~or~~ of a sexual offense any
 463 ~~crime involving the production, possession, or promotion of~~
 464 ~~child pornography as~~ described in chapter 847, in all court

32-01236A-17

20171558__

465 records and records of court proceedings, both civil and
466 criminal.

467 (5) This section does not prohibit the publication or
468 broadcast of the substance of trial testimony in a prosecution
469 for an offense described in s. 787.06(3)(a)1., (c)1., or (e)1.;;
470 s. 787.06(3)(b), (d), (f), or (g);; chapter 794;; or chapter
471 800; for~~or~~ a crime of child abuse or~~or~~ aggravated child abuse~~;~~
472 ~~or sexual performance by a child,~~ as described in chapter 827;
473 for sexual performance by a child as described in former s.
474 827.071; or for a sexual offense described in chapter 847, but
475 the publication or broadcast may not include an identifying
476 photograph, an identifiable voice, or the name or address of the
477 victim, unless the victim has consented in writing to the
478 publication and filed such consent with the court or unless the
479 court has declared such records not confidential and exempt as
480 provided for in subsection (1).

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

483 92.561 Prohibition on reproduction of child pornography.—

484 (1) In a criminal proceeding, any property or material that
485 portrays sexual performance by a child as defined in former s.
486 827.071 or s. 847.003, or constitutes child pornography as
487 defined in s. 847.0137 ~~s. 847.001,~~ must remain secured or locked
488 in the care, custody, and control of a law enforcement agency,
489 the state attorney, or the court.

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

492 92.565 Admissibility of confession in sexual abuse cases.—

493 (2) In any criminal action in which the defendant is

32-01236A-17

20171558__

494 charged with a crime against a victim under s. 794.011; s.
495 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;
496 s. 827.04, involving sexual abuse; former s. 827.071; s.
497 847.003; ~~or~~ s. 847.0135(5); ~~or~~ s. 847.0137(2), or any other
498 crime involving sexual abuse of another, or with any attempt,
499 solicitation, or conspiracy to commit any of these crimes, the
500 defendant's memorialized confession or admission is admissible
501 during trial without the state having to prove a corpus delicti
502 of the crime if the court finds in a hearing conducted outside
503 the presence of the jury that the state is unable to show the
504 existence of each element of the crime, and having so found,
505 further finds that the defendant's confession or admission is
506 trustworthy. Factors which may be relevant in determining
507 whether the state is unable to show the existence of each
508 element of the crime include, but are not limited to, the fact
509 that, at the time the crime was committed, the victim was:

- 510 (a) Physically helpless, mentally incapacitated, or
511 mentally defective, as those terms are defined in s. 794.011;
512 (b) Physically incapacitated due to age, infirmity, or any
513 other cause; or
514 (c) Less than 12 years of age.

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

517 435.04 Level 2 screening standards.—

518 (2) The security background investigations under this
519 section must ensure that no persons subject to the provisions of
520 this section have been arrested for and are awaiting final
521 disposition of, have been found guilty of, regardless of
522 adjudication, or entered a plea of nolo contendere or guilty to,

32-01236A-17

20171558__

523 or have been adjudicated delinquent and the record has not been
524 sealed or expunged for, any offense prohibited under any of the
525 following provisions of state law or similar law of another
526 jurisdiction:

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

529 (qq) Chapter 847, relating to obscenity and child
530 exploitation ~~obscene literature~~.

531 Section 12. Paragraph (c) of subsection (4) of section
532 435.07, Florida Statutes, is amended to read:

533 435.07 Exemptions from disqualification.—Unless otherwise
534 provided by law, the provisions of this section apply to
535 exemptions from disqualification for disqualifying offenses
536 revealed pursuant to background screenings required under this
537 chapter, regardless of whether those disqualifying offenses are
538 listed in this chapter or other laws.

539 (4)

540 (c) Disqualification from employment under this chapter may
541 not be removed from, and an exemption may not be granted to, any
542 current or prospective child care personnel, as defined in s.
543 402.302(3), and such a person is disqualified from employment as
544 child care personnel, regardless of any previous exemptions from
545 disqualification, if the person has been registered as a sex
546 offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been
547 arrested for and is awaiting final disposition of, has been
548 convicted or found guilty of, or entered a plea of guilty or
549 nolo contendere to, regardless of adjudication, or has been
550 adjudicated delinquent and the record has not been sealed or
551 expunged for, any offense prohibited under any of the following

32-01236A-17

20171558__

552 provisions of state law or a similar law of another
553 jurisdiction:

554 1. A felony offense prohibited under any of the following
555 statutes:

556 a. Chapter 741, relating to domestic violence.

557 b. Section 782.04, relating to murder.

558 c. Section 782.07, relating to manslaughter, aggravated
559 manslaughter of an elderly person or disabled adult, aggravated
560 manslaughter of a child, or aggravated manslaughter of an
561 officer, a firefighter, an emergency medical technician, or a
562 paramedic.

563 d. Section 784.021, relating to aggravated assault.

564 e. Section 784.045, relating to aggravated battery.

565 f. Section 787.01, relating to kidnapping.

566 g. Section 787.025, relating to luring or enticing a child.

567 h. Section 787.04(2), relating to leading, taking,
568 enticing, or removing a minor beyond the state limits, or
569 concealing the location of a minor, with criminal intent pending
570 custody proceedings.

571 i. Section 787.04(3), relating to leading, taking,
572 enticing, or removing a minor beyond the state limits, or
573 concealing the location of a minor, with criminal intent pending
574 dependency proceedings or proceedings concerning alleged abuse
575 or neglect of a minor.

576 j. Section 794.011, relating to sexual battery.

577 k. Former s. 794.041, relating to sexual activity with or
578 solicitation of a child by a person in familial or custodial
579 authority.

580 1. Section 794.05, relating to unlawful sexual activity

32-01236A-17

20171558__

581 with certain minors.

582 m. Section 794.08, relating to female genital mutilation.

583 n. Section 806.01, relating to arson.

584 o. Section 826.04, relating to incest.

585 p. Section 827.03, relating to child abuse, aggravated

586 child abuse, or neglect of a child.

587 q. Section 827.04, relating to contributing to the

588 delinquency or dependency of a child.

589 r. Former s. Section 827.071 or s. 847.003, relating to

590 sexual performance by a child.

591 s. Chapter 847, relating to obscenity and child

592 exploitation ~~pornography~~.

593 t. Section 985.701, relating to sexual misconduct in

594 juvenile justice programs.

595 2. A misdemeanor offense prohibited under any of the

596 following statutes:

597 a. Section 784.03, relating to battery, if the victim of

598 the offense was a minor.

599 b. Section 787.025, relating to luring or enticing a child.

600 c. Chapter 847, relating to obscenity and child

601 exploitation ~~pornography~~.

602 3. A criminal act committed in another state or under

603 federal law which, if committed in this state, constitutes an

604 offense prohibited under any statute listed in subparagraph 1.

605 or subparagraph 2.

606 Section 13. Paragraphs (o) and (q) of subsection (5) of

607 section 456.074, Florida Statutes, are amended, present

608 paragraphs (r) and (s) of that subsection are redesignated as

609 paragraphs (s) and (t), respectively, and a new paragraph (r) is

32-01236A-17

20171558__

610 added to that subsection, to read:

611 456.074 Certain health care practitioners; immediate
612 suspension of license.—

613 (5) The department shall issue an emergency order
614 suspending the license of a massage therapist or establishment
615 as defined in chapter 480 upon receipt of information that the
616 massage therapist, a person with an ownership interest in the
617 establishment, or, for a corporation that has more than \$250,000
618 of business assets in this state, the owner, officer, or
619 individual directly involved in the management of the
620 establishment has been convicted or found guilty of, or has
621 entered a plea of guilty or nolo contendere to, regardless of
622 adjudication, a violation of s. 796.07(2)(a) which is
623 reclassified under s. 796.07(7) or a felony offense under any of
624 the following provisions of state law or a similar provision in
625 another jurisdiction:

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

628 (q) Section 847.0135, relating to computer pornography and
629 child exploitation.

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

631 Section 14. Paragraphs (o) and (q) of subsection (7) of
632 section 480.041, Florida Statutes, are amended, present
633 paragraphs (r) and (s) of that subsection are redesignated as
634 paragraphs (s) and (t), respectively, and a new paragraph (r) is
635 added to that subsection, to read:

636 480.041 Massage therapists; qualifications; licensure;
637 endorsement.—

638 (7) The board shall deny an application for a new or

32-01236A-17

20171558__

639 renewal license if an applicant has been convicted or found
640 guilty of, or enters a plea of guilty or nolo contendere to,
641 regardless of adjudication, a violation of s. 796.07(2)(a) which
642 is reclassified under s. 796.07(7) or a felony offense under any
643 of the following provisions of state law or a similar provision
644 in another jurisdiction:

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

647 (q) Section 847.0135, relating to computer pornography and
648 child exploitation.

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

650 Section 15. Paragraphs (o) and (q) of subsection (8) of
651 section 480.043, Florida Statutes, are amended, present
652 paragraphs (r) and (s) of that subsection are redesignated as
653 paragraphs (s) and (t), respectively, and a new paragraph (r) is
654 added to that subsection, to read:

655 480.043 Massage establishments; requisites; licensure;
656 inspection.—

657 (8) The department shall deny an application for a new or
658 renewal license if a person with an ownership interest in the
659 establishment or, for a corporation that has more than \$250,000
660 of business assets in this state, the owner, officer, or
661 individual directly involved in the management of the
662 establishment has been convicted or found guilty of, or entered
663 a plea of guilty or nolo contendere to, regardless of
664 adjudication, a violation of s. 796.07(2)(a) which is
665 reclassified under s. 796.07(7) or a felony offense under any of
666 the following provisions of state law or a similar provision in
667 another jurisdiction:

32-01236A-17

20171558__

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

670 (q) Section 847.0135, relating to computer pornography and
671 child exploitation.

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

673 Section 16. Paragraph (b) of subsection (3) of section
674 743.067, Florida Statutes, is amended to read:

675 743.067 Unaccompanied homeless youths.—

676 (3) An unaccompanied homeless youth may:

677 (b) Notwithstanding s. 394.4625(1), consent to medical,
678 dental, psychological, substance abuse, and surgical diagnosis
679 and treatment, including preventative care and care by a
680 facility licensed under chapter 394, chapter 395, or chapter 397
681 and any forensic medical examination for the purpose of
682 investigating any felony offense under chapter 784, chapter 787,
683 chapter 794, chapter 800, ~~or~~ chapter 827, s. 847.003, or s.
684 847.0137, for:

685 1. Himself or herself; or

686 2. His or her child, if the unaccompanied homeless youth is
687 unmarried, is the parent of the child, and has actual custody of
688 the child.

689 Section 17. Paragraph (a) of subsection (1) of section
690 772.102, Florida Statutes, is amended to read:

691 772.102 Definitions.—As used in this chapter, the term:

692 (1) "Criminal activity" means to commit, to attempt to
693 commit, to conspire to commit, or to solicit, coerce, or
694 intimidate another person to commit:

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

32-01236A-17

20171558__

- 697 1. Section 210.18, relating to evasion of payment of
698 cigarette taxes.
- 699 2. Section 414.39, relating to public assistance fraud.
- 700 3. Section 440.105 or s. 440.106, relating to workers'
701 compensation.
- 702 4. Part IV of chapter 501, relating to telemarketing.
- 703 5. Chapter 517, relating to securities transactions.
- 704 6. Section 550.235 or s. 550.3551, relating to dogracing
705 and horseracing.
- 706 7. Chapter 550, relating to jai alai frontons.
- 707 8. Chapter 552, relating to the manufacture, distribution,
708 and use of explosives.
- 709 9. Chapter 562, relating to beverage law enforcement.
- 710 10. Section 624.401, relating to transacting insurance
711 without a certificate of authority, s. 624.437(4)(c)1., relating
712 to operating an unauthorized multiple-employer welfare
713 arrangement, or s. 626.902(1)(b), relating to representing or
714 aiding an unauthorized insurer.
- 715 11. Chapter 687, relating to interest and usurious
716 practices.
- 717 12. Section 721.08, s. 721.09, or s. 721.13, relating to
718 real estate timeshare plans.
- 719 13. Chapter 782, relating to homicide.
- 720 14. Chapter 784, relating to assault and battery.
- 721 15. Chapter 787, relating to kidnapping or human
722 trafficking.
- 723 16. Chapter 790, relating to weapons and firearms.
- 724 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
725 relating to prostitution.

32-01236A-17

20171558__

- 726 18. Chapter 806, relating to arson.
- 727 19. Section 810.02(2)(c), relating to specified burglary of
728 a dwelling or structure.
- 729 20. Chapter 812, relating to theft, robbery, and related
730 crimes.
- 731 21. Chapter 815, relating to computer-related crimes.
- 732 22. Chapter 817, relating to fraudulent practices, false
733 pretenses, fraud generally, and credit card crimes.
- 734 23. Former s. Section 827.071, relating to commercial
735 sexual exploitation of children.
- 736 24. Chapter 831, relating to forgery and counterfeiting.
- 737 25. Chapter 832, relating to issuance of worthless checks
738 and drafts.
- 739 26. Section 836.05, relating to extortion.
- 740 27. Chapter 837, relating to perjury.
- 741 28. Chapter 838, relating to bribery and misuse of public
742 office.
- 743 29. Chapter 843, relating to obstruction of justice.
- 744 30. Section 847.003, relating to sexual performance by a
745 child.
- 746 31.30. Section 847.011, s. 847.012, s. 847.013, s. 847.06,
747 or s. 847.07, relating to obscene literature and profanity.
- 748 32.31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
749 s. 849.25, relating to gambling.
- 750 33.32. Chapter 893, relating to drug abuse prevention and
751 control.
- 752 34.33. Section 914.22 or s. 914.23, relating to witnesses,
753 victims, or informants.
- 754 35.34. Section 918.12 or s. 918.13, relating to tampering

32-01236A-17

20171558__

755 with jurors and evidence.

756 Section 18. Paragraph (a) of subsection (9) of section
757 775.082, Florida Statutes, is amended to read:

758 775.082 Penalties; applicability of sentencing structures;
759 mandatory minimum sentences for certain reoffenders previously
760 released from prison.—

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

763 a. Treason;

764 b. Murder;

765 c. Manslaughter;

766 d. Sexual battery;

767 e. Carjacking;

768 f. Home-invasion robbery;

769 g. Robbery;

770 h. Arson;

771 i. Kidnapping;

772 j. Aggravated assault with a deadly weapon;

773 k. Aggravated battery;

774 l. Aggravated stalking;

775 m. Aircraft piracy;

776 n. Unlawful throwing, placing, or discharging of a
777 destructive device or bomb;

778 o. Any felony that involves the use or threat of physical
779 force or violence against an individual;

780 p. Armed burglary;

781 q. Burglary of a dwelling or burglary of an occupied
782 structure; or

783 r. Any felony violation of s. 790.07, s. 800.04, s. 827.03,

32-01236A-17

20171558__

784 former s. 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s.
785 847.0137(2);

786

787 within 3 years after being released from a state correctional
788 facility operated by the Department of Corrections or a private
789 vendor or within 3 years after being released from a
790 correctional institution of another state, the District of
791 Columbia, the United States, any possession or territory of the
792 United States, or any foreign jurisdiction, following
793 incarceration for an offense for which the sentence is
794 punishable by more than 1 year in this state.

795 2. "Prison releasee reoffender" also means any defendant
796 who commits or attempts to commit any offense listed in sub-
797 subparagraphs (a)1.a.-r. while the defendant was serving a
798 prison sentence or on escape status from a state correctional
799 facility operated by the Department of Corrections or a private
800 vendor or while the defendant was on escape status from a
801 correctional institution of another state, the District of
802 Columbia, the United States, any possession or territory of the
803 United States, or any foreign jurisdiction, following
804 incarceration for an offense for which the sentence is
805 punishable by more than 1 year in this state.

806 3. If the state attorney determines that a defendant is a
807 prison releasee reoffender as defined in subparagraph 1., the
808 state attorney may seek to have the court sentence the defendant
809 as a prison releasee reoffender. Upon proof from the state
810 attorney that establishes by a preponderance of the evidence
811 that a defendant is a prison releasee reoffender as defined in
812 this section, such defendant is not eligible for sentencing

32-01236A-17

20171558__

813 under the sentencing guidelines and must be sentenced as
814 follows:

815 a. For a felony punishable by life, by a term of
816 imprisonment for life;

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

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

821 d. For a felony of the third degree, by a term of
822 imprisonment of 5 years.

823 Section 19. Paragraphs (b) and (f) of subsection (1) and
824 subsection (2) of section 775.0847, Florida Statutes, are
825 amended, and paragraph (g) is added to that subsection, to read:

826 775.0847 Possession or promotion of certain visual
827 depictions ~~images~~ of child pornography; reclassification.-

828 (1) For purposes of this section:

829 (b) "Child pornography" has the same meaning as in s.
830 847.0137 ~~means any image depicting a minor engaged in sexual~~
831 ~~conduct.~~

832 (f) "Sexual conduct" means actual or simulated sexual
833 intercourse, deviate sexual intercourse, sexual bestiality,
834 masturbation, or sadomasochistic abuse; actual or simulated lewd
835 exhibition of the genitals; actual physical contact with a
836 person's clothed or unclothed genitals, pubic area, buttocks,
837 or, if such person is a female, breast with the intent to arouse
838 or gratify the sexual desire of either party; or any act or
839 conduct which constitutes sexual battery or simulates that
840 sexual battery is being or will be committed. A mother's
841 breastfeeding of her baby does not under any circumstance

32-01236A-17

20171558__

842 constitute "sexual conduct."

843 (g) "Visual depiction" has the same meaning as in s.
844 847.0137.

845 (2) A violation of former s. 827.071, s. 847.003, s.
846 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to
847 the next higher degree as provided in subsection (3) if:

848 (a) The offender possesses 10 or more visual depictions
849 ~~images~~ of any form of child pornography regardless of content;
850 and

851 (b) The content of at least one visual depiction ~~image~~
852 contains one or more of the following:

- 853 1. A child who is younger than the age of 5.
- 854 2. Sadomasochistic abuse involving a child.
- 855 3. Sexual battery involving a child.
- 856 4. Sexual bestiality involving a child.
- 857 5. Any movie involving a child, regardless of length and
858 regardless of whether the movie contains sound.

859 Section 20. Paragraph (1) of subsection (1) of section
860 775.0877, Florida Statutes, is amended to read:

861 775.0877 Criminal transmission of HIV; procedures;
862 penalties.—

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

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

870

32-01236A-17

20171558__

871 the court shall order the offender to undergo HIV testing, to be
872 performed under the direction of the Department of Health in
873 accordance with s. 381.004, unless the offender has undergone
874 HIV testing voluntarily or pursuant to procedures established in
875 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
876 rule providing for HIV testing of criminal offenders or inmates,
877 subsequent to her or his arrest for an offense enumerated in
878 paragraphs (a)-(n) for which she or he was convicted or to which
879 she or he pled nolo contendere or guilty. The results of an HIV
880 test performed on an offender pursuant to this subsection are
881 not admissible in any criminal proceeding arising out of the
882 alleged offense.

883 Section 21. Paragraph (a) of subsection (4) and paragraph
884 (b) of subsection (10) of section 775.21, Florida Statutes, are
885 amended to read:

886 775.21 The Florida Sexual Predators Act.—

887 (4) SEXUAL PREDATOR CRITERIA.—

888 (a) For a current offense committed on or after October 1,
889 1993, upon conviction, an offender shall be designated as a
890 "sexual predator" under subsection (5), and subject to
891 registration under subsection (6) and community and public
892 notification under subsection (7) if:

893 1. The felony is:

894 a. A capital, life, or first degree felony violation, or
895 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
896 is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a
897 violation of a similar law of another jurisdiction; or

898 b. Any felony violation, or any attempt thereof, of s.
899 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.

32-01236A-17

20171558__

900 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
 901 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
 902 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
 903 s. 800.04; s. 810.145(8)(b); s. 825.1025; former s. 827.071; s.
 904 847.003; s. 847.0135, excluding s. 847.0135(6); s. 847.0137(2);
 905 s. 847.0145; s. 895.03, if the court makes a written finding
 906 that the racketeering activity involved at least one sexual
 907 offense listed in this sub-subparagraph or at least one offense
 908 listed in this sub-subparagraph with sexual intent or motive; s.
 909 916.1075(2); or s. 985.701(1); or a violation of a similar law
 910 of another jurisdiction, and the offender has previously been
 911 convicted of or found to have committed, or has pled nolo
 912 contendere or guilty to, regardless of adjudication, any
 913 violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
 914 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
 915 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
 916 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
 917 former s. 796.035; s. 800.04; s. 825.1025; former s. 827.071; s.
 918 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 919 847.0137(2); s. 847.0145; s. 895.03, if the court makes a
 920 written finding that the racketeering activity involved at least
 921 one sexual offense listed in this sub-subparagraph or at least
 922 one offense listed in this sub-subparagraph with sexual intent
 923 or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a
 924 similar law of another jurisdiction;

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

928 3. A conviction of a felony or similar law of another

32-01236A-17

20171558__

929 jurisdiction necessary to the operation of this paragraph has
930 not been set aside in any postconviction proceeding.

931 (10) PENALTIES.—

932 (b) A sexual predator who has been convicted of or found to
933 have committed, or has pled nolo contendere or guilty to,
934 regardless of adjudication, any violation, or attempted
935 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
936 the victim is a minor; s. 794.011, excluding s. 794.011(10); s.
937 794.05; former s. 796.03; former s. 796.035; s. 800.04; former
938 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135(5); s.
939 847.0137(2); s. 847.0145; or s. 985.701(1); or a violation of a
940 similar law of another jurisdiction when the victim of the
941 offense was a minor, and who works, whether for compensation or
942 as a volunteer, at any business, school, child care facility,
943 park, playground, or other place where children regularly
944 congregate, commits a felony of the third degree, punishable as
945 provided in s. 775.082, s. 775.083, or s. 775.084.

946 Section 22. Subsection (2) and paragraphs (a) and (c) of
947 subsection (3) of section 775.215, Florida Statutes, are amended
948 to read:

949 775.215 Residency restriction for persons convicted of
950 certain sex offenses.—

951 (2) (a) A person who has been convicted of a violation of s.
952 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
953 847.0135(5), s. 847.0137(2), or s. 847.0145, regardless of
954 whether adjudication has been withheld, in which the victim of
955 the offense was less than 16 years of age, may not reside within
956 1,000 feet of any school, child care facility, park, or
957 playground. However, a person does not violate this subsection

32-01236A-17

20171558__

958 and may not be forced to relocate if he or she is living in a
959 residence that meets the requirements of this subsection and a
960 school, child care facility, park, or playground is subsequently
961 established within 1,000 feet of his or her residence.

962 (b) A person who violates this subsection and whose
963 conviction under s. 794.011, s. 800.04, former s. 827.071, s.
964 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 was
965 classified as a felony of the first degree or higher commits a
966 felony of the third degree, punishable as provided in s. 775.082
967 or s. 775.083. A person who violates this subsection and whose
968 conviction under s. 794.011, s. 800.04, former s. 827.071, s.
969 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 was
970 classified as a felony of the second or third degree commits a
971 misdemeanor of the first degree, punishable as provided in s.
972 775.082 or s. 775.083.

973 (c) This subsection applies to any person convicted of a
974 violation of s. 794.011, s. 800.04, former s. 827.071, s.
975 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145 for
976 offenses that occur on or after October 1, 2004, excluding
977 persons who have been removed from the requirement to register
978 as a sexual offender or sexual predator pursuant to s.
979 943.04354.

980 (3) (a) A person who has been convicted of an offense in
981 another jurisdiction that is similar to a violation of s.
982 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
983 847.0135(5), s. 847.0137(2), or s. 847.0145, regardless of
984 whether adjudication has been withheld, in which the victim of
985 the offense was less than 16 years of age, may not reside within
986 1,000 feet of any school, child care facility, park, or

32-01236A-17

20171558__

987 playground. However, a person does not violate this subsection
 988 and may not be forced to relocate if he or she is living in a
 989 residence that meets the requirements of this subsection and a
 990 school, child care facility, park, or playground is subsequently
 991 established within 1,000 feet of his or her residence.

992 (c) This subsection applies to any person convicted of an
 993 offense in another jurisdiction that is similar to a violation
 994 of s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
 995 847.0135(5), s. 847.0137(2), or s. 847.0145 if such offense
 996 occurred on or after May 26, 2010, excluding persons who have
 997 been removed from the requirement to register as a sexual
 998 offender or sexual predator pursuant to s. 943.04354.

999 Section 23. Paragraph (c) of subsection (1) of section
 1000 784.046, Florida Statutes, is amended to read:

1001 784.046 Action by victim of repeat violence, sexual
 1002 violence, or dating violence for protective injunction; dating
 1003 violence investigations, notice to victims, and reporting;
 1004 pretrial release violations; public records exemption.—

1005 (1) As used in this section, the term:

1006 (c) "Sexual violence" means any one incident of:

1007 1. Sexual battery, as defined in chapter 794;

1008 2. A lewd or lascivious act, as defined in chapter 800,
 1009 committed upon or in the presence of a person younger than 16
 1010 years of age;

1011 3. Luring or enticing a child, as described in chapter 787;

1012 4. Sexual performance by a child, as described in former s.
 1013 827.071 or s. 847.003 ~~chapter 827~~; or

1014 5. Any other forcible felony wherein a sexual act is
 1015 committed or attempted,

32-01236A-17

20171558__

1016
1017
1018
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1040
1041
1042
1043
1044

regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

Section 24. Subsection (2) of section 794.0115, Florida Statutes, is amended to read:

794.0115 Dangerous sexual felony offender; mandatory sentencing.—

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

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

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

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

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

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

32-01236A-17

20171558__

1045 any offense under a former statutory designation which is
1046 similar in elements to an offense described in this paragraph;
1047 or of any offense that is a felony in another jurisdiction, or
1048 would be a felony if that offense were committed in this state,
1049 and which is similar in elements to an offense described in this
1050 paragraph,

1051
1052 is a dangerous sexual felony offender, who must be sentenced to
1053 a mandatory minimum term of 25 years imprisonment up to, and
1054 including, life imprisonment. If the offense described in this
1055 subsection was committed on or after October 1, 2014, a person
1056 who qualifies as a dangerous sexual felony offender pursuant to
1057 this subsection must be sentenced to a mandatory minimum term of
1058 50 years imprisonment up to, and including, life imprisonment.

1059 Section 25. Subsection (1) of section 794.024, Florida
1060 Statutes, is amended to read:

1061 794.024 Unlawful to disclose identifying information.—

1062 (1) A public employee or officer who has access to the
1063 photograph, name, or address of a person who is alleged to be
1064 the victim of an offense described in this chapter, chapter 800,
1065 s. 827.03, s. 827.04, or former ~~or~~ s. 827.071, or of a sexual
1066 offense described in chapter 847 may not willfully and knowingly
1067 disclose it to a person who is not assisting in the
1068 investigation or prosecution of the alleged offense or to any
1069 person other than the defendant, the defendant's attorney, a
1070 person specified in an order entered by the court having
1071 jurisdiction of the alleged offense, or organizations authorized
1072 to receive such information made exempt by s. 119.071(2)(h), or
1073 to a rape crisis center or sexual assault counselor, as defined

32-01236A-17

20171558__

1074 in s. 90.5035(1)(b), who will be offering services to the
1075 victim.

1076 Section 26. Subsection (1) of section 794.056, Florida
1077 Statutes, is amended to read:

1078 794.056 Rape Crisis Program Trust Fund.—

1079 (1) The Rape Crisis Program Trust Fund is created within
1080 the Department of Health for the purpose of providing funds for
1081 rape crisis centers in this state. Trust fund moneys shall be
1082 used exclusively for the purpose of providing services for
1083 victims of sexual assault. Funds credited to the trust fund
1084 consist of those funds collected as an additional court
1085 assessment in each case in which a defendant pleads guilty or
1086 nolo contendere to, or is found guilty of, regardless of
1087 adjudication, an offense provided in s. 775.21(6) and (10)(a),
1088 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
1089 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
1090 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
1091 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
1092 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
1093 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
1094 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
1095 825.1025; former s. 827.071; s. 836.10; s. 847.003; s. 847.0133;
1096 s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c),
1097 (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1). Funds
1098 credited to the trust fund also shall include revenues provided
1099 by law, moneys appropriated by the Legislature, and grants from
1100 public or private entities.

1101 Section 27. Section 796.001, Florida Statutes, is amended
1102 to read:

32-01236A-17

20171558__

1103 796.001 Offenses by adults involving minors; intent.—It is
1104 the intent of the Legislature that adults who involve minors in
1105 any behavior prohibited under this chapter be prosecuted under
1106 other laws of this state, such as, but not limited to, s.
1107 787.06, chapter 794, chapter 800, s. 810.145, former s. 827.071
1108 ~~chapter 827~~, and chapter 847. The Legislature finds that
1109 prosecution of such adults under this chapter is inappropriate
1110 since a minor is unable to consent to such behavior.

1111 Section 28. Section 827.071, Florida Statutes, is repealed.

1112 Section 29. Subsections (3), (8), and (16) of section
1113 847.001, Florida Statutes, are amended to read:

1114 847.001 Definitions.—As used in this chapter, the term:

1115 (3) "Child pornography" has the same meaning as provided in
1116 s. 847.0137 ~~means any image depicting a minor engaged in sexual~~
1117 ~~conduct.~~

1118 (8) "Minor" or "child" means a ~~any~~ person under the age of
1119 18 years.

1120 (16) "Sexual conduct" means actual or simulated sexual
1121 intercourse, deviate sexual intercourse, sexual bestiality,
1122 masturbation, or sadomasochistic abuse; actual or simulated lewd
1123 exhibition of the genitals; actual physical contact with a
1124 person's clothed or unclothed genitals, pubic area, buttocks,
1125 or, if such person is a female, breast with the intent to arouse
1126 or gratify the sexual desire of either party; or any act or
1127 conduct which constitutes sexual battery or simulates that
1128 sexual battery is being or will be committed. A mother's
1129 breastfeeding of her baby does not under any circumstance
1130 constitute "sexual conduct."

1131 Section 30. Section 847.003, Florida Statutes, is created

32-01236A-17

20171558__

1132 to read:

1133 847.003 Sexual performance by a child; penalties.-

1134 (1) As used in this section, the term:

1135 (a) "Performance" means a play, motion picture, photograph,
1136 or dance or other visual representation exhibited before an
1137 audience.

1138 (b) "Promote" means to procure, manufacture, issue, sell,
1139 give, provide, lend, mail, deliver, transfer, transmute,
1140 publish, distribute, circulate, disseminate, present, exhibit,
1141 or advertise or to offer or agree to do the same.

1142 (c) "Sexual performance" means a performance or part
1143 thereof which includes sexual conduct by a child.

1144 (2) A person who, knowing the character and content
1145 thereof, employs, authorizes, or induces a child to engage in a
1146 sexual performance or, being a parent, legal guardian, or
1147 custodian of such child, consents to the participation by such
1148 child in a sexual performance commits the offense of use of a
1149 child in a sexual performance, a felony of the second degree,
1150 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1151 (3) A person who, knowing the character and content
1152 thereof, produces, directs, or promotes a performance that
1153 includes sexual conduct by a child commits the offense of
1154 promoting a sexual performance by a child, a felony of the
1155 second degree, punishable as provided in s. 775.082, s. 775.083,
1156 or s. 775.084.

1157 Section 31. Subsections (2), (3), and (4) of section
1158 847.0135, Florida Statutes, are amended to read:

1159 847.0135 Computer pornography; child exploitation
1160 ~~prohibited computer usage; traveling to meet minor;~~ penalties.-

32-01236A-17

20171558__

- 1161 (2) COMPUTER PORNOGRAPHY.—A person who:
- 1162 (a) Knowingly compiles, enters into, or transmits by use of
- 1163 computer;
- 1164 (b) Makes, prints, publishes, or reproduces by other
- 1165 computerized means;
- 1166 (c) Knowingly causes or allows to be entered into or
- 1167 transmitted by use of computer; or
- 1168 (d) Buys, sells, receives, exchanges, or disseminates,
- 1169
- 1170 a ~~any~~ notice, statement, or advertisement of a ~~any~~ minor's name,
- 1171 telephone number, place of residence, physical characteristics,
- 1172 or other descriptive or identifying information for purposes of
- 1173 facilitating, encouraging, offering, or soliciting sexual
- 1174 conduct of or with a ~~any~~ minor, or the visual depiction of such
- 1175 conduct, commits a felony of the third degree, punishable as
- 1176 provided in s. 775.082, s. 775.083, or s. 775.084. The fact that
- 1177 an undercover operative or law enforcement officer was involved
- 1178 in the detection and investigation of an offense under this
- 1179 section shall not constitute a defense to a prosecution under
- 1180 this section.
- 1181 (3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES
- 1182 PROHIBITED.—A ~~Any~~ person who knowingly uses a computer online
- 1183 service, Internet service, local bulletin board service, or ~~any~~
- 1184 other device capable of electronic data storage or transmission
- 1185 to:
- 1186 (a) Seduce, solicit, lure, or entice, or attempt to seduce,
- 1187 solicit, lure, or entice, a child or another person believed by
- 1188 the person to be a child, to commit an ~~any~~ illegal act described
- 1189 in chapter 794, chapter 800, former s. 827.071 ~~or chapter 827,~~

32-01236A-17

20171558__

1190 s. 847.003, or s. 847.0137, or to otherwise engage in ~~any~~
 1191 unlawful sexual conduct with a child or with another person
 1192 believed by the person to be a child; or

1193 (b) Solicit, lure, or entice, or attempt to solicit, lure,
 1194 or entice a parent, legal guardian, or custodian of a child or a
 1195 person believed to be a parent, legal guardian, or custodian of
 1196 a child to consent to the participation of such child in an any
 1197 act described in chapter 794, chapter 800, former s. 827.071 ~~or~~
 1198 ~~chapter 827,~~ s. 847.003, or s. 847.0137, or to otherwise engage
 1199 in ~~any~~ sexual conduct,

1200
 1201 commits a felony of the third degree, punishable as provided in
 1202 s. 775.082, s. 775.083, or s. 775.084. A Any person who, in
 1203 violating this subsection, misrepresents his or her age, commits
 1204 a felony of the second degree, punishable as provided in s.
 1205 775.082, s. 775.083, or s. 775.084. Each separate use of a
 1206 computer online service, Internet service, local bulletin board
 1207 service, or ~~any~~ other device capable of electronic data storage
 1208 or transmission wherein an offense described in this section is
 1209 committed may be charged as a separate offense.

1210 (4) TRAVELING TO MEET A MINOR.—A Any person who travels any
 1211 distance either within this state, to this state, or from this
 1212 state by any means, who attempts to do so, or who causes another
 1213 to do so or to attempt to do so for the purpose of engaging in
 1214 an any illegal act described in chapter 794, chapter 800, former
 1215 s. 827.071 ~~or chapter 827,~~ s. 847.003, or s. 847.0137, or to
 1216 otherwise engage in other unlawful sexual conduct with a child
 1217 or with another person believed by the person to be a child
 1218 after using a computer online service, Internet service, local

32-01236A-17

20171558__

1219 bulletin board service, or ~~any~~ other device capable of
1220 electronic data storage or transmission to:

1221 (a) Seduce, solicit, lure, or entice or attempt to seduce,
1222 solicit, lure, or entice a child or another person believed by
1223 the person to be a child, to engage in an ~~any~~ illegal act
1224 described in chapter 794, chapter 800, former s. 827.071 ~~or~~
1225 ~~chapter 827, s. 847.003, or s. 847.0137,~~ or to otherwise engage
1226 in other unlawful sexual conduct with a child; or

1227 (b) Solicit, lure, or entice or attempt to solicit, lure,
1228 or entice a parent, legal guardian, or custodian of a child or a
1229 person believed to be a parent, legal guardian, or custodian of
1230 a child to consent to the participation of such child in an ~~any~~
1231 act described in chapter 794, chapter 800, former s. 827.071 ~~or~~
1232 ~~chapter 827, s. 847.003, or s. 847.0137,~~ or to otherwise engage
1233 in ~~any~~ sexual conduct,

1234
1235 commits a felony of the second degree, punishable as provided in
1236 s. 775.082, s. 775.083, or s. 775.084.

1237 Section 32. Subsection (1) of section 847.01357, Florida
1238 Statutes, is amended to read:

1239 847.01357 Exploited children's civil remedy.—

1240 (1) A ~~Any~~ person who, while under the age of 18, was a
1241 victim of a sexual abuse crime listed in chapter 794, chapter
1242 800, former s. 827.071 ~~chapter 827,~~ or chapter 847, where any
1243 portion of such abuse was used in the production of child
1244 pornography, and who suffers personal or psychological injury as
1245 a result of the production, promotion, or possession of such
1246 images or movies, may bring an action in an appropriate state
1247 court against the producer, promoter, or possessor of such

32-01236A-17

20171558__

1248 images or movies, regardless of whether the victim is now an
1249 adult. In any action brought under this section, a prevailing
1250 plaintiff shall recover the actual damages such person sustained
1251 and the cost of the suit, including reasonable attorney
1252 ~~attorney's~~ fees. A ~~Any~~ victim who is awarded damages under this
1253 section shall be deemed to have sustained damages of at least
1254 \$150,000.

1255 Section 33. Section 847.0137, Florida Statutes, is amended
1256 to read:

1257 847.0137 Child pornography; Transmission of pornography by
1258 ~~electronic device or equipment prohibited acts; penalties.-~~

1259 (1) For purposes of this section, the term:

1260 (a) "Child pornography" means a visual depiction of sexual
1261 conduct, in which:

1262 1. The production of such visual depiction involves the use
1263 of a minor engaging in sexual conduct; or

1264 2. Such visual depiction has been created, adapted, or
1265 modified to appear that an identifiable minor is engaging in
1266 sexual conduct ~~"Minor" means any person less than 18 years of~~
1267 ~~age.~~

1268 (b) "Identifiable minor" means a person who is recognizable
1269 as an actual person by the person's face, likeness, or other
1270 distinguishing characteristic, such as a unique birthmark, or
1271 other recognizable feature and:

1272 1. Who was a minor at the time the visual depiction was
1273 created, adapted, or modified; or

1274 2. Whose image as a minor was used in creating, adapting,
1275 or modifying the visual depiction.

1276

32-01236A-17

20171558__

1277 This paragraph does not require proof of the actual identity of
1278 the identifiable minor.

1279 (c) "Intentionally view" means to deliberately,
1280 purposefully, and voluntarily view. Proof of intentional viewing
1281 requires establishing that a person deliberately, purposefully,
1282 and voluntarily viewed more than one visual depiction over any
1283 period of time.

1284 (d) "Promote" means to procure, manufacture, issue, sell,
1285 give, provide, lend, mail, deliver, transfer, transmute,
1286 publish, distribute, circulate, disseminate, present, exhibit,
1287 or advertise or to offer or agree to do the same.

1288 (e) ~~(b)~~ "Transmit" means the act of sending and causing to
1289 be delivered, including the act of providing access for
1290 receiving and causing to be delivered, a visual depiction any
1291 image, information, or data ~~from one or more persons or places~~
1292 ~~to one or more other persons or places~~ over or through any
1293 medium, including the Internet or an interconnected network, by
1294 use of ~~any~~ electronic equipment or other device.

1295 (f) "Visual depiction" includes, but is not limited to, a
1296 photograph, picture, image, motion picture, film, video,
1297 representation, or computer or computer-generated image or
1298 picture, whether made or produced by electronic, mechanical, or
1299 other means. The term also includes undeveloped film and
1300 videotape, data stored on computer disk or by electronic means
1301 which is capable of conversion into a visual image, and data
1302 that is capable of conversion into a visual image that has been
1303 transmitted by any means, whether stored in a permanent or
1304 nonpermanent format.

1305 (2) (a) It is unlawful for a person to possess, with the

32-01236A-17

20171558__

1306 intent to promote, child pornography. The possession of three or
1307 more visual depictions of child pornography is prima facie
1308 evidence of an intent to promote. A person who violates this
1309 paragraph commits a felony of the second degree, punishable as
1310 provided in s. 775.082, s. 775.083, or s. 775.084.

1311 (b) It is unlawful for a person to knowingly possess,
1312 control, or intentionally view child pornography. The
1313 possession, control, or intentional viewing of each visual
1314 depiction of child pornography is a separate offense. If the
1315 visual depiction includes sexual conduct by more than one minor,
1316 each minor in each visual depiction that is knowingly possessed,
1317 controlled, or intentionally viewed is a separate offense. A
1318 person who violates this paragraph commits a felony of the third
1319 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1320 775.084.

1321 (c) This subsection does not apply to child pornography
1322 possessed, controlled, or intentionally viewed as part of a law
1323 enforcement investigation.

1324 (d) Prosecution of a person for an offense under this
1325 subsection does not prohibit prosecution of that person in this
1326 state for a violation of any law of this state, including a law
1327 providing for greater penalties than prescribed in this section,
1328 or for any other crime punishing the sexual performance or
1329 sexual exploitation of children.

1330 (3) (a) ~~(2)~~ Notwithstanding ss. 847.012 and 847.0133, a any
1331 person in this state who knew or reasonably should have known
1332 that he or she was transmitting child pornography, ~~as defined in~~
1333 ~~s. 847.001,~~ to another person in this state or in another
1334 jurisdiction commits a felony of the third degree, punishable as

32-01236A-17

20171558__

1335 provided in s. 775.082, s. 775.083, or s. 775.084.

1336 (b)~~(3)~~ Notwithstanding ss. 847.012 and 847.0133, a ~~any~~
 1337 person in any jurisdiction other than this state who knew or
 1338 reasonably should have known that he or she was transmitting
 1339 child pornography, ~~as defined in s. 847.001,~~ to another ~~any~~
 1340 person in this state commits a felony of the third degree,
 1341 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1342 (c)~~(4)~~ This subsection does ~~section shall not be construed~~
 1343 ~~to~~ prohibit prosecution of a person in this state or another
 1344 jurisdiction for a violation of any law of this state, including
 1345 a law providing for greater penalties than prescribed in this
 1346 subsection ~~section~~, for the transmission of child pornography,
 1347 ~~as defined in s. 847.001,~~ to another ~~any~~ person in this state.

1348 (d)~~(5)~~ A person is subject to prosecution in this state
 1349 pursuant to chapter 910 for any act or conduct proscribed by
 1350 this subsection ~~section~~, including a person in a jurisdiction
 1351 other than this state, if the act or conduct violates paragraph
 1352 (b) ~~subsection (3)~~.

1353 (e) This subsection does ~~The provisions of this section do~~
 1354 not apply to subscription-based transmissions such as list
 1355 servers.

1356 Section 34. Subsection (1) of section 856.022, Florida
 1357 Statutes, is amended to read:

1358 856.022 Loitering or prowling by certain offenders in close
 1359 proximity to children; penalty.—

1360 (1) Except as provided in subsection (2), this section
 1361 applies to a person convicted of committing, or attempting,
 1362 soliciting, or conspiring to commit, any of the criminal
 1363 offenses proscribed in the following statutes in this state or

32-01236A-17

20171558__

1364 similar offenses in another jurisdiction against a victim who
1365 was under 18 years of age at the time of the offense: s. 787.01,
1366 s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
1367 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;
1368 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025;
1369 former s. 827.071; s. 847.003; s. 847.0133; s. 847.0135,
1370 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
1371 s. 985.701(1); or any similar offense committed in this state
1372 which has been redesignated from a former statute number to one
1373 of those listed in this subsection, if the person has not
1374 received a pardon for any felony or similar law of another
1375 jurisdiction necessary for the operation of this subsection and
1376 a conviction of a felony or similar law of another jurisdiction
1377 necessary for the operation of this subsection has not been set
1378 aside in any postconviction proceeding.

1379 Section 35. Paragraph (a) of subsection (8) of section
1380 895.02, Florida Statutes, is amended to read:

1381 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

1382 (8) "Racketeering activity" means to commit, to attempt to
1383 commit, to conspire to commit, or to solicit, coerce, or
1384 intimidate another person to commit:

1385 (a) Any crime that is chargeable by petition, indictment,
1386 or information under the following provisions of the Florida
1387 Statutes:

1388 1. Section 210.18, relating to evasion of payment of
1389 cigarette taxes.

1390 2. Section 316.1935, relating to fleeing or attempting to
1391 elude a law enforcement officer and aggravated fleeing or
1392 eluding.

32-01236A-17

20171558__

- 1393 3. Section 403.727(3)(b), relating to environmental
1394 control.
- 1395 4. Section 409.920 or s. 409.9201, relating to Medicaid
1396 fraud.
- 1397 5. Section 414.39, relating to public assistance fraud.
- 1398 6. Section 440.105 or s. 440.106, relating to workers'
1399 compensation.
- 1400 7. Section 443.071(4), relating to creation of a fictitious
1401 employer scheme to commit reemployment assistance fraud.
- 1402 8. Section 465.0161, relating to distribution of medicinal
1403 drugs without a permit as an Internet pharmacy.
- 1404 9. Section 499.0051, relating to crimes involving
1405 contraband, adulterated, or misbranded drugs.
- 1406 10. Part IV of chapter 501, relating to telemarketing.
- 1407 11. Chapter 517, relating to sale of securities and
1408 investor protection.
- 1409 12. Section 550.235 or s. 550.3551, relating to dogracing
1410 and horseracing.
- 1411 13. Chapter 550, relating to jai alai frontons.
- 1412 14. Section 551.109, relating to slot machine gaming.
- 1413 15. Chapter 552, relating to the manufacture, distribution,
1414 and use of explosives.
- 1415 16. Chapter 560, relating to money transmitters, if the
1416 violation is punishable as a felony.
- 1417 17. Chapter 562, relating to beverage law enforcement.
- 1418 18. Section 624.401, relating to transacting insurance
1419 without a certificate of authority, s. 624.437(4)(c)1., relating
1420 to operating an unauthorized multiple-employer welfare
1421 arrangement, or s. 626.902(1)(b), relating to representing or

32-01236A-17

20171558__

1422 aiding an unauthorized insurer.

1423 19. Section 655.50, relating to reports of currency
1424 transactions, when such violation is punishable as a felony.

1425 20. Chapter 687, relating to interest and usurious
1426 practices.

1427 21. Section 721.08, s. 721.09, or s. 721.13, relating to
1428 real estate timeshare plans.

1429 22. Section 775.13(5)(b), relating to registration of
1430 persons found to have committed any offense for the purpose of
1431 benefiting, promoting, or furthering the interests of a criminal
1432 gang.

1433 23. Section 777.03, relating to commission of crimes by
1434 accessories after the fact.

1435 24. Chapter 782, relating to homicide.

1436 25. Chapter 784, relating to assault and battery.

1437 26. Chapter 787, relating to kidnapping or human
1438 trafficking.

1439 27. Chapter 790, relating to weapons and firearms.

1440 28. Chapter 794, relating to sexual battery, but only if
1441 such crime was committed with the intent to benefit, promote, or
1442 further the interests of a criminal gang, or for the purpose of
1443 increasing a criminal gang member's own standing or position
1444 within a criminal gang.

1445 29. Former s. 796.03, former s. 796.035, s. 796.04, s.
1446 796.05, or s. 796.07, relating to prostitution.

1447 30. Chapter 806, relating to arson and criminal mischief.

1448 31. Chapter 810, relating to burglary and trespass.

1449 32. Chapter 812, relating to theft, robbery, and related
1450 crimes.

32-01236A-17

20171558__

- 1451 33. Chapter 815, relating to computer-related crimes.
- 1452 34. Chapter 817, relating to fraudulent practices, false
1453 pretenses, fraud generally, and credit card crimes.
- 1454 35. Chapter 825, relating to abuse, neglect, or
1455 exploitation of an elderly person or disabled adult.
- 1456 36. Former s. Section 827.071, relating to commercial
1457 sexual exploitation of children.
- 1458 37. Section 828.122, relating to fighting or baiting
1459 animals.
- 1460 38. Chapter 831, relating to forgery and counterfeiting.
- 1461 39. Chapter 832, relating to issuance of worthless checks
1462 and drafts.
- 1463 40. Section 836.05, relating to extortion.
- 1464 41. Chapter 837, relating to perjury.
- 1465 42. Chapter 838, relating to bribery and misuse of public
1466 office.
- 1467 43. Chapter 843, relating to obstruction of justice.
- 1468 44. Section 847.003, relating to sexual performance by a
1469 child.
- 1470 45.44. Section 847.011, s. 847.012, s. 847.013, s. 847.06,
1471 or s. 847.07, relating to obscene literature and profanity.
- 1472 46.45. Chapter 849, relating to gambling, lottery, gambling
1473 or gaming devices, slot machines, or any of the provisions
1474 within that chapter.
- 1475 47.46. Chapter 874, relating to criminal gangs.
- 1476 48.47. Chapter 893, relating to drug abuse prevention and
1477 control.
- 1478 49.48. Chapter 896, relating to offenses related to
1479 financial transactions.

32-01236A-17

20171558__

1480 ~~50.49.~~ Sections 914.22 and 914.23, relating to tampering
1481 with or harassing a witness, victim, or informant, and
1482 retaliation against a witness, victim, or informant.

1483 ~~51.50.~~ Sections 918.12 and 918.13, relating to tampering
1484 with jurors and evidence.

1485 Section 36. Subsection (8) of section 905.34, Florida
1486 Statutes, is amended to read:

1487 905.34 Powers and duties; law applicable.—The jurisdiction
1488 of a statewide grand jury impaneled under this chapter shall
1489 extend throughout the state. The subject matter jurisdiction of
1490 the statewide grand jury shall be limited to the offenses of:

1491 (8) Any violation of s. 847.003, s. 847.0135, s. 847.0137,
1492 or s. 847.0138 relating to computer pornography and child
1493 exploitation prevention, or any offense related to a violation
1494 of s. 847.003, s. 847.0135, s. 847.0137, or s. 847.0138 or any
1495 violation of former s. 827.071 when ~~chapter 827~~ where the crime
1496 is facilitated by or connected to the use of the Internet or any
1497 device capable of electronic data storage or transmission;

1498
1499 or any attempt, solicitation, or conspiracy to commit any
1500 violation of the crimes specifically enumerated above, when any
1501 such offense is occurring, or has occurred, in two or more
1502 judicial circuits as part of a related transaction or when any
1503 such offense is connected with an organized criminal conspiracy
1504 affecting two or more judicial circuits. The statewide grand
1505 jury may return indictments and presentments irrespective of the
1506 county or judicial circuit where the offense is committed or
1507 triable. If an indictment is returned, it shall be certified and
1508 transferred for trial to the county where the offense was

32-01236A-17

20171558__

1509 committed. The powers and duties of, and law applicable to,
1510 county grand juries shall apply to a statewide grand jury except
1511 when such powers, duties, and law are inconsistent with the
1512 provisions of ss. 905.31-905.40.

1513 Section 37. Paragraph (a) of subsection (1) of section
1514 934.07, Florida Statutes, is amended to read:

1515 934.07 Authorization for interception of wire, oral, or
1516 electronic communications.—

1517 (1) The Governor, the Attorney General, the statewide
1518 prosecutor, or any state attorney may authorize an application
1519 to a judge of competent jurisdiction for, and such judge may
1520 grant in conformity with ss. 934.03-934.09 an order authorizing
1521 or approving the interception of, wire, oral, or electronic
1522 communications by:

1523 (a) The Department of Law Enforcement or any law
1524 enforcement agency as defined in s. 934.02 having responsibility
1525 for the investigation of the offense as to which the application
1526 is made when such interception may provide or has provided
1527 evidence of the commission of the offense of murder, kidnapping,
1528 aircraft piracy, arson, gambling, robbery, burglary, theft,
1529 dealing in stolen property, criminal usury, bribery, or
1530 extortion; any felony violation of ss. 790.161-790.166,
1531 inclusive; any violation of s. 787.06; any violation of chapter
1532 893; any violation of the provisions of the Florida Anti-Fencing
1533 Act; any violation of chapter 895; any violation of chapter 896;
1534 any violation of chapter 815; any violation of chapter 847; any
1535 violation of former s. 827.071; any violation of s. 944.40; or
1536 any conspiracy or solicitation to commit any violation of the
1537 laws of this state relating to the crimes specifically

32-01236A-17

20171558__

1538 enumerated in this paragraph.

1539 Section 38. Section 938.085, Florida Statutes, is amended
1540 to read:

1541 938.085 Additional cost to fund rape crisis centers.—In
1542 addition to any sanction imposed when a person pleads guilty or
1543 nolo contendere to, or is found guilty of, regardless of
1544 adjudication, a violation of s. 775.21(6) and (10) (a), (b), and
1545 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
1546 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
1547 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
1548 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
1549 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
1550 796.07(2) (a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
1551 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; former
1552 s. 827.071; s. 836.10; s. 847.003; s. 847.0133; s. 847.0135
1553 ~~847.0135(2)~~; s. 847.0137; s. 847.0145; s. 943.0435(4) (c), (7),
1554 (8), (9) (a), (13), and (14) (c); or s. 985.701(1), the court
1555 shall impose a surcharge of \$151. Payment of the surcharge shall
1556 be a condition of probation, community control, or any other
1557 court-ordered supervision. The sum of \$150 of the surcharge
1558 shall be deposited into the Rape Crisis Program Trust Fund
1559 established within the Department of Health by chapter 2003-140,
1560 Laws of Florida. The clerk of the court shall retain \$1 of each
1561 surcharge that the clerk of the court collects as a service
1562 charge of the clerk's office.

1563 Section 39. Subsection (1) of section 938.10, Florida
1564 Statutes, is amended to read:

1565 938.10 Additional court cost imposed in cases of certain
1566 crimes.—

32-01236A-17

20171558__

1567 (1) If a person pleads guilty or nolo contendere to, or is
1568 found guilty of, regardless of adjudication, any offense against
1569 a minor in violation of s. 784.085, chapter 787, chapter 794,
1570 former s. 796.03, former s. 796.035, s. 800.04, chapter 827,
1571 former s. 827.071, s. 847.003, s. 847.012, s. 847.0133, s.
1572 847.0135 ~~847.0135(5)~~, s. 847.0137, s. 847.0138, s. 847.0145, s.
1573 893.147(3), or s. 985.701, or any offense in violation of s.
1574 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the
1575 court shall impose a court cost of \$151 against the offender in
1576 addition to any other cost or penalty required by law.

1577 Section 40. Paragraph (h) of subsection (1) of section
1578 943.0435, Florida Statutes, is amended to read:

1579 943.0435 Sexual offenders required to register with the
1580 department; penalty.—

1581 (1) As used in this section, the term:

1582 (h)1. "Sexual offender" means a person who meets the
1583 criteria in sub-subparagraph a., sub-subparagraph b., sub-
1584 subparagraph c., or sub-subparagraph d., as follows:

1585 a.(I) Has been convicted of committing, or attempting,
1586 soliciting, or conspiring to commit, any of the criminal
1587 offenses proscribed in the following statutes in this state or
1588 similar offenses in another jurisdiction: s. 393.135(2); s.
1589 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
1590 the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former
1591 s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.
1592 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
1593 810.145(8); s. 825.1025; former s. 827.071; s. 847.003; s.
1594 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
1595 847.0138; s. 847.0145; s. 895.03, if the court makes a written

32-01236A-17

20171558__

1596 finding that the racketeering activity involved at least one
1597 sexual offense listed in this sub-sub-subparagraph or at least
1598 one offense listed in this sub-sub-subparagraph with sexual
1599 intent or motive; s. 916.1075(2); or s. 985.701(1); or any
1600 similar offense committed in this state which has been
1601 redesignated from a former statute number to one of those listed
1602 in this sub-sub-subparagraph; and

1603 (II) Has been released on or after October 1, 1997, from
1604 the sanction imposed for any conviction of an offense described
1605 in sub-sub-subparagraph (I). For purposes of sub-sub-
1606 subparagraph (I), a sanction imposed in this state or in any
1607 other jurisdiction includes, but is not limited to, a fine,
1608 probation, community control, parole, conditional release,
1609 control release, or incarceration in a state prison, federal
1610 prison, private correctional facility, or local detention
1611 facility;

1612 b. Establishes or maintains a residence in this state and
1613 who has not been designated as a sexual predator by a court of
1614 this state but who has been designated as a sexual predator, as
1615 a sexually violent predator, or by another sexual offender
1616 designation in another state or jurisdiction and was, as a
1617 result of such designation, subjected to registration or
1618 community or public notification, or both, or would be if the
1619 person were a resident of that state or jurisdiction, without
1620 regard to whether the person otherwise meets the criteria for
1621 registration as a sexual offender;

1622 c. Establishes or maintains a residence in this state who
1623 is in the custody or control of, or under the supervision of,
1624 any other state or jurisdiction as a result of a conviction for

32-01236A-17

20171558__

1625 committing, or attempting, soliciting, or conspiring to commit,
1626 any of the criminal offenses proscribed in the following
1627 statutes or similar offense in another jurisdiction: s.
1628 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
1629 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
1630 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
1631 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
1632 s. 800.04; s. 810.145(8); s. 825.1025; former s. 827.071; s.
1633 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
1634 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court
1635 makes a written finding that the racketeering activity involved
1636 at least one sexual offense listed in this sub-subparagraph or
1637 at least one offense listed in this sub-subparagraph with sexual
1638 intent or motive; s. 916.1075(2); or s. 985.701(1); or any
1639 similar offense committed in this state which has been
1640 redesignated from a former statute number to one of those listed
1641 in this sub-subparagraph; or

1642 d. On or after July 1, 2007, has been adjudicated
1643 delinquent for committing, or attempting, soliciting, or
1644 conspiring to commit, any of the criminal offenses proscribed in
1645 the following statutes in this state or similar offenses in
1646 another jurisdiction when the juvenile was 14 years of age or
1647 older at the time of the offense:

1648 (I) Section 794.011, excluding s. 794.011(10);

1649 (II) Section 800.04(4)(a)2. where the victim is under 12
1650 years of age or where the court finds sexual activity by the use
1651 of force or coercion;

1652 (III) Section 800.04(5)(c)1. where the court finds
1653 molestation involving unclothed genitals;

32-01236A-17

20171558__

1654 (IV) Section 800.04(5)(d) where the court finds the use of
1655 force or coercion and unclothed genitals; or

1656 (V) Any similar offense committed in this state which has
1657 been redesignated from a former statute number to one of those
1658 listed in this sub-subparagraph.

1659 2. For all qualifying offenses listed in sub-subparagraph
1660 1.d., the court shall make a written finding of the age of the
1661 offender at the time of the offense.

1662
1663 For each violation of a qualifying offense listed in this
1664 subsection, except for a violation of s. 794.011, the court
1665 shall make a written finding of the age of the victim at the
1666 time of the offense. For a violation of s. 800.04(4), the court
1667 shall also make a written finding indicating whether the offense
1668 involved sexual activity and indicating whether the offense
1669 involved force or coercion. For a violation of s. 800.04(5), the
1670 court shall also make a written finding that the offense did or
1671 did not involve unclothed genitals or genital area and that the
1672 offense did or did not involve the use of force or coercion.

1673 Section 41. Paragraph (a) of subsection (1) and subsection
1674 (3) of section 943.04354, Florida Statutes, are amended to read:

1675 943.04354 Removal of the requirement to register as a
1676 sexual offender or sexual predator in special circumstances.—

1677 (1) For purposes of this section, a person shall be
1678 considered for removal of the requirement to register as a
1679 sexual offender or sexual predator only if the person:

1680 (a) Was convicted, regardless of adjudication, or
1681 adjudicated delinquent of a violation of s. 800.04, former s.
1682 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s. 847.0137(2) or of

32-01236A-17

20171558__

1683 a similar offense in another jurisdiction and if the person does
1684 not have any other conviction, regardless of adjudication, or
1685 adjudication of delinquency for a violation of s. 794.011, s.
1686 800.04, former s. 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s.
1687 847.0137(2) or for a similar offense in another jurisdiction;

1688 (3) If a person provides to the Department of Law
1689 Enforcement a certified copy of the court's order removing the
1690 requirement that the person register as a sexual offender or
1691 sexual predator for the violation of s. 794.011, s. 800.04,
1692 former s. 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s.
1693 847.0137(2) or a similar offense in another jurisdiction, the
1694 registration requirement will not apply to the person and the
1695 department shall remove all information about the person from
1696 the public registry of sexual offenders and sexual predators
1697 maintained by the department. However, the removal of this
1698 information from the public registry does not mean that the
1699 public is denied access to information about the person's
1700 criminal history or record that is otherwise available as a
1701 public record.

1702 Section 42. Section 943.0585, Florida Statutes, is amended
1703 to read:

1704 943.0585 Court-ordered expunction of criminal history
1705 records.—The courts of this state have jurisdiction over their
1706 own procedures, including the maintenance, expunction, and
1707 correction of judicial records containing criminal history
1708 information to the extent such procedures are not inconsistent
1709 with the conditions, responsibilities, and duties established by
1710 this section. Any court of competent jurisdiction may order a
1711 criminal justice agency to expunge the criminal history record

32-01236A-17

20171558__

1712 of a minor or an adult who complies with the requirements of
1713 this section. The court shall not order a criminal justice
1714 agency to expunge a criminal history record until the person
1715 seeking to expunge a criminal history record has applied for and
1716 received a certificate of eligibility for expunction pursuant to
1717 subsection (2) or subsection (5). A criminal history record that
1718 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
1719 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
1720 s. 825.1025, former s. 827.071, chapter 839, s. 847.003, s.
1721 847.0133, s. 847.0135, s. 847.0137(2), s. 847.0145, s. 893.135,
1722 s. 916.1075, a violation enumerated in s. 907.041, or any
1723 violation specified as a predicate offense for registration as a
1724 sexual predator pursuant to s. 775.21, without regard to whether
1725 that offense alone is sufficient to require such registration,
1726 or for registration as a sexual offender pursuant to s.
1727 943.0435, may not be expunged, without regard to whether
1728 adjudication was withheld, if the defendant was found guilty of
1729 or pled guilty or nolo contendere to the offense, or if the
1730 defendant, as a minor, was found to have committed, or pled
1731 guilty or nolo contendere to committing, the offense as a
1732 delinquent act. The court may only order expunction of a
1733 criminal history record pertaining to one arrest or one incident
1734 of alleged criminal activity, except as provided in this
1735 section. The court may, at its sole discretion, order the
1736 expunction of a criminal history record pertaining to more than
1737 one arrest if the additional arrests directly relate to the
1738 original arrest. If the court intends to order the expunction of
1739 records pertaining to such additional arrests, such intent must
1740 be specified in the order. A criminal justice agency may not

32-01236A-17

20171558__

1741 expunge any record pertaining to such additional arrests if the
1742 order to expunge does not articulate the intention of the court
1743 to expunge a record pertaining to more than one arrest. This
1744 section does not prevent the court from ordering the expunction
1745 of only a portion of a criminal history record pertaining to one
1746 arrest or one incident of alleged criminal activity.
1747 Notwithstanding any law to the contrary, a criminal justice
1748 agency may comply with laws, court orders, and official requests
1749 of other jurisdictions relating to expunction, correction, or
1750 confidential handling of criminal history records or information
1751 derived therefrom. This section does not confer any right to the
1752 expunction of any criminal history record, and any request for
1753 expunction of a criminal history record may be denied at the
1754 sole discretion of the court.

1755 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each
1756 petition to a court to expunge a criminal history record is
1757 complete only when accompanied by:

1758 (a) A valid certificate of eligibility for expunction
1759 issued by the department pursuant to subsection (2).

1760 (b) The petitioner's sworn statement attesting that the
1761 petitioner:

1762 1. Has never, prior to the date on which the petition is
1763 filed, been adjudicated guilty of a criminal offense or
1764 comparable ordinance violation, or been adjudicated delinquent
1765 for committing any felony or a misdemeanor specified in s.
1766 943.051(3)(b).

1767 2. Has not been adjudicated guilty of, or adjudicated
1768 delinquent for committing, any of the acts stemming from the
1769 arrest or alleged criminal activity to which the petition

32-01236A-17

20171558__

1770 pertains.

1771 3. Has never secured a prior sealing or expunction of a
1772 criminal history record under this section, s. 943.059, former
1773 s. 893.14, former s. 901.33, or former s. 943.058, unless
1774 expunction is sought of a criminal history record previously
1775 sealed for 10 years pursuant to paragraph (2) (h) and the record
1776 is otherwise eligible for expunction.

1777 4. Is eligible for such an expunction to the best of his or
1778 her knowledge or belief and does not have any other petition to
1779 expunge or any petition to seal pending before any court.

1780
1781 Any person who knowingly provides false information on such
1782 sworn statement to the court commits a felony of the third
1783 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1784 775.084.

1785 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
1786 petitioning the court to expunge a criminal history record, a
1787 person seeking to expunge a criminal history record shall apply
1788 to the department for a certificate of eligibility for
1789 expunction. The department shall, by rule adopted pursuant to
1790 chapter 120, establish procedures pertaining to the application
1791 for and issuance of certificates of eligibility for expunction.
1792 A certificate of eligibility for expunction is valid for 12
1793 months after the date stamped on the certificate when issued by
1794 the department. After that time, the petitioner must reapply to
1795 the department for a new certificate of eligibility. Eligibility
1796 for a renewed certification of eligibility must be based on the
1797 status of the applicant and the law in effect at the time of the
1798 renewal application. The department shall issue a certificate of

32-01236A-17

20171558__

1799 eligibility for expunction to a person who is the subject of a
1800 criminal history record if that person:

1801 (a) Has obtained, and submitted to the department, a
1802 written, certified statement from the appropriate state attorney
1803 or statewide prosecutor which indicates:

1804 1. That an indictment, information, or other charging
1805 document was not filed or issued in the case.

1806 2. That an indictment, information, or other charging
1807 document, if filed or issued in the case, was dismissed or nolle
1808 prosequi by the state attorney or statewide prosecutor, or was
1809 dismissed by a court of competent jurisdiction, and that none of
1810 the charges related to the arrest or alleged criminal activity
1811 to which the petition to expunge pertains resulted in a trial,
1812 without regard to whether the outcome of the trial was other
1813 than an adjudication of guilt.

1814 3. That the criminal history record does not relate to a
1815 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
1816 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
1817 former s. 827.071, chapter 839, s. 847.003, s. 847.0133, s.
1818 847.0135, s. 847.0137(2), s. 847.0145, s. 893.135, s. 916.1075,
1819 a violation enumerated in s. 907.041, or any violation specified
1820 as a predicate offense for registration as a sexual predator
1821 pursuant to s. 775.21, without regard to whether that offense
1822 alone is sufficient to require such registration, or for
1823 registration as a sexual offender pursuant to s. 943.0435, where
1824 the defendant was found guilty of, or pled guilty or nolo
1825 contendere to any such offense, or that the defendant, as a
1826 minor, was found to have committed, or pled guilty or nolo
1827 contendere to committing, such an offense as a delinquent act,

32-01236A-17

20171558__

1828 without regard to whether adjudication was withheld.

1829 (b) Remits a \$75 processing fee to the department for
1830 placement in the Department of Law Enforcement Operating Trust
1831 Fund, unless such fee is waived by the executive director.

1832 (c) Has submitted to the department a certified copy of the
1833 disposition of the charge to which the petition to expunge
1834 pertains.

1835 (d) Has never, prior to the date on which the application
1836 for a certificate of eligibility is filed, been adjudicated
1837 guilty of a criminal offense or comparable ordinance violation,
1838 or been adjudicated delinquent for committing any felony or a
1839 misdemeanor specified in s. 943.051(3)(b).

1840 (e) Has not been adjudicated guilty of, or adjudicated
1841 delinquent for committing, any of the acts stemming from the
1842 arrest or alleged criminal activity to which the petition to
1843 expunge pertains.

1844 (f) Has never secured a prior sealing or expunction of a
1845 criminal history record under this section, s. 943.059, former
1846 s. 893.14, former s. 901.33, or former s. 943.058, unless
1847 expunction is sought of a criminal history record previously
1848 sealed for 10 years pursuant to paragraph (h) and the record is
1849 otherwise eligible for expunction.

1850 (g) Is no longer under court supervision applicable to the
1851 disposition of the arrest or alleged criminal activity to which
1852 the petition to expunge pertains.

1853 (h) Has previously obtained a court order sealing the
1854 record under this section, former s. 893.14, former s. 901.33,
1855 or former s. 943.058 for a minimum of 10 years because
1856 adjudication was withheld or because all charges related to the

32-01236A-17

20171558__

1857 arrest or alleged criminal activity to which the petition to
1858 expunge pertains were not dismissed prior to trial, without
1859 regard to whether the outcome of the trial was other than an
1860 adjudication of guilt. The requirement for the record to have
1861 previously been sealed for a minimum of 10 years does not apply
1862 when a plea was not entered or all charges related to the arrest
1863 or alleged criminal activity to which the petition to expunge
1864 pertains were dismissed prior to trial.

1865 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

1866 (a) In judicial proceedings under this section, a copy of
1867 the completed petition to expunge shall be served upon the
1868 appropriate state attorney or the statewide prosecutor and upon
1869 the arresting agency; however, it is not necessary to make any
1870 agency other than the state a party. The appropriate state
1871 attorney or the statewide prosecutor and the arresting agency
1872 may respond to the court regarding the completed petition to
1873 expunge.

1874 (b) If relief is granted by the court, the clerk of the
1875 court shall certify copies of the order to the appropriate state
1876 attorney or the statewide prosecutor and the arresting agency.
1877 The arresting agency is responsible for forwarding the order to
1878 any other agency to which the arresting agency disseminated the
1879 criminal history record information to which the order pertains.
1880 The department shall forward the order to expunge to the Federal
1881 Bureau of Investigation. The clerk of the court shall certify a
1882 copy of the order to any other agency which the records of the
1883 court reflect has received the criminal history record from the
1884 court.

1885 (c) For an order to expunge entered by a court prior to

32-01236A-17

20171558__

1886 July 1, 1992, the department shall notify the appropriate state
1887 attorney or statewide prosecutor of an order to expunge which is
1888 contrary to law because the person who is the subject of the
1889 record has previously been convicted of a crime or comparable
1890 ordinance violation or has had a prior criminal history record
1891 sealed or expunged. Upon receipt of such notice, the appropriate
1892 state attorney or statewide prosecutor shall take action, within
1893 60 days, to correct the record and petition the court to void
1894 the order to expunge. The department shall seal the record until
1895 such time as the order is voided by the court.

1896 (d) On or after July 1, 1992, the department or any other
1897 criminal justice agency is not required to act on an order to
1898 expunge entered by a court when such order does not comply with
1899 the requirements of this section. Upon receipt of such an order,
1900 the department must notify the issuing court, the appropriate
1901 state attorney or statewide prosecutor, the petitioner or the
1902 petitioner's attorney, and the arresting agency of the reason
1903 for noncompliance. The appropriate state attorney or statewide
1904 prosecutor shall take action within 60 days to correct the
1905 record and petition the court to void the order. No cause of
1906 action, including contempt of court, shall arise against any
1907 criminal justice agency for failure to comply with an order to
1908 expunge when the petitioner for such order failed to obtain the
1909 certificate of eligibility as required by this section or such
1910 order does not otherwise comply with the requirements of this
1911 section.

1912 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
1913 criminal history record of a minor or an adult which is ordered
1914 expunged by a court of competent jurisdiction pursuant to this

32-01236A-17

20171558__

1915 section must be physically destroyed or obliterated by any
 1916 criminal justice agency having custody of such record; except
 1917 that any criminal history record in the custody of the
 1918 department must be retained in all cases. A criminal history
 1919 record ordered expunged that is retained by the department is
 1920 confidential and exempt from the provisions of s. 119.07(1) and
 1921 s. 24(a), Art. I of the State Constitution and not available to
 1922 any person or entity except upon order of a court of competent
 1923 jurisdiction. A criminal justice agency may retain a notation
 1924 indicating compliance with an order to expunge.

1925 (a) The person who is the subject of a criminal history
 1926 record that is expunged under this section or under other
 1927 provisions of law, including former s. 893.14, former s. 901.33,
 1928 and former s. 943.058, may lawfully deny or fail to acknowledge
 1929 the arrests covered by the expunged record, except when the
 1930 subject of the record:

- 1931 1. Is a candidate for employment with a criminal justice
 1932 agency;
- 1933 2. Is a defendant in a criminal prosecution;
- 1934 3. Concurrently or subsequently petitions for relief under
 1935 this section, s. 943.0583, or s. 943.059;
- 1936 4. Is a candidate for admission to The Florida Bar;
- 1937 5. Is seeking to be employed or licensed by or to contract
 1938 with the Department of Children and Families, the Division of
 1939 Vocational Rehabilitation within the Department of Education,
 1940 the Agency for Health Care Administration, the Agency for
 1941 Persons with Disabilities, the Department of Health, the
 1942 Department of Elderly Affairs, or the Department of Juvenile
 1943 Justice or to be employed or used by such contractor or licensee

32-01236A-17

20171558__

1944 in a sensitive position having direct contact with children, the
1945 disabled, or the elderly;

1946 6. Is seeking to be employed or licensed by the Department
1947 of Education, any district school board, any university
1948 laboratory school, any charter school, any private or parochial
1949 school, or any local governmental entity that licenses child
1950 care facilities;

1951 7. Is seeking to be licensed by the Division of Insurance
1952 Agent and Agency Services within the Department of Financial
1953 Services; or

1954 8. Is seeking to be appointed as a guardian pursuant to s.
1955 744.3125.

1956 (b) Subject to the exceptions in paragraph (a), a person
1957 who has been granted an expunction under this section, former s.
1958 893.14, former s. 901.33, or former s. 943.058 may not be held
1959 under any provision of law of this state to commit perjury or to
1960 be otherwise liable for giving a false statement by reason of
1961 such person's failure to recite or acknowledge an expunged
1962 criminal history record.

1963 (c) Information relating to the existence of an expunged
1964 criminal history record which is provided in accordance with
1965 paragraph (a) is confidential and exempt from the provisions of
1966 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1967 except that the department shall disclose the existence of a
1968 criminal history record ordered expunged to the entities set
1969 forth in subparagraphs (a)1., 4., 5., 6., 7., and 8. for their
1970 respective licensing, access authorization, and employment
1971 purposes, and to criminal justice agencies for their respective
1972 criminal justice purposes. It is unlawful for any employee of an

32-01236A-17

20171558__

1973 entity set forth in subparagraph (a)1., subparagraph (a)4.,
 1974 subparagraph (a)5., subparagraph (a)6., subparagraph (a)7., or
 1975 subparagraph (a)8. to disclose information relating to the
 1976 existence of an expunged criminal history record of a person
 1977 seeking employment, access authorization, or licensure with such
 1978 entity or contractor, except to the person to whom the criminal
 1979 history record relates or to persons having direct
 1980 responsibility for employment, access authorization, or
 1981 licensure decisions. Any person who violates this paragraph
 1982 commits a misdemeanor of the first degree, punishable as
 1983 provided in s. 775.082 or s. 775.083.

1984 (5) EXCEPTION FOR LAWFUL SELF-DEFENSE.—Notwithstanding the
 1985 eligibility requirements prescribed in paragraph (1)(b) and
 1986 subsection (2), the department shall issue a certificate of
 1987 eligibility for expunction under this subsection to a person who
 1988 is the subject of a criminal history record if that person:

1989 (a) Has obtained, and submitted to the department, on a
 1990 form provided by the department, a written, certified statement
 1991 from the appropriate state attorney or statewide prosecutor
 1992 which states whether an information, indictment, or other
 1993 charging document was not filed or was dismissed by the state
 1994 attorney, or dismissed by the court, because it was found that
 1995 the person acted in lawful self-defense pursuant to the
 1996 provisions related to justifiable use of force in chapter 776.

1997 (b) Each petition to a court to expunge a criminal history
 1998 record pursuant to this subsection is complete only when
 1999 accompanied by:

2000 1. A valid certificate of eligibility for expunction issued
 2001 by the department pursuant to this subsection.

32-01236A-17

20171558__

2002 2. The petitioner's sworn statement attesting that the
2003 petitioner is eligible for such an expunction to the best of his
2004 or her knowledge or belief.

2005
2006 Any person who knowingly provides false information on such
2007 sworn statement to the court commits a felony of the third
2008 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2009 775.084.

2010 (c) This subsection does not confer any right to the
2011 expunction of a criminal history record, and any request for
2012 expunction of a criminal history record may be denied at the
2013 discretion of the court.

2014 (d) Subsections (3) and (4) shall apply to expunction
2015 ordered under this subsection.

2016 (e) The department shall, by rule adopted pursuant to
2017 chapter 120, establish procedures pertaining to the application
2018 for and issuance of certificates of eligibility for expunction
2019 under this subsection.

2020 (6) STATUTORY REFERENCES.—Any reference to any other
2021 chapter, section, or subdivision of the Florida Statutes in this
2022 section constitutes a general reference under the doctrine of
2023 incorporation by reference.

2024 Section 43. Section 943.059, Florida Statutes, is amended
2025 to read:

2026 943.059 Court-ordered sealing of criminal history records.—
2027 The courts of this state shall continue to have jurisdiction
2028 over their own procedures, including the maintenance, sealing,
2029 and correction of judicial records containing criminal history
2030 information to the extent such procedures are not inconsistent

32-01236A-17

20171558__

2031 with the conditions, responsibilities, and duties established by
2032 this section. Any court of competent jurisdiction may order a
2033 criminal justice agency to seal the criminal history record of a
2034 minor or an adult who complies with the requirements of this
2035 section. The court shall not order a criminal justice agency to
2036 seal a criminal history record until the person seeking to seal
2037 a criminal history record has applied for and received a
2038 certificate of eligibility for sealing pursuant to subsection
2039 (2). A criminal history record that relates to a violation of s.
2040 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
2041 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, former s.
2042 827.071, chapter 839, s. 847.003, s. 847.0133, s. 847.0135, s.
2043 847.0137(2), s. 847.0145, s. 893.135, s. 916.1075, a violation
2044 enumerated in s. 907.041, or any violation specified as a
2045 predicate offense for registration as a sexual predator pursuant
2046 to s. 775.21, without regard to whether that offense alone is
2047 sufficient to require such registration, or for registration as
2048 a sexual offender pursuant to s. 943.0435, may not be sealed,
2049 without regard to whether adjudication was withheld, if the
2050 defendant was found guilty of or pled guilty or nolo contendere
2051 to the offense, or if the defendant, as a minor, was found to
2052 have committed or pled guilty or nolo contendere to committing
2053 the offense as a delinquent act. The court may only order
2054 sealing of a criminal history record pertaining to one arrest or
2055 one incident of alleged criminal activity, except as provided in
2056 this section. The court may, at its sole discretion, order the
2057 sealing of a criminal history record pertaining to more than one
2058 arrest if the additional arrests directly relate to the original
2059 arrest. If the court intends to order the sealing of records

32-01236A-17

20171558__

2060 pertaining to such additional arrests, such intent must be
2061 specified in the order. A criminal justice agency may not seal
2062 any record pertaining to such additional arrests if the order to
2063 seal does not articulate the intention of the court to seal
2064 records pertaining to more than one arrest. This section does
2065 not prevent the court from ordering the sealing of only a
2066 portion of a criminal history record pertaining to one arrest or
2067 one incident of alleged criminal activity. Notwithstanding any
2068 law to the contrary, a criminal justice agency may comply with
2069 laws, court orders, and official requests of other jurisdictions
2070 relating to sealing, correction, or confidential handling of
2071 criminal history records or information derived therefrom. This
2072 section does not confer any right to the sealing of any criminal
2073 history record, and any request for sealing a criminal history
2074 record may be denied at the sole discretion of the court.

2075 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each
2076 petition to a court to seal a criminal history record is
2077 complete only when accompanied by:

2078 (a) A valid certificate of eligibility for sealing issued
2079 by the department pursuant to subsection (2).

2080 (b) The petitioner's sworn statement attesting that the
2081 petitioner:

2082 1. Has never, prior to the date on which the petition is
2083 filed, been adjudicated guilty of a criminal offense or
2084 comparable ordinance violation, or been adjudicated delinquent
2085 for committing any felony or a misdemeanor specified in s.
2086 943.051(3)(b).

2087 2. Has not been adjudicated guilty of or adjudicated
2088 delinquent for committing any of the acts stemming from the

32-01236A-17

20171558__

2089 arrest or alleged criminal activity to which the petition to
2090 seal pertains.

2091 3. Has never secured a prior sealing or expunction of a
2092 criminal history record under this section, s. 943.0585, former
2093 s. 893.14, former s. 901.33, or former s. 943.058.

2094 4. Is eligible for such a sealing to the best of his or her
2095 knowledge or belief and does not have any other petition to seal
2096 or any petition to expunge pending before any court.

2097
2098 Any person who knowingly provides false information on such
2099 sworn statement to the court commits a felony of the third
2100 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2101 775.084.

2102 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
2103 petitioning the court to seal a criminal history record, a
2104 person seeking to seal a criminal history record shall apply to
2105 the department for a certificate of eligibility for sealing. The
2106 department shall, by rule adopted pursuant to chapter 120,
2107 establish procedures pertaining to the application for and
2108 issuance of certificates of eligibility for sealing. A
2109 certificate of eligibility for sealing is valid for 12 months
2110 after the date stamped on the certificate when issued by the
2111 department. After that time, the petitioner must reapply to the
2112 department for a new certificate of eligibility. Eligibility for
2113 a renewed certification of eligibility must be based on the
2114 status of the applicant and the law in effect at the time of the
2115 renewal application. The department shall issue a certificate of
2116 eligibility for sealing to a person who is the subject of a
2117 criminal history record provided that such person:

32-01236A-17

20171558__

2118 (a) Has submitted to the department a certified copy of the
2119 disposition of the charge to which the petition to seal
2120 pertains.

2121 (b) Remits a \$75 processing fee to the department for
2122 placement in the Department of Law Enforcement Operating Trust
2123 Fund, unless such fee is waived by the executive director.

2124 (c) Has never, prior to the date on which the application
2125 for a certificate of eligibility is filed, been adjudicated
2126 guilty of a criminal offense or comparable ordinance violation,
2127 or been adjudicated delinquent for committing any felony or a
2128 misdemeanor specified in s. 943.051(3)(b).

2129 (d) Has not been adjudicated guilty of or adjudicated
2130 delinquent for committing any of the acts stemming from the
2131 arrest or alleged criminal activity to which the petition to
2132 seal pertains.

2133 (e) Has never secured a prior sealing or expunction of a
2134 criminal history record under this section, s. 943.0585, former
2135 s. 893.14, former s. 901.33, or former s. 943.058.

2136 (f) Is no longer under court supervision applicable to the
2137 disposition of the arrest or alleged criminal activity to which
2138 the petition to seal pertains.

2139 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

2140 (a) In judicial proceedings under this section, a copy of
2141 the completed petition to seal shall be served upon the
2142 appropriate state attorney or the statewide prosecutor and upon
2143 the arresting agency; however, it is not necessary to make any
2144 agency other than the state a party. The appropriate state
2145 attorney or the statewide prosecutor and the arresting agency
2146 may respond to the court regarding the completed petition to

32-01236A-17

20171558__

2147 seal.

2148 (b) If relief is granted by the court, the clerk of the
2149 court shall certify copies of the order to the appropriate state
2150 attorney or the statewide prosecutor and to the arresting
2151 agency. The arresting agency is responsible for forwarding the
2152 order to any other agency to which the arresting agency
2153 disseminated the criminal history record information to which
2154 the order pertains. The department shall forward the order to
2155 seal to the Federal Bureau of Investigation. The clerk of the
2156 court shall certify a copy of the order to any other agency
2157 which the records of the court reflect has received the criminal
2158 history record from the court.

2159 (c) For an order to seal entered by a court prior to July
2160 1, 1992, the department shall notify the appropriate state
2161 attorney or statewide prosecutor of any order to seal which is
2162 contrary to law because the person who is the subject of the
2163 record has previously been convicted of a crime or comparable
2164 ordinance violation or has had a prior criminal history record
2165 sealed or expunged. Upon receipt of such notice, the appropriate
2166 state attorney or statewide prosecutor shall take action, within
2167 60 days, to correct the record and petition the court to void
2168 the order to seal. The department shall seal the record until
2169 such time as the order is voided by the court.

2170 (d) On or after July 1, 1992, the department or any other
2171 criminal justice agency is not required to act on an order to
2172 seal entered by a court when such order does not comply with the
2173 requirements of this section. Upon receipt of such an order, the
2174 department must notify the issuing court, the appropriate state
2175 attorney or statewide prosecutor, the petitioner or the

32-01236A-17

20171558__

2176 petitioner's attorney, and the arresting agency of the reason
2177 for noncompliance. The appropriate state attorney or statewide
2178 prosecutor shall take action within 60 days to correct the
2179 record and petition the court to void the order. No cause of
2180 action, including contempt of court, shall arise against any
2181 criminal justice agency for failure to comply with an order to
2182 seal when the petitioner for such order failed to obtain the
2183 certificate of eligibility as required by this section or when
2184 such order does not comply with the requirements of this
2185 section.

2186 (e) An order sealing a criminal history record pursuant to
2187 this section does not require that such record be surrendered to
2188 the court, and such record shall continue to be maintained by
2189 the department and other criminal justice agencies.

2190 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
2191 history record of a minor or an adult which is ordered sealed by
2192 a court pursuant to this section is confidential and exempt from
2193 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
2194 Constitution and is available only to the person who is the
2195 subject of the record, to the subject's attorney, to criminal
2196 justice agencies for their respective criminal justice purposes,
2197 which include conducting a criminal history background check for
2198 approval of firearms purchases or transfers as authorized by
2199 state or federal law, to judges in the state courts system for
2200 the purpose of assisting them in their case-related
2201 decisionmaking responsibilities, as set forth in s. 943.053(5),
2202 or to those entities set forth in subparagraphs (a)1., 4., 5.,
2203 6., 8., 9., and 10. for their respective licensing, access
2204 authorization, and employment purposes.

32-01236A-17

20171558__

2205 (a) The subject of a criminal history record sealed under
2206 this section or under other provisions of law, including former
2207 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
2208 deny or fail to acknowledge the arrests covered by the sealed
2209 record, except when the subject of the record:

2210 1. Is a candidate for employment with a criminal justice
2211 agency;

2212 2. Is a defendant in a criminal prosecution;

2213 3. Concurrently or subsequently petitions for relief under
2214 this section, s. 943.0583, or s. 943.0585;

2215 4. Is a candidate for admission to The Florida Bar;

2216 5. Is seeking to be employed or licensed by or to contract
2217 with the Department of Children and Families, the Division of
2218 Vocational Rehabilitation within the Department of Education,
2219 the Agency for Health Care Administration, the Agency for
2220 Persons with Disabilities, the Department of Health, the
2221 Department of Elderly Affairs, or the Department of Juvenile
2222 Justice or to be employed or used by such contractor or licensee
2223 in a sensitive position having direct contact with children, the
2224 disabled, or the elderly;

2225 6. Is seeking to be employed or licensed by the Department
2226 of Education, a district school board, a university laboratory
2227 school, a charter school, a private or parochial school, or a
2228 local governmental entity that licenses child care facilities;

2229 7. Is attempting to purchase a firearm from a licensed
2230 importer, licensed manufacturer, or licensed dealer and is
2231 subject to a criminal history check under state or federal law;

2232 8. Is seeking to be licensed by the Division of Insurance
2233 Agent and Agency Services within the Department of Financial

32-01236A-17

20171558__

2234 Services;

2235 9. Is seeking to be appointed as a guardian pursuant to s.
2236 744.3125; or

2237 10. Is seeking to be licensed by the Bureau of License
2238 Issuance of the Division of Licensing within the Department of
2239 Agriculture and Consumer Services to carry a concealed weapon or
2240 concealed firearm. This subparagraph applies only in the
2241 determination of an applicant's eligibility under s. 790.06.

2242 (b) Subject to the exceptions in paragraph (a), a person
2243 who has been granted a sealing under this section, former s.
2244 893.14, former s. 901.33, or former s. 943.058 may not be held
2245 under any provision of law of this state to commit perjury or to
2246 be otherwise liable for giving a false statement by reason of
2247 such person's failure to recite or acknowledge a sealed criminal
2248 history record.

2249 (c) Information relating to the existence of a sealed
2250 criminal record provided in accordance with the provisions of
2251 paragraph (a) is confidential and exempt from the provisions of
2252 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
2253 except that the department shall disclose the sealed criminal
2254 history record to the entities set forth in subparagraphs (a)1.,
2255 4., 5., 6., 8., 9., and 10. for their respective licensing,
2256 access authorization, and employment purposes. An employee of an
2257 entity set forth in subparagraph (a)1., subparagraph (a)4.,
2258 subparagraph (a)5., subparagraph (a)6., subparagraph (a)8.,
2259 subparagraph (a)9., or subparagraph (a)10. may not disclose
2260 information relating to the existence of a sealed criminal
2261 history record of a person seeking employment, access
2262 authorization, or licensure with such entity or contractor,

32-01236A-17

20171558__

2263 except to the person to whom the criminal history record relates
2264 or to persons having direct responsibility for employment,
2265 access authorization, or licensure decisions. A person who
2266 violates the provisions of this paragraph commits a misdemeanor
2267 of the first degree, punishable as provided in s. 775.082 or s.
2268 775.083.

2269 (5) STATUTORY REFERENCES.—Any reference to any other
2270 chapter, section, or subdivision of the Florida Statutes in this
2271 section constitutes a general reference under the doctrine of
2272 incorporation by reference.

2273 Section 44. Paragraph (f) of subsection (1) of section
2274 944.606, Florida Statutes, is amended to read:

2275 944.606 Sexual offenders; notification upon release.—

2276 (1) As used in this section, the term:

2277 (f) "Sexual offender" means a person who has been convicted
2278 of committing, or attempting, soliciting, or conspiring to
2279 commit, any of the criminal offenses proscribed in the following
2280 statutes in this state or similar offenses in another
2281 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
2282 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
2283 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
2284 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
2285 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; former
2286 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s.
2287 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03,
2288 if the court makes a written finding that the racketeering
2289 activity involved at least one sexual offense listed in this
2290 paragraph or at least one offense listed in this paragraph with
2291 sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or

32-01236A-17

20171558__

2292 any similar offense committed in this state which has been
2293 redesignated from a former statute number to one of those listed
2294 in this subsection, when the department has received verified
2295 information regarding such conviction; an offender's
2296 computerized criminal history record is not, in and of itself,
2297 verified information.

2298 Section 45. Paragraph (f) of subsection (1) of section
2299 944.607, Florida Statutes, is amended to read:

2300 944.607 Notification to Department of Law Enforcement of
2301 information on sexual offenders.—

2302 (1) As used in this section, the term:

2303 (f) "Sexual offender" means a person who is in the custody
2304 or control of, or under the supervision of, the department or is
2305 in the custody of a private correctional facility:

2306 1. On or after October 1, 1997, as a result of a conviction
2307 for committing, or attempting, soliciting, or conspiring to
2308 commit, any of the criminal offenses proscribed in the following
2309 statutes in this state or similar offenses in another
2310 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
2311 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
2312 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
2313 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
2314 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; former
2315 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s.
2316 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03,
2317 if the court makes a written finding that the racketeering
2318 activity involved at least one sexual offense listed in this
2319 subparagraph or at least one offense listed in this subparagraph
2320 with sexual intent or motive; s. 916.1075(2); or s. 985.701(1);

32-01236A-17

20171558__

2321 or any similar offense committed in this state which has been
2322 redesignated from a former statute number to one of those listed
2323 in this paragraph; or

2324 2. Who establishes or maintains a residence in this state
2325 and who has not been designated as a sexual predator by a court
2326 of this state but who has been designated as a sexual predator,
2327 as a sexually violent predator, or by another sexual offender
2328 designation in another state or jurisdiction and was, as a
2329 result of such designation, subjected to registration or
2330 community or public notification, or both, or would be if the
2331 person were a resident of that state or jurisdiction, without
2332 regard as to whether the person otherwise meets the criteria for
2333 registration as a sexual offender.

2334 Section 46. Subsections (7), (10), and (14) of section
2335 947.1405, Florida Statutes, are amended, and subsection (15) is
2336 added to that section, to read:

2337 947.1405 Conditional release program.—

2338 (7) (a) Any inmate who is convicted of a crime committed on
2339 or after October 1, 1995, or who has been previously convicted
2340 of a crime committed on or after October 1, 1995, in violation
2341 of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or
2342 s. 847.0145, and is subject to conditional release supervision,
2343 shall have, in addition to any other conditions imposed, the
2344 following special conditions imposed by the commission:

2345 1. A mandatory curfew from 10 p.m. to 6 a.m. The commission
2346 may designate another 8-hour period if the offender's employment
2347 precludes the above specified time, and such alternative is
2348 recommended by the Department of Corrections. If the commission
2349 determines that imposing a curfew would endanger the victim, the

32-01236A-17

20171558__

2350 commission may consider alternative sanctions.

2351 2. If the victim was under the age of 18, a prohibition on
2352 living within 1,000 feet of a school, child care facility, park,
2353 playground, designated public school bus stop, or other place
2354 where children regularly congregate. A releasee who is subject
2355 to this subparagraph may not relocate to a residence that is
2356 within 1,000 feet of a public school bus stop. Beginning October
2357 1, 2004, the commission or the department may not approve a
2358 residence that is located within 1,000 feet of a school, child
2359 care facility, park, playground, designated school bus stop, or
2360 other place where children regularly congregate for any releasee
2361 who is subject to this subparagraph. On October 1, 2004, the
2362 department shall notify each affected school district of the
2363 location of the residence of a releasee 30 days prior to release
2364 and thereafter, if the releasee relocates to a new residence,
2365 shall notify any affected school district of the residence of
2366 the releasee within 30 days after relocation. If, on October 1,
2367 2004, any public school bus stop is located within 1,000 feet of
2368 the existing residence of such releasee, the district school
2369 board shall relocate that school bus stop. Beginning October 1,
2370 2004, a district school board may not establish or relocate a
2371 public school bus stop within 1,000 feet of the residence of a
2372 releasee who is subject to this subparagraph. The failure of the
2373 district school board to comply with this subparagraph shall not
2374 result in a violation of conditional release supervision. A
2375 releasee who is subject to this subparagraph may not be forced
2376 to relocate and does not violate his or her conditional release
2377 supervision if he or she is living in a residence that meets the
2378 requirements of this subparagraph and a school, child care

32-01236A-17

20171558__

2379 facility, park, playground, designated public school bus stop,
2380 or other place where children regularly congregate is
2381 subsequently established within 1,000 feet of his or her
2382 residence.

2383 3. Active participation in and successful completion of a
2384 sex offender treatment program with qualified practitioners
2385 specifically trained to treat sex offenders, at the releasee's
2386 own expense. If a qualified practitioner is not available within
2387 a 50-mile radius of the releasee's residence, the offender shall
2388 participate in other appropriate therapy.

2389 4. A prohibition on any contact with the victim, directly
2390 or indirectly, including through a third person, unless approved
2391 by the victim, a qualified practitioner in the sexual offender
2392 treatment program, and the sentencing court.

2393 5. If the victim was under the age of 18, a prohibition
2394 against contact with children under the age of 18 without review
2395 and approval by the commission. The commission may approve
2396 supervised contact with a child under the age of 18 if the
2397 approval is based upon a recommendation for contact issued by a
2398 qualified practitioner who is basing the recommendation on a
2399 risk assessment. Further, the sex offender must be currently
2400 enrolled in or have successfully completed a sex offender
2401 therapy program. The commission may not grant supervised contact
2402 with a child if the contact is not recommended by a qualified
2403 practitioner and may deny supervised contact with a child at any
2404 time. When considering whether to approve supervised contact
2405 with a child, the commission must review and consider the
2406 following:

2407 a. A risk assessment completed by a qualified practitioner.

32-01236A-17

20171558__

2408 The qualified practitioner must prepare a written report that
2409 must include the findings of the assessment and address each of
2410 the following components:

- 2411 (I) The sex offender's current legal status;
- 2412 (II) The sex offender's history of adult charges with
2413 apparent sexual motivation;
- 2414 (III) The sex offender's history of adult charges without
2415 apparent sexual motivation;
- 2416 (IV) The sex offender's history of juvenile charges,
2417 whenever available;
- 2418 (V) The sex offender's offender treatment history,
2419 including a consultation from the sex offender's treating, or
2420 most recent treating, therapist;
- 2421 (VI) The sex offender's current mental status;
- 2422 (VII) The sex offender's mental health and substance abuse
2423 history as provided by the Department of Corrections;
- 2424 (VIII) The sex offender's personal, social, educational,
2425 and work history;
- 2426 (IX) The results of current psychological testing of the
2427 sex offender if determined necessary by the qualified
2428 practitioner;
- 2429 (X) A description of the proposed contact, including the
2430 location, frequency, duration, and supervisory arrangement;
- 2431 (XI) The child's preference and relative comfort level with
2432 the proposed contact, when age-appropriate;
- 2433 (XII) The parent's or legal guardian's preference regarding
2434 the proposed contact; and
- 2435 (XIII) The qualified practitioner's opinion, along with the
2436 basis for that opinion, as to whether the proposed contact would

32-01236A-17

20171558__

2437 likely pose significant risk of emotional or physical harm to
2438 the child.

2439

2440 The written report of the assessment must be given to the
2441 commission.

2442 b. A recommendation made as a part of the risk-assessment
2443 report as to whether supervised contact with the child should be
2444 approved;

2445 c. A written consent signed by the child's parent or legal
2446 guardian, if the parent or legal guardian is not the sex
2447 offender, agreeing to the sex offender having supervised contact
2448 with the child after receiving full disclosure of the sex
2449 offender's present legal status, past criminal history, and the
2450 results of the risk assessment. The commission may not approve
2451 contact with the child if the parent or legal guardian refuses
2452 to give written consent for supervised contact;

2453 d. A safety plan prepared by the qualified practitioner,
2454 who provides treatment to the offender, in collaboration with
2455 the sex offender, the child's parent or legal guardian, and the
2456 child, when age appropriate, which details the acceptable
2457 conditions of contact between the sex offender and the child.
2458 The safety plan must be reviewed and approved by the Department
2459 of Corrections before being submitted to the commission; and

2460 e. Evidence that the child's parent or legal guardian, if
2461 the parent or legal guardian is not the sex offender,
2462 understands the need for and agrees to the safety plan and has
2463 agreed to provide, or to designate another adult to provide,
2464 constant supervision any time the child is in contact with the
2465 offender.

32-01236A-17

20171558__

2466

2467 The commission may not appoint a person to conduct a risk
2468 assessment and may not accept a risk assessment from a person
2469 who has not demonstrated to the commission that he or she has
2470 met the requirements of a qualified practitioner as defined in
2471 this section.

2472 6. If the victim was under age 18, a prohibition on working
2473 for pay or as a volunteer at any school, child care facility,
2474 park, playground, or other place where children regularly
2475 congregate, as prescribed by the commission.

2476 7. Unless otherwise indicated in the treatment plan
2477 provided by a qualified practitioner in the sexual offender
2478 treatment program, a prohibition on viewing, owning, or
2479 possessing any obscene, pornographic, or sexually stimulating
2480 visual or auditory material, including telephone, electronic
2481 media, computer programs, or computer services that are relevant
2482 to the offender's deviant behavior pattern.

2483 8. Effective for a releasee whose crime is committed on or
2484 after July 1, 2005, a prohibition on accessing the Internet or
2485 other computer services until a qualified practitioner in the
2486 offender's sex offender treatment program, after a risk
2487 assessment is completed, approves and implements a safety plan
2488 for the offender's accessing or using the Internet or other
2489 computer services.

2490 9. A requirement that the releasee must submit two
2491 specimens of blood to the Department of Law Enforcement to be
2492 registered with the DNA database.

2493 10. A requirement that the releasee make restitution to the
2494 victim, as determined by the sentencing court or the commission,

32-01236A-17

20171558__

2495 for all necessary medical and related professional services
2496 relating to physical, psychiatric, and psychological care.

2497 11. Submission to a warrantless search by the community
2498 control or probation officer of the probationer's or community
2499 controllee's person, residence, or vehicle.

2500 (b) For a releasee whose crime was committed on or after
2501 October 1, 1997, in violation of chapter 794, s. 800.04, former
2502 s. 827.071, s. 847.0135(5), or s. 847.0145, and who is subject
2503 to conditional release supervision, in addition to any other
2504 provision of this subsection, the commission shall impose the
2505 following additional conditions of conditional release
2506 supervision:

2507 1. As part of a treatment program, participation in a
2508 minimum of one annual polygraph examination to obtain
2509 information necessary for risk management and treatment and to
2510 reduce the sex offender's denial mechanisms. The polygraph
2511 examination must be conducted by a polygrapher who is a member
2512 of a national or state polygraph association and who is
2513 certified as a postconviction sex offender polygrapher, where
2514 available, and at the expense of the releasee. The results of
2515 the examination shall be provided to the releasee's probation
2516 officer and qualified practitioner and may not be used as
2517 evidence in a hearing to prove that a violation of supervision
2518 has occurred.

2519 2. Maintenance of a driving log and a prohibition against
2520 driving a motor vehicle alone without the prior approval of the
2521 supervising officer.

2522 3. A prohibition against obtaining or using a post office
2523 box without the prior approval of the supervising officer.

32-01236A-17

20171558__

2524 4. If there was sexual contact, a submission to, at the
2525 releasee's expense, an HIV test with the results to be released
2526 to the victim or the victim's parent or guardian.

2527 5. Electronic monitoring of any form when ordered by the
2528 commission. Any person who has been placed under supervision and
2529 is electronically monitored by the department must pay the
2530 department for the cost of the electronic monitoring service at
2531 a rate that may not exceed the full cost of the monitoring
2532 service. Funds collected under this subparagraph shall be
2533 deposited into the General Revenue Fund. The department may
2534 exempt a person from the payment of all or any part of the
2535 electronic monitoring service cost if the department finds that
2536 any of the factors listed in s. 948.09(3) exist.

2537 (10) Effective for a releasee whose crime was committed on
2538 or after September 1, 2005, in violation of chapter 794, s.
2539 800.04(4), (5), or (6), former s. 827.071, or s. 847.0145, and
2540 the unlawful activity involved a victim who was 15 years of age
2541 or younger and the offender is 18 years of age or older or for a
2542 releasee who is designated as a sexual predator pursuant to s.
2543 775.21, in addition to any other provision of this section, the
2544 commission must order electronic monitoring for the duration of
2545 the releasee's supervision.

2546 (14) Effective for a releasee whose crime was committed on
2547 or after October 1, 2014, in violation of chapter 794, s.
2548 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, in
2549 addition to any other provision of this section, the commission
2550 must impose a condition prohibiting the releasee from viewing,
2551 accessing, owning, or possessing any obscene, pornographic, or
2552 sexually stimulating visual or auditory material unless

32-01236A-17

20171558__

2553 otherwise indicated in the treatment plan provided by a
2554 qualified practitioner in the sexual offender treatment program.
2555 Visual or auditory material includes, but is not limited to,
2556 telephone, electronic media, computer programs, and computer
2557 services.

2558 (15) Effective for a releasee whose crime was committed on
2559 or after October 1, 2017, in violation of s. 847.003 or s.
2560 847.0137(2), in addition to any other provision of this section,
2561 the commission must impose the conditions specified in
2562 subsections (7), (10), (12), and (14).

2563 Section 47. Subsection (2) of section 948.013, Florida
2564 Statutes, is amended, and subsection (3) is added to that
2565 section, to read:

2566 948.013 Administrative probation.—

2567 (2) Effective for an offense committed on or after July 1,
2568 1998, a person is ineligible for placement on administrative
2569 probation if the person is sentenced to or is serving a term of
2570 probation or community control, regardless of the conviction or
2571 adjudication, for committing, or attempting, conspiring, or
2572 soliciting to commit, any of the felony offenses described in s.
2573 787.01 or s. 787.02, where the victim is a minor and the
2574 defendant is not the victim's parent; s. 787.025; s.
2575 787.06(3)(g); chapter 794; former s. 796.03; s. 800.04; s.
2576 825.1025(2)(b); former s. 827.071; s. 847.0133; s. 847.0135; or
2577 s. 847.0145.

2578 (3) Effective for an offense committed on or after October
2579 1, 2017, a person is ineligible for placement on administrative
2580 probation if the person is sentenced to or is serving a term of
2581 probation or community control, regardless of the conviction or

32-01236A-17

20171558__

2582 adjudication, for committing, or attempting, conspiring, or
2583 soliciting to commit, any of the felony offenses described in s.
2584 847.003 or s. 847.0137(2).

2585 Section 48. Subsection (2) of section 948.03, Florida
2586 Statutes, is amended to read:

2587 948.03 Terms and conditions of probation.—

2588 (2) The enumeration of specific kinds of terms and
2589 conditions shall not prevent the court from adding thereto such
2590 other or others as it considers proper. However, the sentencing
2591 court may only impose a condition of supervision allowing an
2592 offender convicted of s. 794.011, s. 800.04, former s. 827.071,
2593 s. 847.003, s. 847.0135(5), s. 847.0137(2), or s. 847.0145, to
2594 reside in another state, if the order stipulates that it is
2595 contingent upon the approval of the receiving state interstate
2596 compact authority. The court may rescind or modify at any time
2597 the terms and conditions theretofore imposed by it upon the
2598 probationer. However, if the court withholds adjudication of
2599 guilt or imposes a period of incarceration as a condition of
2600 probation, the period shall not exceed 364 days, and
2601 incarceration shall be restricted to either a county facility, a
2602 probation and restitution center under the jurisdiction of the
2603 Department of Corrections, a probation program drug punishment
2604 phase I secure residential treatment institution, or a community
2605 residential facility owned or operated by any entity providing
2606 such services.

2607 Section 49. Subsection (1) of section 948.04, Florida
2608 Statutes, is amended to read:

2609 948.04 Period of probation; duty of probationer; early
2610 termination.—

32-01236A-17

20171558__

2611 (1) Defendants found guilty of felonies who are placed on
2612 probation shall be under supervision not to exceed 2 years
2613 unless otherwise specified by the court. No defendant placed on
2614 probation pursuant to s. 948.012(1) is subject to the probation
2615 limitations of this subsection. A defendant who is placed on
2616 probation or community control for a violation of chapter 794,
2617 ~~or~~ chapter 827, s. 847.003, or s. 847.0137(2) is subject to the
2618 maximum level of supervision provided by the supervising agency,
2619 and that supervision shall continue through the full term of the
2620 court-imposed probation or community control.

2621 Section 50. Subsection (4) and paragraph (c) of subsection
2622 (8) of section 948.06, Florida Statutes, are amended to read:

2623 948.06 Violation of probation or community control;
2624 revocation; modification; continuance; failure to pay
2625 restitution or cost of supervision.—

2626 (4) Notwithstanding any other provision of this section, a
2627 felony probationer or an offender in community control who is
2628 arrested for violating his or her probation or community control
2629 in a material respect may be taken before the court in the
2630 county or circuit in which the probationer or offender was
2631 arrested. That court shall advise him or her of the charge of a
2632 violation and, if such charge is admitted, shall cause him or
2633 her to be brought before the court that granted the probation or
2634 community control. If the violation is not admitted by the
2635 probationer or offender, the court may commit him or her or
2636 release him or her with or without bail to await further
2637 hearing. However, if the probationer or offender is under
2638 supervision for any criminal offense proscribed in chapter 794,
2639 s. 800.04(4), (5), (6), former s. 827.071, or s. 847.0145, or is

32-01236A-17

20171558__

2640 a registered sexual predator or a registered sexual offender, or
2641 is under supervision for a criminal offense for which he or she
2642 would meet the registration criteria in s. 775.21, s. 943.0435,
2643 or s. 944.607 but for the effective date of those sections, the
2644 court must make a finding that the probationer or offender is
2645 not a danger to the public prior to release with or without
2646 bail. In determining the danger posed by the offender's or
2647 probationer's release, the court may consider the nature and
2648 circumstances of the violation and any new offenses charged; the
2649 offender's or probationer's past and present conduct, including
2650 convictions of crimes; any record of arrests without conviction
2651 for crimes involving violence or sexual crimes; any other
2652 evidence of allegations of unlawful sexual conduct or the use of
2653 violence by the offender or probationer; the offender's or
2654 probationer's family ties, length of residence in the community,
2655 employment history, and mental condition; his or her history and
2656 conduct during the probation or community control supervision
2657 from which the violation arises and any other previous
2658 supervisions, including disciplinary records of previous
2659 incarcerations; the likelihood that the offender or probationer
2660 will engage again in a criminal course of conduct; the weight of
2661 the evidence against the offender or probationer; and any other
2662 facts the court considers relevant. The court, as soon as is
2663 practicable, shall give the probationer or offender an
2664 opportunity to be fully heard on his or her behalf in person or
2665 by counsel. After the hearing, the court shall make findings of
2666 fact and forward the findings to the court that granted the
2667 probation or community control and to the probationer or
2668 offender or his or her attorney. The findings of fact by the

32-01236A-17

20171558__

2669 hearing court are binding on the court that granted the
2670 probation or community control. Upon the probationer or offender
2671 being brought before it, the court that granted the probation or
2672 community control may revoke, modify, or continue the probation
2673 or community control or may place the probationer into community
2674 control as provided in this section. However, the probationer or
2675 offender shall not be released and shall not be admitted to
2676 bail, but shall be brought before the court that granted the
2677 probation or community control if any violation of felony
2678 probation or community control other than a failure to pay costs
2679 or fines or make restitution payments is alleged to have been
2680 committed by:

2681 (a) A violent felony offender of special concern, as
2682 defined in this section;

2683 (b) A person who is on felony probation or community
2684 control for any offense committed on or after the effective date
2685 of this act and who is arrested for a qualifying offense as
2686 defined in this section; or

2687 (c) A person who is on felony probation or community
2688 control and has previously been found by a court to be a
2689 habitual violent felony offender as defined in s. 775.084(1)(b),
2690 a three-time violent felony offender as defined in s.
2691 775.084(1)(c), or a sexual predator under s. 775.21, and who is
2692 arrested for committing a qualifying offense as defined in this
2693 section on or after the effective date of this act.

2694 (8)

2695 (c) For purposes of this section, the term "qualifying
2696 offense" means any of the following:

2697 1. Kidnapping or attempted kidnapping under s. 787.01,

32-01236A-17

20171558__

2698 false imprisonment of a child under the age of 13 under s.
 2699 787.02(3), or luring or enticing a child under s. 787.025(2) (b)
 2700 or (c).

2701 2. Murder or attempted murder under s. 782.04, attempted
 2702 felony murder under s. 782.051, or manslaughter under s. 782.07.

2703 3. Aggravated battery or attempted aggravated battery under
 2704 s. 784.045.

2705 4. Sexual battery or attempted sexual battery under s.
 2706 794.011(2), (3), (4), or (8) (b) or (c).

2707 5. Lewd or lascivious battery or attempted lewd or
 2708 lascivious battery under s. 800.04(4), lewd or lascivious
 2709 molestation under s. 800.04(5) (b) or (c)2., lewd or lascivious
 2710 conduct under s. 800.04(6) (b), or lewd or lascivious exhibition
 2711 under s. 800.04(7) (b), ~~or lewd or lascivious exhibition on~~
 2712 ~~computer under s. 847.0135(5) (b).~~

2713 6. Robbery or attempted robbery under s. 812.13, carjacking
 2714 or attempted carjacking under s. 812.133, or home invasion
 2715 robbery or attempted home invasion robbery under s. 812.135.

2716 7. Lewd or lascivious offense upon or in the presence of an
 2717 elderly or disabled person or attempted lewd or lascivious
 2718 offense upon or in the presence of an elderly or disabled person
 2719 under s. 825.1025.

2720 8. Sexual performance by a child or attempted sexual
 2721 performance by a child under former s. 827.071 or s. 847.003.

2722 9. Computer pornography or child exploitation under s.
 2723 847.0135 ~~s. 847.0135(2) or (3), transmission of child~~
 2724 pornography under s. 847.0137, or selling or buying of minors
 2725 under s. 847.0145.

2726 10. Poisoning food or water under s. 859.01.

32-01236A-17

20171558__

- 2727 11. Abuse of a dead human body under s. 872.06.
- 2728 12. Any burglary offense or attempted burglary offense that
2729 is either a first degree felony or second degree felony under s.
2730 810.02(2) or (3).
- 2731 13. Arson or attempted arson under s. 806.01(1).
- 2732 14. Aggravated assault under s. 784.021.
- 2733 15. Aggravated stalking under s. 784.048(3), (4), (5), or
2734 (7).
- 2735 16. Aircraft piracy under s. 860.16.
- 2736 17. Unlawful throwing, placing, or discharging of a
2737 destructive device or bomb under s. 790.161(2), (3), or (4).
- 2738 18. Treason under s. 876.32.
- 2739 19. Any offense committed in another jurisdiction which
2740 would be an offense listed in this paragraph if that offense had
2741 been committed in this state.
- 2742 Section 51. Subsection (1) of section 948.062, Florida
2743 Statutes, is amended to read:
- 2744 948.062 Reviewing and reporting serious offenses committed
2745 by offenders placed on probation or community control.—
- 2746 (1) The department shall review the circumstances related
2747 to an offender placed on probation or community control who has
2748 been arrested while on supervision for the following offenses:
- 2749 (a) Any murder as provided in s. 782.04;
- 2750 (b) Any sexual battery as provided in s. 794.011 or s.
2751 794.023;
- 2752 (c) Any sexual performance by a child as provided in former
2753 s. 827.071 or s. 847.003;
- 2754 (d) Any kidnapping, false imprisonment, or luring of a
2755 child as provided in s. 787.01, s. 787.02, or s. 787.025;

32-01236A-17

20171558__

2756 (e) Any lewd and lascivious battery or lewd and lascivious
2757 molestation as provided in s. 800.04(4) or (5);

2758 (f) Any aggravated child abuse as provided in s.
2759 827.03(2) (a);

2760 (g) Any robbery with a firearm or other deadly weapon, home
2761 invasion robbery, or carjacking as provided in s. 812.13(2) (a),
2762 s. 812.135, or s. 812.133;

2763 (h) Any aggravated stalking as provided in s. 784.048(3),
2764 (4), or (5);

2765 (i) Any forcible felony as provided in s. 776.08, committed
2766 by a person on probation or community control who is designated
2767 as a sexual predator; or

2768 (j) Any DUI manslaughter as provided in s. 316.193(3) (c),
2769 or vehicular or vessel homicide as provided in s. 782.071 or s.
2770 782.072, committed by a person who is on probation or community
2771 control for an offense involving death or injury resulting from
2772 a driving incident.

2773 Section 52. Subsection (2) of section 948.101, Florida
2774 Statutes, is amended to read:

2775 948.101 Terms and conditions of community control.—

2776 (2) The enumeration of specific kinds of terms and
2777 conditions does not prevent the court from adding any other
2778 terms or conditions that the court considers proper. However,
2779 the sentencing court may only impose a condition of supervision
2780 allowing an offender convicted of s. 794.011, s. 800.04, former
2781 s. 827.071, s. 847.003, s. 847.0135(5), s. 847.0137(2), or s.
2782 847.0145 to reside in another state if the order stipulates that
2783 it is contingent upon the approval of the receiving state
2784 interstate compact authority. The court may rescind or modify at

32-01236A-17

20171558__

2785 any time the terms and conditions theretofore imposed by it upon
2786 the offender in community control. However, if the court
2787 withholds adjudication of guilt or imposes a period of
2788 incarceration as a condition of community control, the period
2789 may not exceed 364 days, and incarceration shall be restricted
2790 to a county facility, a probation and restitution center under
2791 the jurisdiction of the Department of Corrections, a probation
2792 program drug punishment phase I secure residential treatment
2793 institution, or a community residential facility owned or
2794 operated by any entity providing such services.

2795 Section 53. Subsections (1), (2), (3), and (5) of section
2796 948.30, Florida Statutes, are amended, and subsection (6) is
2797 added to that section, to read:

2798 948.30 Additional terms and conditions of probation or
2799 community control for certain sex offenses.—Conditions imposed
2800 pursuant to this section do not require oral pronouncement at
2801 the time of sentencing and shall be considered standard
2802 conditions of probation or community control for offenders
2803 specified in this section.

2804 (1) Effective for probationers or community controllees
2805 whose crime was committed on or after October 1, 1995, and who
2806 are placed under supervision for violation of chapter 794, s.
2807 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, the
2808 court must impose the following conditions in addition to all
2809 other standard and special conditions imposed:

2810 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may
2811 designate another 8-hour period if the offender's employment
2812 precludes the above specified time, and the alternative is
2813 recommended by the Department of Corrections. If the court

32-01236A-17

20171558__

2814 determines that imposing a curfew would endanger the victim, the
2815 court may consider alternative sanctions.

2816 (b) If the victim was under the age of 18, a prohibition on
2817 living within 1,000 feet of a school, child care facility, park,
2818 playground, or other place where children regularly congregate,
2819 as prescribed by the court. The 1,000-foot distance shall be
2820 measured in a straight line from the offender's place of
2821 residence to the nearest boundary line of the school, child care
2822 facility, park, playground, or other place where children
2823 congregate. The distance may not be measured by a pedestrian
2824 route or automobile route. A probationer or community controllee
2825 who is subject to this paragraph may not be forced to relocate
2826 and does not violate his or her probation or community control
2827 if he or she is living in a residence that meets the
2828 requirements of this paragraph and a school, child care
2829 facility, park, playground, or other place where children
2830 regularly congregate is subsequently established within 1,000
2831 feet of his or her residence.

2832 (c) Active participation in and successful completion of a
2833 sex offender treatment program with qualified practitioners
2834 specifically trained to treat sex offenders, at the
2835 probationer's or community controllee's own expense. If a
2836 qualified practitioner is not available within a 50-mile radius
2837 of the probationer's or community controllee's residence, the
2838 offender shall participate in other appropriate therapy.

2839 (d) A prohibition on any contact with the victim, directly
2840 or indirectly, including through a third person, unless approved
2841 by the victim, a qualified practitioner in the sexual offender
2842 treatment program, and the sentencing court.

32-01236A-17

20171558__

2843 (e) If the victim was under the age of 18, a prohibition on
2844 contact with a child under the age of 18 except as provided in
2845 this paragraph. The court may approve supervised contact with a
2846 child under the age of 18 if the approval is based upon a
2847 recommendation for contact issued by a qualified practitioner
2848 who is basing the recommendation on a risk assessment. Further,
2849 the sex offender must be currently enrolled in or have
2850 successfully completed a sex offender therapy program. The court
2851 may not grant supervised contact with a child if the contact is
2852 not recommended by a qualified practitioner and may deny
2853 supervised contact with a child at any time. When considering
2854 whether to approve supervised contact with a child, the court
2855 must review and consider the following:

2856 1. A risk assessment completed by a qualified practitioner.
2857 The qualified practitioner must prepare a written report that
2858 must include the findings of the assessment and address each of
2859 the following components:

2860 a. The sex offender's current legal status;

2861 b. The sex offender's history of adult charges with
2862 apparent sexual motivation;

2863 c. The sex offender's history of adult charges without
2864 apparent sexual motivation;

2865 d. The sex offender's history of juvenile charges, whenever
2866 available;

2867 e. The sex offender's offender treatment history, including
2868 consultations with the sex offender's treating, or most recent
2869 treating, therapist;

2870 f. The sex offender's current mental status;

2871 g. The sex offender's mental health and substance abuse

32-01236A-17

20171558__

2872 treatment history as provided by the Department of Corrections;

2873 h. The sex offender's personal, social, educational, and
2874 work history;

2875 i. The results of current psychological testing of the sex
2876 offender if determined necessary by the qualified practitioner;

2877 j. A description of the proposed contact, including the
2878 location, frequency, duration, and supervisory arrangement;

2879 k. The child's preference and relative comfort level with
2880 the proposed contact, when age appropriate;

2881 l. The parent's or legal guardian's preference regarding
2882 the proposed contact; and

2883 m. The qualified practitioner's opinion, along with the
2884 basis for that opinion, as to whether the proposed contact would
2885 likely pose significant risk of emotional or physical harm to
2886 the child.

2887
2888 The written report of the assessment must be given to the court;

2889 2. A recommendation made as a part of the risk assessment
2890 report as to whether supervised contact with the child should be
2891 approved;

2892 3. A written consent signed by the child's parent or legal
2893 guardian, if the parent or legal guardian is not the sex
2894 offender, agreeing to the sex offender having supervised contact
2895 with the child after receiving full disclosure of the sex
2896 offender's present legal status, past criminal history, and the
2897 results of the risk assessment. The court may not approve
2898 contact with the child if the parent or legal guardian refuses
2899 to give written consent for supervised contact;

2900 4. A safety plan prepared by the qualified practitioner,

32-01236A-17

20171558__

2901 who provides treatment to the offender, in collaboration with
2902 the sex offender, the child's parent or legal guardian, if the
2903 parent or legal guardian is not the sex offender, and the child,
2904 when age appropriate, which details the acceptable conditions of
2905 contact between the sex offender and the child. The safety plan
2906 must be reviewed and approved by the court; and

2907 5. Evidence that the child's parent or legal guardian
2908 understands the need for and agrees to the safety plan and has
2909 agreed to provide, or to designate another adult to provide,
2910 constant supervision any time the child is in contact with the
2911 offender.

2912
2913 The court may not appoint a person to conduct a risk assessment
2914 and may not accept a risk assessment from a person who has not
2915 demonstrated to the court that he or she has met the
2916 requirements of a qualified practitioner as defined in this
2917 section.

2918 (f) If the victim was under age 18, a prohibition on
2919 working for pay or as a volunteer at any place where children
2920 regularly congregate, including, but not limited to, schools,
2921 child care facilities, parks, playgrounds, pet stores,
2922 libraries, zoos, theme parks, and malls.

2923 (g) Unless otherwise indicated in the treatment plan
2924 provided by a qualified practitioner in the sexual offender
2925 treatment program, a prohibition on viewing, accessing, owning,
2926 or possessing any obscene, pornographic, or sexually stimulating
2927 visual or auditory material, including telephone, electronic
2928 media, computer programs, or computer services that are relevant
2929 to the offender's deviant behavior pattern.

32-01236A-17

20171558__

2930 (h) Effective for probationers and community controllees
2931 whose crime is committed on or after July 1, 2005, a prohibition
2932 on accessing the Internet or other computer services until a
2933 qualified practitioner in the offender's sex offender treatment
2934 program, after a risk assessment is completed, approves and
2935 implements a safety plan for the offender's accessing or using
2936 the Internet or other computer services.

2937 (i) A requirement that the probationer or community
2938 controllee must submit a specimen of blood or other approved
2939 biological specimen to the Department of Law Enforcement to be
2940 registered with the DNA data bank.

2941 (j) A requirement that the probationer or community
2942 controllee make restitution to the victim, as ordered by the
2943 court under s. 775.089, for all necessary medical and related
2944 professional services relating to physical, psychiatric, and
2945 psychological care.

2946 (k) Submission to a warrantless search by the community
2947 control or probation officer of the probationer's or community
2948 controllee's person, residence, or vehicle.

2949 (2) Effective for a probationer or community controllee
2950 whose crime was committed on or after October 1, 1997, and who
2951 is placed on community control or sex offender probation for a
2952 violation of chapter 794, s. 800.04, former s. 827.071, s.
2953 847.0135(5), or s. 847.0145, in addition to any other provision
2954 of this section, the court must impose the following conditions
2955 of probation or community control:

2956 (a) As part of a treatment program, participation at least
2957 annually in polygraph examinations to obtain information
2958 necessary for risk management and treatment and to reduce the

32-01236A-17

20171558__

2959 sex offender's denial mechanisms. A polygraph examination must
2960 be conducted by a polygrapher who is a member of a national or
2961 state polygraph association and who is certified as a
2962 postconviction sex offender polygrapher, where available, and
2963 shall be paid for by the probationer or community controllee.
2964 The results of the polygraph examination shall be provided to
2965 the probationer's or community controllee's probation officer
2966 and qualified practitioner and shall not be used as evidence in
2967 court to prove that a violation of community supervision has
2968 occurred.

2969 (b) Maintenance of a driving log and a prohibition against
2970 driving a motor vehicle alone without the prior approval of the
2971 supervising officer.

2972 (c) A prohibition against obtaining or using a post office
2973 box without the prior approval of the supervising officer.

2974 (d) If there was sexual contact, a submission to, at the
2975 probationer's or community controllee's expense, an HIV test
2976 with the results to be released to the victim or the victim's
2977 parent or guardian.

2978 (e) Electronic monitoring when deemed necessary by the
2979 community control or probation officer and his or her
2980 supervisor, and ordered by the court at the recommendation of
2981 the Department of Corrections.

2982 (3) Effective for a probationer or community controllee
2983 whose crime was committed on or after September 1, 2005, and
2984 who:

2985 (a) Is placed on probation or community control for a
2986 violation of chapter 794, s. 800.04(4), (5), or (6), former s.
2987 827.071, or s. 847.0145 and the unlawful sexual activity

32-01236A-17

20171558__

2988 involved a victim 15 years of age or younger and the offender is
2989 18 years of age or older;

2990 (b) Is designated a sexual predator pursuant to s. 775.21;
2991 or

2992 (c) Has previously been convicted of a violation of chapter
2993 794, s. 800.04(4), (5), or (6), former s. 827.071, or s.
2994 847.0145 and the unlawful sexual activity involved a victim 15
2995 years of age or younger and the offender is 18 years of age or
2996 older,

2997
2998 the court must order, in addition to any other provision of this
2999 section, mandatory electronic monitoring as a condition of the
3000 probation or community control supervision.

3001 (5) Effective for a probationer or community controllee
3002 whose crime was committed on or after October 1, 2014, and who
3003 is placed on probation or community control for a violation of
3004 chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s.
3005 847.0145, in addition to all other conditions imposed, the court
3006 must impose a condition prohibiting the probationer or community
3007 controllee from viewing, accessing, owning, or possessing any
3008 obscene, pornographic, or sexually stimulating visual or
3009 auditory material unless otherwise indicated in the treatment
3010 plan provided by a qualified practitioner in the sexual offender
3011 treatment program. Visual or auditory material includes, but is
3012 not limited to, telephone, electronic media, computer programs,
3013 and computer services.

3014 (6) Effective for a probationer or community controllee
3015 whose crime was committed on or after October 1, 2017, and who
3016 is placed under supervision for violation of s. 847.003 or s.

32-01236A-17

20171558__

3017 847.0137(2), the court must impose the conditions specified in
3018 subsections (1)-(5) in addition to all other standard and
3019 special conditions imposed.

3020 Section 54. Subsection (1) of section 948.32, Florida
3021 Statutes, is amended to read:

3022 948.32 Requirements of law enforcement agency upon arrest
3023 of persons for certain sex offenses.—

3024 (1) When any state or local law enforcement agency
3025 investigates or arrests a person for committing, or attempting,
3026 soliciting, or conspiring to commit, a violation of s.
3027 787.025(2)(c), s. 787.06(3)(g), chapter 794, former s. 796.03,
3028 s. 800.04, former s. 827.071, s. 847.003, s. 847.0133, s.
3029 847.0135, s. 847.0137(2), or s. 847.0145, the law enforcement
3030 agency shall contact the Department of Corrections to verify
3031 whether the person under investigation or under arrest is on
3032 probation, community control, parole, conditional release, or
3033 control release.

3034 Section 55. Paragraph (e) of subsection (3) and subsection
3035 (10) of section 960.03, Florida Statutes, are amended to read:

3036 960.03 Definitions; ss. 960.01-960.28.—As used in ss.
3037 960.01-960.28, unless the context otherwise requires, the term:

3038 (3) "Crime" means:

3039 (e) A violation of former s. 827.071, s. 847.003, s.
3040 847.0135, s. 847.0137, or s. 847.0138, related to online sexual
3041 exploitation and child pornography.

3042 (10) "Identified victim of child pornography" means any
3043 person who, while under the age of 18, is depicted in any visual
3044 depiction ~~image or movie~~ of child pornography, as defined in s.
3045 847.0137, and who is identified through a report generated by a

32-01236A-17

20171558__

3046 law enforcement agency and provided to the National Center for
3047 Missing and Exploited Children's Child Victim Identification
3048 Program.

3049 Section 56. Section 960.197, Florida Statutes, is amended
3050 to read:

3051 960.197 Assistance to victims of online sexual exploitation
3052 and child pornography.—

3053 (1) Notwithstanding the criteria set forth in s. 960.13 for
3054 crime victim compensation awards, the department may award
3055 compensation for counseling and other mental health services to
3056 treat psychological injury or trauma to:

3057 (a) A child younger than 18 years of age who suffers
3058 psychiatric or psychological injury as a direct result of online
3059 sexual exploitation under former ~~any provision of~~ s. 827.071, s.
3060 847.003, s. 847.0135, s. 847.0137, or s. 847.0138~~7~~, and who does
3061 not otherwise sustain a personal injury or death; or

3062 (b) Any person who, while younger than age 18, was depicted
3063 in any visual depiction ~~image or movie, regardless of length~~, of
3064 child pornography as defined in s. 847.0137 ~~s. 847.001~~, who has
3065 been identified by a law enforcement agency or the National
3066 Center for Missing and Exploited Children as an identified
3067 victim of child pornography, who suffers psychiatric or
3068 psychological injury as a direct result of the crime, and who
3069 does not otherwise sustain a personal injury or death.

3070 (2) Compensation under this section is not contingent upon
3071 pursuit of a criminal investigation or prosecution.

3072 Section 57. Paragraph (d) of subsection (4) of section
3073 985.04, Florida Statutes, is amended to read:

3074 985.04 Oaths; records; confidential information.—

32-01236A-17

20171558__

3075 (4)

3076 (d) The department shall disclose to the school

3077 superintendent the presence of any child in the care and custody

3078 or under the jurisdiction or supervision of the department who

3079 has a known history of criminal sexual behavior with other

3080 juveniles; is alleged to have committed juvenile sexual abuse as

3081 defined in s. 39.01; or has pled guilty or nolo contendere to,

3082 or has been found to have committed, a violation of chapter 794,

3083 chapter 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s.

3084 847.0133, s. 847.0135(5), or s. 847.0137, regardless of

3085 adjudication. Any employee of a district school board who

3086 knowingly and willfully discloses such information to an

3087 unauthorized person commits a misdemeanor of the second degree,

3088 punishable as provided in s. 775.082 or s. 775.083.

3089 Section 58. Subsection (1) of section 985.475, Florida

3090 Statutes, is amended to read:

3091 985.475 Juvenile sexual offenders.—

3092 (1) CRITERIA.—A “juvenile sexual offender” means:

3093 (a) A juvenile who has been found by the court under s.

3094 985.35 to have committed a violation of chapter 794, chapter

3095 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s. 847.0133,

3096 or s. 847.0137(2);

3097 (b) A juvenile found to have committed any felony violation

3098 of law or delinquent act involving juvenile sexual abuse.

3099 “Juvenile sexual abuse” means any sexual behavior that occurs

3100 without consent, without equality, or as a result of coercion.

3101 For purposes of this subsection, the following definitions

3102 apply:

3103 1. “Coercion” means the exploitation of authority, use of

32-01236A-17

20171558__

3104 bribes, threats of force, or intimidation to gain cooperation or
3105 compliance.

3106 2. "Equality" means two participants operating with the
3107 same level of power in a relationship, neither being controlled
3108 nor coerced by the other.

3109 3. "Consent" means an agreement including all of the
3110 following:

3111 a. Understanding what is proposed based on age, maturity,
3112 developmental level, functioning, and experience.

3113 b. Knowledge of societal standards for what is being
3114 proposed.

3115 c. Awareness of potential consequences and alternatives.

3116 d. Assumption that agreement or disagreement will be
3117 accepted equally.

3118 e. Voluntary decision.

3119 f. Mental competence.

3120

3121 Juvenile sexual offender behavior ranges from noncontact sexual
3122 behavior such as making obscene phone calls, exhibitionism,
3123 voyeurism, and the showing or taking of lewd photographs to
3124 varying degrees of direct sexual contact, such as frottage,
3125 fondling, digital penetration, rape, fellatio, sodomy, and
3126 various other sexually aggressive acts.

3127 Section 59. Paragraphs (mm) and (oo) of subsection (1) of
3128 section 1012.315, Florida Statutes, are amended to read:

3129 1012.315 Disqualification from employment.—A person is
3130 ineligible for educator certification, and instructional
3131 personnel and school administrators, as defined in s. 1012.01,
3132 are ineligible for employment in any position that requires

32-01236A-17

20171558__

3133 direct contact with students in a district school system,
 3134 charter school, or private school that accepts scholarship
 3135 students under s. 1002.39 or s. 1002.395, if the person,
 3136 instructional personnel, or school administrator has been
 3137 convicted of:

3138 (1) Any felony offense prohibited under any of the
 3139 following statutes:

3140 (mm) Former s. Section 827.071, relating to sexual
 3141 performance by a child.

3142 (oo) Chapter 847, relating to obscenity and child
 3143 exploitation.

3144 Section 60. Paragraphs (e), (f), and (h) of subsection (3)
 3145 of section 921.0022, Florida Statutes, are amended to read:

3146 921.0022 Criminal Punishment Code; offense severity ranking
 3147 chart.—

3148 (3) OFFENSE SEVERITY RANKING CHART

3149 (e) LEVEL 5

3150

3151

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.

3153

3154

32-01236A-17

20171558__

3155

316.80 (2) 2nd Unlawful conveyance of fuel;
obtaining fuel fraudulently.

3156

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

3157

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

379.365 (2) (c) 1. 3rd Violation of rules relating to:
willful molestation of stone
crab traps, lines, or buoys;
illegal bartering, trading, or
sale, conspiring or aiding in
such barter, trade, or sale, or
supplying, agreeing to supply,
aiding in supplying, or giving
away stone crab trap tags or
certificates; making, altering,
forging, counterfeiting, or
reproducing stone crab trap
tags; possession of forged,
counterfeit, or imitation stone
crab trap tags; and engaging in
the commercial harvest of stone
crabs while license is
suspended or revoked.

32-01236A-17

20171558__

3158

379.367(4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

3159

379.407(5)(b)3. 3rd Possession of 100 or more undersized spiny lobsters.

3160

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

3161

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

3162

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

3163

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

3164

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

3165

32-01236A-17 20171558__

3166	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
3167	790.01 (2)	3rd	Carrying a concealed firearm.
3168	790.162	2nd	Threat to throw or discharge destructive device.
3169	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
3170	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
3171	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
3172	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
3173	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or

32-01236A-17

20171558__

			older.
3174	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
3175	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
3176	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
3177	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
3178	812.131 (2) (b)	3rd	Robbery by sudden snatching.
3179	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
3180	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
3181	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.

32-01236A-17

20171558__

3182

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

3183

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
 persons.

3184

817.611(2) (a) 2nd Traffic in or possess 5 to 14
 counterfeit credit cards or
 related documents.

3185

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

3186

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

32-01236A-17

20171558__

3187

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

3188

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

3189

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.

3190

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

3191

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

3192

847.0137(2)(a) 2nd Possess child pornography with

32-01236A-17

20171558__

3193			<u>intent to promote.</u>
3194	<u>847.0137(2)(b)</u>	<u>3rd</u>	<u>Possess, control, or intentionally view child pornography.</u>
3195	<u>847.0137(3)</u> 847.0137 (2) & (3)	3rd	Transmission of <u>child</u> pornography by electronic device or equipment.
3196	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
3197	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
3198	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
3199	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).

32-01236A-17

20171558__

3200

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.

3201

893.13(1)(d)1. 1st Sell, manufacture, or deliver
cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of
university.

893.13(1)(e)2. 2nd Sell, manufacture, or deliver
cannabis or other drug
prohibited under s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) within
1,000 feet of property used for
religious services or a

32-01236A-17

20171558__

3202			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.
3203			
	893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
3204			
	893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
3205			
3206	(f) LEVEL 6		
3207			
3208			
	Florida Statute	Felony Degree	Description
3209			
	316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
3210			
	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.

32-01236A-17

20171558__

3211	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
3212	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
3213	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
3214	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
3215	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
3216	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
3217	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
3218	784.041	3rd	Felony battery; domestic battery by strangulation.

32-01236A-17

20171558__

3219	784.048 (3)	3rd	Aggravated stalking; credible threat.
3220	784.048 (5)	3rd	Aggravated stalking of person under 16.
3221	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
3222	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
3223	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
3224	784.081 (2)	2nd	Aggravated assault on specified official or employee.
3225	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
3226	784.083 (2)	2nd	Aggravated assault on code inspector.
3227	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those

32-01236A-17

20171558__

			in s. 787.01.
3228	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
3229	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
3230	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
3231	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
3232	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
3233	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
3234	800.04 (5) (d)	3rd	Lewd or lascivious molestation;

32-01236A-17

20171558__

3235	32-01236A-17	victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
3236	800.04 (6) (b)	2nd Lewd or lascivious conduct; offender 18 years of age or older.
3237	806.031 (2)	2nd Arson resulting in great bodily harm to firefighter or any other person.
3238	810.02 (3) (c)	2nd Burglary of occupied structure; unarmed; no assault or battery.
3239	810.145 (8) (b)	2nd Video voyeurism; certain minor victims; 2nd or subsequent offense.
3240	812.014 (2) (b) 1.	2nd Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
3241	812.014 (6)	2nd Theft; property stolen \$3,000 or more; coordination of others.
	812.015 (9) (a)	2nd Retail theft; property stolen \$300 or more; second or

32-01236A-17

20171558__

			subsequent conviction.
3242	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
3243	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
3244	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
3245	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
3246	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
3247	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
3248	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
3249	827.03 (2) (c)	3rd	Abuse of a child.
3250			

32-01236A-17 20171558__

3251	827.03 (2) (d)	3rd	Neglect of a child.
3252	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
3253	836.05	2nd	Threats; extortion.
3254	836.10	2nd	Written threats to kill or do bodily injury.
3255	843.12	3rd	Aids or assists person to escape.
3256	<u>847.003</u>	<u>2nd</u>	<u>Use or induce a child in a sexual performance, or promote or direct such performance.</u>
3257	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
3258	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
	847.0135 (2)	3rd	Facilitates sexual conduct of or with a minor or the visual

32-01236A-17

20171558__

3259			depiction of such conduct.
3260	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
3261	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 bodily harm.
3262	944.40	2nd	Escapes.
3263	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
3264	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
3265	951.22 (1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.

(h) LEVEL 8

32-01236A-17

20171558__

	Florida Statute	Felony Degree	Description
3269	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
3270	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
3271	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
3272	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
3273	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
3274	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.
3275	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less

32-01236A-17

20171558__

3276

than \$100,000.

655.50(10)(b)2.

2nd

Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.

3277

777.03(2)(a)

1st

Accessory after the fact, capital felony.

3278

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.

3279

782.051(2)

1st

Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).

3280

782.071(1)(b)

1st

Committing vehicular homicide and failing to render aid or give information.

32-01236A-17

20171558__

3281

782.072(2) 1st Committing vessel homicide and failing to render aid or give information.

3282

787.06(3)(a)1. 1st Human trafficking for labor and services of a child.

3283

787.06(3)(b) 1st Human trafficking using coercion for commercial sexual activity of an adult.

3284

787.06(3)(c)2. 1st Human trafficking using coercion for labor and services of an unauthorized alien adult.

3285

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.

3286

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.

3287

32-01236A-17

20171558__

3288

790.161 (3) 1st Discharging a destructive device which results in bodily harm or property damage.

3289

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.

3290

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.

3291

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 to cause serious injury; prior conviction for specified sex offense.

32-01236A-17

20171558__

3292	794.08 (3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
3293	800.04 (4) (b)	2nd	Lewd or lascivious battery.
3294	800.04 (4) (c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
3295	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
3296	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
3297	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
3298	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
3299	812.014 (2) (a) 2.	1st	Property stolen; cargo valued

32-01236A-17

20171558__

3300 at \$50,000 or more, grand theft
in 1st degree.

3301 812.13(2)(b) 1st Robbery with a weapon.

3302 812.135(2)(c) 1st Home-invasion robbery, no
firearm, deadly weapon, or
other weapon.

3303 817.535(2)(b) 2nd Filing false lien or other
unauthorized document; second
or subsequent offense.

3304 817.535(3)(a) 2nd Filing false lien or other
unauthorized document; property
owner is a public officer or
employee.

3305 817.535(4)(a)1. 2nd Filing false lien or other
unauthorized document;
defendant is incarcerated or
under supervision.

3306 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.

32-01236A-17

20171558__

3307	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
3308	817.611 (2) (c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
3309	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
3310	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
3311	825.103 (3) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
3312	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
3313	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.

32-01236A-17

20171558__

3314	<u>847.0135 (3)</u>	<u>2nd</u>	<u>Solicitation of a child, using a computer service, to commit an unlawful sex act while misrepresenting one's age.</u>
	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
3315	860.16	1st	Aircraft piracy.
3316	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).
3317	893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
3318	893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
3319	893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
3320			

32-01236A-17

20171558__

3321	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
3322	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
3323	893.135 (1) (c) 2.c.	1st	Trafficking in hydrocodone, 50 grams or more, less than 200 grams.
3324	893.135 (1) (c) 3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
3325	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
3326	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
3327	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
	893.135	1st	Trafficking in flunitrazepam,

32-01236A-17 20171558__

- 3328
(1) (g) 1.b.

14 grams or more, less than 28 grams.
- 3329
893.135
(1) (h) 1.b.
1st
Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
- 3330
893.135
(1) (j) 1.b.
1st
Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
- 3331
893.135
(1) (k) 2.b.
1st
Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
- 3332
893.1351 (3)
1st
Possession of a place used to manufacture controlled substance when minor is present or resides there.
- 3333
895.03 (1)
1st
Use or invest proceeds derived from pattern of racketeering activity.
- 895.03 (2)
1st
Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.

32-01236A-17

20171558__

3334

895.03(3) 1st Conduct or participate in any enterprise through pattern of racketeering activity.

3335

896.101(5)(b) 2nd Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

3336

896.104(4)(a)2. 2nd Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.

3337

3338 Section 61. The Division of Law Revision and Information is
 3339 directed to rename chapter 847, Florida Statutes, as "Obscenity;
 3340 Child Exploitation."

3341 Section 62. For the purpose of incorporating the amendment
 3342 made by this act to section 39.0139, Florida Statutes, in a
 3343 reference thereto, paragraph (a) of subsection (9) of section
 3344 39.402, Florida Statutes, is reenacted to read:

3345 39.402 Placement in a shelter.—

3346 (9)(a) At any shelter hearing, the department shall provide
 3347 to the court a recommendation for scheduled contact between the
 3348 child and parents, if appropriate. The court shall determine
 3349 visitation rights absent a clear and convincing showing that

32-01236A-17

20171558__

3350 visitation is not in the best interest of the child. Any order
3351 for visitation or other contact must conform to s. 39.0139. If
3352 visitation is ordered but will not commence within 72 hours of
3353 the shelter hearing, the department shall provide justification
3354 to the court.

3355 Section 63. For the purpose of incorporating the amendment
3356 made by this act to section 39.0139, Florida Statutes, in a
3357 reference thereto, subsection (6) of section 39.506, Florida
3358 Statutes, is reenacted to read:

3359 39.506 Arraignment hearings.—

3360 (6) At any arraignment hearing, if the child is in an out-
3361 of-home placement, the court shall order visitation rights
3362 absent a clear and convincing showing that visitation is not in
3363 the best interest of the child. Any order for visitation or
3364 other contact must conform to the provisions of s. 39.0139.

3365 Section 64. For the purpose of incorporating the amendment
3366 made by this act to section 775.21, Florida Statutes, in a
3367 reference thereto, paragraph (b) of subsection (6) of section
3368 39.509, Florida Statutes, is reenacted to read:

3369 39.509 Grandparents rights.—Notwithstanding any other
3370 provision of law, a maternal or paternal grandparent as well as
3371 a stepgrandparent is entitled to reasonable visitation with his
3372 or her grandchild who has been adjudicated a dependent child and
3373 taken from the physical custody of the parent unless the court
3374 finds that such visitation is not in the best interest of the
3375 child or that such visitation would interfere with the goals of
3376 the case plan. Reasonable visitation may be unsupervised and,
3377 where appropriate and feasible, may be frequent and continuing.
3378 Any order for visitation or other contact must conform to the

32-01236A-17

20171558__

3379 provisions of s. 39.0139.

3380 (6) In determining whether grandparental visitation is not
3381 in the child's best interest, consideration may be given to the
3382 following:

3383 (b) The designation by a court as a sexual predator as
3384 defined in s. 775.21 or a substantially similar designation
3385 under laws of another jurisdiction.

3386 Section 65. For the purpose of incorporating the amendment
3387 made by this act to section 39.0139, Florida Statutes, in a
3388 reference thereto, paragraph (d) of subsection (3) of section
3389 39.521, Florida Statutes, is reenacted to read:

3390 39.521 Disposition hearings; powers of disposition.—

3391 (3) When any child is adjudicated by a court to be
3392 dependent, the court shall determine the appropriate placement
3393 for the child as follows:

3394 (d) If the child cannot be safely placed in a nonlicensed
3395 placement, the court shall commit the child to the temporary
3396 legal custody of the department. Such commitment invests in the
3397 department all rights and responsibilities of a legal custodian.
3398 The department shall not return any child to the physical care
3399 and custody of the person from whom the child was removed,
3400 except for court-approved visitation periods, without the
3401 approval of the court. Any order for visitation or other contact
3402 must conform to the provisions of s. 39.0139. The term of such
3403 commitment continues until terminated by the court or until the
3404 child reaches the age of 18. After the child is committed to the
3405 temporary legal custody of the department, all further
3406 proceedings under this section are governed by this chapter.

3407

32-01236A-17

20171558__

3408 Protective supervision continues until the court terminates it
3409 or until the child reaches the age of 18, whichever date is
3410 first. Protective supervision shall be terminated by the court
3411 whenever the court determines that permanency has been achieved
3412 for the child, whether with a parent, another relative, or a
3413 legal custodian, and that protective supervision is no longer
3414 needed. The termination of supervision may be with or without
3415 retaining jurisdiction, at the court's discretion, and shall in
3416 either case be considered a permanency option for the child. The
3417 order terminating supervision by the department shall set forth
3418 the powers of the custodian of the child and shall include the
3419 powers ordinarily granted to a guardian of the person of a minor
3420 unless otherwise specified. Upon the court's termination of
3421 supervision by the department, no further judicial reviews are
3422 required, so long as permanency has been established for the
3423 child.

3424 Section 66. For the purpose of incorporating the amendment
3425 made by this act to section 39.01, Florida Statutes, in a
3426 reference thereto, subsection (1) of section 39.524, Florida
3427 Statutes, is reenacted to read:

3428 39.524 Safe-harbor placement.—

3429 (1) Except as provided in s. 39.407 or s. 985.801, a
3430 dependent child 6 years of age or older who has been found to be
3431 a victim of sexual exploitation as defined in s. 39.01(70)(g)
3432 must be assessed for placement in a safe house or safe foster
3433 home as provided in s. 409.1678 using the initial screening and
3434 assessment instruments provided in s. 409.1754(1). If such
3435 placement is determined to be appropriate for the child as a
3436 result of this assessment, the child may be placed in a safe

32-01236A-17

20171558__

3437 house or safe foster home, if one is available. However, the
3438 child may be placed in another setting, if the other setting is
3439 more appropriate to the child's needs or if a safe house or safe
3440 foster home is unavailable, as long as the child's behaviors are
3441 managed so as not to endanger other children served in that
3442 setting.

3443 Section 67. For the purpose of incorporating the amendment
3444 made by this act to section 775.21, Florida Statutes, in
3445 references thereto, paragraphs (d) and (n) of subsection (1) of
3446 section 39.806, Florida Statutes, are reenacted to read:

3447 39.806 Grounds for termination of parental rights.—

3448 (1) Grounds for the termination of parental rights may be
3449 established under any of the following circumstances:

3450 (d) When the parent of a child is incarcerated and either:

3451 1. The period of time for which the parent is expected to
3452 be incarcerated will constitute a significant portion of the
3453 child's minority. When determining whether the period of time is
3454 significant, the court shall consider the child's age and the
3455 child's need for a permanent and stable home. The period of time
3456 begins on the date that the parent enters into incarceration;

3457 2. The incarcerated parent has been determined by the court
3458 to be a violent career criminal as defined in s. 775.084, a
3459 habitual violent felony offender as defined in s. 775.084, or a
3460 sexual predator as defined in s. 775.21; has been convicted of
3461 first degree or second degree murder in violation of s. 782.04
3462 or a sexual battery that constitutes a capital, life, or first
3463 degree felony violation of s. 794.011; or has been convicted of
3464 an offense in another jurisdiction which is substantially
3465 similar to one of the offenses listed in this paragraph. As used

32-01236A-17

20171558__

3466 in this section, the term "substantially similar offense" means
3467 any offense that is substantially similar in elements and
3468 penalties to one of those listed in this subparagraph, and that
3469 is in violation of a law of any other jurisdiction, whether that
3470 of another state, the District of Columbia, the United States or
3471 any possession or territory thereof, or any foreign
3472 jurisdiction; or

3473 3. The court determines by clear and convincing evidence
3474 that continuing the parental relationship with the incarcerated
3475 parent would be harmful to the child and, for this reason, that
3476 termination of the parental rights of the incarcerated parent is
3477 in the best interest of the child. When determining harm, the
3478 court shall consider the following factors:

3479 a. The age of the child.

3480 b. The relationship between the child and the parent.

3481 c. The nature of the parent's current and past provision
3482 for the child's developmental, cognitive, psychological, and
3483 physical needs.

3484 d. The parent's history of criminal behavior, which may
3485 include the frequency of incarceration and the unavailability of
3486 the parent to the child due to incarceration.

3487 e. Any other factor the court deems relevant.

3488 (n) The parent is convicted of an offense that requires the
3489 parent to register as a sexual predator under s. 775.21.

3490 Section 68. For the purpose of incorporating the amendment
3491 made by this act to section 775.21, Florida Statutes, in a
3492 reference thereto, paragraph (b) of subsection (4) of section
3493 63.089, Florida Statutes, is reenacted to read:

3494 63.089 Proceeding to terminate parental rights pending

32-01236A-17

20171558__

3495 adoption; hearing; grounds; dismissal of petition; judgment.—

3496 (4) FINDING OF ABANDONMENT.—A finding of abandonment
3497 resulting in a termination of parental rights must be based upon
3498 clear and convincing evidence that a parent or person having
3499 legal custody has abandoned the child in accordance with the
3500 definition contained in s. 63.032. A finding of abandonment may
3501 also be based upon emotional abuse or a refusal to provide
3502 reasonable financial support, when able, to a birth mother
3503 during her pregnancy or on whether the person alleged to have
3504 abandoned the child, while being able, failed to establish
3505 contact with the child or accept responsibility for the child's
3506 welfare.

3507 (b) The child has been abandoned when the parent of a child
3508 is incarcerated on or after October 1, 2001, in a federal,
3509 state, or county correctional institution and:

3510 1. The period of time for which the parent has been or is
3511 expected to be incarcerated will constitute a significant
3512 portion of the child's minority. In determining whether the
3513 period of time is significant, the court shall consider the
3514 child's age and the child's need for a permanent and stable
3515 home. The period of time begins on the date that the parent
3516 enters into incarceration;

3517 2. The incarcerated parent has been determined by a court
3518 of competent jurisdiction to be a violent career criminal as
3519 defined in s. 775.084, a habitual violent felony offender as
3520 defined in s. 775.084, convicted of child abuse as defined in s.
3521 827.03, or a sexual predator as defined in s. 775.21; has been
3522 convicted of first degree or second degree murder in violation
3523 of s. 782.04 or a sexual battery that constitutes a capital,

32-01236A-17

20171558__

3524 life, or first degree felony violation of s. 794.011; or has
3525 been convicted of a substantially similar offense in another
3526 jurisdiction. As used in this section, the term "substantially
3527 similar offense" means any offense that is substantially similar
3528 in elements and penalties to one of those listed in this
3529 subparagraph, and that is in violation of a law of any other
3530 jurisdiction, whether that of another state, the District of
3531 Columbia, the United States or any possession or territory
3532 thereof, or any foreign jurisdiction; or

3533 3. The court determines by clear and convincing evidence
3534 that continuing the parental relationship with the incarcerated
3535 parent would be harmful to the child and, for this reason,
3536 termination of the parental rights of the incarcerated parent is
3537 in the best interests of the child.

3538 Section 69. For the purpose of incorporating the amendment
3539 made by this act to section 775.21, Florida Statutes, in a
3540 reference thereto, subsection (3) of section 63.092, Florida
3541 Statutes, is reenacted to read:

3542 63.092 Report to the court of intended placement by an
3543 adoption entity; at-risk placement; preliminary study.—

3544 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the
3545 intended adoptive home, a preliminary home study must be
3546 performed by a licensed child-placing agency, a child-caring
3547 agency registered under s. 409.176, a licensed professional, or
3548 an agency described in s. 61.20(2), unless the adoptee is an
3549 adult or the petitioner is a stepparent or a relative. If the
3550 adoptee is an adult or the petitioner is a stepparent or a
3551 relative, a preliminary home study may be required by the court
3552 for good cause shown. The department is required to perform the

32-01236A-17

20171558__

3553 preliminary home study only if there is no licensed child-
3554 placing agency, child-caring agency registered under s. 409.176,
3555 licensed professional, or agency described in s. 61.20(2), in
3556 the county where the prospective adoptive parents reside. The
3557 preliminary home study must be made to determine the suitability
3558 of the intended adoptive parents and may be completed prior to
3559 identification of a prospective adoptive minor. A favorable
3560 preliminary home study is valid for 1 year after the date of its
3561 completion. Upon its completion, a signed copy of the home study
3562 must be provided to the intended adoptive parents who were the
3563 subject of the home study. A minor may not be placed in an
3564 intended adoptive home before a favorable preliminary home study
3565 is completed unless the adoptive home is also a licensed foster
3566 home under s. 409.175. The preliminary home study must include,
3567 at a minimum:

- 3568 (a) An interview with the intended adoptive parents;
3569 (b) Records checks of the department's central abuse
3570 registry and criminal records correspondence checks under s.
3571 39.0138 through the Department of Law Enforcement on the
3572 intended adoptive parents;
3573 (c) An assessment of the physical environment of the home;
3574 (d) A determination of the financial security of the
3575 intended adoptive parents;
3576 (e) Documentation of counseling and education of the
3577 intended adoptive parents on adoptive parenting;
3578 (f) Documentation that information on adoption and the
3579 adoption process has been provided to the intended adoptive
3580 parents;
3581 (g) Documentation that information on support services

32-01236A-17

20171558__

3582 available in the community has been provided to the intended
3583 adoptive parents; and

3584 (h) A copy of each signed acknowledgment of receipt of
3585 disclosure required by s. 63.085.

3586

3587 If the preliminary home study is favorable, a minor may be
3588 placed in the home pending entry of the judgment of adoption. A
3589 minor may not be placed in the home if the preliminary home
3590 study is unfavorable. If the preliminary home study is
3591 unfavorable, the adoption entity may, within 20 days after
3592 receipt of a copy of the written recommendation, petition the
3593 court to determine the suitability of the intended adoptive
3594 home. A determination as to suitability under this subsection
3595 does not act as a presumption of suitability at the final
3596 hearing. In determining the suitability of the intended adoptive
3597 home, the court must consider the totality of the circumstances
3598 in the home. A minor may not be placed in a home in which there
3599 resides any person determined by the court to be a sexual
3600 predator as defined in s. 775.21 or to have been convicted of an
3601 offense listed in s. 63.089(4)(b)2.

3602 Section 70. For the purpose of incorporating the amendments
3603 made by this act to sections 775.21 and 943.0435, Florida
3604 Statutes, in references thereto, paragraph (i) of subsection (3)
3605 and subsection (6) of section 68.07, Florida Statutes, are
3606 reenacted to read:

3607 68.07 Change of name.—

3608 (3) Each petition shall be verified and show:

3609 (i) Whether the petitioner has ever been required to
3610 register as a sexual predator under s. 775.21 or as a sexual

32-01236A-17

20171558__

3611 offender under s. 943.0435.

3612 (6) The clerk of the court must, within 5 business days
3613 after the filing of the final judgment, send a report of the
3614 judgment to the Department of Law Enforcement on a form to be
3615 furnished by that department. If the petitioner is required to
3616 register as a sexual predator or a sexual offender pursuant to
3617 s. 775.21 or s. 943.0435, the clerk of court shall
3618 electronically notify the Department of Law Enforcement of the
3619 name change, in a manner prescribed by that department, within 2
3620 business days after the filing of the final judgment. The
3621 Department of Law Enforcement must send a copy of the report to
3622 the Department of Highway Safety and Motor Vehicles, which may
3623 be delivered by electronic transmission. The report must contain
3624 sufficient information to identify the petitioner, including the
3625 results of the criminal history records check if applicable, the
3626 new name of the petitioner, and the file number of the judgment.
3627 The Department of Highway Safety and Motor Vehicles shall
3628 monitor the records of any sexual predator or sexual offender
3629 whose name has been provided to it by the Department of Law
3630 Enforcement. If the sexual predator or sexual offender does not
3631 obtain a replacement driver license or identification card
3632 within the required time as specified in s. 775.21 or s.
3633 943.0435, the Department of Highway Safety and Motor Vehicles
3634 shall notify the Department of Law Enforcement. The Department
3635 of Law Enforcement shall notify applicable law enforcement
3636 agencies of the predator's or offender's failure to comply with
3637 registration requirements. Any information retained by the
3638 Department of Law Enforcement and the Department of Highway
3639 Safety and Motor Vehicles may be revised or supplemented by said

32-01236A-17

20171558__

3640 departments to reflect changes made by the final judgment. With
3641 respect to a person convicted of a felony in another state or of
3642 a federal offense, the Department of Law Enforcement must send
3643 the report to the respective state's office of law enforcement
3644 records or to the office of the Federal Bureau of Investigation.
3645 The Department of Law Enforcement may forward the report to any
3646 other law enforcement agency it believes may retain information
3647 related to the petitioner.

3648 Section 71. For the purpose of incorporating the amendments
3649 made by this act to sections 775.21 and 943.0435, Florida
3650 Statutes, in references thereto, paragraph (b) of subsection (1)
3651 of section 92.55, Florida Statutes, is reenacted to read:

3652 92.55 Judicial or other proceedings involving victim or
3653 witness under the age of 18, a person who has an intellectual
3654 disability, or a sexual offense victim or witness; special
3655 protections; use of registered service or therapy animals.—

3656 (1) For purposes of this section, the term:

3657 (b) "Sexual offense" means any offense specified in s.
3658 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

3659 Section 72. For the purpose of incorporating the amendment
3660 made by this act to section 16.56, Florida Statutes, in a
3661 reference thereto, paragraph (b) of subsection (1) of section
3662 92.605, Florida Statutes, is reenacted to read:

3663 92.605 Production of certain records by Florida businesses
3664 and out-of-state corporations.—

3665 (1) For the purposes of this section, the term:

3666 (b) "Applicant" means a law enforcement officer who is
3667 seeking a court order or subpoena under s. 16.56, s. 27.04, s.
3668 905.185, or s. 914.04 or who is issued a search warrant under s.

32-01236A-17

20171558__

3669 933.01, or anyone who is authorized to issue a subpoena under
3670 the Florida Rules of Criminal Procedure.

3671 Section 73. For the purpose of incorporating the amendments
3672 made by this act to sections 775.21, 943.0435, and 944.607,
3673 Florida Statutes, in references thereto, subsection (3) of
3674 section 322.141, Florida Statutes, is reenacted to read:

3675 322.141 Color or markings of certain licenses or
3676 identification cards.—

3677 (3) All licenses for the operation of motor vehicles or
3678 identification cards originally issued or reissued by the
3679 department to persons who are designated as sexual predators
3680 under s. 775.21 or subject to registration as sexual offenders
3681 under s. 943.0435 or s. 944.607, or who have a similar
3682 designation or are subject to a similar registration under the
3683 laws of another jurisdiction, shall have on the front of the
3684 license or identification card the following:

3685 (a) For a person designated as a sexual predator under s.
3686 775.21 or who has a similar designation under the laws of
3687 another jurisdiction, the marking "SEXUAL PREDATOR."

3688 (b) For a person subject to registration as a sexual
3689 offender under s. 943.0435 or s. 944.607, or subject to a
3690 similar registration under the laws of another jurisdiction, the
3691 marking "943.0435, F.S."

3692 Section 74. For the purpose of incorporating the amendment
3693 made by this act to section 775.0877, Florida Statutes, in a
3694 reference thereto, paragraph (h) of subsection (2) of section
3695 381.004, Florida Statutes, is reenacted to read:

3696 381.004 HIV testing.—

3697 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT;

32-01236A-17

20171558__

3698 RESULTS; COUNSELING; CONFIDENTIALITY.—

3699 (h) Paragraph (a) does not apply:

3700 1. When testing for sexually transmissible diseases is
3701 required by state or federal law, or by rule, including the
3702 following situations:

3703 a. HIV testing pursuant to s. 796.08 of persons convicted
3704 of prostitution or of procuring another to commit prostitution.

3705 b. HIV testing of inmates pursuant to s. 945.355 before
3706 their release from prison by reason of parole, accumulation of
3707 gain-time credits, or expiration of sentence.

3708 c. Testing for HIV by a medical examiner in accordance with
3709 s. 406.11.

3710 d. HIV testing of pregnant women pursuant to s. 384.31.

3711 2. To those exceptions provided for blood, plasma, organs,
3712 skin, semen, or other human tissue pursuant to s. 381.0041.

3713 3. For the performance of an HIV-related test by licensed
3714 medical personnel in bona fide medical emergencies if the test
3715 results are necessary for medical diagnostic purposes to provide
3716 appropriate emergency care or treatment to the person being
3717 tested and the patient is unable to consent, as supported by
3718 documentation in the medical record. Notification of test
3719 results in accordance with paragraph (c) is required.

3720 4. For the performance of an HIV-related test by licensed
3721 medical personnel for medical diagnosis of acute illness where,
3722 in the opinion of the attending physician, providing
3723 notification would be detrimental to the patient, as supported
3724 by documentation in the medical record, and the test results are
3725 necessary for medical diagnostic purposes to provide appropriate
3726 care or treatment to the person being tested. Notification of

32-01236A-17

20171558__

3727 test results in accordance with paragraph (c) is required if it
3728 would not be detrimental to the patient. This subparagraph does
3729 not authorize the routine testing of patients for HIV infection
3730 without notification.

3731 5. If HIV testing is performed as part of an autopsy for
3732 which consent was obtained pursuant to s. 872.04.

3733 6. For the performance of an HIV test upon a defendant
3734 pursuant to the victim's request in a prosecution for any type
3735 of sexual battery where a blood sample is taken from the
3736 defendant voluntarily, pursuant to court order for any purpose,
3737 or pursuant to s. 775.0877, s. 951.27, or s. 960.003; however,
3738 the results of an HIV test performed shall be disclosed solely
3739 to the victim and the defendant, except as provided in ss.
3740 775.0877, 951.27, and 960.003.

3741 7. If an HIV test is mandated by court order.

3742 8. For epidemiological research pursuant to s. 381.0031,
3743 for research consistent with institutional review boards created
3744 by 45 C.F.R. part 46, or for the performance of an HIV-related
3745 test for the purpose of research, if the testing is performed in
3746 a manner by which the identity of the test subject is not known
3747 and may not be retrieved by the researcher.

3748 9. If human tissue is collected lawfully without the
3749 consent of the donor for corneal removal as authorized by s.
3750 765.5185 or enucleation of the eyes as authorized by s. 765.519.

3751 10. For the performance of an HIV test upon an individual
3752 who comes into contact with medical personnel in such a way that
3753 a significant exposure has occurred during the course of
3754 employment, within the scope of practice, or during the course
3755 of providing emergency medical assistance to the individual. The

32-01236A-17

20171558__

3756 term "medical personnel" includes a licensed or certified health
3757 care professional; an employee of a health care professional or
3758 health care facility; employees of a laboratory licensed under
3759 chapter 483; personnel of a blood bank or plasma center; a
3760 medical student or other student who is receiving training as a
3761 health care professional at a health care facility; and a
3762 paramedic or emergency medical technician certified by the
3763 department to perform life-support procedures under s. 401.23.

3764 a. The occurrence of a significant exposure shall be
3765 documented by medical personnel under the supervision of a
3766 licensed physician and recorded only in the personnel record of
3767 the medical personnel.

3768 b. Costs of an HIV test shall be borne by the medical
3769 personnel or the employer of the medical personnel. However,
3770 costs of testing or treatment not directly related to the
3771 initial HIV tests or costs of subsequent testing or treatment
3772 may not be borne by the medical personnel or the employer of the
3773 medical personnel.

3774 c. In order to use the provisions of this subparagraph, the
3775 medical personnel must be tested for HIV pursuant to this
3776 section or provide the results of an HIV test taken within 6
3777 months before the significant exposure if such test results are
3778 negative.

3779 d. A person who receives the results of an HIV test
3780 pursuant to this subparagraph shall maintain the confidentiality
3781 of the information received and of the persons tested. Such
3782 confidential information is exempt from s. 119.07(1).

3783 e. If the source of the exposure is not available and will
3784 not voluntarily present himself or herself to a health facility

32-01236A-17

20171558__

3785 to be tested for HIV, the medical personnel or the employer of
3786 such person acting on behalf of the employee may seek a court
3787 order directing the source of the exposure to submit to HIV
3788 testing. A sworn statement by a physician licensed under chapter
3789 458 or chapter 459 that a significant exposure has occurred and
3790 that, in the physician's medical judgment, testing is medically
3791 necessary to determine the course of treatment constitutes
3792 probable cause for the issuance of an order by the court. The
3793 results of the test shall be released to the source of the
3794 exposure and to the person who experienced the exposure.

3795 11. For the performance of an HIV test upon an individual
3796 who comes into contact with nonmedical personnel in such a way
3797 that a significant exposure has occurred while the nonmedical
3798 personnel provides emergency medical assistance during a medical
3799 emergency. For the purposes of this subparagraph, a medical
3800 emergency means an emergency medical condition outside of a
3801 hospital or health care facility that provides physician care.
3802 The test may be performed only during the course of treatment
3803 for the medical emergency.

3804 a. The occurrence of a significant exposure shall be
3805 documented by medical personnel under the supervision of a
3806 licensed physician and recorded in the medical record of the
3807 nonmedical personnel.

3808 b. Costs of any HIV test shall be borne by the nonmedical
3809 personnel or the employer of the nonmedical personnel. However,
3810 costs of testing or treatment not directly related to the
3811 initial HIV tests or costs of subsequent testing or treatment
3812 may not be borne by the nonmedical personnel or the employer of
3813 the nonmedical personnel.

32-01236A-17

20171558__

3814 c. In order to use the provisions of this subparagraph, the
3815 nonmedical personnel shall be tested for HIV pursuant to this
3816 section or shall provide the results of an HIV test taken within
3817 6 months before the significant exposure if such test results
3818 are negative.

3819 d. A person who receives the results of an HIV test
3820 pursuant to this subparagraph shall maintain the confidentiality
3821 of the information received and of the persons tested. Such
3822 confidential information is exempt from s. 119.07(1).

3823 e. If the source of the exposure is not available and will
3824 not voluntarily present himself or herself to a health facility
3825 to be tested for HIV, the nonmedical personnel or the employer
3826 of the nonmedical personnel acting on behalf of the employee may
3827 seek a court order directing the source of the exposure to
3828 submit to HIV testing. A sworn statement by a physician licensed
3829 under chapter 458 or chapter 459 that a significant exposure has
3830 occurred and that, in the physician's medical judgment, testing
3831 is medically necessary to determine the course of treatment
3832 constitutes probable cause for the issuance of an order by the
3833 court. The results of the test shall be released to the source
3834 of the exposure and to the person who experienced the exposure.

3835 12. For the performance of an HIV test by the medical
3836 examiner or attending physician upon an individual who expired
3837 or could not be resuscitated while receiving emergency medical
3838 assistance or care and who was the source of a significant
3839 exposure to medical or nonmedical personnel providing such
3840 assistance or care.

3841 a. HIV testing may be conducted only after appropriate
3842 medical personnel under the supervision of a licensed physician

32-01236A-17

20171558__

3843 documents in the medical record of the medical personnel or
3844 nonmedical personnel that there has been a significant exposure
3845 and that, in accordance with the written protocols based on the
3846 National Centers for Disease Control and Prevention guidelines
3847 on HIV postexposure prophylaxis and in the physician's medical
3848 judgment, the information is medically necessary to determine
3849 the course of treatment for the medical personnel or nonmedical
3850 personnel.

3851 b. Costs of an HIV test performed under this subparagraph
3852 may not be charged to the deceased or to the family of the
3853 deceased person.

3854 c. For this subparagraph to be applicable, the medical
3855 personnel or nonmedical personnel must be tested for HIV under
3856 this section or must provide the results of an HIV test taken
3857 within 6 months before the significant exposure if such test
3858 results are negative.

3859 d. A person who receives the results of an HIV test
3860 pursuant to this subparagraph shall comply with paragraph (e).

3861 13. For the performance of an HIV-related test medically
3862 indicated by licensed medical personnel for medical diagnosis of
3863 a hospitalized infant as necessary to provide appropriate care
3864 and treatment of the infant if, after a reasonable attempt, a
3865 parent cannot be contacted to provide consent. The medical
3866 records of the infant must reflect the reason consent of the
3867 parent was not initially obtained. Test results shall be
3868 provided to the parent when the parent is located.

3869 14. For the performance of HIV testing conducted to monitor
3870 the clinical progress of a patient previously diagnosed to be
3871 HIV positive.

32-01236A-17

20171558__

3872 15. For the performance of repeated HIV testing conducted
3873 to monitor possible conversion from a significant exposure.

3874 Section 75. For the purpose of incorporating the amendment
3875 made by this act to section 775.0877, Florida Statutes, in
3876 references thereto, paragraph (c) of subsection (1) and
3877 subsection (3) of section 384.29, Florida Statutes, are
3878 reenacted to read:

3879 384.29 Confidentiality.—

3880 (1) All information and records held by the department or
3881 its authorized representatives relating to known or suspected
3882 cases of sexually transmissible diseases are strictly
3883 confidential and exempt from the provisions of s. 119.07(1).
3884 Such information shall not be released or made public by the
3885 department or its authorized representatives, or by a court or
3886 parties to a lawsuit upon revelation by subpoena, except under
3887 the following circumstances:

3888 (c) When made to medical personnel, appropriate state
3889 agencies, public health agencies, or courts of appropriate
3890 jurisdiction, to enforce the provisions of this chapter or s.
3891 775.0877 and related rules;

3892 (3) No employee of the department or its authorized
3893 representatives shall be examined in a civil, criminal, special,
3894 or other proceeding as to the existence or contents of pertinent
3895 records of a person examined or treated for a sexually
3896 transmissible disease by the department or its authorized
3897 representatives, or of the existence or contents of such reports
3898 received from a private physician or private health facility,
3899 without the consent of the person examined and treated for such
3900 diseases, except in proceedings under ss. 384.27 and 384.28 or

32-01236A-17

20171558__

3901 involving offenders pursuant to s. 775.0877.

3902 Section 76. For the purpose of incorporating the amendment
3903 made by this act to section 39.01, Florida Statutes, in
3904 references thereto, paragraphs (b) and (e) of subsection (2) of
3905 section 390.01114, Florida Statutes, are reenacted to read:

3906 390.01114 Parental Notice of Abortion Act.—

3907 (2) DEFINITIONS.—As used in this section, the term:

3908 (b) "Child abuse" means abandonment, abuse, harm, mental
3909 injury, neglect, physical injury, or sexual abuse of a child as
3910 those terms are defined in ss. 39.01, 827.04, and 984.03.

3911 (e) "Sexual abuse" has the meaning ascribed in s. 39.01.

3912 Section 77. For the purpose of incorporating the amendment
3913 made by this act to section 39.01, Florida Statutes, in
3914 references thereto, paragraph (h) of subsection (4) and
3915 subsections (7) and (9) of section 393.067, Florida Statutes,
3916 are reenacted to read:

3917 393.067 Facility licensure.—

3918 (4) The application shall be under oath and shall contain
3919 the following:

3920 (h) Certification that the staff of the facility or program
3921 will receive training to detect, report, and prevent sexual
3922 abuse, abuse, neglect, exploitation, and abandonment, as defined
3923 in ss. 39.01 and 415.102, of residents and clients.

3924 (7) The agency shall adopt rules establishing minimum
3925 standards for facilities and programs licensed under this
3926 section, including rules requiring facilities and programs to
3927 train staff to detect, report, and prevent sexual abuse, abuse,
3928 neglect, exploitation, and abandonment, as defined in ss. 39.01
3929 and 415.102, of residents and clients, minimum standards of

32-01236A-17

20171558__

3930 quality and adequacy of client care, incident reporting
3931 requirements, and uniform firesafety standards established by
3932 the State Fire Marshal which are appropriate to the size of the
3933 facility or of the component centers or units of the program.

3934 (9) The agency may conduct unannounced inspections to
3935 determine compliance by foster care facilities, group home
3936 facilities, residential habilitation centers, and comprehensive
3937 transitional education programs with the applicable provisions
3938 of this chapter and the rules adopted pursuant hereto, including
3939 the rules adopted for training staff of a facility or a program
3940 to detect, report, and prevent sexual abuse, abuse, neglect,
3941 exploitation, and abandonment, as defined in ss. 39.01 and
3942 415.102, of residents and clients. The facility or program shall
3943 make copies of inspection reports available to the public upon
3944 request.

3945 Section 78. For the purpose of incorporating the amendment
3946 made by this act to section 39.01, Florida Statutes, in a
3947 reference thereto, paragraph (p) of subsection (4) of section
3948 394.495, Florida Statutes, is reenacted to read:

3949 394.495 Child and adolescent mental health system of care;
3950 programs and services.-

3951 (4) The array of services may include, but is not limited
3952 to:

3953 (p) Trauma-informed services for children who have suffered
3954 sexual exploitation as defined in s. 39.01(70)(g).

3955 Section 79. For the purpose of incorporating the amendment
3956 made by this act to section 943.0435, Florida Statutes, in a
3957 reference thereto, paragraph (a) of subsection (2) of section
3958 394.9125, Florida Statutes, is reenacted to read:

32-01236A-17

20171558__

3959 394.9125 State attorney; authority to refer a person for
3960 civil commitment.—

3961 (2) A state attorney may refer a person to the department
3962 for civil commitment proceedings if the person:

3963 (a) Is required to register as a sexual offender pursuant
3964 to s. 943.0435;

3965 Section 80. For the purpose of incorporating the amendments
3966 made by this act to sections 775.21, 943.0435, and 943.04354,
3967 Florida Statutes, in references thereto, paragraphs (a) and (c)
3968 of subsection (2) of section 397.4872, Florida Statutes, are
3969 reenacted to read:

3970 397.4872 Exemption from disqualification; publication.—

3971 (2) The department may exempt a person from ss. 397.487(6)
3972 and 397.4871(5) if it has been at least 3 years since the person
3973 has completed or been lawfully released from confinement,
3974 supervision, or sanction for the disqualifying offense. An
3975 exemption from the disqualifying offenses may not be given under
3976 any circumstances for any person who is a:

3977 (a) Sexual predator pursuant to s. 775.21;

3978 (c) Sexual offender pursuant to s. 943.0435, unless the
3979 requirement to register as a sexual offender has been removed
3980 pursuant to s. 943.04354.

3981 Section 81. For the purpose of incorporating the amendment
3982 made by this act to section 39.01, Florida Statutes, in
3983 references thereto, paragraph (c) of subsection (1) and
3984 paragraphs (a) and (b) of subsection (6) of section 409.1678,
3985 Florida Statutes, are reenacted to read:

3986 409.1678 Specialized residential options for children who
3987 are victims of sexual exploitation.—

32-01236A-17

20171558__

3988 (1) DEFINITIONS.—As used in this section, the term:
3989 (c) “Sexually exploited child” means a child who has
3990 suffered sexual exploitation as defined in s. 39.01(70)(g) and
3991 is ineligible for relief and benefits under the federal
3992 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

3993 (6) LOCATION INFORMATION.—
3994 (a) Information about the location of a safe house, safe
3995 foster home, or other residential facility serving victims of
3996 sexual exploitation, as defined in s. 39.01(70)(g), which is
3997 held by an agency, as defined in s. 119.011, is confidential and
3998 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
3999 Constitution. This exemption applies to such confidential and
4000 exempt information held by an agency before, on, or after the
4001 effective date of the exemption.

4002 (b) Information about the location of a safe house, safe
4003 foster home, or other residential facility serving victims of
4004 sexual exploitation, as defined in s. 39.01(70)(g), may be
4005 provided to an agency, as defined in s. 119.011, as necessary to
4006 maintain health and safety standards and to address emergency
4007 situations in the safe house, safe foster home, or other
4008 residential facility.

4009 Section 82. For the purpose of incorporating the amendments
4010 made by this act to sections 775.21, 943.0435, and 943.04354,
4011 Florida Statutes, in references thereto, paragraph (b) of
4012 subsection (4) of section 435.07, Florida Statutes, is reenacted
4013 to read:

4014 435.07 Exemptions from disqualification.—Unless otherwise
4015 provided by law, the provisions of this section apply to
4016 exemptions from disqualification for disqualifying offenses

32-01236A-17

20171558__

4017 revealed pursuant to background screenings required under this
4018 chapter, regardless of whether those disqualifying offenses are
4019 listed in this chapter or other laws.

4020 (4)

4021 (b) Disqualification from employment under this chapter may
4022 not be removed from, nor may an exemption be granted to, any
4023 person who is a:

4024 1. Sexual predator as designated pursuant to s. 775.21;

4025 2. Career offender pursuant to s. 775.261; or

4026 3. Sexual offender pursuant to s. 943.0435, unless the
4027 requirement to register as a sexual offender has been removed
4028 pursuant to s. 943.04354.

4029 Section 83. For the purpose of incorporating the amendment
4030 made by this act to section 895.02, Florida Statutes, in a
4031 reference thereto, paragraph (g) of subsection (3) of section
4032 655.50, Florida Statutes, is reenacted to read:

4033 655.50 Florida Control of Money Laundering and Terrorist
4034 Financing in Financial Institutions Act.—

4035 (3) As used in this section, the term:

4036 (g) "Specified unlawful activity" means "racketeering
4037 activity" as defined in s. 895.02.

4038 Section 84. For the purpose of incorporating the amendment
4039 made by this act to section 784.046, Florida Statutes, in a
4040 reference thereto, paragraph (e) of subsection (1) of section
4041 741.313, Florida Statutes, is reenacted to read:

4042 741.313 Unlawful action against employees seeking
4043 protection.—

4044 (1) As used in this section, the term:

4045 (e) "Sexual violence" means sexual violence, as defined in

32-01236A-17

20171558__

4046 s. 784.046, or any crime the underlying factual basis of which
4047 has been found by a court to include an act of sexual violence.

4048 Section 85. For the purpose of incorporating the amendment
4049 made by this act to section 947.1405, Florida Statutes, in a
4050 reference thereto, paragraph (j) of subsection (4) of section
4051 775.084, Florida Statutes, is reenacted to read:

4052 775.084 Violent career criminals; habitual felony offenders
4053 and habitual violent felony offenders; three-time violent felony
4054 offenders; definitions; procedure; enhanced penalties or
4055 mandatory minimum prison terms.—

4056 (4)

4057 (j) The provisions of s. 947.1405 shall apply to persons
4058 sentenced as habitual felony offenders and persons sentenced as
4059 habitual violent felony offenders.

4060 Section 86. For the purpose of incorporating the amendment
4061 made by this act to section 943.0435, Florida Statutes, in a
4062 reference thereto, subsection (2) of section 775.0862, Florida
4063 Statutes, is reenacted to read:

4064 775.0862 Sexual offenses against students by authority
4065 figures; reclassification.—

4066 (2) The felony degree of a violation of an offense listed
4067 in s. 943.0435(1)(h)1.a., unless the offense is a violation of
4068 s. 794.011(4)(e)7. or s. 810.145(8)(a)2., shall be reclassified
4069 as provided in this section if the offense is committed by an
4070 authority figure of a school against a student of the school.

4071 Section 87. For the purpose of incorporating the amendments
4072 made by this act to sections 775.21, 943.0435, and 944.607,
4073 Florida Statutes, in references thereto, paragraphs (e) and (f)
4074 of subsection (4) of section 775.13, Florida Statutes, are

32-01236A-17

20171558__

4075 reenacted to read:

4076 775.13 Registration of convicted felons, exemptions;
4077 penalties.—

4078 (4) This section does not apply to an offender:

4079 (e) Who is a sexual predator and has registered as required
4080 under s. 775.21;

4081 (f) Who is a sexual offender and has registered as required
4082 in s. 943.0435 or s. 944.607; or

4083 Section 88. For the purpose of incorporating the amendments
4084 made by this act to sections 943.0435, 944.607, 947.1405, and
4085 948.30, Florida Statutes, in references thereto, paragraph (b)
4086 of subsection (3), paragraph (d) of subsection (5), paragraph
4087 (f) of subsection (6), and paragraph (c) of subsection (10) of
4088 section 775.21, Florida Statutes, are reenacted to read:

4089 775.21 The Florida Sexual Predators Act.—

4090 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.—

4091 (b) The high level of threat that a sexual predator
4092 presents to the public safety, and the long-term effects
4093 suffered by victims of sex offenses, provide the state with
4094 sufficient justification to implement a strategy that includes:

4095 1. Incarcerating sexual predators and maintaining adequate
4096 facilities to ensure that decisions to release sexual predators
4097 into the community are not made on the basis of inadequate
4098 space.

4099 2. Providing for specialized supervision of sexual
4100 predators who are in the community by specially trained
4101 probation officers with low caseloads, as described in ss.
4102 947.1405(7) and 948.30. The sexual predator is subject to
4103 specified terms and conditions implemented at sentencing or at

32-01236A-17

20171558__

4104 the time of release from incarceration, with a requirement that
4105 those who are financially able must pay all or part of the costs
4106 of supervision.

4107 3. Requiring the registration of sexual predators, with a
4108 requirement that complete and accurate information be maintained
4109 and accessible for use by law enforcement authorities,
4110 communities, and the public.

4111 4. Providing for community and public notification
4112 concerning the presence of sexual predators.

4113 5. Prohibiting sexual predators from working with children,
4114 either for compensation or as a volunteer.

4115 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated
4116 as a sexual predator as follows:

4117 (d) A person who establishes or maintains a residence in
4118 this state and who has not been designated as a sexual predator
4119 by a court of this state but who has been designated as a sexual
4120 predator, as a sexually violent predator, or by another sexual
4121 offender designation in another state or jurisdiction and was,
4122 as a result of such designation, subjected to registration or
4123 community or public notification, or both, or would be if the
4124 person was a resident of that state or jurisdiction, without
4125 regard to whether the person otherwise meets the criteria for
4126 registration as a sexual offender, shall register in the manner
4127 provided in s. 943.0435 or s. 944.607 and shall be subject to
4128 community and public notification as provided in s. 943.0435 or
4129 s. 944.607. A person who meets the criteria of this section is
4130 subject to the requirements and penalty provisions of s.

4131 943.0435 or s. 944.607 until the person provides the department
4132 with an order issued by the court that designated the person as

32-01236A-17

20171558__

4133 a sexual predator, as a sexually violent predator, or by another
4134 sexual offender designation in the state or jurisdiction in
4135 which the order was issued which states that such designation
4136 has been removed or demonstrates to the department that such
4137 designation, if not imposed by a court, has been removed by
4138 operation of law or court order in the state or jurisdiction in
4139 which the designation was made, and provided such person no
4140 longer meets the criteria for registration as a sexual offender
4141 under the laws of this state.

4142 (6) REGISTRATION.—

4143 (f) Within 48 hours after the registration required under
4144 paragraph (a) or paragraph (e), a sexual predator who is not
4145 incarcerated and who resides in the community, including a
4146 sexual predator under the supervision of the Department of
4147 Corrections, shall register in person at a driver license office
4148 of the Department of Highway Safety and Motor Vehicles and shall
4149 present proof of registration unless a driver license or an
4150 identification card that complies with the requirements of s.
4151 322.141(3) was previously secured or updated under s. 944.607.
4152 At the driver license office the sexual predator shall:

4153 1. If otherwise qualified, secure a Florida driver license,
4154 renew a Florida driver license, or secure an identification
4155 card. The sexual predator shall identify himself or herself as a
4156 sexual predator who is required to comply with this section,
4157 provide his or her place of permanent, temporary, or transient
4158 residence, including a rural route address and a post office
4159 box, and submit to the taking of a photograph for use in issuing
4160 a driver license, a renewed license, or an identification card,
4161 and for use by the department in maintaining current records of

32-01236A-17

20171558__

4162 sexual predators. A post office box may not be provided in lieu
4163 of a physical residential address. If the sexual predator's
4164 place of residence is a motor vehicle, trailer, mobile home, or
4165 manufactured home, as defined in chapter 320, the sexual
4166 predator shall also provide to the Department of Highway Safety
4167 and Motor Vehicles the vehicle identification number; the
4168 license tag number; the registration number; and a description,
4169 including color scheme, of the motor vehicle, trailer, mobile
4170 home, or manufactured home. If a sexual predator's place of
4171 residence is a vessel, live-aboard vessel, or houseboat, as
4172 defined in chapter 327, the sexual predator shall also provide
4173 to the Department of Highway Safety and Motor Vehicles the hull
4174 identification number; the manufacturer's serial number; the
4175 name of the vessel, live-aboard vessel, or houseboat; the
4176 registration number; and a description, including color scheme,
4177 of the vessel, live-aboard vessel, or houseboat.

4178 2. Pay the costs assessed by the Department of Highway
4179 Safety and Motor Vehicles for issuing or renewing a driver
4180 license or an identification card as required by this section.
4181 The driver license or identification card issued to the sexual
4182 predator must comply with s. 322.141(3).

4183 3. Provide, upon request, any additional information
4184 necessary to confirm the identity of the sexual predator,
4185 including a set of fingerprints.

4186 (10) PENALTIES.—

4187 (c) Any person who misuses public records information
4188 relating to a sexual predator, as defined in this section, or a
4189 sexual offender, as defined in s. 943.0435 or s. 944.607, to
4190 secure a payment from such a predator or offender; who knowingly

32-01236A-17

20171558__

4191 distributes or publishes false information relating to such a
4192 predator or offender which the person misrepresents as being
4193 public records information; or who materially alters public
4194 records information with the intent to misrepresent the
4195 information, including documents, summaries of public records
4196 information provided by law enforcement agencies, or public
4197 records information displayed by law enforcement agencies on
4198 websites or provided through other means of communication,
4199 commits a misdemeanor of the first degree, punishable as
4200 provided in s. 775.082 or s. 775.083.

4201 Section 89. For the purpose of incorporating the amendments
4202 made by this act to section 943.0435, 944.606, and 944.607,
4203 Florida Statutes, in references thereto, subsection (2) of
4204 section 775.24, Florida Statutes, is reenacted to read:

4205 775.24 Duty of the court to uphold laws governing sexual
4206 predators and sexual offenders.—

4207 (2) If a person meets the criteria in this chapter for
4208 designation as a sexual predator or meets the criteria in s.
4209 943.0435, s. 944.606, s. 944.607, or any other law for
4210 classification as a sexual offender, the court may not enter an
4211 order, for the purpose of approving a plea agreement or for any
4212 other reason, which:

4213 (a) Exempts a person who meets the criteria for designation
4214 as a sexual predator or classification as a sexual offender from
4215 such designation or classification, or exempts such person from
4216 the requirements for registration or community and public
4217 notification imposed upon sexual predators and sexual offenders;

4218 (b) Restricts the compiling, reporting, or release of
4219 public records information that relates to sexual predators or

32-01236A-17

20171558__

4220 sexual offenders; or

4221 (c) Prevents any person or entity from performing its
4222 duties or operating within its statutorily conferred authority
4223 as such duty or authority relates to sexual predators or sexual
4224 offenders.

4225 Section 90. For the purpose of incorporating the amendments
4226 made by this act to sections 775.21, 943.0435, 944.606, and
4227 944.607, Florida Statutes, in references thereto, section
4228 775.25, Florida Statutes, is reenacted to read:

4229 775.25 Prosecutions for acts or omissions.—A sexual
4230 predator or sexual offender who commits any act or omission in
4231 violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.
4232 944.607, or former s. 947.177 may be prosecuted for the act or
4233 omission in the county in which the act or omission was
4234 committed, in the county of the last registered address of the
4235 sexual predator or sexual offender, in the county in which the
4236 conviction occurred for the offense or offenses that meet the
4237 criteria for designating a person as a sexual predator or sexual
4238 offender, in the county where the sexual predator or sexual
4239 offender was released from incarceration, or in the county of
4240 the intended address of the sexual predator or sexual offender
4241 as reported by the predator or offender prior to his or her
4242 release from incarceration. In addition, a sexual predator may
4243 be prosecuted for any such act or omission in the county in
4244 which he or she was designated a sexual predator.

4245 Section 91. For the purpose of incorporating the amendments
4246 made by this act to sections 775.21, 943.0435, and 944.607,
4247 Florida Statutes, in references thereto, paragraph (b) of
4248 subsection (3) of section 775.261, Florida Statutes, is

32-01236A-17

20171558__

4249 reenacted to read:

4250 775.261 The Florida Career Offender Registration Act.—

4251 (3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

4252 (b) This section does not apply to any person who has been
4253 designated as a sexual predator and required to register under
4254 s. 775.21 or who is required to register as a sexual offender
4255 under s. 943.0435 or s. 944.607. However, if a person is no
4256 longer required to register as a sexual predator under s. 775.21
4257 or as a sexual offender under s. 943.0435 or s. 944.607, the
4258 person must register as a career offender under this section if
4259 the person is otherwise designated as a career offender as
4260 provided in this section.

4261 Section 92. For the purpose of incorporating the amendment
4262 made by this act to section 847.001, Florida Statutes, in a
4263 reference thereto, paragraph (d) of subsection (2) of section
4264 784.049, Florida Statutes, is reenacted to read:

4265 784.049 Sexual cyberharassment.—

4266 (2) As used in this section, the term:

4267 (d) "Sexually explicit image" means any image depicting
4268 nudity, as defined in s. 847.001, or depicting a person engaging
4269 in sexual conduct, as defined in s. 847.001.

4270 Section 93. For the purpose of incorporating the amendment
4271 made by this act to section 794.0115, Florida Statutes, in
4272 references thereto, paragraph (a) of subsection (2) and
4273 subsections (3), (4), and (5) of section 794.011, Florida
4274 Statutes, are reenacted to read:

4275 794.011 Sexual battery.—

4276 (2) (a) A person 18 years of age or older who commits sexual
4277 battery upon, or in an attempt to commit sexual battery injures

32-01236A-17

20171558__

4278 the sexual organs of, a person less than 12 years of age commits
4279 a capital felony, punishable as provided in ss. 775.082 and
4280 921.141.

4281 (3) A person who commits sexual battery upon a person 12
4282 years of age or older, without that person's consent, and in the
4283 process thereof uses or threatens to use a deadly weapon or uses
4284 actual physical force likely to cause serious personal injury
4285 commits a life felony, punishable as provided in s. 775.082, s.
4286 775.083, s. 775.084, or s. 794.0115.

4287 (4) (a) A person 18 years of age or older who commits sexual
4288 battery upon a person 12 years of age or older but younger than
4289 18 years of age without that person's consent, under any of the
4290 circumstances listed in paragraph (e), commits a felony of the
4291 first degree, punishable by a term of years not exceeding life
4292 or as provided in s. 775.082, s. 775.083, s. 775.084, or s.
4293 794.0115.

4294 (b) A person 18 years of age or older who commits sexual
4295 battery upon a person 18 years of age or older without that
4296 person's consent, under any of the circumstances listed in
4297 paragraph (e), commits a felony of the first degree, punishable
4298 as provided in s. 775.082, s. 775.083, s. 775.084, or s.
4299 794.0115.

4300 (c) A person younger than 18 years of age who commits
4301 sexual battery upon a person 12 years of age or older without
4302 that person's consent, under any of the circumstances listed in
4303 paragraph (e), commits a felony of the first degree, punishable
4304 as provided in s. 775.082, s. 775.083, s. 775.084, or s.
4305 794.0115.

4306 (d) A person commits a felony of the first degree,

32-01236A-17

20171558__

4307 punishable by a term of years not exceeding life or as provided
4308 in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the
4309 person commits sexual battery upon a person 12 years of age or
4310 older without that person's consent, under any of the
4311 circumstances listed in paragraph (e), and such person was
4312 previously convicted of a violation of:

4313 1. Section 787.01(2) or s. 787.02(2) when the violation
4314 involved a victim who was a minor and, in the course of
4315 committing that violation, the defendant committed against the
4316 minor a sexual battery under this chapter or a lewd act under s.
4317 800.04 or s. 847.0135(5);

4318 2. Section 787.01(3)(a)2. or 3.;

4319 3. Section 787.02(3)(a)2. or 3.;

4320 4. Section 800.04;

4321 5. Section 825.1025;

4322 6. Section 847.0135(5); or

4323 7. This chapter, excluding subsection (10) of this section.

4324 (e) The following circumstances apply to paragraphs (a)-

4325 (d):

4326 1. The victim is physically helpless to resist.

4327 2. The offender coerces the victim to submit by threatening
4328 to use force or violence likely to cause serious personal injury
4329 on the victim, and the victim reasonably believes that the
4330 offender has the present ability to execute the threat.

4331 3. The offender coerces the victim to submit by threatening
4332 to retaliate against the victim, or any other person, and the
4333 victim reasonably believes that the offender has the ability to
4334 execute the threat in the future.

4335 4. The offender, without the prior knowledge or consent of

32-01236A-17

20171558__

4336 the victim, administers or has knowledge of someone else
4337 administering to the victim any narcotic, anesthetic, or other
4338 intoxicating substance that mentally or physically incapacitates
4339 the victim.

4340 5. The victim is mentally defective, and the offender has
4341 reason to believe this or has actual knowledge of this fact.

4342 6. The victim is physically incapacitated.

4343 7. The offender is a law enforcement officer, correctional
4344 officer, or correctional probation officer as defined in s.
4345 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified
4346 under s. 943.1395 or is an elected official exempt from such
4347 certification by virtue of s. 943.253, or any other person in a
4348 position of control or authority in a probation, community
4349 control, controlled release, detention, custodial, or similar
4350 setting, and such officer, official, or person is acting in such
4351 a manner as to lead the victim to reasonably believe that the
4352 offender is in a position of control or authority as an agent or
4353 employee of government.

4354 (5) (a) A person 18 years of age or older who commits sexual
4355 battery upon a person 12 years of age or older but younger than
4356 18 years of age, without that person's consent, and in the
4357 process does not use physical force and violence likely to cause
4358 serious personal injury commits a felony of the first degree,
4359 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or
4360 s. 794.0115.

4361 (b) A person 18 years of age or older who commits sexual
4362 battery upon a person 18 years of age or older, without that
4363 person's consent, and in the process does not use physical force
4364 and violence likely to cause serious personal injury commits a

32-01236A-17

20171558__

4365 felony of the second degree, punishable as provided in s.
4366 775.082, s. 775.083, s. 775.084, or s. 794.0115.

4367 (c) A person younger than 18 years of age who commits
4368 sexual battery upon a person 12 years of age or older, without
4369 that person's consent, and in the process does not use physical
4370 force and violence likely to cause serious personal injury
4371 commits a felony of the second degree, punishable as provided in
4372 s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

4373 (d) A person commits a felony of the first degree,
4374 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or
4375 s. 794.0115 if the person commits sexual battery upon a person
4376 12 years of age or older, without that person's consent, and in
4377 the process does not use physical force and violence likely to
4378 cause serious personal injury and the person was previously
4379 convicted of a violation of:

4380 1. Section 787.01(2) or s. 787.02(2) when the violation
4381 involved a victim who was a minor and, in the course of
4382 committing that violation, the defendant committed against the
4383 minor a sexual battery under this chapter or a lewd act under s.
4384 800.04 or s. 847.0135(5);

4385 2. Section 787.01(3)(a)2. or 3.;

4386 3. Section 787.02(3)(a)2. or 3.;

4387 4. Section 800.04;

4388 5. Section 825.1025;

4389 6. Section 847.0135(5); or

4390 7. This chapter, excluding subsection (10) of this section.

4391 Section 94. For the purpose of incorporating the amendment
4392 made by this act to section 92.56, Florida Statutes, in a
4393 reference thereto, section 794.03, Florida Statutes, is

32-01236A-17

20171558__

4394 reenacted to read:

4395 794.03 Unlawful to publish or broadcast information
4396 identifying sexual offense victim.—No person shall print,
4397 publish, or broadcast, or cause or allow to be printed,
4398 published, or broadcast, in any instrument of mass communication
4399 the name, address, or other identifying fact or information of
4400 the victim of any sexual offense within this chapter, except as
4401 provided in s. 119.071(2)(h) or unless the court determines that
4402 such information is no longer confidential and exempt pursuant
4403 to s. 92.56. An offense under this section shall constitute a
4404 misdemeanor of the second degree, punishable as provided in s.
4405 775.082 or s. 775.083.

4406 Section 95. For the purpose of incorporating the amendment
4407 made by this act to section 775.21, Florida Statutes, in a
4408 reference thereto, subsection (1) of section 794.075, Florida
4409 Statutes, is reenacted to read:

4410 794.075 Sexual predators; erectile dysfunction drugs.—

4411 (1) A person may not possess a prescription drug, as
4412 defined in s. 499.003(40), for the purpose of treating erectile
4413 dysfunction if the person is designated as a sexual predator
4414 under s. 775.21.

4415 Section 96. For the purpose of incorporating the amendment
4416 made by this act to section 960.03, Florida Statutes, in
4417 references thereto, paragraph (b) of subsection (1) and
4418 subsections (2) and (3) of section 847.002, Florida Statutes,
4419 are reenacted to read:

4420 847.002 Child pornography prosecutions.—

4421 (1) Any law enforcement officer who, pursuant to a criminal
4422 investigation, recovers images or movies of child pornography

32-01236A-17

20171558__

4423 shall:

4424 (b) Request the law enforcement agency contact information
4425 from the Child Victim Identification Program for any images or
4426 movies recovered which contain an identified victim of child
4427 pornography as defined in s. 960.03.

4428 (2) Any law enforcement officer submitting a case for
4429 prosecution which involves the production, promotion, or
4430 possession of child pornography shall submit to the designated
4431 prosecutor the law enforcement agency contact information
4432 provided by the Child Victim Identification Program at the
4433 National Center for Missing and Exploited Children, for any
4434 images or movies involved in the case which contain the
4435 depiction of an identified victim of child pornography as
4436 defined in s. 960.03.

4437 (3) In every filed case involving an identified victim of
4438 child pornography, as defined in s. 960.03, the prosecuting
4439 agency shall enter the following information into the Victims in
4440 Child Pornography Tracking Repeat Exploitation database
4441 maintained by the Office of the Attorney General:

4442 (a) The case number and agency file number.

4443 (b) The named defendant.

4444 (c) The circuit court division and county.

4445 (d) Current court dates and the status of the case.

4446 (e) Contact information for the prosecutor assigned.

4447 (f) Verification that the prosecutor is or is not in
4448 possession of a victim impact statement and will use the
4449 statement in sentencing.

4450 Section 97. For the purpose of incorporating the amendment
4451 made by this act to section 847.001, Florida Statutes, in a

32-01236A-17

20171558__

4452 reference thereto, paragraph (b) of subsection (3) of section
4453 847.012, Florida Statutes, is reenacted to read:

4454 847.012 Harmful materials; sale or distribution to minors
4455 or using minors in production prohibited; penalty.—

4456 (3) A person may not knowingly sell, rent, or loan for
4457 monetary consideration to a minor:

4458 (b) Any book, pamphlet, magazine, printed matter however
4459 reproduced, or sound recording that contains any matter defined
4460 in s. 847.001, explicit and detailed verbal descriptions or
4461 narrative accounts of sexual excitement, or sexual conduct and
4462 that is harmful to minors.

4463 Section 98. For the purpose of incorporating the amendment
4464 made by this act to section 92.56, Florida Statutes, in a
4465 reference thereto, subsection (3) of section 847.01357, Florida
4466 Statutes, is reenacted to read:

4467 847.01357 Exploited children's civil remedy.—

4468 (3) Any victim who has a bona fide claim under this section
4469 shall, upon request, be provided a pseudonym, pursuant to s.
4470 92.56(3), which shall be issued and maintained by the Department
4471 of Legal Affairs for use in all legal pleadings. This identifier
4472 shall be fully recognized in all courts in this state as a valid
4473 legal identity.

4474 Section 99. For the purpose of incorporating the amendment
4475 made by this act to section 847.001, Florida Statutes, in a
4476 reference thereto, subsections (2) and (3) of section 847.0138,
4477 Florida Statutes, are reenacted to read:

4478 847.0138 Transmission of material harmful to minors to a
4479 minor by electronic device or equipment prohibited; penalties.—

4480 (2) Notwithstanding ss. 847.012 and 847.0133, any person

32-01236A-17

20171558__

4481 who knew or believed that he or she was transmitting an image,
4482 information, or data that is harmful to minors, as defined in s.
4483 847.001, to a specific individual known by the defendant to be a
4484 minor commits a felony of the third degree, punishable as
4485 provided in s. 775.082, s. 775.083, or s. 775.084.

4486 (3) Notwithstanding ss. 847.012 and 847.0133, any person in
4487 any jurisdiction other than this state who knew or believed that
4488 he or she was transmitting an image, information, or data that
4489 is harmful to minors, as defined in s. 847.001, to a specific
4490 individual known by the defendant to be a minor commits a felony
4491 of the third degree, punishable as provided in s. 775.082, s.
4492 775.083, or s. 775.084.

4493
4494 The provisions of this section do not apply to subscription-
4495 based transmissions such as list servers.

4496 Section 100. For the purpose of incorporating the
4497 amendments made by this act to sections 16.56 and 895.02,
4498 Florida Statutes, in references thereto, paragraph (g) of
4499 subsection (2) and subsection (10) of section 896.101, Florida
4500 Statutes, are reenacted to read:

4501 896.101 Florida Money Laundering Act; definitions;
4502 penalties; injunctions; seizure warrants; immunity.-

4503 (2) As used in this section, the term:

4504 (g) "Specified unlawful activity" means any "racketeering
4505 activity" as defined in s. 895.02.

4506 (10) Any financial institution, licensed money services
4507 business, or other person served with and complying with the
4508 terms of a warrant, temporary injunction, or other court order,
4509 including any subpoena issued under s. 16.56 or s. 27.04,

32-01236A-17

20171558__

4510 obtained in furtherance of an investigation of any crime in this
4511 section, including any crime listed as specified unlawful
4512 activity under this section or any felony violation of chapter
4513 560, has immunity from criminal liability and is not liable to
4514 any person for any lawful action taken in complying with the
4515 warrant, temporary injunction, or other court order, including
4516 any subpoena issued under s. 16.56 or s. 27.04. If any subpoena
4517 issued under s. 16.56 or s. 27.04 contains a nondisclosure
4518 provision, any financial institution, licensed money services
4519 business, employee or officer of a financial institution or
4520 licensed money services business, or any other person may not
4521 notify, directly or indirectly, any customer of that financial
4522 institution or money services business whose records are being
4523 sought by the subpoena, or any other person named in the
4524 subpoena, about the existence or the contents of that subpoena
4525 or about information that has been furnished to the state
4526 attorney or statewide prosecutor who issued the subpoena or
4527 other law enforcement officer named in the subpoena in response
4528 to the subpoena.

4529 Section 101. For the purpose of incorporating the
4530 amendments made by this act to sections 775.21 and 948.06,
4531 Florida Statutes, in references thereto, paragraphs (b) and (c)
4532 of subsection (1) of section 903.0351, Florida Statutes, are
4533 reenacted to read:

4534 903.0351 Restrictions on pretrial release pending
4535 probation-violation hearing or community-control-violation
4536 hearing.—

4537 (1) In the instance of an alleged violation of felony
4538 probation or community control, bail or any other form of

32-01236A-17

20171558__

4539 pretrial release shall not be granted prior to the resolution of
4540 the probation-violation hearing or the community-control-
4541 violation hearing to:

4542 (b) A person who is on felony probation or community
4543 control for any offense committed on or after the effective date
4544 of this act and who is arrested for a qualifying offense as
4545 defined in s. 948.06(8)(c); or

4546 (c) A person who is on felony probation or community
4547 control and has previously been found by a court to be a
4548 habitual violent felony offender as defined in s. 775.084(1)(b),
4549 a three-time violent felony offender as defined in s.
4550 775.084(1)(c), or a sexual predator under s. 775.21, and who is
4551 arrested for committing a qualifying offense as defined in s.
4552 948.06(8)(c) on or after the effective date of this act.

4553 Section 102. For the purpose of incorporating the
4554 amendments made by this act to sections 775.21 and 943.0435,
4555 Florida Statutes, in references thereto, paragraph (m) of
4556 subsection (2) of section 903.046, Florida Statutes, is
4557 reenacted to read:

4558 903.046 Purpose of and criteria for bail determination.—

4559 (2) When determining whether to release a defendant on bail
4560 or other conditions, and what that bail or those conditions may
4561 be, the court shall consider:

4562 (m) Whether the defendant, other than a defendant whose
4563 only criminal charge is a misdemeanor offense under chapter 316,
4564 is required to register as a sexual offender under s. 943.0435
4565 or a sexual predator under s. 775.21; and, if so, he or she is
4566 not eligible for release on bail or surety bond until the first
4567 appearance on the case in order to ensure the full participation

32-01236A-17

20171558__

4568 of the prosecutor and the protection of the public.

4569 Section 103. For the purpose of incorporating the amendment
4570 made by this act to section 895.02, Florida Statutes, in a
4571 reference thereto, subsection (3) of section 905.34, Florida
4572 Statutes, is reenacted to read:

4573 905.34 Powers and duties; law applicable.—The jurisdiction
4574 of a statewide grand jury impaneled under this chapter shall
4575 extend throughout the state. The subject matter jurisdiction of
4576 the statewide grand jury shall be limited to the offenses of:

4577 (3) Any violation of the provisions of the Florida RICO
4578 (Racketeer Influenced and Corrupt Organization) Act, including
4579 any offense listed in the definition of racketeering activity in
4580 s. 895.02(8)(a), providing such listed offense is investigated
4581 in connection with a violation of s. 895.03 and is charged in a
4582 separate count of an information or indictment containing a
4583 count charging a violation of s. 895.03, the prosecution of
4584 which listed offense may continue independently if the
4585 prosecution of the violation of s. 895.03 is terminated for any
4586 reason;

4587
4588 or any attempt, solicitation, or conspiracy to commit any
4589 violation of the crimes specifically enumerated above, when any
4590 such offense is occurring, or has occurred, in two or more
4591 judicial circuits as part of a related transaction or when any
4592 such offense is connected with an organized criminal conspiracy
4593 affecting two or more judicial circuits. The statewide grand
4594 jury may return indictments and presentments irrespective of the
4595 county or judicial circuit where the offense is committed or
4596 triable. If an indictment is returned, it shall be certified and

32-01236A-17

20171558__

4597 transferred for trial to the county where the offense was
 4598 committed. The powers and duties of, and law applicable to,
 4599 county grand juries shall apply to a statewide grand jury except
 4600 when such powers, duties, and law are inconsistent with the
 4601 provisions of ss. 905.31-905.40.

4602 Section 104. For the purpose of incorporating the
 4603 amendments made by this act to sections 775.21 and 847.0135,
 4604 Florida Statutes, in references thereto, paragraph (g) of
 4605 subsection (3) of section 921.0022, Florida Statutes, is
 4606 reenacted to read:

4607 921.0022 Criminal Punishment Code; offense severity ranking
 4608 chart.—

4609 (3) OFFENSE SEVERITY RANKING CHART

4610 (g) LEVEL 7

4611

4612

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety

4613

4614

4615

32-01236A-17

20171558__

4616 while fleeing or attempting to
elude law enforcement officer
who is in a patrol vehicle with
siren and lights activated.

327.35 (3) (c) 2. 3rd Vessel BUI resulting in serious
bodily injury.

4617 402.319 (2) 2nd Misrepresentation and
negligence or intentional act
resulting in great bodily harm,
permanent disfiguration,
permanent disability, or death.

4618 409.920 3rd Medicaid provider fraud;
(2) (b) 1.a. \$10,000 or less.

4619 409.920 2nd Medicaid provider fraud; more
(2) (b) 1.b. than \$10,000, but less than
\$50,000.

4620 456.065 (2) 3rd Practicing a health care
profession without a license.

4621 456.065 (2) 2nd Practicing a health care
profession without a license
which results in serious bodily
injury.

4622

32-01236A-17 20171558__

4623	458.327(1)	3rd	Practicing medicine without a license.
4624	459.013(1)	3rd	Practicing osteopathic medicine without a license.
4625	460.411(1)	3rd	Practicing chiropractic medicine without a license.
4626	461.012(1)	3rd	Practicing podiatric medicine without a license.
4627	462.17	3rd	Practicing naturopathy without a license.
4628	463.015(1)	3rd	Practicing optometry without a license.
4629	464.016(1)	3rd	Practicing nursing without a license.
4630	465.015(2)	3rd	Practicing pharmacy without a license.
4631	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
	467.201	3rd	Practicing midwifery without a license.

32-01236A-17

20171558__

4632
4633
4634
4635
4636
4637
4638
4639

468.366	3rd	Delivering respiratory care services without a license.
483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901 (7)	3rd	Practicing medical physics without a license.
484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

32-01236A-17 20171558__

4640	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
4641	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
4642	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
4643	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
4644	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
4644	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted

32-01236A-17

20171558__

			felony.
4645	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
4646	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
4647	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
4648	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
4649	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
4650	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
4651	784.048(4)	3rd	Aggravated stalking; violation

32-01236A-17

20171558__

			of injunction or court order.
4652	784.048 (7)	3rd	Aggravated stalking; violation of court order.
4653	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
4654	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
4655	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
4656	784.081 (1)	1st	Aggravated battery on specified official or employee.
4657	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
4658	784.083 (1)	1st	Aggravated battery on code inspector.
4659	787.06 (3) (a) 2.	1st	Human trafficking using coercion for labor and services of an adult.
4660			

32-01236A-17

20171558__

4661	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
4662	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
4663	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
4664	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
4665	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
4666	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
4666	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction

32-01236A-17

20171558__

			while committing or attempting to commit a felony.
4667	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
4668	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
4669	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
4670	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
4671	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
4672	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of

32-01236A-17

20171558__

			age; offender 18 years of age or older.
4673	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
4674	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
4675	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
4676	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
4677	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
4678	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
4679	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a

32-01236A-17

20171558__

			semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
4680	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
4681	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
4682	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
4683	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
4684	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
4685	812.131 (2) (a)	2nd	Robbery by sudden snatching.
4686	812.133 (2) (b)	1st	Carjacking; no firearm, deadly

32-01236A-17

20171558__

4687			weapon, or other weapon.
4688	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
4689	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
4690	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
4691	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
4692	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
4693	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
	817.611 (2) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or

32-01236A-17

20171558__

4694			related documents.
	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
4695			
	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
4696			
	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
4697			
	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
4698			
	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
4699			
	838.015	2nd	Bribery.
4700			
	838.016	2nd	Unlawful compensation or reward for official behavior.
4701			

32-01236A-17 20171558__

4702	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
4703	838.22	2nd	Bid tampering.
4704	843.0855 (2)	3rd	Impersonation of a public officer or employee.
4705	843.0855 (3)	3rd	Unlawful simulation of legal process.
4706	843.0855 (4)	3rd	Intimidation of a public officer or employee.
4707	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
4708	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
4709	872.06	2nd	Abuse of a dead human body.
4710	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
	874.10	1st, PBL	Knowingly initiates, organizes,

32-01236A-17

20171558__

4711 plans, finances, directs,
manages, or supervises criminal
gang-related activity.

893.13(1)(c)1. 1st Sell, manufacture, or deliver
cocaine (or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

4712 893.13(1)(e)1. 1st Sell, manufacture, or deliver
cocaine or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.,
within 1,000 feet of property
used for religious services or
a specified business site.

4713 893.13(4)(a) 1st Use or hire of minor; deliver
to minor other controlled
substance.

4714

32-01236A-17

20171558__

4715

893.135(1)(a)1. 1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

4716

893.135(1)(b)1.a. 1st Trafficking in cocaine, more than 28 grams, less than 200 grams.

4717

893.135(1)(c)1.a. 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

4718

893.135(1)(c)2.a. 1st Trafficking in hydrocodone, 14 grams or more, less than 28 grams.

4719

893.135(1)(c)2.b. 1st Trafficking in hydrocodone, 28 grams or more, less than 50 grams.

4720

893.135(1)(c)3.a. 1st Trafficking in oxycodone, 7 grams or more, less than 14 grams.

4721

893.135(1)(c)3.b. 1st Trafficking in oxycodone, 14 grams or more, less than 25 grams.

893.135(1)(d)1. 1st Trafficking in phencyclidine,

32-01236A-17

20171558__

			more than 28 grams, less than 200 grams.
4722	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
4723	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
4724	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
4725	893.135 (1) (h) 1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
4726	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
4727	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
4728	893.1351 (2)	2nd	Possession of place for

32-01236A-17

20171558__

4729

trafficking in or manufacturing
of controlled substance.

896.101 (5) (a)

3rd

Money laundering, financial
transactions exceeding \$300 but
less than \$20,000.

4730

896.104 (4) (a) 1.

3rd

Structuring transactions to
evade reporting or registration
requirements, financial
transactions exceeding \$300 but
less than \$20,000.

4731

943.0435 (4) (c)

2nd

Sexual offender vacating
permanent residence; failure to
comply with reporting
requirements.

4732

943.0435 (8)

2nd

Sexual offender; remains in
state after indicating intent
to leave; failure to comply
with reporting requirements.

4733

943.0435 (9) (a)

3rd

Sexual offender; failure to
comply with reporting
requirements.

4734

943.0435 (13)

3rd

Failure to report or providing
false information about a

32-01236A-17

20171558__

4735

sexual offender; harbor or
conceal a sexual offender.

943.0435(14)

3rd

Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

4736

944.607(9)

3rd

Sexual offender; failure to
comply with reporting
requirements.

4737

944.607(10)(a)

3rd

Sexual offender; failure to
submit to the taking of a
digitized photograph.

4738

944.607(12)

3rd

Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

4739

944.607(13)

3rd

Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

4740

985.4815(10)

3rd

Sexual offender; failure to

32-01236A-17

20171558__

submit to the taking of a digitized photograph.

4741

985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

4742

985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

4743

4744 Section 105. For the purpose of incorporating the amendment
 4745 made by this act to section 775.21, Florida Statutes, in a
 4746 reference thereto, paragraph (o) of subsection (6) of section
 4747 921.141, Florida Statutes, is reenacted to read:

4748 921.141 Sentence of death or life imprisonment for capital
 4749 felonies; further proceedings to determine sentence.—

4750 (6) AGGRAVATING FACTORS.—Aggravating factors shall be
 4751 limited to the following:

4752 (o) The capital felony was committed by a person designated
 4753 as a sexual predator pursuant to s. 775.21 or a person
 4754 previously designated as a sexual predator who had the sexual
 4755 predator designation removed.

4756 Section 106. For the purpose of incorporating the amendment
 4757 made by this act to section 948.013, Florida Statutes, in a
 4758 reference thereto, paragraph (n) of subsection (1) of section

32-01236A-17

20171558__

4759 921.187, Florida Statutes, is reenacted to read:

4760 921.187 Disposition and sentencing; alternatives;
4761 restitution.—

4762 (1) The alternatives provided in this section for the
4763 disposition of criminal cases shall be used in a manner that
4764 will best serve the needs of society, punish criminal offenders,
4765 and provide the opportunity for rehabilitation. If the offender
4766 does not receive a state prison sentence, the court may:

4767 (n) Impose split probation whereby upon satisfactory
4768 completion of half the term of probation, the Department of
4769 Corrections may place the offender on administrative probation
4770 pursuant to s. 948.013 for the remainder of the term of
4771 supervision.

4772 Section 107. For the purpose of incorporating the
4773 amendments made by this act to sections 775.21, 944.606, and
4774 944.607, Florida Statutes, in references thereto, subsection
4775 (3), paragraph (a) of subsection (4), and subsection (5) of
4776 section 943.0435, Florida Statutes, are reenacted to read:

4777 943.0435 Sexual offenders required to register with the
4778 department; penalty.—

4779 (3) Within 48 hours after the report required under
4780 subsection (2), a sexual offender shall report in person at a
4781 driver license office of the Department of Highway Safety and
4782 Motor Vehicles, unless a driver license or identification card
4783 that complies with the requirements of s. 322.141(3) was
4784 previously secured or updated under s. 944.607. At the driver
4785 license office the sexual offender shall:

4786 (a) If otherwise qualified, secure a Florida driver
4787 license, renew a Florida driver license, or secure an

32-01236A-17

20171558__

4788 identification card. The sexual offender shall identify himself
4789 or herself as a sexual offender who is required to comply with
4790 this section and shall provide proof that the sexual offender
4791 reported as required in subsection (2). The sexual offender
4792 shall provide any of the information specified in subsection
4793 (2), if requested. The sexual offender shall submit to the
4794 taking of a photograph for use in issuing a driver license,
4795 renewed license, or identification card, and for use by the
4796 department in maintaining current records of sexual offenders.

4797 (b) Pay the costs assessed by the Department of Highway
4798 Safety and Motor Vehicles for issuing or renewing a driver
4799 license or identification card as required by this section. The
4800 driver license or identification card issued must be in
4801 compliance with s. 322.141(3).

4802 (c) Provide, upon request, any additional information
4803 necessary to confirm the identity of the sexual offender,
4804 including a set of fingerprints.

4805 (4) (a) Each time a sexual offender's driver license or
4806 identification card is subject to renewal, and, without regard
4807 to the status of the offender's driver license or identification
4808 card, within 48 hours after any change in the offender's
4809 permanent, temporary, or transient residence or change in the
4810 offender's name by reason of marriage or other legal process,
4811 the offender shall report in person to a driver license office,
4812 and is subject to the requirements specified in subsection (3).
4813 The Department of Highway Safety and Motor Vehicles shall
4814 forward to the department all photographs and information
4815 provided by sexual offenders. Notwithstanding the restrictions
4816 set forth in s. 322.142, the Department of Highway Safety and

32-01236A-17

20171558__

4817 Motor Vehicles may release a reproduction of a color-photograph
4818 or digital-image license to the Department of Law Enforcement
4819 for purposes of public notification of sexual offenders as
4820 provided in this section and ss. 943.043 and 944.606. A sexual
4821 offender who is unable to secure or update a driver license or
4822 an identification card with the Department of Highway Safety and
4823 Motor Vehicles as provided in subsection (3) and this subsection
4824 shall also report any change in the sexual offender's permanent,
4825 temporary, or transient residence or change in the offender's
4826 name by reason of marriage or other legal process within 48
4827 hours after the change to the sheriff's office in the county
4828 where the offender resides or is located and provide
4829 confirmation that he or she reported such information to the
4830 Department of Highway Safety and Motor Vehicles. The reporting
4831 requirements under this paragraph do not negate the requirement
4832 for a sexual offender to obtain a Florida driver license or an
4833 identification card as required in this section.

4834 (5) This section does not apply to a sexual offender who is
4835 also a sexual predator, as defined in s. 775.21. A sexual
4836 predator must register as required under s. 775.21.

4837 Section 108. For the purpose of incorporating the
4838 amendments made by this act to sections 943.0435, 944.606, and
4839 944.607, Florida Statutes, in references thereto, subsection (2)
4840 of section 943.0436, Florida Statutes, is reenacted to read:

4841 943.0436 Duty of the court to uphold laws governing sexual
4842 predators and sexual offenders.—

4843 (2) If a person meets the criteria in chapter 775 for
4844 designation as a sexual predator or meets the criteria in s.
4845 943.0435, s. 944.606, s. 944.607, or any other law for

32-01236A-17

20171558__

4846 classification as a sexual offender, the court may not enter an
4847 order, for the purpose of approving a plea agreement or for any
4848 other reason, which:

4849 (a) Exempts a person who meets the criteria for designation
4850 as a sexual predator or classification as a sexual offender from
4851 such designation or classification, or exempts such person from
4852 the requirements for registration or community and public
4853 notification imposed upon sexual predators and sexual offenders;

4854 (b) Restricts the compiling, reporting, or release of
4855 public records information that relates to sexual predators or
4856 sexual offenders; or

4857 (c) Prevents any person or entity from performing its
4858 duties or operating within its statutorily conferred authority
4859 as such duty or authority relates to sexual predators or sexual
4860 offenders.

4861 Section 109. For the purpose of incorporating the amendment
4862 made by this act to section 847.0135, Florida Statutes, in a
4863 reference thereto, paragraph (g) of subsection (2) of section
4864 943.325, Florida Statutes, is reenacted to read:

4865 943.325 DNA database.—

4866 (2) DEFINITIONS.—As used in this section, the term:

4867 (g) "Qualifying offender" means any person, including
4868 juveniles and adults, who is:

4869 1.a. Committed to a county jail;

4870 b. Committed to or under the supervision of the Department
4871 of Corrections, including persons incarcerated in a private
4872 correctional institution operated under contract pursuant to s.
4873 944.105;

4874 c. Committed to or under the supervision of the Department

32-01236A-17

20171558__

4875 of Juvenile Justice;

4876 d. Transferred to this state under the Interstate Compact
4877 on Juveniles, part XIII of chapter 985; or

4878 e. Accepted under Article IV of the Interstate Corrections
4879 Compact, part III of chapter 941; and who is:

4880 2.a. Convicted of any felony offense or attempted felony
4881 offense in this state or of a similar offense in another
4882 jurisdiction;

4883 b. Convicted of a misdemeanor violation of s. 784.048, s.
4884 810.14, s. 847.011, s. 847.013, s. 847.0135, or s. 877.26, or an
4885 offense that was found, pursuant to s. 874.04, to have been
4886 committed for the purpose of benefiting, promoting, or
4887 furthering the interests of a criminal gang as defined in s.
4888 874.03; or

4889 c. Arrested for any felony offense or attempted felony
4890 offense in this state.

4891 Section 110. For the purpose of incorporating the amendment
4892 made by this act to section 847.001, Florida Statutes, in a
4893 reference thereto, subsection (2) of section 944.11, Florida
4894 Statutes, is reenacted to read:

4895 944.11 Department to regulate admission of books.—

4896 (2) The department shall have the authority to prohibit
4897 admission of reading materials or publications with content
4898 which depicts sexual conduct as defined by s. 847.001 or
4899 presents nudity in such a way as to create the appearance that
4900 sexual conduct is imminent. The department shall have the
4901 authority to prohibit admission of such materials at a
4902 particular state correctional facility upon a determination by
4903 the department that such material or publications would be

32-01236A-17

20171558__

4904 detrimental to the safety, security, order or rehabilitative
4905 interests of a particular state correctional facility or would
4906 create a risk of disorder at a particular state correctional
4907 facility.

4908 Section 111. For the purpose of incorporating the
4909 amendments made by this act to sections 775.21 and 943.0435,
4910 Florida Statutes, in references thereto, paragraph (a) of
4911 subsection (4) and subsection (9) of section 944.607, Florida
4912 Statutes, are reenacted to read:

4913 944.607 Notification to Department of Law Enforcement of
4914 information on sexual offenders.—

4915 (4) A sexual offender, as described in this section, who is
4916 under the supervision of the Department of Corrections but is
4917 not incarcerated shall register with the Department of
4918 Corrections within 3 business days after sentencing for a
4919 registrable offense and otherwise provide information as
4920 required by this subsection.

4921 (a) The sexual offender shall provide his or her name; date
4922 of birth; social security number; race; sex; height; weight;
4923 hair and eye color; tattoos or other identifying marks; all
4924 electronic mail addresses and Internet identifiers required to
4925 be provided pursuant to s. 943.0435(4) (e); employment
4926 information required to be provided pursuant to s.
4927 943.0435(4) (e); all home telephone numbers and cellular
4928 telephone numbers required to be provided pursuant to s.
4929 943.0435(4) (e); the make, model, color, vehicle identification
4930 number (VIN), and license tag number of all vehicles owned;
4931 permanent or legal residence and address of temporary residence
4932 within the state or out of state while the sexual offender is

32-01236A-17

20171558__

4933 under supervision in this state, including any rural route
4934 address or post office box; if no permanent or temporary
4935 address, any transient residence within the state; and address,
4936 location or description, and dates of any current or known
4937 future temporary residence within the state or out of state. The
4938 sexual offender shall also produce his or her passport, if he or
4939 she has a passport, and, if he or she is an alien, shall produce
4940 or provide information about documents establishing his or her
4941 immigration status. The sexual offender shall also provide
4942 information about any professional licenses he or she has. The
4943 Department of Corrections shall verify the address of each
4944 sexual offender in the manner described in ss. 775.21 and
4945 943.0435. The department shall report to the Department of Law
4946 Enforcement any failure by a sexual predator or sexual offender
4947 to comply with registration requirements.

4948 (9) A sexual offender, as described in this section, who is
4949 under the supervision of the Department of Corrections but who
4950 is not incarcerated shall, in addition to the registration
4951 requirements provided in subsection (4), register and obtain a
4952 distinctive driver license or identification card in the manner
4953 provided in s. 943.0435(3), (4), and (5), unless the sexual
4954 offender is a sexual predator, in which case he or she shall
4955 register and obtain a distinctive driver license or
4956 identification card as required under s. 775.21. A sexual
4957 offender who fails to comply with the requirements of s.
4958 943.0435 is subject to the penalties provided in s. 943.0435(9).

4959 Section 112. For the purpose of incorporating the
4960 amendments made by this act to sections 775.21 and 944.607,
4961 Florida Statutes, in references thereto, subsection (7) of

32-01236A-17

20171558__

4962 section 944.608, Florida Statutes, is reenacted to read:

4963 944.608 Notification to Department of Law Enforcement of
4964 information on career offenders.—

4965 (7) A career offender who is under the supervision of the
4966 department but who is not incarcerated shall, in addition to the
4967 registration requirements provided in subsection (3), register
4968 in the manner provided in s. 775.261(4)(c), unless the career
4969 offender is a sexual predator, in which case he or she shall
4970 register as required under s. 775.21, or is a sexual offender,
4971 in which case he or she shall register as required in s.

4972 944.607. A career offender who fails to comply with the
4973 requirements of s. 775.261(4) is subject to the penalties
4974 provided in s. 775.261(8).

4975 Section 113. For the purpose of incorporating the amendment
4976 made by this act to section 775.21, Florida Statutes, in a
4977 reference thereto, subsection (4) of section 944.609, Florida
4978 Statutes, is reenacted to read:

4979 944.609 Career offenders; notification upon release.—

4980 (4) The department or any law enforcement agency may notify
4981 the community and the public of a career offender's presence in
4982 the community. However, with respect to a career offender who
4983 has been found to be a sexual predator under s. 775.21, the
4984 Department of Law Enforcement or any other law enforcement
4985 agency must inform the community and the public of the career
4986 offender's presence in the community, as provided in s. 775.21.

4987 Section 114. For the purpose of incorporating the amendment
4988 made by this act to section 947.1405, Florida Statutes, in a
4989 reference thereto, subsection (1) of section 944.70, Florida
4990 Statutes, is reenacted to read:

32-01236A-17

20171558__

4991 944.70 Conditions for release from incarceration.—
4992 (1) (a) A person who is convicted of a crime committed on or
4993 after October 1, 1983, but before January 1, 1994, may be
4994 released from incarceration only:
4995 1. Upon expiration of the person's sentence;
4996 2. Upon expiration of the person's sentence as reduced by
4997 accumulated gain-time;
4998 3. As directed by an executive order granting clemency;
4999 4. Upon attaining the provisional release date;
5000 5. Upon placement in a conditional release program pursuant
5001 to s. 947.1405; or
5002 6. Upon the granting of control release pursuant to s.
5003 947.146.
5004 (b) A person who is convicted of a crime committed on or
5005 after January 1, 1994, may be released from incarceration only:
5006 1. Upon expiration of the person's sentence;
5007 2. Upon expiration of the person's sentence as reduced by
5008 accumulated meritorious or incentive gain-time;
5009 3. As directed by an executive order granting clemency;
5010 4. Upon placement in a conditional release program pursuant
5011 to s. 947.1405 or a conditional medical release program pursuant
5012 to s. 947.149; or
5013 5. Upon the granting of control release, including
5014 emergency control release, pursuant to s. 947.146.
5015 Section 115. For the purpose of incorporating the amendment
5016 made by this act to section 947.1405, Florida Statutes, in a
5017 reference thereto, paragraph (f) of subsection (1) of section
5018 947.13, Florida Statutes, is reenacted to read:
5019 947.13 Powers and duties of commission.—

32-01236A-17

20171558__

5020 (1) The commission shall have the powers and perform the
5021 duties of:

5022 (f) Establishing the terms and conditions of persons
5023 released on conditional release under s. 947.1405, and
5024 determining subsequent ineligibility for conditional release due
5025 to a violation of the terms or conditions of conditional release
5026 and taking action with respect to such a violation.

5027 Section 116. For the purpose of incorporating the
5028 amendments made by this act to sections 775.21, 943.0435, and
5029 943.4354, Florida Statutes, in references thereto, paragraph (c)
5030 of subsection (2) and subsection (12) of section 947.1405,
5031 Florida Statutes, are reenacted to read:

5032 947.1405 Conditional release program.—

5033 (2) Any inmate who:

5034 (c) Is found to be a sexual predator under s. 775.21 or
5035 former s. 775.23,

5036

5037 shall, upon reaching the tentative release date or provisional
5038 release date, whichever is earlier, as established by the
5039 Department of Corrections, be released under supervision subject
5040 to specified terms and conditions, including payment of the cost
5041 of supervision pursuant to s. 948.09. Such supervision shall be
5042 applicable to all sentences within the overall term of sentences
5043 if an inmate's overall term of sentences includes one or more
5044 sentences that are eligible for conditional release supervision
5045 as provided herein. Effective July 1, 1994, and applicable for
5046 offenses committed on or after that date, the commission may
5047 require, as a condition of conditional release, that the
5048 releasee make payment of the debt due and owing to a county or

32-01236A-17

20171558__

5049 municipal detention facility under s. 951.032 for medical care,
5050 treatment, hospitalization, or transportation received by the
5051 releasee while in that detention facility. The commission, in
5052 determining whether to order such repayment and the amount of
5053 such repayment, shall consider the amount of the debt, whether
5054 there was any fault of the institution for the medical expenses
5055 incurred, the financial resources of the releasee, the present
5056 and potential future financial needs and earning ability of the
5057 releasee, and dependents, and other appropriate factors. If any
5058 inmate placed on conditional release supervision is also subject
5059 to probation or community control, resulting from a probationary
5060 or community control split sentence within the overall term of
5061 sentences, the Department of Corrections shall supervise such
5062 person according to the conditions imposed by the court and the
5063 commission shall defer to such supervision. If the court revokes
5064 probation or community control and resentsences the offender to a
5065 term of incarceration, such revocation also constitutes a
5066 sufficient basis for the revocation of the conditional release
5067 supervision on any nonprobationary or noncommunity control
5068 sentence without further hearing by the commission. If any such
5069 supervision on any nonprobationary or noncommunity control
5070 sentence is revoked, such revocation may result in a forfeiture
5071 of all gain-time, and the commission may revoke the resulting
5072 deferred conditional release supervision or take other action it
5073 considers appropriate. If the term of conditional release
5074 supervision exceeds that of the probation or community control,
5075 then, upon expiration of the probation or community control,
5076 authority for the supervision shall revert to the commission and
5077 the supervision shall be subject to the conditions imposed by

32-01236A-17

20171558__

5078 the commission. A panel of no fewer than two commissioners shall
5079 establish the terms and conditions of any such release. If the
5080 offense was a controlled substance violation, the conditions
5081 shall include a requirement that the offender submit to random
5082 substance abuse testing intermittently throughout the term of
5083 conditional release supervision, upon the direction of the
5084 correctional probation officer as defined in s. 943.10(3). The
5085 commission shall also determine whether the terms and conditions
5086 of such release have been violated and whether such violation
5087 warrants revocation of the conditional release.

5088 (12) In addition to all other conditions imposed, for a
5089 releasee who is subject to conditional release for a crime that
5090 was committed on or after May 26, 2010, and who has been
5091 convicted at any time of committing, or attempting, soliciting,
5092 or conspiring to commit, any of the criminal offenses listed in
5093 s. 943.0435(1)(h)1.a.(I), or a similar offense in another
5094 jurisdiction against a victim who was under 18 years of age at
5095 the time of the offense, if the releasee has not received a
5096 pardon for any felony or similar law of another jurisdiction
5097 necessary for the operation of this subsection, if a conviction
5098 of a felony or similar law of another jurisdiction necessary for
5099 the operation of this subsection has not been set aside in any
5100 postconviction proceeding, or if the releasee has not been
5101 removed from the requirement to register as a sexual offender or
5102 sexual predator pursuant to s. 943.04354, the commission must
5103 impose the following conditions:

5104 (a) A prohibition on visiting schools, child care
5105 facilities, parks, and playgrounds without prior approval from
5106 the releasee's supervising officer. The commission may also

32-01236A-17

20171558__

5107 designate additional prohibited locations to protect a victim.
5108 The prohibition ordered under this paragraph does not prohibit
5109 the releasee from visiting a school, child care facility, park,
5110 or playground for the sole purpose of attending a religious
5111 service as defined in s. 775.0861 or picking up or dropping off
5112 the releasee's child or grandchild at a child care facility or
5113 school.

5114 (b) A prohibition on distributing candy or other items to
5115 children on Halloween; wearing a Santa Claus costume, or other
5116 costume to appeal to children, on or preceding Christmas;
5117 wearing an Easter Bunny costume, or other costume to appeal to
5118 children, on or preceding Easter; entertaining at children's
5119 parties; or wearing a clown costume without prior approval from
5120 the commission.

5121 Section 117. For the purpose of incorporating the amendment
5122 made by this act to section 947.1405, Florida Statutes, in a
5123 reference thereto, subsections (1), (2), and (7) of section
5124 947.141, Florida Statutes, are reenacted to read:

5125 947.141 Violations of conditional release, control release,
5126 or conditional medical release or addiction-recovery
5127 supervision.—

5128 (1) If a member of the commission or a duly authorized
5129 representative of the commission has reasonable grounds to
5130 believe that an offender who is on release supervision under s.
5131 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
5132 the terms and conditions of the release in a material respect,
5133 such member or representative may cause a warrant to be issued
5134 for the arrest of the releasee; if the offender was found to be
5135 a sexual predator, the warrant must be issued.

32-01236A-17

20171558__

5136 (2) Upon the arrest on a felony charge of an offender who
5137 is on release supervision under s. 947.1405, s. 947.146, s.
5138 947.149, or s. 944.4731, the offender must be detained without
5139 bond until the initial appearance of the offender at which a
5140 judicial determination of probable cause is made. If the trial
5141 court judge determines that there was no probable cause for the
5142 arrest, the offender may be released. If the trial court judge
5143 determines that there was probable cause for the arrest, such
5144 determination also constitutes reasonable grounds to believe
5145 that the offender violated the conditions of the release. Within
5146 24 hours after the trial court judge's finding of probable
5147 cause, the detention facility administrator or designee shall
5148 notify the commission and the department of the finding and
5149 transmit to each a facsimile copy of the probable cause
5150 affidavit or the sworn offense report upon which the trial court
5151 judge's probable cause determination is based. The offender must
5152 continue to be detained without bond for a period not exceeding
5153 72 hours excluding weekends and holidays after the date of the
5154 probable cause determination, pending a decision by the
5155 commission whether to issue a warrant charging the offender with
5156 violation of the conditions of release. Upon the issuance of the
5157 commission's warrant, the offender must continue to be held in
5158 custody pending a revocation hearing held in accordance with
5159 this section.

5160 (7) If a law enforcement officer has probable cause to
5161 believe that an offender who is on release supervision under s.
5162 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
5163 the terms and conditions of his or her release by committing a
5164 felony offense, the officer shall arrest the offender without a

32-01236A-17

20171558__

5165 warrant, and a warrant need not be issued in the case.

5166 Section 118. For the purpose of incorporating the amendment
5167 made by this act to section 775.21, Florida Statutes, in a
5168 reference thereto, paragraphs (b) and (d) of subsection (8) of
5169 section 948.06, Florida Statutes, are reenacted to read:

5170 948.06 Violation of probation or community control;
5171 revocation; modification; continuance; failure to pay
5172 restitution or cost of supervision.—

5173 (8)

5174 (b) For purposes of this section and ss. 903.0351, 948.064,
5175 and 921.0024, the term "violent felony offender of special
5176 concern" means a person who is on:

5177 1. Felony probation or community control related to the
5178 commission of a qualifying offense committed on or after the
5179 effective date of this act;

5180 2. Felony probation or community control for any offense
5181 committed on or after the effective date of this act, and has
5182 previously been convicted of a qualifying offense;

5183 3. Felony probation or community control for any offense
5184 committed on or after the effective date of this act, and is
5185 found to have violated that probation or community control by
5186 committing a qualifying offense;

5187 4. Felony probation or community control and has previously
5188 been found by a court to be a habitual violent felony offender
5189 as defined in s. 775.084(1)(b) and has committed a qualifying
5190 offense on or after the effective date of this act;

5191 5. Felony probation or community control and has previously
5192 been found by a court to be a three-time violent felony offender
5193 as defined in s. 775.084(1)(c) and has committed a qualifying

32-01236A-17

20171558__

5194 offense on or after the effective date of this act; or

5195 6. Felony probation or community control and has previously
5196 been found by a court to be a sexual predator under s. 775.21
5197 and has committed a qualifying offense on or after the effective
5198 date of this act.

5199 (d) In the case of an alleged violation of probation or
5200 community control other than a failure to pay costs, fines, or
5201 restitution, the following individuals shall remain in custody
5202 pending the resolution of the probation or community control
5203 violation:

5204 1. A violent felony offender of special concern, as defined
5205 in this section;

5206 2. A person who is on felony probation or community control
5207 for any offense committed on or after the effective date of this
5208 act and who is arrested for a qualifying offense as defined in
5209 this section; or

5210 3. A person who is on felony probation or community control
5211 and has previously been found by a court to be a habitual
5212 violent felony offender as defined in s. 775.084(1)(b), a three-
5213 time violent felony offender as defined in s. 775.084(1)(c), or
5214 a sexual predator under s. 775.21, and who is arrested for
5215 committing a qualifying offense as defined in this section on or
5216 after the effective date of this act.

5217
5218 The court shall not dismiss the probation or community control
5219 violation warrant pending against an offender enumerated in this
5220 paragraph without holding a recorded violation-of-probation
5221 hearing at which both the state and the offender are
5222 represented.

32-01236A-17

20171558__

5223 Section 119. For the purpose of incorporating the
5224 amendments made by this act to sections 775.21, 943.0435, and
5225 944.607, Florida Statutes, in references thereto, section
5226 948.063, Florida Statutes, is reenacted to read:

5227 948.063 Violations of probation or community control by
5228 designated sexual offenders and sexual predators.—

5229 (1) If probation or community control for any felony
5230 offense is revoked by the court pursuant to s. 948.06(2)(e) and
5231 the offender is designated as a sexual offender pursuant to s.
5232 943.0435 or s. 944.607 or as a sexual predator pursuant to s.
5233 775.21 for unlawful sexual activity involving a victim 15 years
5234 of age or younger and the offender is 18 years of age or older,
5235 and if the court imposes a subsequent term of supervision
5236 following the revocation of probation or community control, the
5237 court must order electronic monitoring as a condition of the
5238 subsequent term of probation or community control.

5239 (2) If the probationer or offender is required to register
5240 as a sexual predator under s. 775.21 or as a sexual offender
5241 under s. 943.0435 or s. 944.607 for unlawful sexual activity
5242 involving a victim 15 years of age or younger and the
5243 probationer or offender is 18 years of age or older and has
5244 violated the conditions of his or her probation or community
5245 control, but the court does not revoke the probation or
5246 community control, the court shall nevertheless modify the
5247 probation or community control to include electronic monitoring
5248 for any probationer or offender not then subject to electronic
5249 monitoring.

5250 Section 120. For the purpose of incorporating the amendment
5251 made by this act to section 775.21, Florida Statutes, in a

32-01236A-17

20171558__

5252 reference thereto, subsection (4) of section 948.064, Florida
5253 Statutes, is reenacted to read:

5254 948.064 Notification of status as a violent felony offender
5255 of special concern.—

5256 (4) The state attorney, or the statewide prosecutor if
5257 applicable, shall advise the court at each critical stage in the
5258 judicial process, at which the state attorney or statewide
5259 prosecutor is represented, whether an alleged or convicted
5260 offender is a violent felony offender of special concern; a
5261 person who is on felony probation or community control for any
5262 offense committed on or after the effective date of this act and
5263 who is arrested for a qualifying offense; or a person who is on
5264 felony probation or community control and has previously been
5265 found by a court to be a habitual violent felony offender as
5266 defined in s. 775.084(1)(b), a three-time violent felony
5267 offender as defined in s. 775.084(1)(c), or a sexual predator
5268 under s. 775.21, and who is arrested for committing a qualifying
5269 offense on or after the effective date of this act.

5270 Section 121. For the purpose of incorporating the amendment
5271 made by this act to section 948.06, Florida Statutes, in a
5272 reference thereto, paragraph (a) of subsection (7) of section
5273 948.08, Florida Statutes, is reenacted to read:

5274 948.08 Pretrial intervention program.—

5275 (7) (a) Notwithstanding any provision of this section, a
5276 person who is charged with a felony, other than a felony listed
5277 in s. 948.06(8)(c), and identified as a veteran, as defined in
5278 s. 1.01, including a veteran who is discharged or released under
5279 a general discharge, or servicemember, as defined in s. 250.01,
5280 who suffers from a military service-related mental illness,

32-01236A-17

20171558__

5281 traumatic brain injury, substance abuse disorder, or
5282 psychological problem, is eligible for voluntary admission into
5283 a pretrial veterans' treatment intervention program approved by
5284 the chief judge of the circuit, upon motion of either party or
5285 the court's own motion, except:

5286 1. If a defendant was previously offered admission to a
5287 pretrial veterans' treatment intervention program at any time
5288 before trial and the defendant rejected that offer on the
5289 record, the court may deny the defendant's admission to such a
5290 program.

5291 2. If a defendant previously entered a court-ordered
5292 veterans' treatment program, the court may deny the defendant's
5293 admission into the pretrial veterans' treatment program.

5294 Section 122. For the purpose of incorporating the amendment
5295 made by this act to section 775.21, Florida Statutes, in a
5296 reference thereto, subsection (3) of section 948.12, Florida
5297 Statutes, is reenacted to read:

5298 948.12 Intensive supervision for postprison release of
5299 violent offenders.—It is the finding of the Legislature that the
5300 population of violent offenders released from state prison into
5301 the community poses the greatest threat to the public safety of
5302 the groups of offenders under community supervision. Therefore,
5303 for the purpose of enhanced public safety, any offender released
5304 from state prison who:

5305 (3) Has been found to be a sexual predator pursuant to s.
5306 775.21,

5307

5308 and who has a term of probation to follow the period of
5309 incarceration shall be provided intensive supervision by

32-01236A-17

20171558__

5310 experienced correctional probation officers. Subject to specific
5311 appropriation by the Legislature, caseloads may be restricted to
5312 a maximum of 40 offenders per officer to provide for enhanced
5313 public safety as well as to effectively monitor conditions of
5314 electronic monitoring or curfews, if such was ordered by the
5315 court.

5316 Section 123. For the purpose of incorporating the
5317 amendments made by this act to sections 775.21 and 943.0435,
5318 Florida Statutes, in references thereto, paragraph (b) of
5319 subsection (3) and subsection (4) of section 948.30, Florida
5320 Statutes, are reenacted to read:

5321 948.30 Additional terms and conditions of probation or
5322 community control for certain sex offenses.—Conditions imposed
5323 pursuant to this section do not require oral pronouncement at
5324 the time of sentencing and shall be considered standard
5325 conditions of probation or community control for offenders
5326 specified in this section.

5327 (3) Effective for a probationer or community controllee
5328 whose crime was committed on or after September 1, 2005, and
5329 who:

5330 (b) Is designated a sexual predator pursuant to s. 775.21;
5331 or

5332
5333 the court must order, in addition to any other provision of this
5334 section, mandatory electronic monitoring as a condition of the
5335 probation or community control supervision.

5336 (4) In addition to all other conditions imposed, for a
5337 probationer or community controllee who is subject to
5338 supervision for a crime that was committed on or after May 26,

32-01236A-17

20171558__

5339 2010, and who has been convicted at any time of committing, or
5340 attempting, soliciting, or conspiring to commit, any of the
5341 criminal offenses listed in s. 943.0435(1)(h)1.a.(I), or a
5342 similar offense in another jurisdiction, against a victim who
5343 was under the age of 18 at the time of the offense; if the
5344 offender has not received a pardon for any felony or similar law
5345 of another jurisdiction necessary for the operation of this
5346 subsection, if a conviction of a felony or similar law of
5347 another jurisdiction necessary for the operation of this
5348 subsection has not been set aside in any postconviction
5349 proceeding, or if the offender has not been removed from the
5350 requirement to register as a sexual offender or sexual predator
5351 pursuant to s. 943.04354, the court must impose the following
5352 conditions:

5353 (a) A prohibition on visiting schools, child care
5354 facilities, parks, and playgrounds, without prior approval from
5355 the offender's supervising officer. The court may also designate
5356 additional locations to protect a victim. The prohibition
5357 ordered under this paragraph does not prohibit the offender from
5358 visiting a school, child care facility, park, or playground for
5359 the sole purpose of attending a religious service as defined in
5360 s. 775.0861 or picking up or dropping off the offender's
5361 children or grandchildren at a child care facility or school.

5362 (b) A prohibition on distributing candy or other items to
5363 children on Halloween; wearing a Santa Claus costume, or other
5364 costume to appeal to children, on or preceding Christmas;
5365 wearing an Easter Bunny costume, or other costume to appeal to
5366 children, on or preceding Easter; entertaining at children's
5367 parties; or wearing a clown costume; without prior approval from

32-01236A-17

20171558__

5368 the court.

5369 Section 124. For the purpose of incorporating the
5370 amendments made by this act to sections 775.21, 943.0435,
5371 944.606, and 944.607, Florida Statutes, in references thereto,
5372 section 948.31, Florida Statutes, is reenacted to read:

5373 948.31 Evaluation and treatment of sexual predators and
5374 offenders on probation or community control.—The court may
5375 require any probationer or community controllee who is required
5376 to register as a sexual predator under s. 775.21 or sexual
5377 offender under s. 943.0435, s. 944.606, or s. 944.607 to undergo
5378 an evaluation, at the probationer or community controllee's
5379 expense, by a qualified practitioner to determine whether such
5380 probationer or community controllee needs sexual offender
5381 treatment. If the qualified practitioner determines that sexual
5382 offender treatment is needed and recommends treatment, the
5383 probationer or community controllee must successfully complete
5384 and pay for the treatment. Such treatment must be obtained from
5385 a qualified practitioner as defined in s. 948.001. Treatment may
5386 not be administered by a qualified practitioner who has been
5387 convicted or adjudicated delinquent of committing, or
5388 attempting, soliciting, or conspiring to commit, any offense
5389 that is listed in s. 943.0435(1)(h)1.a.(I).

5390 Section 125. For the purpose of incorporating the amendment
5391 made by this act to section 775.0877, Florida Statutes, in a
5392 reference thereto, section 951.27, Florida Statutes, is
5393 reenacted to read:

5394 951.27 Blood tests of inmates.—

5395 (1) Each county and each municipal detention facility shall
5396 have a written procedure developed, in consultation with the

32-01236A-17

20171558__

5397 facility medical provider, establishing conditions under which
5398 an inmate will be tested for infectious disease, including human
5399 immunodeficiency virus pursuant to s. 775.0877, which procedure
5400 is consistent with guidelines of the Centers for Disease Control
5401 and Prevention and recommendations of the Correctional Medical
5402 Authority. It is not unlawful for the person receiving the test
5403 results to divulge the test results to the sheriff or chief
5404 correctional officer.

5405 (2) Except as otherwise provided in this subsection,
5406 serologic blood test results obtained pursuant to subsection (1)
5407 are confidential and exempt from the provisions of s. 119.07(1)
5408 and s. 24(a), Art. I of the State Constitution. However, such
5409 results may be provided to employees or officers of the sheriff
5410 or chief correctional officer who are responsible for the
5411 custody and care of the affected inmate and have a need to know
5412 such information, and as provided in ss. 775.0877 and 960.003.
5413 In addition, upon request of the victim or the victim's legal
5414 guardian, or the parent or legal guardian of the victim if the
5415 victim is a minor, the results of any HIV test performed on an
5416 inmate who has been arrested for any sexual offense involving
5417 oral, anal, or vaginal penetration by, or union with, the sexual
5418 organ of another, shall be disclosed to the victim or the
5419 victim's legal guardian, or to the parent or legal guardian of
5420 the victim if the victim is a minor. In such cases, the county
5421 or municipal detention facility shall furnish the test results
5422 to the Department of Health, which is responsible for disclosing
5423 the results to public health agencies as provided in s. 775.0877
5424 and to the victim or the victim's legal guardian, or the parent
5425 or legal guardian of the victim if the victim is a minor, as

32-01236A-17

20171558__

5426 provided in s. 960.003(3).

5427 (3) The results of any serologic blood test on an inmate
5428 are a part of that inmate's permanent medical file. Upon
5429 transfer of the inmate to any other correctional facility, such
5430 file is also transferred, and all relevant authorized persons
5431 must be notified of positive HIV test results, as required in s.
5432 775.0877.

5433 Section 126. For the purpose of incorporating the amendment
5434 made by this act to section 775.0877, Florida Statutes, in a
5435 reference thereto, paragraphs (a) and (b) of subsection (2) and
5436 paragraph (a) of subsection (3) of section 960.003, Florida
5437 Statutes, are reenacted to read:

5438 960.003 Hepatitis and HIV testing for persons charged with
5439 or alleged by petition for delinquency to have committed certain
5440 offenses; disclosure of results to victims.-

5441 (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY PETITION
5442 FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.-

5443 (a) In any case in which a person has been charged by
5444 information or indictment with or alleged by petition for
5445 delinquency to have committed any offense enumerated in s.
5446 775.0877(1)(a)-(n), which involves the transmission of body
5447 fluids from one person to another, upon request of the victim or
5448 the victim's legal guardian, or of the parent or legal guardian
5449 of the victim if the victim is a minor, the court shall order
5450 such person to undergo hepatitis and HIV testing within 48 hours
5451 after the information, indictment, or petition for delinquency
5452 is filed. In the event the victim or, if the victim is a minor,
5453 the victim's parent or legal guardian requests hepatitis and HIV
5454 testing after 48 hours have elapsed from the filing of the

32-01236A-17

20171558__

5455 indictment, information, or petition for delinquency, the
5456 testing shall be done within 48 hours after the request.

5457 (b) However, when a victim of any sexual offense enumerated
5458 in s. 775.0877(1)(a)-(n) is under the age of 18 at the time the
5459 offense was committed or when a victim of any sexual offense
5460 enumerated in s. 775.0877(1)(a)-(n) or s. 825.1025 is a disabled
5461 adult or elderly person as defined in s. 825.1025 regardless of
5462 whether the offense involves the transmission of bodily fluids
5463 from one person to another, then upon the request of the victim
5464 or the victim's legal guardian, or of the parent or legal
5465 guardian, the court shall order such person to undergo hepatitis
5466 and HIV testing within 48 hours after the information,
5467 indictment, or petition for delinquency is filed. In the event
5468 the victim or, if the victim is a minor, the victim's parent or
5469 legal guardian requests hepatitis and HIV testing after 48 hours
5470 have elapsed from the filing of the indictment, information, or
5471 petition for delinquency, the testing shall be done within 48
5472 hours after the request. The testing shall be performed under
5473 the direction of the Department of Health in accordance with s.
5474 381.004. The results of a hepatitis and HIV test performed on a
5475 defendant or juvenile offender pursuant to this subsection shall
5476 not be admissible in any criminal or juvenile proceeding arising
5477 out of the alleged offense.

5478 (3) DISCLOSURE OF RESULTS.—

5479 (a) The results of the test shall be disclosed no later
5480 than 2 weeks after the court receives such results, under the
5481 direction of the Department of Health, to the person charged
5482 with or alleged by petition for delinquency to have committed or
5483 to the person convicted of or adjudicated delinquent for any

32-01236A-17

20171558__

5484 offense enumerated in s. 775.0877(1)(a)-(n), which involves the
5485 transmission of body fluids from one person to another, and,
5486 upon request, to the victim or the victim's legal guardian, or
5487 the parent or legal guardian of the victim if the victim is a
5488 minor, and to public health agencies pursuant to s. 775.0877. If
5489 the alleged offender is a juvenile, the test results shall also
5490 be disclosed to the parent or guardian. When the victim is a
5491 victim as described in paragraph (2)(b), the test results must
5492 also be disclosed no later than 2 weeks after the court receives
5493 such results, to the person charged with or alleged by petition
5494 for delinquency to have committed or to the person convicted of
5495 or adjudicated delinquent for any offense enumerated in s.
5496 775.0877(1)(a)-(n), or s. 825.1025 regardless of whether the
5497 offense involves the transmission of bodily fluids from one
5498 person to another, and, upon request, to the victim or the
5499 victim's legal guardian, or the parent or legal guardian of the
5500 victim, and to public health agencies pursuant to s. 775.0877.
5501 Otherwise, hepatitis and HIV test results obtained pursuant to
5502 this section are confidential and exempt from the provisions of
5503 s. 119.07(1) and s. 24(a), Art. I of the State Constitution and
5504 shall not be disclosed to any other person except as expressly
5505 authorized by law or court order.

5506 Section 127. For the purpose of incorporating the amendment
5507 made by this act to section 39.01, Florida Statutes, in a
5508 reference thereto, subsection (5) of section 960.065, Florida
5509 Statutes, is reenacted to read:

5510 960.065 Eligibility for awards.—

5511 (5) A person is not ineligible for an award pursuant to
5512 paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that

32-01236A-17

20171558__

5513 person is a victim of sexual exploitation of a child as defined
5514 in s. 39.01(70)(g).

5515 Section 128. For the purpose of incorporating the amendment
5516 made by this act to section 39.01, Florida Statutes, in a
5517 reference thereto, subsection (2) of section 984.03, Florida
5518 Statutes, is reenacted to read:

5519 984.03 Definitions.—When used in this chapter, the term:

5520 (2) "Abuse" means any willful act that results in any
5521 physical, mental, or sexual injury that causes or is likely to
5522 cause the child's physical, mental, or emotional health to be
5523 significantly impaired. Corporal discipline of a child by a
5524 parent or guardian for disciplinary purposes does not in itself
5525 constitute abuse when it does not result in harm to the child as
5526 defined in s. 39.01.

5527 Section 129. For the purpose of incorporating the amendment
5528 made by this act to section 985.475, Florida Statutes, in a
5529 reference thereto, paragraph (c) of subsection (5) of section
5530 985.0301, Florida Statutes, is reenacted to read:

5531 985.0301 Jurisdiction.—

5532 (5)

5533 (c) The court shall retain jurisdiction over a juvenile
5534 sexual offender, as defined in s. 985.475, who has been placed
5535 on community-based treatment alternative with supervision or who
5536 has been placed in a program or facility for juvenile sexual
5537 offenders, pursuant to s. 985.48, until the juvenile sexual
5538 offender reaches 21 years of age, specifically for the purpose
5539 of allowing the juvenile to complete the program.

5540 Section 130. For the purpose of incorporating the
5541 amendments made by this act to sections 775.21, 943.0435,

32-01236A-17

20171558__

5542 944.606, and 944.607, Florida Statutes, in references thereto,
5543 paragraph (b) of subsection (6) of section 985.04, Florida
5544 Statutes, is reenacted to read:

5545 985.04 Oaths; records; confidential information.—

5546 (6)

5547 (b) Sexual offender and predator registration information
5548 as required in ss. 775.21, 943.0435, 944.606, 944.607, 985.481,
5549 and 985.4815 is a public record pursuant to s. 119.07(1) and as
5550 otherwise provided by law.

5551 Section 131. For the purpose of incorporating the amendment
5552 made by this act to section 985.475, Florida Statutes, in a
5553 reference thereto, paragraph (c) of subsection (1) of section
5554 985.441, Florida Statutes, is reenacted to read:

5555 985.441 Commitment.—

5556 (1) The court that has jurisdiction of an adjudicated
5557 delinquent child may, by an order stating the facts upon which a
5558 determination of a sanction and rehabilitative program was made
5559 at the disposition hearing:

5560 (c) Commit the child to the department for placement in a
5561 program or facility for juvenile sexual offenders in accordance
5562 with s. 985.48, subject to specific appropriation for such a
5563 program or facility.

5564 1. The child may only be committed for such placement
5565 pursuant to determination that the child is a juvenile sexual
5566 offender under the criteria specified in s. 985.475.

5567 2. Any commitment of a juvenile sexual offender to a
5568 program or facility for juvenile sexual offenders must be for an
5569 indeterminate period of time, but the time may not exceed the
5570 maximum term of imprisonment that an adult may serve for the

32-01236A-17

20171558__

5571 same offense.

5572 Section 132. For the purpose of incorporating the
5573 amendments made by this act to sections 775.21 and 943.0435,
5574 Florida Statutes, in references thereto, subsection (9) of
5575 section 985.4815, Florida Statutes, is reenacted to read:

5576 985.4815 Notification to Department of Law Enforcement of
5577 information on juvenile sexual offenders.—

5578 (9) A sexual offender, as described in this section, who is
5579 under the care, jurisdiction, or supervision of the department
5580 but who is not incarcerated shall, in addition to the
5581 registration requirements provided in subsection (4), register
5582 in the manner provided in s. 943.0435(3), (4), and (5), unless
5583 the sexual offender is a sexual predator, in which case he or
5584 she shall register as required under s. 775.21. A sexual
5585 offender who fails to comply with the requirements of s.
5586 943.0435 is subject to the penalties provided in s. 943.0435(9).

5587 Section 133. For the purpose of incorporating the amendment
5588 made by this act to section 943.0435, Florida Statutes, in a
5589 reference thereto, paragraph (g) of subsection (2) of section
5590 1012.467, Florida Statutes, is reenacted to read:

5591 1012.467 Noninstructional contractors who are permitted
5592 access to school grounds when students are present; background
5593 screening requirements.—

5594 (2)

5595 (g) A noninstructional contractor for whom a criminal
5596 history check is required under this section may not have been
5597 convicted of any of the following offenses designated in the
5598 Florida Statutes, any similar offense in another jurisdiction,
5599 or any similar offense committed in this state which has been

32-01236A-17

20171558__

5600 redesignated from a former provision of the Florida Statutes to
5601 one of the following offenses:

5602 1. Any offense listed in s. 943.0435(1)(h)1., relating to
5603 the registration of an individual as a sexual offender.

5604 2. Section 393.135, relating to sexual misconduct with
5605 certain developmentally disabled clients and the reporting of
5606 such sexual misconduct.

5607 3. Section 394.4593, relating to sexual misconduct with
5608 certain mental health patients and the reporting of such sexual
5609 misconduct.

5610 4. Section 775.30, relating to terrorism.

5611 5. Section 782.04, relating to murder.

5612 6. Section 787.01, relating to kidnapping.

5613 7. Any offense under chapter 800, relating to lewdness and
5614 indecent exposure.

5615 8. Section 826.04, relating to incest.

5616 9. Section 827.03, relating to child abuse, aggravated
5617 child abuse, or neglect of a child.

5618 Section 134. This act shall take effect October 1, 2017.