

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Clemons offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. The Legislature finds that the opinion in *State v. James*, 298 So. 3d 90 (Fla. 2d DCA 2020), is contrary to legislative intent and that a person's failure to pay a fine does not relieve him or her of the requirement to register as a sexual offender pursuant to s. 943.0435, Florida Statutes. The Legislature intends that a person must register as a sexual offender pursuant to s. 943.0435, Florida Statutes, when he or she has been convicted of a qualifying offense and, on or after October 1, 1997, has:

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14 (1) No sanction imposed upon conviction; or

15 (2) Been released from a sanction imposed upon conviction.

16 Section 2. Paragraph (h) of subsection (1) of section
17 943.0435, Florida Statutes, is amended to read:

18 943.0435 Sexual offenders required to register with the
19 department; penalty.—

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

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

24 a.(I) Has been convicted of committing, or attempting,
25 soliciting, or conspiring to commit, any of the criminal
26 offenses proscribed in the following statutes in this state or
27 similar offenses in another jurisdiction: s. 393.135(2); s.
28 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
29 the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former
30 s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.
31 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
32 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
33 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
34 s. 895.03, if the court makes a written finding that the
35 racketeering activity involved at least one sexual offense
36 listed in this sub-sub-subparagraph or at least one offense
37 listed in this sub-sub-subparagraph with sexual intent or
38 motive; s. 916.1075(2); or s. 985.701(1); or any similar offense

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39 committed in this state which has been redesignated from a
40 former statute number to one of those listed in this sub-sub-
41 subparagraph; and

42 (II) Has been released on or after October 1, 1997, from a
43 ~~the~~ sanction imposed for any conviction of an offense described
44 in sub-sub-subparagraph (I) and does not otherwise meet the
45 criteria for registration as a sexual offender under chapter 944
46 or chapter 985. For purposes of this sub-sub-subparagraph ~~(I)~~, a
47 sanction imposed in this state or in any other jurisdiction
48 means ~~includes, but is not limited to, a fine, probation,~~
49 community control, parole, conditional release, control release,
50 or incarceration in a state prison, federal prison, private
51 correctional facility, or local detention facility. If no
52 sanction is imposed the person is deemed to be released upon
53 conviction;

54 b. Establishes or maintains a residence in this state and
55 who has not been designated as a sexual predator by a court of
56 this state but who has been designated as a sexual predator, as
57 a sexually violent predator, or by another sexual offender
58 designation in another state or jurisdiction and was, as a
59 result of such designation, subjected to registration or
60 community or public notification, or both, or would be if the
61 person were a resident of that state or jurisdiction, without
62 regard to whether the person otherwise meets the criteria for
63 registration as a sexual offender;

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64 c. Establishes or maintains a residence in this state who
65 is in the custody or control of, or under the supervision of,
66 any other state or jurisdiction as a result of a conviction for
67 committing, or attempting, soliciting, or conspiring to commit,
68 any of the criminal offenses proscribed in the following
69 statutes or similar offense in another jurisdiction: s.
70 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
71 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
72 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
73 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
74 s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;
75 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;
76 s. 847.0145; s. 895.03, if the court makes a written finding
77 that the racketeering activity involved at least one sexual
78 offense listed in this sub-subparagraph or at least one offense
79 listed in this sub-subparagraph with sexual intent or motive; s.
80 916.1075(2); or s. 985.701(1); or any similar offense committed
81 in this state which has been redesignated from a former statute
82 number to one of those listed in this sub-subparagraph; or
83 d. On or after July 1, 2007, has been adjudicated
84 delinquent for committing, or attempting, soliciting, or
85 conspiring to commit, any of the criminal offenses proscribed in
86 the following statutes in this state or similar offenses in
87 another jurisdiction when the juvenile was 14 years of age or
88 older at the time of the offense:

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

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

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

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

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

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

103

104 For each violation of a qualifying offense listed in this
105 subsection, except for a violation of s. 794.011, the court
106 shall make a written finding of the age of the victim at the
107 time of the offense. For a violation of s. 800.04(4), the court
108 shall also make a written finding indicating whether the offense
109 involved sexual activity and indicating whether the offense
110 involved force or coercion. For a violation of s. 800.04(5), the
111 court shall also make a written finding that the offense did or
112 did not involve unclothed genitals or genital area and that the
113 offense did or did not involve the use of force or coercion.

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114 Section 3. For the purpose of incorporating the amendment
115 made by this act to section 943.0435, Florida Statutes, in a
116 reference thereto, paragraph (c) of subsection (9) of section
117 61.13, Florida Statutes, is reenacted to read:

118 61.13 Support of children; parenting and time-sharing;
119 powers of court.—

120 (9)

121 (c) A court may not order visitation at a recovery
122 residence if any resident of the recovery residence is currently
123 required to register as a sexual predator under s. 775.21 or as
124 a sexual offender under s. 943.0435.

125 Section 4. For the purpose of incorporating the amendment
126 made by this act to section 943.0435, Florida Statutes, in a
127 reference thereto, paragraph (i) of subsection (3) and
128 subsection (6) of section 68.07, Florida Statutes, are reenacted
129 to read:

130 68.07 Change of name.—

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

132 (i) Whether the petitioner has ever been required to
133 register as a sexual predator under s. 775.21 or as a sexual
134 offender under s. 943.0435.

135 (6) The clerk of the court must, within 5 business days
136 after the filing of the final judgment, send a report of the
137 judgment to the Department of Law Enforcement on a form to be
138 furnished by that department. If the petitioner is required to

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139 register as a sexual predator or a sexual offender pursuant to
140 s. 775.21 or s. 943.0435, the clerk of court shall
141 electronically notify the Department of Law Enforcement of the
142 name change, in a manner prescribed by that department, within 2
143 business days after the filing of the final judgment. The
144 Department of Law Enforcement must send a copy of the report to
145 the Department of Highway Safety and Motor Vehicles, which may
146 be delivered by electronic transmission. The report must contain
147 sufficient information to identify the petitioner, including the
148 results of the criminal history records check if applicable, the
149 new name of the petitioner, and the file number of the judgment.
150 The Department of Highway Safety and Motor Vehicles shall
151 monitor the records of any sexual predator or sexual offender
152 whose name has been provided to it by the Department of Law
153 Enforcement. If the sexual predator or sexual offender does not
154 obtain a replacement driver license or identification card
155 within the required time as specified in s. 775.21 or s.
156 943.0435, the Department of Highway Safety and Motor Vehicles
157 shall notify the Department of Law Enforcement. The Department
158 of Law Enforcement shall notify applicable law enforcement
159 agencies of the predator's or offender's failure to comply with
160 registration requirements. Any information retained by the
161 Department of Law Enforcement and the Department of Highway
162 Safety and Motor Vehicles may be revised or supplemented by said
163 departments to reflect changes made by the final judgment. With

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164 respect to a person convicted of a felony in another state or of
165 a federal offense, the Department of Law Enforcement must send
166 the report to the respective state's office of law enforcement
167 records or to the office of the Federal Bureau of Investigation.
168 The Department of Law Enforcement may forward the report to any
169 other law enforcement agency it believes may retain information
170 related to the petitioner.

171 Section 5. For the purpose of incorporating the amendment
172 made by this act to section 943.0435, Florida Statutes, in a
173 reference thereto, paragraph (b) of subsection (2) of section
174 98.0751, Florida Statutes, is reenacted to read:

175 98.0751 Restoration of voting rights; termination of
176 ineligibility subsequent to a felony conviction.-

177 (2) For purposes of this section, the term:

178 (b) "Felony sexual offense" means any of the following:

179 1. Any felony offense that serves as a predicate to
180 registration as a sexual offender in accordance with s.
181 943.0435;

182 2. Section 491.0112;

183 3. Section 784.049(3)(b);

184 4. Section 794.08;

185 5. Section 796.08;

186 6. Section 800.101;

187 7. Section 826.04;

188 8. Section 847.012;

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- 189 9. Section 872.06(2);
190 10. Section 944.35(3)(b)2.;
191 11. Section 951.221(1); or
192 12. Any similar offense committed in another jurisdiction
193 which would be an offense listed in this paragraph if it had
194 been committed in violation of the laws of this state.

195 Section 6. For the purpose of incorporating the amendment
196 made by this act to section 943.0435, Florida Statutes, in a
197 reference thereto, subsection (4) of section 320.02, Florida
198 Statutes, is reenacted to read:

199 320.02 Registration required; application for
200 registration; forms.—

201 (4) Except as provided in ss. 775.21, 775.261, 943.0435,
202 944.607, and 985.4815, the owner of any motor vehicle registered
203 in the state shall notify the department in writing of any
204 change of address within 30 days of such change. The
205 notification shall include the registration license plate
206 number, the vehicle identification number (VIN) or title
207 certificate number, year of vehicle make, and the owner's full
208 name.

209 Section 7. For the purpose of incorporating the amendment
210 made by this act to section 943.0435, Florida Statutes, in a
211 reference thereto, subsection (3) of section 322.141, Florida
212 Statutes, is reenacted to read:

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213 322.141 Color or markings of certain licenses or
214 identification cards.—

215 (3) All licenses for the operation of motor vehicles or
216 identification cards originally issued or reissued by the
217 department to persons who are designated as sexual predators
218 under s. 775.21 or subject to registration as sexual offenders
219 under s. 943.0435 or s. 944.607, or who have a similar
220 designation or are subject to a similar registration under the
221 laws of another jurisdiction, shall have on the front of the
222 license or identification card the following:

223 (a) For a person designated as a sexual predator under s.
224 775.21 or who has a similar designation under the laws of
225 another jurisdiction, the marking "SEXUAL PREDATOR."

226 (b) For a person subject to registration as a sexual
227 offender under s. 943.0435 or s. 944.607, or subject to a
228 similar registration under the laws of another jurisdiction, the
229 marking "943.0435, F.S."

230 Section 8. For the purpose of incorporating the amendment
231 made by this act to section 943.0435, Florida Statutes, in a
232 reference thereto, subsections (1) and (2) of section 322.19,
233 Florida Statutes, are reenacted to read:

234 322.19 Change of address or name.—

235 (1) Except as provided in ss. 775.21, 775.261, 943.0435,
236 944.607, and 985.4815, whenever any person, after applying for
237 or receiving a driver license or identification card, changes

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238 his or her legal name, that person must within 30 days
239 thereafter obtain a replacement license or card that reflects
240 the change.

241 (2) If a person, after applying for or receiving a driver
242 license or identification card, changes the legal residence or
243 mailing address in the application, license, or card, the person
244 must, within 30 calendar days after making the change, obtain a
245 replacement license or card that reflects the change. A written
246 request to the department must include the old and new addresses
247 and the driver license or identification card number. Any person
248 who has a valid, current student identification card issued by
249 an educational institution in this state is presumed not to have
250 changed his or her legal residence or mailing address. This
251 subsection does not affect any person required to register a
252 permanent or temporary address change pursuant to s. 775.13, s.
253 775.21, s. 775.25, or s. 943.0435.

254 Section 9. For the purpose of incorporating the amendment
255 made by this act to section 943.0435, Florida Statutes, in a
256 reference thereto, subsection (2) of section 394.9125, Florida
257 Statutes, is reenacted to read:

258 394.9125 State attorney; authority to refer a person for
259 civil commitment.—

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

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262 (a) Is required to register as a sexual offender pursuant
263 to s. 943.0435;

264 (b) Has previously been convicted of a sexually violent
265 offense as defined in s. 394.912(9)(a)-(h); and

266 (c) Has been sentenced to a term of imprisonment in a
267 county or municipal jail for any criminal offense.

268 Section 10. For the purpose of incorporating the amendment
269 made by this act to section 943.0435, Florida Statutes, in a
270 reference thereto, paragraph (b) of subsection (10) of section
271 397.487, Florida Statutes, is reenacted to read:

272 397.487 Voluntary certification of recovery residences.—

273 (10)

274 (b) A certified recovery residence may not allow a minor
275 child to visit a parent who is a resident of the recovery
276 residence at any time if any resident of the recovery residence
277 is currently required to register as a sexual predator under s.
278 775.21 or as a sexual offender under s. 943.0435.

279 Section 11. For the purpose of incorporating the amendment
280 made by this act to section 943.0435, Florida Statutes, in a
281 reference thereto, paragraph (b) of subsection (4) of section
282 435.07, Florida Statutes, is reenacted to read:

283 435.07 Exemptions from disqualification.—Unless otherwise
284 provided by law, the provisions of this section apply to
285 exemptions from disqualification for disqualifying offenses
286 revealed pursuant to background screenings required under this

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287 chapter, regardless of whether those disqualifying offenses are
288 listed in this chapter or other laws.

289 (4)

290 (b) Disqualification from employment under this chapter
291 may not be removed from, nor may an exemption be granted to, any
292 person who is a:

293 1. Sexual predator as designated pursuant to s. 775.21;

294 2. Career offender pursuant to s. 775.261; or

295 3. Sexual offender pursuant to s. 943.0435, unless the
296 requirement to register as a sexual offender has been removed
297 pursuant to s. 943.04354.

298 Section 12. For the purpose of incorporating the amendment
299 made by this act to section 943.0435, Florida Statutes, in a
300 reference thereto, subsection (2) of section 775.0862, Florida
301 Statutes, is reenacted to read:

302 775.0862 Sexual offenses against students by authority
303 figures; reclassification.—

304 (2) The felony degree of a violation of an offense listed
305 in s. 943.0435(1)(h)1.a., unless the offense is a violation of
306 s. 794.011(4)(e)7. or s. 810.145(8)(a)2., shall be reclassified
307 as provided in this section if the offense is committed by an
308 authority figure of a school against a student of the school.

309 Section 13. For the purpose of incorporating the amendment
310 made by this act to section 943.0435, Florida Statutes, in a

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311 reference thereto, subsection (4) of section 775.13, Florida
312 Statutes, is reenacted to read:

313 775.13 Registration of convicted felons, exemptions;
314 penalties.—

315 (4) This section does not apply to an offender:

316 (a) Who has had his or her civil rights restored;

317 (b) Who has received a full pardon for the offense for
318 which convicted;

319 (c) Who has been lawfully released from incarceration or
320 other sentence or supervision for a felony conviction for more
321 than 5 years prior to such time for registration, unless the
322 offender is a fugitive from justice on a felony charge or has
323 been convicted of any offense since release from such
324 incarceration or other sentence or supervision;

325 (d) Who is a parolee or probationer under the supervision
326 of the United States Parole Commission if the commission knows
327 of and consents to the presence of the offender in Florida or is
328 a probationer under the supervision of any federal probation
329 officer in the state or who has been lawfully discharged from
330 such parole or probation;

331 (e) Who is a sexual predator and has registered as
332 required under s. 775.21;

333 (f) Who is a sexual offender and has registered as
334 required in s. 943.0435 or s. 944.607; or

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335 (g) Who is a career offender who has registered as
336 required in s. 775.261 or s. 944.609.

337 Section 14. For the purpose of incorporating the amendment
338 made by this act to section 943.0435, Florida Statutes, in a
339 reference thereto, paragraph (d) of subsection (5) and paragraph
340 (d) of subsection (10) of section 775.21, Florida Statutes, are
341 reenacted to read:

342 775.21 The Florida Sexual Predators Act.—

343 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated
344 as a sexual predator as follows:

345 (d) A person who establishes or maintains a residence in
346 this state and who has not been designated as a sexual predator
347 by a court of this state but who has been designated as a sexual
348 predator, as a sexually violent predator, or by another sexual
349 offender designation in another state or jurisdiction and was,
350 as a result of such designation, subjected to registration or
351 community or public notification, or both, or would be if the
352 person was a resident of that state or jurisdiction, without
353 regard to whether the person otherwise meets the criteria for
354 registration as a sexual offender, shall register in the manner
355 provided in s. 943.0435 or s. 944.607 and shall be subject to
356 community and public notification as provided in s. 943.0435 or
357 s. 944.607. A person who meets the criteria of this section is
358 subject to the requirements and penalty provisions of s.
359 943.0435 or s. 944.607 until the person provides the department

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360 with an order issued by the court that designated the person as
361 a sexual predator, as a sexually violent predator, or by another
362 sexual offender designation in the state or jurisdiction in
363 which the order was issued which states that such designation
364 has been removed or demonstrates to the department that such
365 designation, if not imposed by a court, has been removed by
366 operation of law or court order in the state or jurisdiction in
367 which the designation was made, and provided such person no
368 longer meets the criteria for registration as a sexual offender
369 under the laws of this state.

370 (10) PENALTIES.—

371 (d) Any person who misuses public records information
372 relating to a sexual predator, as defined in this section, or a
373 sexual offender, as defined in s. 943.0435 or s. 944.607, to
374 secure a payment from such a predator or offender; who knowingly
375 distributes or publishes false information relating to such a
376 predator or offender which the person misrepresents as being
377 public records information; or who materially alters public
378 records information with the intent to misrepresent the
379 information, including documents, summaries of public records
380 information provided by law enforcement agencies, or public
381 records information displayed by law enforcement agencies on
382 websites or provided through other means of communication,
383 commits a misdemeanor of the first degree, punishable as
384 provided in s. 775.082 or s. 775.083.

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385 Section 15. For the purpose of incorporating the amendment
386 made by this act to section 943.0435, Florida Statutes, in a
387 reference thereto, subsection (2) of section 775.24, Florida
388 Statutes, is reenacted to read:

389 775.24 Duty of the court to uphold laws governing sexual
390 predators and sexual offenders.—

391 (2) If a person meets the criteria in this chapter for
392 designation as a sexual predator or meets the criteria in s.
393 943.0435, s. 944.606, s. 944.607, or any other law for
394 classification as a sexual offender, the court may not enter an
395 order, for the purpose of approving a plea agreement or for any
396 other reason, which:

397 (a) Exempts a person who meets the criteria for
398 designation as a sexual predator or classification as a sexual
399 offender from such designation or classification, or exempts
400 such person from the requirements for registration or community
401 and public notification imposed upon sexual predators and sexual
402 offenders;

403 (b) Restricts the compiling, reporting, or release of
404 public records information that relates to sexual predators or
405 sexual offenders; or

406 (c) Prevents any person or entity from performing its
407 duties or operating within its statutorily conferred authority
408 as such duty or authority relates to sexual predators or sexual
409 offenders.

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410 Section 16. For the purpose of incorporating the amendment
411 made by this act to section 943.0435, Florida Statutes, in a
412 reference thereto, section 775.25, Florida Statutes, is
413 reenacted to read:

414 775.25 Prosecutions for acts or omissions.—A sexual
415 predator or sexual offender who commits any act or omission in
416 violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.
417 944.607, or former s. 947.177 may be prosecuted for the act or
418 omission in the county in which the act or omission was
419 committed, in the county of the last registered address of the
420 sexual predator or sexual offender, in the county in which the
421 conviction occurred for the offense or offenses that meet the
422 criteria for designating a person as a sexual predator or sexual
423 offender, in the county where the sexual predator or sexual
424 offender was released from incarceration, or in the county of
425 the intended address of the sexual predator or sexual offender
426 as reported by the predator or offender prior to his or her
427 release from incarceration. In addition, a sexual predator may
428 be prosecuted for any such act or omission in the county in
429 which he or she was designated a sexual predator.

430 Section 17. For the purpose of incorporating the amendment
431 made by this act to section 943.0435, Florida Statutes, in a
432 reference thereto, paragraph (b) of subsection (3) of section
433 775.261, Florida Statutes, is reenacted to read:

434 775.261 The Florida Career Offender Registration Act.—

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(3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

(b) This section does not apply to any person who has been designated as a sexual predator and required to register under s. 775.21 or who is required to register as a sexual offender under s. 943.0435 or s. 944.607. However, if a person is no longer required to register as a sexual predator under s. 775.21 or as a sexual offender under s. 943.0435 or s. 944.607, the person must register as a career offender under this section if the person is otherwise designated as a career offender as provided in this section.

Section 18. For the purpose of incorporating the amendment made by this act to section 943.0435, Florida Statutes, in a reference thereto, paragraph (cc) of subsection (2) of section 900.05, Florida Statutes, is reenacted to read:

900.05 Criminal justice data collection.—

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

(cc) "Sexual offender flag" means an indication that a defendant was required to register as a sexual predator as defined in s. 775.21 or as a sexual offender as defined in s. 943.0435.

Section 19. For the purpose of incorporating the amendment made by this act to section 943.0435, Florida Statutes, in a reference thereto, paragraph (m) of subsection (2) of section 903.046, Florida Statutes, is reenacted to read:

903.046 Purpose of and criteria for bail determination.—

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460 (2) When determining whether to release a defendant on
461 bail or other conditions, and what that bail or those conditions
462 may be, the court shall consider:

463 (m) Whether the defendant, other than a defendant whose
464 only criminal charge is a misdemeanor offense under chapter 316,
465 is required to register as a sexual offender under s. 943.0435
466 or a sexual predator under s. 775.21; and, if so, he or she is
467 not eligible for release on bail or surety bond until the first
468 appearance on the case in order to ensure the full participation
469 of the prosecutor and the protection of the public.

470 Section 20. For the purpose of incorporating the amendment
471 made by this act to section 943.0435, Florida Statutes, in a
472 reference thereto, section 903.133, Florida Statutes, is
473 reenacted to read:

474 903.133 Bail on appeal; prohibited for certain felony
475 convictions.—Notwithstanding s. 903.132, no person shall be
476 admitted to bail pending review either by posttrial motion or
477 appeal if he or she was adjudged guilty of:

478 (1) A felony of the first degree for a violation of s.
479 782.04(2) or (3), s. 787.01, s. 794.011(4), s. 806.01, s.
480 893.13, or s. 893.135;

481 (2) A violation of s. 794.011(2) or (3); or

482 (3) Any other offense requiring sexual offender
483 registration under s. 943.0435(1)(h) or sexual predator
484 registration under s. 775.21(4) when, at the time of the

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485 offense, the offender was 18 years of age or older and the
486 victim was a minor.

487 Section 21. For the purpose of incorporating the amendment
488 made by this act to section 943.0435, Florida Statutes, in a
489 reference thereto, paragraph (b) of subsection (4) of section
490 907.043, Florida Statutes, is reenacted to read:

491 907.043 Pretrial release; citizens' right to know.—

492 (4)

493 (b) The annual report must contain, but need not be
494 limited to:

495 1. The name, location, and funding sources of the pretrial
496 release program, including the amount of public funds, if any,
497 received by the pretrial release program.

498 2. The operating and capital budget of each pretrial
499 release program receiving public funds.

500 3.a. The percentage of the pretrial release program's
501 total budget representing receipt of public funds.

502 b. The percentage of the total budget which is allocated
503 to assisting defendants obtain release through a nonpublicly
504 funded program.

505 c. The amount of fees paid by defendants to the pretrial
506 release program.

507 4. The number of persons employed by the pretrial release
508 program.

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509 5. The number of defendants assessed and interviewed for
510 pretrial release.

511 6. The number of defendants recommended for pretrial
512 release.

513 7. The number of defendants for whom the pretrial release
514 program recommended against nonsecured release.

515 8. The number of defendants granted nonsecured release
516 after the pretrial release program recommended nonsecured
517 release.

518 9. The number of defendants assessed and interviewed for
519 pretrial release who were declared indigent by the court.

520 10. The number of defendants accepted into a pretrial
521 release program who paid a surety or cash bail or bond.

522 11. The number of defendants for whom a risk assessment
523 tool was used in determining whether the defendant should be
524 released pending the disposition of the case and the number of
525 defendants for whom a risk assessment tool was not used.

526 12. The specific statutory citation for each criminal
527 charge related to a defendant whose case is accepted into a
528 pretrial release program, including, at a minimum, the number of
529 defendants charged with dangerous crimes as defined in s.
530 907.041; nonviolent felonies; or misdemeanors only. A
531 "nonviolent felony" for purposes of this subparagraph excludes
532 the commission of, an attempt to commit, or a conspiracy to
533 commit any of the following:

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- 534 a. An offense enumerated in s. 775.084(1) (c);
- 535 b. An offense that requires a person to register as a
536 sexual predator in accordance with s. 775.21 or as a sexual
537 offender in accordance with s. 943.0435;
- 538 c. Failure to register as a sexual predator in violation
539 of s. 775.21 or as a sexual offender in violation of s.
540 943.0435;
- 541 d. Facilitating or furthering terrorism in violation of s.
542 775.31;
- 543 e. A forcible felony as described in s. 776.08;
- 544 f. False imprisonment in violation of s. 787.02;
- 545 g. Burglary of a dwelling or residence in violation of s.
546 810.02(3);
- 547 h. Abuse, aggravated abuse, and neglect of an elderly
548 person or disabled adult in violation of s. 825.102;
- 549 i. Abuse, aggravated abuse, and neglect of a child in
550 violation of s. 827.03;
- 551 j. Poisoning of food or water in violation of s. 859.01;
- 552 k. Abuse of a dead human body in violation of s. 872.06;
- 553 l. A capital offense in violation of chapter 893;
- 554 m. An offense that results in serious bodily injury or
555 death to another human; or
- 556 n. A felony offense in which the defendant used a weapon
557 or firearm in the commission of the offense.

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558 13. The number of defendants accepted into a pretrial
559 release program with no prior criminal conviction.

560 14. The name and case number of each person granted
561 nonsecured release who:

562 a. Failed to attend a scheduled court appearance.

563 b. Was issued a warrant for failing to appear.

564 c. Was arrested for any offense while on release through
565 the pretrial release program.

566 15. Any additional information deemed necessary by the
567 governing body to assess the performance and cost efficiency of
568 the pretrial release program.

569 Section 22. For the purpose of incorporating the amendment
570 made by this act to section 943.0435, Florida Statutes, in a
571 reference thereto, subsection (1) of section 938.10, Florida
572 Statutes, is reenacted to read:

573 938.10 Additional court cost imposed in cases of certain
574 crimes.—

575 (1) If a person pleads guilty or nolo contendere to, or is
576 found guilty of, regardless of adjudication, any offense against
577 a minor in violation of s. 784.085, chapter 787, chapter 794,
578 former s. 796.03, former s. 796.035, s. 800.04, chapter 827, s.
579 847.012, s. 847.0133, s. 847.0135(5), s. 847.0138, s. 847.0145,
580 s. 893.147(3), or s. 985.701, or any offense in violation of s.
581 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the

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582 court shall impose a court cost of \$151 against the offender in
583 addition to any other cost or penalty required by law.

584 Section 23. For the purpose of incorporating the amendment
585 made by this act to section 943.0435, Florida Statutes, in a
586 reference thereto, subsection (2) of section 943.0436, Florida
587 Statutes, is reenacted to read:

588 943.0436 Duty of the court to uphold laws governing sexual
589 predators and sexual offenders.—

590 (2) If a person meets the criteria in chapter 775 for
591 designation as a sexual predator or meets the criteria in s.
592 943.0435, s. 944.606, s. 944.607, or any other law for
593 classification as a sexual offender, the court may not enter an
594 order, for the purpose of approving a plea agreement or for any
595 other reason, which:

596 (a) Exempts a person who meets the criteria for
597 designation as a sexual predator or classification as a sexual
598 offender from such designation or classification, or exempts
599 such person from the requirements for registration or community
600 and public notification imposed upon sexual predators and sexual
601 offenders;

602 (b) Restricts the compiling, reporting, or release of
603 public records information that relates to sexual predators or
604 sexual offenders; or

605 (c) Prevents any person or entity from performing its
606 duties or operating within its statutorily conferred authority

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607 as such duty or authority relates to sexual predators or sexual
608 offenders.

609 Section 24. For the purpose of incorporating the amendment
610 made by this act to section 943.0435, Florida Statutes, in a
611 reference thereto, subsection (2) of section 943.0584, Florida
612 Statutes, is reenacted to read:

613 943.0584 Criminal history records ineligible for court-
614 ordered expunction or court-ordered sealing.—

615 (2) A criminal history record is ineligible for a
616 certificate of eligibility for expunction or a court-ordered
617 expunction pursuant to s. 943.0585 or a certificate of
618 eligibility for sealing or a court-ordered sealing pursuant to
619 s. 943.059 if the record is a conviction for any of the
620 following offenses:

621 (a) Sexual misconduct, as defined in s. 393.135, s.
622 394.4593, or s. 916.1075;

623 (b) Illegal use of explosives, as defined in chapter 552;

624 (c) Terrorism, as defined in s. 775.30;

625 (d) Murder, as defined in s. 782.04, s. 782.065, or s.
626 782.09;

627 (e) Manslaughter or homicide, as defined in s. 782.07, s.
628 782.071, or s. 782.072;

629 (f) Assault or battery, as defined in ss. 784.011 and
630 784.03, respectively, of one family or household member by
631 another family or household member, as defined in s. 741.28(3);

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- 632 (g) Aggravated assault, as defined in s. 784.021;
- 633 (h) Felony battery, domestic battery by strangulation, or
634 aggravated battery, as defined in ss. 784.03, 784.041, and
635 784.045, respectively;
- 636 (i) Stalking or aggravated stalking, as defined in s.
637 784.048;
- 638 (j) Luring or enticing a child, as defined in s. 787.025;
- 639 (k) Human trafficking, as defined in s. 787.06;
- 640 (l) Kidnapping or false imprisonment, as defined in s.
641 787.01 or s. 787.02;
- 642 (m) Any offense defined in chapter 794;
- 643 (n) Procuring a person less than 18 years of age for
644 prostitution, as defined in former s. 796.03;
- 645 (o) Lewd or lascivious offenses committed upon or in the
646 presence of persons less than 16 years of age, as defined in s.
647 800.04;
- 648 (p) Arson, as defined in s. 806.01;
- 649 (q) Burglary of a dwelling, as defined in s. 810.02;
- 650 (r) Voyeurism or video voyeurism, as defined in ss. 810.14
651 and 810.145, respectively;
- 652 (s) Robbery or robbery by sudden snatching, as defined in
653 ss. 812.13 and 812.131, respectively;
- 654 (t) Carjacking, as defined in s. 812.133;
- 655 (u) Home-invasion robbery, as defined in s. 812.135;

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656 (v) A violation of the Florida Communications Fraud Act,
657 as provided in s. 817.034;

658 (w) Abuse of an elderly person or disabled adult, or
659 aggravated abuse of an elderly person or disabled adult, as
660 defined in s. 825.102;

661 (x) Lewd or lascivious offenses committed upon or in the
662 presence of an elderly person or disabled person, as defined in
663 s. 825.1025;

664 (y) Child abuse or aggravated child abuse, as defined in
665 s. 827.03;

666 (z) Sexual performance by a child, as defined in s.
667 827.071;

668 (aa) Any offense defined in chapter 839;

669 (bb) Certain acts in connection with obscenity, as defined
670 in s. 847.0133;

671 (cc) Any offense defined in s. 847.0135;

672 (dd) Selling or buying of minors, as defined in s.
673 847.0145;

674 (ee) Aircraft piracy, as defined in s. 860.16;

675 (ff) Manufacturing a controlled substance in violation of
676 chapter 893;

677 (gg) Drug trafficking, as defined in s. 893.135; or

678 (hh) Any violation specified as a predicate offense for
679 registration as a sexual predator pursuant to s. 775.21, or
680 sexual offender pursuant to s. 943.0435, without regard to

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681 whether that offense alone is sufficient to require such
682 registration.

683 Section 25. For the purpose of incorporating the amendment
684 made by this act to section 943.0435, Florida Statutes, in a
685 reference thereto, paragraph (a) of subsection (4) and
686 subsection (9) of section 944.607, Florida Statutes, are
687 reenacted to read:

688 944.607 Notification to Department of Law Enforcement of
689 information on sexual offenders.—

690 (4) A sexual offender, as described in this section, who
691 is under the supervision of the Department of Corrections but is
692 not incarcerated shall register with the Department of
693 Corrections within 3 business days after sentencing for a
694 registrable offense and otherwise provide information as
695 required by this subsection.

696 (a) The sexual offender shall provide his or her name;
697 date of birth; social security number; race; sex; height;
698 weight; hair and eye color; tattoos or other identifying marks;
699 all electronic mail addresses and Internet identifiers required
700 to be provided pursuant to s. 943.0435(4)(e); employment
701 information required to be provided pursuant to s.
702 943.0435(4)(e); all home telephone numbers and cellular
703 telephone numbers required to be provided pursuant to s.
704 943.0435(4)(e); the make, model, color, vehicle identification
705 number (VIN), and license tag number of all vehicles owned;

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706 permanent or legal residence and address of temporary residence
707 within the state or out of state while the sexual offender is
708 under supervision in this state, including any rural route
709 address or post office box; if no permanent or temporary
710 address, any transient residence within the state; and address,
711 location or description, and dates of any current or known
712 future temporary residence within the state or out of state. The
713 sexual offender shall also produce his or her passport, if he or
714 she has a passport, and, if he or she is an alien, shall produce
715 or provide information about documents establishing his or her
716 immigration status. The sexual offender shall also provide
717 information about any professional licenses he or she has. The
718 Department of Corrections shall verify the address of each
719 sexual offender in the manner described in ss. 775.21 and
720 943.0435. The department shall report to the Department of Law
721 Enforcement any failure by a sexual predator or sexual offender
722 to comply with registration requirements.

723 (9) A sexual offender, as described in this section, who
724 is under the supervision of the Department of Corrections but
725 who is not incarcerated shall, in addition to the registration
726 requirements provided in subsection (4), register and obtain a
727 distinctive driver license or identification card in the manner
728 provided in s. 943.0435(3), (4), and (5), unless the sexual
729 offender is a sexual predator, in which case he or she shall
730 register and obtain a distinctive driver license or

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731 identification card as required under s. 775.21. A sexual
732 offender who fails to comply with the requirements of s.
733 943.0435 is subject to the penalties provided in s. 943.0435(9).

734 Section 26. For the purpose of incorporating the amendment
735 made by this act to section 943.0435, Florida Statutes, in a
736 reference thereto, subsection (4) of section 948.06, Florida
737 Statutes, is reenacted to read:

738 948.06 Violation of probation or community control;
739 revocation; modification; continuance; failure to pay
740 restitution or cost of supervision.—

741 (4) Notwithstanding any other provision of this section, a
742 felony probationer or an offender in community control who is
743 arrested for violating his or her probation or community control
744 in a material respect may be taken before the court in the
745 county or circuit in which the probationer or offender was
746 arrested. That court shall advise him or her of the charge of a
747 violation and, if such charge is admitted, shall cause him or
748 her to be brought before the court that granted the probation or
749 community control. If the violation is not admitted by the
750 probationer or offender, the court may commit him or her or
751 release him or her with or without bail to await further
752 hearing. However, if the probationer or offender is under
753 supervision for any criminal offense proscribed in chapter 794,
754 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a
755 registered sexual predator or a registered sexual offender, or

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756 is under supervision for a criminal offense for which he or she
757 would meet the registration criteria in s. 775.21, s. 943.0435,
758 or s. 944.607 but for the effective date of those sections, the
759 court must make a finding that the probationer or offender is
760 not a danger to the public prior to release with or without
761 bail. In determining the danger posed by the offender's or
762 probationer's release, the court may consider the nature and
763 circumstances of the violation and any new offenses charged; the
764 offender's or probationer's past and present conduct, including
765 convictions of crimes; any record of arrests without conviction
766 for crimes involving violence or sexual crimes; any other
767 evidence of allegations of unlawful sexual conduct or the use of
768 violence by the offender or probationer; the offender's or
769 probationer's family ties, length of residence in the community,
770 employment history, and mental condition; his or her history and
771 conduct during the probation or community control supervision
772 from which the violation arises and any other previous
773 supervisions, including disciplinary records of previous
774 incarcerations; the likelihood that the offender or probationer
775 will engage again in a criminal course of conduct; the weight of
776 the evidence against the offender or probationer; and any other
777 facts the court considers relevant. The court, as soon as is
778 practicable, shall give the probationer or offender an
779 opportunity to be fully heard on his or her behalf in person or
780 by counsel. After the hearing, the court shall make findings of

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781 fact and forward the findings to the court that granted the
782 probation or community control and to the probationer or
783 offender or his or her attorney. The findings of fact by the
784 hearing court are binding on the court that granted the
785 probation or community control. Upon the probationer or offender
786 being brought before it, the court that granted the probation or
787 community control may revoke, modify, or continue the probation
788 or community control or may place the probationer into community
789 control as provided in this section. However, the probationer or
790 offender shall not be released and shall not be admitted to
791 bail, but shall be brought before the court that granted the
792 probation or community control if any violation of felony
793 probation or community control other than a failure to pay costs
794 or fines or make restitution payments is alleged to have been
795 committed by:

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

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

802 (c) A person who is on felony probation or community
803 control and has previously been found by a court to be a
804 habitual violent felony offender as defined in s. 775.084(1)(b),
805 a three-time violent felony offender as defined in s.

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806 775.084(1)(c), or a sexual predator under s. 775.21, and who is
807 arrested for committing a qualifying offense as defined in this
808 section on or after the effective date of this act.

809 Section 27. For the purpose of incorporating the amendment
810 made by this act to section 943.0435, Florida Statutes, in a
811 reference thereto, section 948.063, Florida Statutes, is
812 reenacted to read:

813 948.063 Violations of probation or community control by
814 designated sexual offenders and sexual predators.—

815 (1) If probation or community control for any felony
816 offense is revoked by the court pursuant to s. 948.06(2)(e) and
817 the offender is designated as a sexual offender pursuant to s.
818 943.0435 or s. 944.607 or as a sexual predator pursuant to s.
819 775.21 for unlawful sexual activity involving a victim 15 years
820 of age or younger and the offender is 18 years of age or older,
821 and if the court imposes a subsequent term of supervision
822 following the revocation of probation or community control, the
823 court must order electronic monitoring as a condition of the
824 subsequent term of probation or community control.

825 (2) If the probationer or offender is required to register
826 as a sexual predator under s. 775.21 or as a sexual offender
827 under s. 943.0435 or s. 944.607 for unlawful sexual activity
828 involving a victim 15 years of age or younger and the
829 probationer or offender is 18 years of age or older and has
830 violated the conditions of his or her probation or community

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831 control, but the court does not revoke the probation or
832 community control, the court shall nevertheless modify the
833 probation or community control to include electronic monitoring
834 for any probationer or offender not then subject to electronic
835 monitoring.

836 Section 28. For the purpose of incorporating the amendment
837 made by this act to section 943.0435, Florida Statutes, in a
838 reference thereto, section 948.31, Florida Statutes, is
839 reenacted to read:

840 948.31 Evaluation and treatment of sexual predators and
841 offenders on probation or community control.—The court may
842 require any probationer or community controllee who is required
843 to register as a sexual predator under s. 775.21 or sexual
844 offender under s. 943.0435, s. 944.606, or s. 944.607 to undergo
845 an evaluation, at the probationer or community controllee's
846 expense, by a qualified practitioner to determine whether such
847 probationer or community controllee needs sexual offender
848 treatment. If the qualified practitioner determines that sexual
849 offender treatment is needed and recommends treatment, the
850 probationer or community controllee must successfully complete
851 and pay for the treatment. Such treatment must be obtained from
852 a qualified practitioner as defined in s. 948.001. Treatment may
853 not be administered by a qualified practitioner who has been
854 convicted or adjudicated delinquent of committing, or

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855 attempting, soliciting, or conspiring to commit, any offense
856 that is listed in s. 943.0435(1)(h)1.a.(I).

857 Section 29. For the purpose of incorporating the amendment
858 made by this act to section 943.0435, Florida Statutes, in a
859 reference thereto, paragraph (b) of subsection (6) of section
860 985.04, Florida Statutes, is reenacted to read:

861 985.04 Oaths; records; confidential information.—

862 (6)

863 (b) Sexual offender and predator registration information
864 as required in ss. 775.21, 943.0435, 944.606, 944.607, 985.481,
865 and 985.4815 is a public record pursuant to s. 119.07(1) and as
866 otherwise provided by law.

867 Section 30. For the purpose of incorporating the amendment
868 made by this act to section 943.0435, Florida Statutes, in a
869 reference thereto, subsection (9) and paragraph (c) of
870 subsection (10) of section 985.4815, Florida Statutes, are
871 reenacted to read:

872 985.4815 Notification to Department of Law Enforcement of
873 information on juvenile sexual offenders.—

874 (9) A sexual offender, as described in this section, who
875 is under the care, jurisdiction, or supervision of the
876 department but who is not incarcerated shall, in addition to the
877 registration requirements provided in subsection (4), register
878 in the manner provided in s. 943.0435(3), (4), and (5), unless
879 the sexual offender is a sexual predator, in which case he or

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880 she shall register as required under s. 775.21. A sexual
881 offender who fails to comply with the requirements of s.
882 943.0435 is subject to the penalties provided in s. 943.0435(9).

883 (10)

884 (c) An arrest on charges of failure to register when the
885 offender has been provided and advised of his or her statutory
886 obligations to register under s. 943.0435(2), the service of an
887 information or a complaint for a violation of this section, or
888 an arraignment on charges for a violation of this section
889 constitutes actual notice of the duty to register. A sexual
890 offender's failure to immediately register as required by this
891 section following such arrest, service, or arraignment
892 constitutes grounds for a subsequent charge of failure to
893 register. A sexual offender charged with the crime of failure to
894 register who asserts, or intends to assert, a lack of notice of
895 the duty to register as a defense to a charge of failure to
896 register shall immediately register as required by this section.
897 A sexual offender who is charged with a subsequent failure to
898 register may not assert the defense of a lack of notice of the
899 duty to register.

900 Section 31. For the purpose of incorporating the amendment
901 made by this act to section 943.0435, Florida Statutes, in a
902 reference thereto, paragraph (g) of subsection (2) of section
903 1012.467, Florida Statutes, is reenacted to read:

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904 1012.467 Noninstructional contractors who are permitted
905 access to school grounds when students are present; background
906 screening requirements.-

907 (2)

908 (g) A noninstructional contractor for whom a criminal
909 history check is required under this section may not have been
910 convicted of any of the following offenses designated in the
911 Florida Statutes, any similar offense in another jurisdiction,
912 or any similar offense committed in this state which has been
913 redesignated from a former provision of the Florida Statutes to
914 one of the following offenses:

915 1. Any offense listed in s. 943.0435(1)(h)1., relating to
916 the registration of an individual as a sexual offender.

917 2. Section 393.135, relating to sexual misconduct with
918 certain developmentally disabled clients and the reporting of
919 such sexual misconduct.

920 3. Section 394.4593, relating to sexual misconduct with
921 certain mental health patients and the reporting of such sexual
922 misconduct.

923 4. Section 775.30, relating to terrorism.

924 5. Section 782.04, relating to murder.

925 6. Section 787.01, relating to kidnapping.

926 7. Any offense under chapter 800, relating to lewdness and
927 indecent exposure.

928 8. Section 826.04, relating to incest.

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929 9. Section 827.03, relating to child abuse, aggravated
930 child abuse, or neglect of a child.

931 Section 3. This act shall take effect upon becoming a law.

932

933 -----

934 **T I T L E A M E N D M E N T**

935 Remove everything before the enacting clause and insert:

936

937 A bill to be entitled

938 An act relating to sexual offender registration;

939 providing legislative intent; amending s. 943.0435,

940 F.S.; redefining the term "sexual offender";

941 reenacting ss. 61.13(9)(c), 68.07(3)(i) and (6),

942 98.0751(2)(b), 320.02(4), 322.141(3), 322.19(1) and

943 (2), 394.9125(2), 397.487(10)(b), 435.07(4)(b),

944 775.0862(2), 775.13(4), 775.21(5)(d) and (10)(d),

945 775.24(2), 775.25, 775.261(3)(b), 900.05(2)(cc),

946 903.046(2)(m), 903.133, 907.043(4)(b), 938.10(1),

947 943.0436(2), 943.0584(2), 944.607(4)(a) and (9),

948 948.06(4), 948.063, 948.31, 985.04(6)(b), 985.4815(9)

949 and (10)(c), and 1012.467(2)(g), F.S., relating to

950 support of children, parenting and time-sharing, and

951 powers of court; change of name; restoration of voting

952 rights and termination of ineligibility subsequent to

953 a felony conviction; registration required,

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954 application for registration, and forms; color or
955 markings of certain licenses or identification cards;
956 change of address or name; state attorneys and the
957 authority to refer a person for civil commitment;
958 voluntary certification of recovery residences;
959 exemptions from disqualification; sexual offenses
960 against students by authority figures and
961 reclassification; registration of convicted felons,
962 exemptions, and penalties; the Florida Sexual
963 Predators Act; duty of the court to uphold laws
964 governing sexual predators and sexual offenders;
965 prosecutions for acts or omissions; the Florida Career
966 Offender Registration Act; criminal justice data
967 collection; purpose of and criteria for bail
968 determination; bail on appeal, prohibited for certain
969 felony convictions; pretrial release, citizens' right
970 to know; additional court cost imposed in cases of
971 certain crimes; duty of the court to uphold laws
972 governing sexual predators and sexual offenders;
973 criminal history records ineligible for court-ordered
974 expunction or court-ordered sealing; notification to
975 the department of information on sexual offenders;
976 violation of probation or community control,
977 revocation, modification, continuance, and failure to
978 pay restitution or cost of supervision; violations of

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979 | probation or community control by designated sexual
980 | offenders and sexual predators; evaluation and
981 | treatment of sexual predators and offenders on
982 | probation or community control; oaths, records, and
983 | confidential information; notification to Department
984 | of Law Enforcement of information on juvenile sexual
985 | offenders; and noninstructional contractors who are
986 | permitted access to school grounds when students are
987 | present and background screening requirements,
988 | respectively, to incorporate the amendment made to s.
989 | 943.0435, F.S., in references thereto; providing an
990 | effective date.

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