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**PUBLIC SAFETY  
&  
DOMESTIC SECURITY  
POLICY COMMITTEE**

**MONDAY, MARCH 1, 2010  
2:15 P.M. – 4:15 P.M.  
404 HOB**

**MEETING PACKET**

Larry Cretul  
Speaker

Kevin C. Ambler  
Chair

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Public Safety & Domestic Security Policy Committee

**Start Date and Time:** Monday, March 01, 2010 02:15 pm

**End Date and Time:** Monday, March 01, 2010 04:15 pm

**Location:** 404 HOB

**Duration:** 2.00 hrs

**Consideration of the following proposed committee bill(s):**

PCB PSDS 10-01 -- Criminal Law Reviser Bill

**Consideration of the following bill(s):**

HB 119 Sexual Offenders and Predators by Glorioso

HB 23 Parole for Adolescent Offenders by Weinstein

**NOTICE FINALIZED on 02/22/2010 16:15 by Thompson.Sonja**



# **The Florida House of Representatives**

**Criminal & Civil Justice Policy Council**

**Committee on Public Safety & Domestic Security Policy**

**Larry Cretul  
Speaker**

**Kevin C. Ambler  
Chair**

## **AGENDA**

**Monday, March 1, 2010**

**2:15 P.M. – 4:15 PM**

**(404 HOB)**

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- I. Opening remarks by Chair Ambler**
- II. Roll call by CAA**
- III. Consideration of the following proposed committee bill:**
  - PCB PSDS 10-01 – Criminal Law Reviser Bill**
- IV. Consideration of the following bill(s):**
  - HB 23 Parole for Adolescent Offenders by Weinstein**
  - HB 119 Sexual Offenders and Predators by Glorioso**
- V. Closing Remarks**
- VI. Meeting Adjourned**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB PSDS 10-01 Criminal Law Reviser Bill
SPONSOR(S): Public Safety & Domestic Security Policy Committee
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Orig. Comm.: Public Safety & Domestic Security Policy Committee, ANALYST: Cunningham, STAFF DIRECTOR: Cunningham. Rows 2-6 are empty.

SUMMARY ANALYSIS

This PCB amends various sections of statute that relate to criminal laws. The PCB deletes expired or obsolete statutory language, corrects cross-references and grammatical or typographical errors, removes inconsistencies and redundancies from the statutes, improves the clarity of the statutes and facilitates their correct interpretation, and confirms the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process.

This PCB amends, creates, repeals, or reenacts the following sections of the Florida Statutes: ss. 775.0877, 775.25, 784.07, 815.03, 817.554, 828.17, 831.16, 831.17, 831.18, 831.21, 831.27, 831.30, 838.021, 847.0125, 860.13, 865.09, 877.22, 893.02, 893.10, 914.24, 916.12, 916.3012, 918.0155, 921.0022, 921.141, 921.20, 932.704, 933.18, 933.40, 934.03, 938.15, 943.051, 943.053, 943.0581, 943.0582, 943.135, 944.023, 944.053, 944.28, 944.474, 944.708, 944.801, 945.10, 947.06, 947.16, 949.071, 951.23, 951.231, 957.07, 960.003, 984.225, 985.486, 985.632, and 985.686, F.S.

The PCB does not appear to have a fiscal impact and is effective July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Section 1

Section 775.0877, F.S., requires courts to order persons convicted of specified offenses, including s. 800.04(1), (2), and (3), F.S., to undergo HIV testing. In 1999, s. 800.04, F.S., was substantially reworded,<sup>1</sup> which made the specific references to subsections (1), (2), and (3) of s. 800.04, F.S., in s. 775.0877, F.S., outdated.

The PCB removes the specific references to subsection (1), (2), and (3) of s. 800.04, F.S. As such, a court must order a person convicted of any violation of s. 800.04, F.S., to undergo HIV testing.

##### Section 2

Section 775.25, F.S., provides that sexual offenders who commit any act or omission in violation of specified offenses, including s. 947.177, F.S., may be prosecuted in the county in which the act or omission was committed, in the county of the last registered address of the offender, or in the county in which the conviction occurred for the offense that meets the criteria for designating the person as a sexual offender. In 2001, s. 947.177, F.S., which related to inmate release notifications, was repealed.<sup>2</sup>

The PCB changes the reference to s. 947.177, F.S., to *former* s. 947.177, F.S.

##### Section 3

Section 784.07, F.S., reclassifies assault or battery offenses committed against specified persons, including "intake officers." Over the past twenty years, the term "intake officer" was changed to "intake counselor"<sup>3</sup> and then later changed to "juvenile probation officer."<sup>4</sup> The term "intake officer" no longer exists in statute.

The PCB removes the obsolete reference to "intake officer" in s. 784.07, F.S.

##### Section 4

Section 815.03, F.S., currently defines the term "property" for purposes of computer-related crimes as "anything of value as defined in s. 812.011 and includes, but is not limited to, financial instruments, information, including electronically produced data and computer software and programs in either

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<sup>1</sup> Ch. 99-201, L.O.F.

<sup>2</sup> Ch. 01-124, L.O.F.

<sup>3</sup> Ch. 90-208, L.O.F.

<sup>4</sup> Ch. 98-207, L.O.F.

machine-readable or human-readable form, and any other tangible or intangible item of value.” The definition’s cite to s. 812.011, F.S., is obsolete as that section was repealed in 1977.<sup>5</sup>

The PCB removes the obsolete reference to s. 812.011, F.S., and replaces it with a reference to s. 812.012, F.S., which contains a definition of the term “value.”

#### Section 5

Section 817.554(4), F.S., provides that “any individual or group that meets the standards of organized fraud as defined in s. 817.036 shall be punished as provided in s. 817.036.” The statute’s cite to s. 817.036, F.S., is obsolete as that section was repealed in 1987.<sup>6</sup>

The PCB removes the obsolete reference to s. 817.036, F.S., and replaces it with a reference to s. 817.034, F.S., which references and provides penalties for organized fraud.

#### Section 6

Section 828.17, F.S., requires a law enforcement officer to arrest without a warrant persons found violating specified offenses, including s. 828.04, F.S., which related to child abuse. The statute’s reference to s. 828.04, F.S., is obsolete as that statute was renumbered to s. 827.03, F.S. Additionally, specifying that a law enforcement officer must arrest a person without a warrant if they have committed a child abuse offense is unnecessary in that s. 901.15, F.S., authorizes warrantless arrests for violations of s. 827.03, F.S.

The PCB removes the obsolete reference to s. 828.04, F.S. in s. 828.17, F.S.

#### Section 7

Section 831.16, F.S., provides that a person who possesses less than 10 counterfeit coins with the intent to utter such coins shall be punished by imprisonment in the state prison not exceeding 10 years, or in the county jail not exceeding 12 months, or by fine not exceeding \$1,000.

The PCB removes the existing penalty language and replaces it by specifying that a person who possesses less than 10 counterfeit coins with the intent to utter such coins commits a 3<sup>rd</sup> degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.<sup>7</sup>

#### Section 8

Section 831.17, F.S., provides that a person who commits a second or subsequent violation of s. 831.16, F.S., and is at the same term of the court convicted upon three distinct charges of s. 831.16, F.S., is a common utterer of counterfeit coins and shall be punished by imprisonment in the state prison not to exceed 20 years.

The PCB removes the existing penalty language and replaces it by specifying that a person who commits a second or subsequent violation of s. 831.16, F.S., and is at the same term of the court convicted upon three distinct charges of s. 831.16, F.S., commits a 2<sup>nd</sup> degree felony, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.<sup>8</sup>

#### Section 9

Section 831.18, F.S., provides that a person who makes or possess instruments for forging bills shall be punished by imprisonment in the state prison not exceeding 10 years or by a fine not exceeding \$1,000.

The PCB removes the existing penalty language and replaces it by specifying that a person who makes or possess instruments for forging bills commits a 3<sup>rd</sup> degree felony punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

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<sup>5</sup> Ch. 77-342, L.O.F.

<sup>6</sup> Ch. 87-382, L.O.F.

<sup>7</sup> A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine.

<sup>8</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine.

### Section 10

Section 831.21, F.S., provides that a person who forges or counterfeits a doctor's certificate of examination shall be deemed guilty of forgery and upon conviction, shall be punished by imprisonment in the state penitentiary not exceeding 5 years or by a fine not exceeding \$500.

The PCB removes the existing penalty language and replaces it by specifying that person who forges or counterfeits a doctor's certificate of examination commits a 3<sup>rd</sup> degree felony punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

### Section 11

Section 831.27, F.S., makes it a 2<sup>nd</sup> degree misdemeanor for a person to issue any note, bill, order or check, other than foreign bills of exchange and notes or bills of some bank or company incorporated by the laws of this state, or by the laws of the United States, or by the laws of either of the British provinces in North America, with intent that the same shall be circulated as currency.

The PCB replaces the reference to "either of the British provinces in North America" with a reference to "Canada."

### Section 12

Section 831.30, F.S., specifies that it is a 2<sup>nd</sup> degree misdemeanor for a person to falsely make, alter, or forge any prescription, as defined in s. 465.031(2), F.S., for a medicinal drug other than a drug controlled by ch. 893, F.S. However, the statute's cite to s. 465.031(2), F.S., for the definition of the term "prescription" is obsolete as that section of statute was repealed in 1979.<sup>9</sup>

The PCB removes the obsolete reference to s. 465.031(2), F.S., and replaces it with a reference to s. 465.003, F.S., which contains a definition of the term "prescription."

### Section 13

Section 838.021, F.S., relates to corruption by threat against a public servant and is currently drafted in a manner that is grammatically incorrect. The PCB corrects the grammatical error.

### Section 14

Section 847.0125, F.S., relates to the retail display of materials that are harmful to minors. This section of statute currently incorporates amendments that were made by ch. 86-238, L.O.F. However, this section of statute was also amended in 1986 by ch. 86-38, L.O.F.

The PCB reenacts s. 847.0125, F.S., to clarify legislative intent that the statute incorporate the amendments made by ch. 86-238, L.O.F., and not those made by ch. 86-38, L.O.F.

### Section 15

Section 860.13, F.S., relates to the operation of aircraft while intoxicated or in a careless or reckless manner. The statute currently requires the court in which there is a conviction of a violation of this section of statute to report the violation to the Civil Aeronautics Administration. The reference to the Civil Aeronautics Administration is obsolete as that organization was abolished in 1958, and its functions transferred to the Federal Aviation Administration.

The PCB replaces the reference to the Civil Aeronautics Administration with a reference to the Federal Aviation Administration.

### Section 16

Section 865.09(11), F.S., requires persons to register, cancel, and renew fictitious names with the Division of Corporations of the Department of State. The statute currently specifies that such

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<sup>9</sup> Ch. 79-226, L.O.F.



registration, cancellation, and renewal can be made on forms prescribed by the Department of State as a means of satisfying the requirements of this part. The reference to "this part" is incorrect in that ch. 865 is not divided into parts.

The PCB replaces the incorrect reference by specifying that registration, cancellation, and renewal can be made on forms prescribed by the Department of State as a means of satisfying the requirements of *this section*.

#### Section 17

Section 877.22, F.S., relates to minors who violate a curfew. The statute currently authorizes law enforcements officers to transport minors who have violated their curfew to the minor's residence or proceed as authorized under part II of ch. 39, F.S. The cite to part II of ch. 39, F.S., is incorrect as the parts comprising ch. 39, F.S., were re-designated in 1998.<sup>10</sup>

The PCB replaces the reference to part II of ch. 39, F.S., with a reference to part V of ch. 39, F.S.

#### Section 18

Section 893.02, F.S., contains a definition of the term "prescription." The definition currently contains a reference to "medicinal drug" as defined in s. 465.031(5), F.S. The citation to s. 465.031(5), F.S., is obsolete as that section of statute was repealed in 1979.<sup>11</sup>

The PCB removes the obsolete reference to s. 465.031(5), F.S., and replaces it with a reference to s. 465.003(8), F.S., which contains definitions of the terms "medicinal drug" and "drug."

#### Section 19

Section 893.10(2), F.S., relates to the admissibility of evidence in cases where a person is charged under s. 893.14(1), F.S., with the possession of a controlled substance. Section 893.10(2), F.S., is obsolete as s. 893.14(1), F.S., was repealed in 1980 and there is no similar provision in current law.<sup>12</sup>

The PCB repeals s. 893.10(2), F.S., in its entirety.

#### Section 20

Section 914.24(2), F.S., permits courts to issue a protective order prohibiting the harassment of a victim or witness if the court, after a hearing, finds by a preponderance of the evidence that such order is necessary to prevent and restrain an offense under s. 914.23, F.S.<sup>13</sup> When s. 914.24(2), F.S., was reenacted in 1992, the reenactment incorporated an uncoded amendment that appears to have inadvertently removed language specifying additional instances in which a court could issue a protective order.<sup>14</sup>

The PCB inserts the inadvertently removed language so that s. 914.24(2), F.S., will permit a court to issue a protective order when necessary to prevent and restrain an offense under s. 914.22<sup>15</sup>, other than an offense consisting of misleading conduct, or when necessary to prevent and restrain an offense under s. 914.23, F.S.

#### Section 21

Section 916.12(3), F.S., lists items that must be included in an examining expert's competence to proceed report and is currently drafted in a manner that is grammatically incorrect. The PCB corrects the grammatical error.

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<sup>10</sup> ch. 98-403, L.O.F.

<sup>11</sup> ch. 79-226, L.O.F.

<sup>12</sup> ch. 80-409, L.O.F.

<sup>13</sup> Section 914.23, F.S., relates to retaliating against a witness, victim, or informant.

<sup>14</sup> ch. 92-281, L.O.F.

<sup>15</sup> Section 914.22, F.S., relates to tampering with or harassing a witness, victim, or informant.

### Section 22

Section 916.3012(3), F.S., lists items that must be included in an examining expert's competence to proceed report and is currently drafted in a manner that is grammatically incorrect. The PCB corrects the grammatical error.

### Section 23

Section 918.0155, F.S., requires that specified criminal cases be heard and disposed of as expeditiously as possible. The statute further provides that "The Legislature requests the Supreme Court to adopt emergency rules regarding the expeditious handling of the matters enumerated in this section." The language requesting the Supreme Court to adopt emergency rules is obsolete as Rule 3.190(k) of the Rules of Criminal Procedure, entitled "Motion to Expedite", is in effect.

The PCB removes the obsolete language requesting the Supreme Court to adopt emergency rules.

### Section 24

Section 921.0022, F.S., the Criminal Punishment Code offense severity ranking chart, ranks criminal offenses from level one (least severe) to level ten (most severe) and assigns points based on the severity of the offense. Currently, the statute incorrectly describes the offense contained in s. 590.28(1), F.S., as "willful, malicious, or intentional burning."<sup>16</sup> The statute also contains an obsolete reference to "intake counselor" relating to the offense contained in s. 784.07(2)(b), F.S.

The PCB corrects the description of the offense contained in s. 590.28(1), F.S., by describing the offense as "Intentional burning of lands." The PCB also removes the obsolete reference to "intake counselor" relating to s. 784.07(2)(b), F.S.

### Section 25

Section 921.141(5)(a), F.S., specifies that whether "the capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation" is an aggravating circumstance that may be considered when sentencing a defendant to death or life imprisonment. This section of statute currently incorporates amendments that were made by ch. 96-302, L.O.F. However, this section of statute was also amended in 1996 by ch. 96-290, L.O.F.

The PCB reenacts s. 921.141(5)(a), F.S., to clarify legislative intent that the statute incorporate the amendments made by ch. 96-302, L.O.F., and not those made by ch. 96-290, L.O.F.

### Section 26

Section 921.20, F.S. provides that as soon as possible after a prisoner has been placed in the custody of the Department of Corrections, the classification board shall furnish a classification summary to the Parole Commission for use as provided in s. 947.14, F.S. The reference to s. 947.14, F.S., is obsolete in that in 1981, s. 947.14(1), (2), (4), and (6), F.S., were transferred, in part, to s. 945.25, F.S., and subsections (3) and (5) were transferred to s. 947.13, F.S.

The PCB replaces the obsolete reference to 947.14, F.S., with a reference to s. 945.25, F.S.

### Section 27

Section 932.704, F.S., requires each state or local law enforcement agency that files civil forfeiture actions under the Florida Contraband Forfeiture Act to file, by December 31, 1995, a certificate signed by the agency head or his or her designee, which represents that the agency's policies and procedures are in compliance with the guidelines developed by the Florida Department of Law Enforcement. This language is obsolete as the deadline for certifying compliance was in 1995.

The PCB removes obsolete language requiring agencies to submit a certificate of compliance by 1995.

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<sup>16</sup> Section 590.28, F.S., relates to the intentional or reckless burning of lands.

### Section 28

Section 933.18, F.S., provides, in part, that no search warrant may be issued to search any private dwelling unless one or more of the following misdemeanor child abuse offenses is being committed there – violations of ss. 787.03, 800.02, and 800.03, F.S. The statute's specification that the enumerated child abuse offenses are misdemeanor offenses is incorrect in that the enumerated child abuse offenses also contain felony offenses.

The PCB deletes the word "misdemeanor" so that both misdemeanor and felony violations of the enumerated child abuse statutes are included.

### Section 29

Section 933.40, F.S., relates to agricultural warrants and specifies that the judge or magistrate, if satisfied that probable cause exists for the issuing of one or more agricultural warrants, shall issue such warrants with his or her signature and office affixed thereto. The PCB removes the reference to "magistrate" and replaces it with a reference to "trial court judge."

### Section 30

Section 934.03(2)(g), F.S., provides that it is unlawful for specified entities, including public utilities as defined by ss. 365.01 and 366.02, F.S., to intercept and record incoming wire communications. The reference to s. 365.01, F.S., in relation to the definition of the term "public utility" is obsolete as that section of statute was repealed in 1989.<sup>17</sup>

The PCB removes the obsolete cite to s. 365.01, F.S., and includes the definition of "public utility" that was contained in the repealed statute in s. 934.03(2)(g), F.S.

### Section 31

Section 938.15, F.S., relates to criminal justice education for local governments. Subsection (2) of the statute makes a reference to the "commission," but it is unclear what commission the statute is referencing. The PCB clarifies that the commission referenced by s. 938.15(2), F.S., is the Criminal Justice Standards and Training Commission.

### Section 32

Section 943.051(3)(b), F.S., provides that if a minor is charged with or is found to have committed specified offenses, including s. 827.05, F.S., the minor must be fingerprinted and the fingerprints submitted to the Florida Department of Law Enforcement. In 1996, s. 827.05, F.S., which relates to the negligent treatment of children, was repealed.<sup>18</sup>

The PCB changes the reference to s. 827.05, F.S., to *former* s. 827.05, F.S.

### Section 33

Section 943.053, F.S., specifies that the Florida Department of Law Enforcement shall provide the Florida Department of Revenue Child Support Enforcement access to specified information. The reference to the Division of Child Support Enforcement is obsolete in that chapter 97-287, L.O.F., removed references to divisions of state agencies. The PCB removes the reference to Child Support Enforcement and retains the reference to the Florida Department of Revenue.

### Section 34

Section 943.0581(6), F.S., which specifies that an application or endorsement for administrative expunction is not admissible as evidence in any judicial or administrative proceeding or otherwise be construed in any way as an admission of liability in connection with an arrest, is drafted in a manner that is grammatically incorrect. The PCB corrects the grammatical error.

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<sup>17</sup> ch. 89-86, L.O.F.

<sup>18</sup> chapters 96-322 and 96-388, L.O.F.

### Section 35

Section 943.0582, F.S., requires the Florida Department of Law Enforcement to expunge the non-judicial arrest record of a minor who has successfully completed a pre-arrest or post-arrest diversion program if the minor meets specified requirements. Section 943.0582, F.S., also specifies that it operates retroactively. This section of statute currently incorporates amendments that were made by ch. 2001-125, L.O.F. However, this section of statute was also amended in 2001 by ch. 2001-127, L.O.F.

The PCB reenacts s. 943.0582, F.S., to clarify legislative intent that the statute incorporate the amendments made by ch. 2001-125, L.O.F., and not those made by ch. 2001-127, L.O.F.

### Section 36

Section 943.135, F.S., permits specified persons to associate with their employing agency for the sole purpose of securing continuing employment-related training and education. Paragraph (4)(b) of the statute requires the employing agency with which the person has associated to submit proof of completion of any education or training so obtained and to indicate that the person for whom the credits are reported has secured the training under the special status authorized by this section. Section 943.135(4)(b), F.S., currently incorporates amendments that were made by ch. 98-251, L.O.F. However, this section of statute was also amended in 1998 by ch. 98-249, L.O.F.

The PCB reenacts s. 943.135(4)(b), F.S., to clarify legislative intent that the statute incorporate the amendments made by ch. 98-251, L.O.F., and not those made by ch. 98-249, L.O.F.

### Section 37

Section 944.023, F.S., requires the comprehensive correctional master plan to include a siting plan, which must assess, rank, and designate appropriate sites pursuant to s. 944.095(2)(a)-(k), F.S. The cite to s. 944.095(2)(a)-(k), F.S., is obsolete in that s. 944.095, F.S., was rewritten in 1995 and removed paragraphs (a)-(k) from subsection (2).<sup>19</sup>

The bill replaces the obsolete reference to s. 944.095(2)(a)-(k), F.S., with a general reference to s. 944.095, F.S., which relates to the siting of correctional facilities.

### Section 38

Section 944.053, F.S., provides that forestry work camps shall house minimum custody inmates and medium custody inmates who are not serving a sentence for, or who have not been previously convicted of, sexual battery or any sexual offender specified in s. 917.012(1), F.S., unless they have successfully completed a treatment program pursuant to s. 917.012, F.S. The references to s. 917.012, F.S., which related to mentally disordered sex offenders, are obsolete in that the statute was repealed in 1991.<sup>20</sup>

The PCB removes the obsolete references to s. 917.012, F.S. and specifies that sexual battery offenses are listed in s. 794.011, F.S.

### Section 39

Section 944.28(1), F.S., specifies circumstances in which the Department of Corrections may declare a forfeiture of gain-time earned by a prisoner. Chapter 91-280, L.O.F., purported to reenact s. 944.28(1), F.S., but did not include the version as amended by ch. 89-531, L.O.F. As a result, a reference to control release was omitted.

The PCB reenacts s. 944.28(1), F.S., to clarify legislative intent that the statute include a reference to control release.

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<sup>19</sup> ch. 95-283, L.O.F.

<sup>20</sup> ch. 91-225, L.O.F.

#### Section 40

Section 944.474, F.S., provides that notwithstanding s. 112.0455(5)(a), F.S., the Department of Corrections may develop a program for the reasonable suspicion drug testing of employees who are in safety-sensitive or special risk positions. The cite to paragraph (a) of s. 112.0455(5), F.S., appears to be incorrect as that paragraph defines the term "drug."

The PCB replaces the incorrect citation to s. 112.0455(5)(a), F.S., with a reference to s. 112.0455, F.S., entitled the "Drug-Free Workplace Act."

#### Sections 41 - 43

Sections 944.708, 944.801, and 945.10, F.S., contain references to the Department of Labor and Employment Security. The PCB replaces these references with the Agency for Workforce Innovation.

#### Section 44

Section 947.06, F.S., specifies when the Parole Commission may meet and how the Commission may act. Section 947.06 F.S., currently incorporates amendments that were made by ch. 90-211, L.O.F. However, this section of statute was also amended in 1990 by ch. 90-337, L.O.F.

The PCB reenacts s. 947.06 F.S., to clarify legislative intent that the statute incorporate the amendments made by ch. 90-211, L.O.F., and not those made by ch. 90-337 L.O.F.

#### Section 45

Section 947.16(4), F.S., specifies that a trial judge may retain jurisdiction over certain parole-eligible offenders to review a Parole Commission release order. In such instances, the trial judge must state the justification for retaining jurisdiction and such justification must be made a part of the court record. A copy of the justification must also be delivered to the Department of Corrections together with the commitment issued by the court pursuant to s. 944.16, F.S. The reference to s. 944.16, F.S., appears to be incorrect as that section of statute was repealed in 1985.<sup>21</sup>

The PCB replaces the incorrect reference to s. 944.16, F.S., and with a reference to s. 944.17, F.S., which requires clerks to complete a commitment form and submit such form to the Department of Corrections.

#### Section 46

Section 949.071, F.S., references "s. 111(b) of Title 4 of the United States Code as added by Pub. L. No. 970 84<sup>th</sup> Congress, CH. 941 2d Session" in defining the term "state" for interstate compact purposes. The cite to s. 111(b) of Title 4 of the United States Code was re-designated as 4 U.S.C. s. 112(b) by Pub. L. No. 89-554, S.2(c), 80 Stat. 608. The PCB corrects this citation.

#### Section 47

Section 951.23, F.S., relates to the inmate commissary and welfare fund. Paragraph (9)(e) of the statute requires an audit of the commissary including certification that the commissary complies with the pricing requirements of paragraph (1)(b). The cite to paragraph (1)(b) appears incorrect as that paragraph defines "county residential probation center."

The PCB replaces the reference to s. 951.23(1)(b), F.S., with a reference to s. 951.23(9)(b), F.S., which specifies that canteen prices shall be set so as not to exceed the fair market value of comparable products sold in the community where the facility is located.

#### Section 48

Section 951.231(1), F.S., specifies, in part, that any prisoner who has been sentenced to serve a sentence in a county residential probation center must participate in and complete the program required by s. 958.04(4), F.S., if required by the supervisor of the center. The statute's reference to s.

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<sup>21</sup> ch. 85-288, L.O.F.

958.04(4), F.S., is obsolete as that statute was repealed in 1994 and the subunits of the statute renumbered.<sup>22</sup>

The bill replaces the obsolete reference to s. 958.04(4), F.S., with a reference to s. 958.045, F.S., which relates to the youthful offender basic training program.

#### Section 49

Section 957.07, F.S., requires the Department of Corrections to submit a report to the Correctional Privatization Commission detailing the cost to build a facility similar to a private facility. In 2004, the Correctional Privatization Commission was abolished, and the Department of Management Services took over many of the Commission's functions.<sup>23</sup>

The PCB replaces the reference to the Commission with a reference to the Department of Management Services.

#### Section 50

Section 960.003, F.S., requires persons charged with certain offenses to be tested for HIV and specifies that the same counseling which must be made available under s. 381.004(3)(e) to those who undergo HIV testing must also be made available to the victim. The reference to paragraph (3)(e) of s. 381.004, F.S., appears incorrect as that paragraph currently relates to the confidentiality of HIV tests.

The PCB replaces the reference to s. 381.004(3)(e), F.S., with a reference to s. 381.004, F.S.

#### Section 51

Section 984.225, F.S., provides that in certain instances in which a child is handled as a dependent child, jurisdiction must be transferred to the Department of Children and Family Services and the child's care be governed under parts II and III of chapter 39, F.S. In years past, chapter 39, F.S., had four parts, with parts II and III addressing dependency and foster care. Currently, chapter 39, F.S., has 13 parts.

The PCB removes the specific reference to parts II and II of chapter 39, F.S., and instead specifies that that a dependent child's care be governed under the relevant provisions of chapter 39, F.S.

#### Section 52

Section 985.486, F.S., provides that no child who is eligible for commitment to an intensive residential treatment program for offenders less than 13 years of age as established in s. 985.483(1), F.S., may be committed to such a program unless such program has been established by the Department of Juvenile Justice through existing resources or specific appropriation. Section 985.483(1), F.S., lists the eligibility criteria for intensive residential treatment programs for offenders less than 13 – it does not establish such programs.

The PCB removes language indicating that s. 985.483, F.S., establishes intensive residential treatment programs for offenders less than 13 and clarifies that the statute only provides eligibility criteria for such programs.

#### Section 53

Section 985.632, F.S., requires the Department of Juvenile Justice to develop a cost-effectiveness model and apply the model to each commitment program. The statute further states that it is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the cost-effectiveness model and to integrate the standard methodology developed under s. 985.401(4), F.S., for interpreting program outcome evaluations. The reference to s. 985.401(4), F.S., is obsolete as that section was repealed in 2001.<sup>24</sup> The PCB removes the legislative intent language that relates to the repealed section of statute.

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<sup>22</sup> ch. 94-209, L.O.F.

<sup>23</sup> ch. 2004-248, L.O.F.

<sup>24</sup> ch. 2001-185, L.O.F.

Section 985.632(7), F.S., requires the Department of Juvenile Justice, no later than November 1, 2001, to submit a report to the Legislature concerning funding incentives and disincentives for the department and for providers under contract with the department. The PCB removes this reporting requirement as it is now obsolete.

#### Section 54

Section 985.686(2)(b), F.S., defines the term "fiscally constrained county." The statute currently incorporates amendments that were made by ch. 2006-62, L.O.F. However, this section of statute was also amended in 2006 by ch. 2006-120, L.O.F.

The PCB reenacts s. 985.686(2)(b), F.S., to clarify legislative intent that the statute incorporate the amendments made by ch. 2006-62, L.O.F., and not those made by ch. 2006-120, L.O.F.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 775.0877, F.S., relating to criminal transmission of HIV; procedures; penalties.

**Section 2.** Amends s. 775.25, F.S., relating to prosecutions for acts or omissions.

**Section 3.** Amends s. 784.07, F.S., relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.

**Section 4.** Amends s. 815.03, F.S., relating to definitions.

**Section 5.** Amends s. 817.554, F.S., relating to fraudulently offering for sale tour or travel-related services.

**Section 6.** Amends s. 828.17, F.S., relating to officer to arrest without warrant.

**Section 7.** Amends s. 831.16, F.S., relating to having less than 10 counterfeit coins in possession, with intent to utter.

**Section 8.** Amends s. 831.17, F.S., relating to violation of s. 831.16; second conviction.

**Section 9.** Amends s. 831.18, F.S., relating to making or possessing instruments for forging bills.

**Section 10.** Amends s. 831.21, F.S., relating to forging or counterfeiting doctor's certificate of examination.

**Section 11.** Amends s. 831.27, F.S., relating to issuing notes.

**Section 12.** Amends s. 831.30, F.S., relating to medicinal drugs; fraud in obtaining.

**Section 13.** Amends s. 838.021, F.S., relating to corruption by threat against public servant.

**Section 14.** Reenacts s. 847.0125, F.S., relating to retail display of materials harmful to minors prohibited.

**Section 15.** Amends s. 860.13, F.S., relating to operation of aircraft while intoxicated or in careless or reckless manner; penalty.

**Section 16.** Amends s. 865.09, F.S., relating to fictitious name registration.

**Section 17.** Amends s. 877.22, F.S., relating to minors prohibited in public places and establishments during certain hours; penalty; procedure.

**Section 18.** Amends s. 893.02, F.S., relating to definitions.

**Section 19.** Amends s. 893.10, F.S., relating to burden of proof; photograph or video recording of evidence.

**Section 20.** Reenacts s. 914.24, F.S., relating to civil action to restrain harassment of a victim or witness.

**Section 21.** Amends s. 916.12, F.S., relating to mental competence to proceed.

**Section 22.** Amends s. 916.3012, F.S., relating to mental competence to proceed.

**Section 23.** Amends s. 918.0155, F.S., relating to expeditious disposition of particular criminal cases involving a child under age 16.

**Section 24.** Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

**Section 25.** Reenacts s. 921.141, F.S., relating to sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.

**Section 26.** Amends s. 921.20, F.S., relating to classification summary; Parole Commission.

**Section 27.** Amends s. 932.704, F.S., relating to forfeiture proceedings.

**Section 28.** Amends s. 933.18, F.S., relating to when warrant may be issued for search of private dwelling.

**Section 29.** Amends s. 933.40, F.S., relating to agriculture warrants.

**Section 30.** Amends s. 934.03, F.S., relating to interception and disclosure of wire, oral, or electronic communications prohibited.

**Section 31.** Amends s. 938.15, F.S., relating to criminal justice education for local government.

**Section 32.** Amends s. 943.051, F.S., relating to criminal justice information; collection and storage; fingerprinting.

**Section 33.** Reenacts s. 943.053, F.S., relating to dissemination of criminal justice information; fees.

**Section 34.** Amends s. 943.0581, F.S., relating to administrative expunction.

**Section 35.** Reenacts s. 943.0582, F.S., relating to prearrest, postarrest, or teen court diversion program expunction.

**Section 36.** Reenacts s. 943.135, F.S., relating to requirements for continued employment.

**Section 37.** Amends s. 944.023, F.S., relating to comprehensive correctional master plan.

**Section 38.** Amends s. 944.053, F.S., relating to forestry work camps.

**Section 39.** Reenacts s. 944.28, F.S., relating to forfeiture of gain-time and the right to earn gain-time in the future.



- Section 40.** Amends s. 944.474, F.S., relating to legislative intent; employee wellness program; drug and alcohol testing.
- Section 41.** Amends s. 944.708, F.S., relating to rules.
- Section 42.** Amends s. 944.801, F.S., relating to education for state prisoners.
- Section 43.** Amends s. 945.10, F.S., relating to confidential information.
- Section 44.** Reenacts s. 947.06, F.S., relating to meeting; when commission may act.
- Section 45.** Amends s. 947.16, F.S., relating to eligibility for parole; initial parole interviews; powers and duties of commission.
- Section 46.** Amends s. 949.071, F.S., relating to definition of "state" as used in s. 949.07; further declaration relating to interstate compacts.
- Section 47.** Amends s. 951.23, F.S., relating to county and municipal detention facilities; definitions; administration; standards and requirements.
- Section 48.** Amends s. 951.231, F.S., relating to county residential probation program.
- Section 49.** Amends s. 957.07, F.S., relating to cost-saving requirements.
- Section 50.** Amends s. 960.003, F.S., relating to HIV testing for persons charged with or alleged by petition for delinquency to have committed certain offenses; disclosure of results to victims.
- Section 51.** Amends s. 984.225, F.S., relating to powers of disposition; placement in a staff-secure shelter.
- Section 52.** Amends s. 985.486, F.S., relating to intensive residential treatment programs for offenders less than 13 years of age; prerequisite for commitment.
- Section 53.** Amends s. 985.632, F.S., relating to quality assurance and cost-effectiveness.
- Section 54.** Reenacts s. 985.686, F.S., relating to shared county and state responsibility for juvenile detention.
- Section 55.** This PCB takes effect July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:  
None.
2. Expenditures:  
None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this PCB does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
2           An act relating to criminal justice; amending s. 775.0877,  
3           F.S.; requiring the court to order a person convicted of  
4           any offense in s. 800.04 to undergo HIV testing in certain  
5           instances; amending s. 775.25, F.S.; clarifying a  
6           reference to repealed s. 947.177; amending s. 784.07,  
7           F.S.; removing an outdated reference to "intake  
8           counselors" in relation to assault and battery of  
9           specified persons; amending s. 815.03, F.S.; defining the  
10          term "property" in accordance with s. 812.012 in relation  
11          to computer crimes; amending s. 817.554, F.S.; defining  
12          the term "organized fraud" in accordance with s. 817.043  
13          in relation to fraudulently offering for sale tour or  
14          travel-related services; amending s. 828.17, F.S.;  
15          removing an obsolete statutory citation relating to when  
16          an officer may arrest a person without a warrant; amending  
17          s. 831.16, F.S.; clarifying that it is a third degree  
18          felony for a person to knowingly have in his or her  
19          possession less than ten counterfeit coins with the intent  
20          to utter or pass such coins; amending s. 831.17, F.S.;  
21          clarifying that certain subsequent violations of s. 831.16  
22          are punishable as a second degree felony; amending s.  
23          831.18, F.S.; clarifying that the offense of making or  
24          possessing instruments for forging bills is punishable as  
25          a third degree felony; amending s. 831.21, F.S.;  
26          clarifying that the offense of forging or counterfeiting a  
27          doctor's certificate of examination is punishable as a  
28          third degree felony; amending s. 831.27, F.S.; correcting

29 a reference relating to the offense of issuing notes;  
 30 amending s. 831.30, F.S.; defining the term "prescription"  
 31 in accordance with s. 465.003 in relation to offenses  
 32 involving medicinal drug fraud; amending s. 838.021, F.S.;  
 33 correcting grammatical errors; reenacting s. 847.0125,  
 34 F.S.; relating to retail display of materials harmful to  
 35 minors; amending s. 860.13, F.S.; correcting an outdated  
 36 reference; amending s. 865.09, F.S.; correcting a  
 37 statutory reference; amending s. 877.22, F.S.; correcting  
 38 a statutory reference; amending s. 893.02, F.S.; defining  
 39 the term "medicinal drug" in accordance with s. 465.003(8)  
 40 in relation to drug trafficking offenses; amending s.  
 41 893.10, F.S.; removing obsolete language relating to  
 42 evidence in possession of controlled substances cases;  
 43 reenacting s. 914.24, F.S.; reinstating language relating  
 44 to victim and witness protection orders; amending s.  
 45 916.12, F.S.; correcting a grammatical error; amending s.  
 46 916.3012, F.S.; correcting a grammatical error; amending  
 47 s. 918.0155, F.S.; deleting obsolete language directing  
 48 the Legislature to request the Supreme Court to adopt  
 49 emergency rules; amending s. 921.0022, F.S.; correcting a  
 50 statutory reference in the offense severity ranking chart;  
 51 removing an obsolete term in the offense severity ranking  
 52 chart; reenacting s. 921.141, F.S.; relating to sentence  
 53 of death or life imprisonment for capital felonies;  
 54 amending s. 921.20, F.S.; correcting a statutory citation  
 55 relating to the use of classification summaries; amending  
 56 s. 932.704, F.S.; deleting an obsolete reference relating

57 to the deadline for certifying compliance with the  
 58 Contraband Forfeiture Act; amending s. 933.18, F.S.;  
 59 correcting a reference in relation to when a warrant may  
 60 be issued to search a dwelling; amending s. 933.40, F.S.;  
 61 replacing an outdated reference to "magistrates" with  
 62 "trial court judge" in relation to who can issue  
 63 agricultural warrants; amending s. 934.03, F.S.; removing  
 64 an outdated statutory citation relating to the definition  
 65 of the term "public utility"; creating a definition of the  
 66 term public utility; amending s. 938.15, F.S.; specifying  
 67 that the term "commission" refers to the Criminal Justice  
 68 Standards and Training Commission; amending s. 943.051,  
 69 F.S.; clarifying a reference to repealed s. 827.05;  
 70 amending s. 943.053, F.S.; removing an obsolete reference;  
 71 amending s. 943.0581, F.S.; clarifying legislative intent;  
 72 reenacting s. 943.0582, F.S.; relating to prearrest,  
 73 postarrest, or teen court diversion program expunction;  
 74 reenacting s. 943.135, F.S.; relating to requirements for  
 75 continued employment; amending s. 944.023, F.S.;  
 76 correcting an obsolete statutory citation relating to the  
 77 comprehensive correctional master plan; amending s.  
 78 944.053, F.S.; removing an obsolete statutory citation  
 79 relating to who is authorized to be housed at forestry  
 80 work camps; reenacting s. 944.28, F.S.; relating to gain  
 81 time; amending s. 944.474, F.S.; correcting a statutory  
 82 citation relating to Department of Corrections employee  
 83 drug testing programs; amending s. 944.708, F.S.;  
 84 replacing an obsolete reference to the Department of Labor

85 and Employment Security with a reference to the Agency for  
 86 Workforce Innovation; amending s. 944.801, F.S.; replacing  
 87 an obsolete reference to the Department of Labor and  
 88 Employment Security with a reference to the Agency for  
 89 Workforce Innovation; amending s. 945.10, F.S.; replacing  
 90 an obsolete reference to the Department of Labor and  
 91 Employment Security with a reference to the Agency for  
 92 Workforce Innovation; reenacting s. 947.06, F.S.; relating  
 93 to when the Florida Parole Commission may meet and act;  
 94 amending s. 947.16, F.S.; correcting an obsolete statutory  
 95 citation in relation to eligibility for parole; amending  
 96 s. 949.071, F.S.; correcting a federal statutory citation  
 97 relating to the Interstate Compact for Adult Offender  
 98 Supervision; amending s. 951.23, F.S.; correcting a  
 99 statutory citation in relation to county and municipal  
 100 detention facilities; amending s. 951.231, F.S.;

101 correcting a statutory citation relating to requirements  
 102 of prisoners sentenced to county residential probation  
 103 centers; amending s. 957.07, F.S.; replacing an obsolete  
 104 reference to the Correctional Privatization Commission to  
 105 the Department of Management Services; amending s.  
 106 960.003, F.S.; correcting an obsolete statutory citation  
 107 in relation to HIV testing of persons charged with certain  
 108 offenses; amending s. 984.225, F.S.; correcting a  
 109 statutory reference; amending s. 985.486, F.S.; correcting  
 110 statutory citations in relation to intensive residential  
 111 treatment programs for offenders less than 13 years of  
 112 age; amending s. 985.632, F.S.; removing a reference to a

113 repealed statute; removing an obsolete requirement that  
 114 the Department of Juvenile Justice submit a proposal  
 115 concerning funding incentives and disincentives;  
 116 reenacting s. 985.686, F.S.; relating to county and state  
 117 responsibility for juvenile detention; providing an  
 118 effective date.

119

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

121

122 Section 1. Subsection (1) of section 775.0877, Florida  
 123 Statutes, is amended to read:

124 775.0877 Criminal transmission of HIV; procedures;  
 125 penalties.--

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

131 (a) Section 794.011, relating to sexual battery,

132 (b) Section 826.04, relating to incest,

133 (c) Section 800.04~~(1), (2), and (3)~~, relating to lewd or  
 134 lascivious offenses committed upon or in the presence of persons  
 135 ~~lewd, lascivious, or indecent assault or act upon any person~~  
 136 less than 16 years of age,

137 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
 138 relating to assault,

139 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),  
 140 relating to aggravated assault,

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141 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),  
 142 relating to battery,  
 143 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),  
 144 relating to aggravated battery,  
 145 (h) Section 827.03(1), relating to child abuse,  
 146 (i) Section 827.03(2), relating to aggravated child abuse,  
 147 (j) Section 825.102(1), relating to abuse of an elderly  
 148 person or disabled adult,  
 149 (k) Section 825.102(2), relating to aggravated abuse of an  
 150 elderly person or disabled adult,  
 151 (l) Section 827.071, relating to sexual performance by  
 152 person less than 18 years of age,  
 153 (m) Sections 796.03, 796.07, and 796.08, relating to  
 154 prostitution, or  
 155 (n) Section 381.0041(11)(b), relating to donation of  
 156 blood, plasma, organs, skin, or other human tissue,  
 157  
 158 the court shall order the offender to undergo HIV testing, to be  
 159 performed under the direction of the Department of Health in  
 160 accordance with s. 381.004, unless the offender has undergone  
 161 HIV testing voluntarily or pursuant to procedures established in  
 162 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or  
 163 rule providing for HIV testing of criminal offenders or inmates,  
 164 subsequent to her or his arrest for an offense enumerated in  
 165 paragraphs (a)-(n) for which she or he was convicted or to which  
 166 she or he pled nolo contendere or guilty. The results of an HIV  
 167 test performed on an offender pursuant to this subsection are



168 not admissible in any criminal proceeding arising out of the  
 169 alleged offense.

170 Section 2. Section 775.25, Florida Statutes, is amended to  
 171 read:

172 775.25 Prosecutions for acts or omissions.--A sexual  
 173 predator or sexual offender who commits any act or omission in  
 174 violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.  
 175 944.607, or former s. 947.177 may be prosecuted for the act or  
 176 omission in the county in which the act or omission was  
 177 committed, the county of the last registered address of the  
 178 sexual predator or sexual offender, or the county in which the  
 179 conviction occurred for the offense or offenses that meet the  
 180 criteria for designating a person as a sexual predator or sexual  
 181 offender. In addition, a sexual predator may be prosecuted for  
 182 any such act or omission in the county in which he or she was  
 183 designated a sexual predator.

184 Section 3. Subsection (2) of section 784.07, Florida  
 185 Statutes, is amended to read:

186 784.07 Assault or battery of law enforcement officers,  
 187 firefighters, emergency medical care providers, public transit  
 188 employees or agents, or other specified officers;  
 189 reclassification of offenses; minimum sentences.--

190 (2) Whenever any person is charged with knowingly  
 191 committing an assault or battery upon a law enforcement officer,  
 192 a firefighter, an emergency medical care provider, a traffic  
 193 accident investigation officer as described in s. 316.640, a  
 194 nonsworn law enforcement agency employee who is certified as an  
 195 agency inspector, blood alcohol analyst, or a breath test

196 operator while such employee is in uniform and engaged in  
 197 processing, testing, evaluating, analyzing, or transporting a  
 198 person who is detained or under arrest for DUI, a law  
 199 enforcement explorer, a traffic infraction enforcement officer  
 200 as described in s. 316.640, a parking enforcement specialist as  
 201 defined in s. 316.640, a person licensed as a security officer  
 202 as defined in s. 493.6101 and wearing a uniform that bears at  
 203 least one patch or emblem that is visible at all times that  
 204 clearly identifies the employing agency and that clearly  
 205 identifies the person as a licensed security officer, or a  
 206 security officer employed by the board of trustees of a  
 207 community college, while the officer, firefighter, emergency  
 208 medical care provider, ~~intake officer~~, traffic accident  
 209 investigation officer, traffic infraction enforcement officer,  
 210 inspector, analyst, operator, law enforcement explorer, parking  
 211 enforcement specialist, public transit employee or agent, or  
 212 security officer is engaged in the lawful performance of his or  
 213 her duties, the offense for which the person is charged shall be  
 214 reclassified as follows:

215 (a) In the case of assault, from a misdemeanor of the  
 216 second degree to a misdemeanor of the first degree.

217 (b) In the case of battery, from a misdemeanor of the  
 218 first degree to a felony of the third degree.

219 (c) In the case of aggravated assault, from a felony  
 220 of the third degree to a felony of the second degree.

221 Notwithstanding any other provision of law, any person convicted  
 222 of aggravated assault upon a law enforcement officer shall be  
 223 sentenced to a minimum term of imprisonment of 3 years.

224 (d) In the case of aggravated battery, from a felony  
 225 of the second degree to a felony of the first degree.  
 226 Notwithstanding any other provision of law, any person convicted  
 227 of aggravated battery of a law enforcement officer shall be  
 228 sentenced to a minimum term of imprisonment of 5 years.

229 Section 4. Subsection (11) of section 815.03, Florida  
 230 Statutes, is amended to read:

231 815.03 Definitions.--As used in this chapter, unless the  
 232 context clearly indicates otherwise:

233 (11) "Property" means anything of value as defined in s.  
 234 812.012 ~~812.011~~ and includes, but is not limited to, financial  
 235 instruments, information, including electronically produced data  
 236 and computer software and programs in either machine-readable or  
 237 human-readable form, and any other tangible or intangible item  
 238 of value.

239 Section 5. Subsection (4) of section 817.554, Florida  
 240 Statutes, is amended to read:

241 817.554 Fraudulently offering for sale tour or travel-  
 242 related services.--

243 (4) Any individual or group which meets the standards of  
 244 organized fraud as defined in s. 817.034 ~~817.036~~ shall be  
 245 punished as provided in s. 817.034 ~~817.036~~.

246 Section 6. Section 828.17, Florida Statutes, is amended to  
 247 read:

248 828.17 Officer to arrest without warrant.--Any sheriff or  
 249 any other peace officer of the state, or any police officer of  
 250 any city or town of the state, shall arrest without warrant any  
 251 person found violating any of the provisions of ss. ~~828.04,~~

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252 828.08, 828.12, and 828.13-828.16, and the officer making the  
 253 arrest shall hold the offender until a warrant can be procured,  
 254 and he or she shall use proper diligence to procure such  
 255 warrant.

256 Section 7. Section 831.16, Florida Statutes, is amended to  
 257 read:

258 831.16 Having less than 10 counterfeit coins in  
 259 possession, with intent to utter.--Whoever has in his or her  
 260 possession any number of pieces less than 10 of the counterfeit  
 261 coin mentioned in s. 831.15 ~~the preceding section~~, knowing the  
 262 same to be counterfeit, with intent to utter or pass the same as  
 263 true, or who utters, passes or tenders in payment as true any  
 264 such counterfeit coin, knowing the same to be false and  
 265 counterfeit, commits a felony of the third degree, punishable as  
 266 provided in s. 775.082, s. 775.083, or s. 775.084 ~~shall be~~  
 267 ~~punished by imprisonment in the state prison not exceeding 10~~  
 268 ~~years, or in the county jail not exceeding 12 months, or by fine~~  
 269 ~~not exceeding \$1,000.~~

270 Section 8. Section 831.17, Florida Statutes, is amended to  
 271 read:

272 831.17 Violation of s. 831.16; second conviction.--Whoever  
 273 having been convicted of either of the offenses mentioned in s.  
 274 831.16 ~~the preceding section~~, is again convicted of either of  
 275 the same offenses, committed after the former conviction, and  
 276 whoever is at the same term of the court convicted upon three  
 277 distinct charges of said offenses, commits a felony of the  
 278 second degree, punishable as provided in s. 775.082, s. 775.083,  
 279 or s. 775.084 ~~shall be deemed a common utterer of counterfeit~~

280 ~~coin and punished by imprisonment in the state prison not~~  
 281 ~~exceeding 20 years.~~

282 Section 9. Section 831.18, Florida Statutes, is amended to  
 283 read:

284 831.18 Making or possessing instruments for forging  
 285 bills.--Whoever engraves, makes or amends, or begins to engrave,  
 286 make or amend, any plate, block, press, or other tool,  
 287 instrument or implement, or makes or provides any paper or other  
 288 material, adapted and designed for the making of a false and  
 289 counterfeit note, certificate, or other bill of credit,  
 290 purporting to be issued by lawful authority for a debt of this  
 291 state, or a false or counterfeit note or bill, in the similitude  
 292 of the notes or bills issued by any bank or banking company  
 293 established in this state, or within the United States, or in  
 294 any foreign province, state or government; and whoever has in  
 295 his or her possession any such plate or block engraved in any  
 296 part, or any press or other tool, instrument or any paper or  
 297 other material adapted and designed as aforesaid, with intent to  
 298 issue the same, or to cause or permit the same to be used in  
 299 forging or making any such false and counterfeit certificates,  
 300 bills or notes, commits a felony of the third degree, punishable  
 301 as provided in s. 775.082, s. 775.083, or s. 775.084 ~~shall be~~  
 302 ~~punished by imprisonment in the state prison not exceeding 10~~  
 303 ~~years, or by fine not exceeding \$1,000.~~

304 Section 10. Section 831.21, Florida Statutes, is amended  
 305 to read:

306 831.21 Forging or counterfeiting doctor's certificate of  
 307 examination.--Whoever falsely makes, alters, forges or

308 counterfeits any doctor's certificate or record of examination  
 309 to an application for a policy of insurance, or knowing such  
 310 doctor's certificate or record of examination to be falsely  
 311 made, altered, forged or counterfeited, shall pass, utter or  
 312 publish such certificate as true, with intent to injure or  
 313 defraud any person, commits a felony of the third degree,  
 314 punishable as provided in s. 775.082, s. 775.083, or s.  
 315 775.084~~shall be deemed guilty of forgery, and upon conviction~~  
 316 ~~thereof shall be punished by imprisonment in the state~~  
 317 ~~penitentiary not exceeding 5 years, or by fine not exceeding~~  
 318 ~~\$500.~~

319 Section 11. Section 831.27, Florida Statutes, is amended  
 320 to read:

321 831.27 Issuing notes.--Whoever issues any note, bill,  
 322 order or check, other than foreign bills of exchange and notes  
 323 or bills of some bank or company incorporated by the laws of  
 324 this state, or by the laws of the United States, or by the laws  
 325 of Canada ~~either of the British provinces in North America,~~ with  
 326 intent that the same shall be circulated as currency, shall be  
 327 guilty of a misdemeanor of the second degree, punishable as  
 328 provided in s. 775.083.

329 Section 12. Subsection (1) of section 831.30, Florida  
 330 Statutes, is amended to read:

331 831.30 Medicinal drugs; fraud in obtaining.--Whoever:  
 332 (1) Falsely makes, alters, or forges any prescription, as  
 333 defined in s. 465.003 ~~465.031(2)~~, for a medicinal drug other  
 334 than a drug controlled by chapter 893;

335

336 with intent to obtain such drug, shall be guilty of a  
 337 misdemeanor of the second degree, punishable as provided in s.  
 338 775.082 or s. 775.083. A second or subsequent conviction shall  
 339 constitute a misdemeanor of the first degree, punishable as  
 340 provided in s. 775.082 or s. 775.083.

341 Section 13. Subsection (1) of section 838.021, Florida  
 342 Statutes, is amended to read:

343 838.021 Corruption by threat against public servant.--

344 (1) It shall be unlawful to ~~Whoever unlawfully~~ harms or  
 345 threatens ~~unlawful~~ harm to any public servant, to his or her  
 346 immediate family, or to any other person with whose welfare the  
 347 public servant is interested, with the intent or purpose:

348 (a) To influence the performance of any act or omission  
 349 which the person believes to be, or the public servant  
 350 represents as being, within the official discretion of the  
 351 public servant, in violation of a public duty, or in performance  
 352 of a public duty.

353 (b) To cause or induce the public servant to use or exert,  
 354 or procure the use or exertion of, any influence upon or with  
 355 any other public servant regarding any act or omission which the  
 356 person believes to be, or the public servant represents as  
 357 being, within the official discretion of the public servant, in  
 358 violation of a public duty, or in performance of a public duty.

359 Section 14. Section 847.0125, Florida Statutes, is  
 360 reenacted to read:

361 847.0125 Retail display of materials harmful to minors  
 362 prohibited.--

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363 (1) "KNOWINGLY" DEFINED.--As used in this section,  
364 "knowingly" means having general knowledge of, reason to know,  
365 or a belief or ground for belief which warrants further  
366 inspection or inquiry of both:

367 (a) The character and content of any material described  
368 herein which is reasonably susceptible of examination by the  
369 defendant, and

370 (b) The age of the minor; however, an honest mistake shall  
371 constitute an excuse from liability hereunder if the defendant  
372 made a reasonable bona fide attempt to ascertain the true age of  
373 such minor.

374 (2) OFFENSES AND PENALTIES.--

375 (a) It is unlawful for anyone offering for sale in a  
376 retail establishment open to the general public any book,  
377 magazine, or other printed material, the cover of which depicts  
378 material which is harmful to minors, to knowingly exhibit such  
379 book, magazine, or material in such establishment in such a way  
380 that it is on open display to, or within the convenient reach  
381 of, minors who may frequent the retail establishment. Such items  
382 shall, however, be displayed, either individually or  
383 collectively, behind an opaque covering which conceals the book,  
384 magazine, or other printed material.

385 (b) It is unlawful for anyone offering for sale in a  
386 retail establishment open to the general public any book,  
387 magazine, or other printed material, the content of which  
388 exploits, is devoted to, or is principally made up of  
389 descriptions or depictions of material which is harmful to  
390 minors, to knowingly exhibit such book, magazine, or material in



391 such establishment in such a way that it is within the  
 392 convenient reach of minors who may frequent the retail  
 393 establishment.

394 (c) A violation of any provision of this section  
 395 constitutes a misdemeanor of the first degree, punishable as  
 396 provided in s. 775.082 or s. 775.083.

397 Section 15. Subsection (4) of section 860.13, Florida  
 398 Statutes, is amended to read:

399 860.13 Operation of aircraft while intoxicated or in  
 400 careless or reckless manner; penalty.--

401 (4) It shall be the duty of any court in which there is a  
 402 conviction for violation of this statute to report such  
 403 conviction to the Federal Aviation Administration Civil  
 404 ~~Aeronautics Administration~~ for its guidance and information with  
 405 respect to the pilot's certificate.

406 Section 16. Subsection (11) of section 865.09, Florida  
 407 Statutes, is amended to read:

408 865.09 Fictitious name registration.--

409 (11) FORMS.--Registration, cancellation, and renewal shall  
 410 be made on forms prescribed by the Department of State, which  
 411 may include the uniform business report, pursuant to s. 606.06,  
 412 as a means of satisfying the requirement of this section ~~part~~.

413 Section 17. Subsection (4) of section 877.22, Florida  
 414 Statutes, is amended to read:

415 877.22 Minors prohibited in public places and  
 416 establishments during certain hours; penalty; procedure.--

417 (4) If a minor violates a curfew and is taken into  
 418 custody, the minor shall be transported immediately to a police

419 station or to a facility operated by a religious, charitable, or  
 420 civic organization that conducts a curfew program in cooperation  
 421 with a local law enforcement agency. After recording pertinent  
 422 information about the minor, the law enforcement agency shall  
 423 attempt to contact the parent of the minor and, if successful,  
 424 shall request that the parent take custody of the minor and  
 425 shall release the minor to the parent. If the law enforcement  
 426 agency is not able to contact the minor's parent within 2 hours  
 427 after the minor is taken into custody, or if the parent refuses  
 428 to take custody of the minor, the law enforcement agency may  
 429 transport the minor to her or his residence or proceed as  
 430 authorized under part V ~~II~~ of chapter 39.

431 Section 18. Subsection (21) of section 893.02, Florida  
 432 Statutes, is amended to read:

433 893.02 Definitions.--The following words and phrases as  
 434 used in this chapter shall have the following meanings, unless  
 435 the context otherwise requires:

436 (21) "Prescription" means and includes an order for drugs  
 437 or medicinal supplies written, signed, or transmitted by word of  
 438 mouth, telephone, telegram, or other means of communication by a  
 439 duly licensed practitioner licensed by the laws of the state to  
 440 prescribe such drugs or medicinal supplies, issued in good faith  
 441 and in the course of professional practice, intended to be  
 442 filled, compounded, or dispensed by another person licensed by  
 443 the laws of the state to do so, and meeting the requirements of  
 444 s. 893.04. The term also includes an order for drugs or  
 445 medicinal supplies so transmitted or written by a physician,  
 446 dentist, veterinarian, or other practitioner licensed to

447 practice in a state other than Florida, but only if the  
 448 pharmacist called upon to fill such an order determines, in the  
 449 exercise of his or her professional judgment, that the order was  
 450 issued pursuant to a valid patient-physician relationship, that  
 451 it is authentic, and that the drugs or medicinal supplies so  
 452 ordered are considered necessary for the continuation of  
 453 treatment of a chronic or recurrent illness. However, if the  
 454 physician writing the prescription is not known to the  
 455 pharmacist, the pharmacist shall obtain proof to a reasonable  
 456 certainty of the validity of said prescription. A prescription  
 457 order for a controlled substance shall not be issued on the same  
 458 prescription blank with another prescription order for a  
 459 controlled substance which is named or described in a different  
 460 schedule, nor shall any prescription order for a controlled  
 461 substance be issued on the same prescription blank as a  
 462 prescription order for a medicinal drug, as defined in s.  
 463 465.003(8)~~465.031(5)~~, which does not fall within the definition  
 464 of a controlled substance as defined in this act.

465 Section 19. Subsection (2) of section 893.10, Florida  
 466 Statutes, is amended and current subsections (3) and (4) are  
 467 redesignated as subsections (2) and (3) respectively to read:

468 893.10 Burden of proof; photograph or video recording of  
 469 evidence.—

470 ~~(2) In the case of a person charged under s. 893.14(1)~~  
 471 ~~with the possession of a controlled substance, the label~~  
 472 ~~required under s. 893.04(1) or s. 893.05(2) is admissible in~~  
 473 ~~evidence and prima facie evidence that such substance was~~  
 474 ~~obtained pursuant to a valid prescription form or dispensed by a~~

475 ~~practitioner while acting in the course of his or her~~  
 476 ~~professional practice.~~

477 Section 20. Paragraph (a) of subsection (2) of section  
 478 914.24, Florida Statutes, is reenacted to read:

479 914.24 Civil action to restrain harassment of a victim or  
 480 witness.—

481 (2)(a) A circuit court, upon motion of the state attorney,  
 482 shall issue a protective order prohibiting the harassment of a  
 483 victim or witness in a criminal case if the court, after a  
 484 hearing, finds by a preponderance of the evidence that  
 485 harassment of an identified victim or witness in a criminal case  
 486 exists or that such order is necessary to prevent and restrain  
 487 an offense under s. 914.22, other than an offense consisting of  
 488 misleading conduct, or to prevent and restrain an offense under  
 489 914.23.

490 Section 21. Subsection (3) of section 916.12, Florida  
 491 Statutes, is amended to read:

492 916.12 Mental competence to proceed.--

493 (3) In considering the issue of competence to proceed, an  
 494 examining expert shall first consider and specifically include  
 495 in his or her report the defendant's capacity to:

496 (a) Appreciate the charges or allegations against the  
 497 defendant.

498 (b) Appreciate the range and nature of possible penalties,  
 499 if applicable, that may be imposed in the proceedings against  
 500 the defendant.

501 (c) Understand the adversarial nature of the legal  
 502 process.

503 (d) Disclose to counsel facts pertinent to the proceedings  
504 at issue.

505 (e) Manifest appropriate courtroom behavior.

506 (f) Testify relevantly.

507 ~~(g)~~ In addition, an examining expert shall include in his  
508 or her report Any other factor deemed relevant by the expert.

509 Section 22. Subsection (3) of section 916.3012, Florida  
510 Statutes, is amended to read:

511 916.3012 Mental competence to proceed.—

512 (3) In considering the issue of competence to proceed, the  
513 examining experts shall first consider and specifically include  
514 in their report the defendant's capacity to:

515 (a) Appreciate the charges or allegations against the  
516 defendant.

517 (b) Appreciate the range and nature of possible penalties,  
518 if applicable, that may be imposed in the proceedings against  
519 the defendant.

520 (c) Understand the adversarial nature of the legal  
521 process.

522 (d) Disclose to counsel facts pertinent to the proceedings  
523 at issue.

524 (e) Manifest appropriate courtroom behavior.

525 (f) Testify relevantly.

526 ~~(g)~~ In addition, the examining experts shall consider and  
527 include in their report Any other factor deemed relevant by the  
528 experts.

529 Section 23. Section 918.0155, Florida Statutes, is amended  
530 to read:

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531 918.0155 Expeditious disposition of particular criminal  
 532 cases involving a child under age 16.--Every criminal case  
 533 prosecuted under chapter 782, chapter 784, chapter 787, chapter  
 534 794, chapter 796, chapter 800, chapter 827, or chapter 847 which  
 535 involves the abuse of a child or unlawful sexual contact or acts  
 536 performed in the presence of, with, or upon a child under the  
 537 age of 16 shall be heard and disposed of as expeditiously as  
 538 possible. ~~The Legislature requests the Supreme Court to adopt~~  
 539 ~~emergency rules regarding the expeditious handling of the~~  
 540 ~~matters enumerated in this section.~~

541 Section 24. Paragraphs (b) and (d) of subsection (3) of  
 542 section 921.0022, Florida Statutes, are amended to read:

543 921.0022 Criminal Punishment Code; offense severity  
 544 ranking chart.--

545 (3) OFFENSE SEVERITY RANKING CHART

546 (b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431(1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431(1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume

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or any quantity for commercial purposes, or hazardous waste.

550

517.07 3rd Registration of securities and furnishing of prospectus required.

551

590.28(1) 3rd ~~Willful, malicious, or~~ intentional burning of lands.

552

784.05(3) 3rd Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.

553

787.04(1) 3rd In violation of court order, take, entice, etc., minor beyond state limits.

554

806.13(1)(b)3. 3rd Criminal mischief; damage \$1,000 or more to public communication or any other public service.

555

810.061(2) 3rd Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.

556

810.09(2)(e) 3rd Trespassing on posted commercial horticulture property.

557

812.014(2)(c)1. 3rd Grand theft, 3rd degree; \$300 or more but less than \$5,000.

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559	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
560	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
561	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
562	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
563	817.52(3)	3rd	Failure to redeliver hired vehicle.
564	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
565	817.60(5)	3rd	Dealing in credit cards of another.
566	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
567	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.



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568	831.01	3rd	Forgery.
569	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
570	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
571	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
572	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
573	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
574	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
575	843.08	3rd	Falsely impersonating an officer.
576	893.13(2)(a)2.	3rd	Purchase of any 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 other than cannabis.
577	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

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578	(d) LEVEL 4		
	Florida Statute	Felony	Description
		Degree	
579	316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
580	499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
581	499.0051(2)	3rd	Failure to authenticate pedigree papers.
582	499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
583	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, <del>intake officer,</del> etc.
584	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
585	784.075	3rd	Battery on detention or commitment facility staff.
586	784.078	3rd	Battery of facility employee by

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			throwing, tossing, or expelling certain fluids or materials.
587	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
588	784.081(3)	3rd	Battery on specified official or employee.
589	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
590	784.083(3)	3rd	Battery on code inspector.
591	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
592	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
593	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
594	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
595	790.115(1)	3rd	Exhibiting firearm or weapon within

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1,000 feet of a school.

596	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
597	790.115 (2) (c)	3rd	Possessing firearm on school property.
598	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
599	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
600	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
601	810.06	3rd	Burglary; possession of tools.
602	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
603	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
604	812.014 (2) (c) 4.- 10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
605	812.0195 (2)	3rd	Dealing in stolen property by use of

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the Internet; property stolen \$300 or more.

606	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
607	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
608	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
609	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
610	837.02(1)	3rd	Perjury in official proceedings.
611	837.021(1)	3rd	Make contradictory statements in official proceedings.
612	838.022	3rd	Official misconduct.
613	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
614	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
615	843.021	3rd	Possession of a concealed handcuff key

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616	843.025	3rd	by a person in custody. Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
617	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
618	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
619	874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
620	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
621	914.14(2)	3rd	Witnesses accepting bribes.
622	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
623	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
624	918.12	3rd	Tampering with jurors.
625	934.215	3rd	Use of two-way communications device to

facilitate commission of a crime.

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Section 25. Paragraph (a) of subsection (5) of section 921.141, Florida Statutes, is reenacted to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(5) AGGRAVATING CIRCUMSTANCES.--Aggravating circumstances shall be limited to the following:

(a) The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.

Section 26. Section 921.20, Florida Statutes, is amended to read:

921.20 Classification summary; Parole Commission.--As soon as possible after a prisoner has been placed in the custody of the Department of Corrections, the classification board shall furnish a classification summary to the Parole Commission for use as provided in s.945.25 ~~947.14~~. The summary shall include the criminal, personal, social, and environmental background and other relevant factors considered in classifying the prisoner for a penal environment best suited for the prisoner's rapid rehabilitation.

Section 27. Paragraph (a) of subsection (11) of section 932.704, Florida Statutes, is amended to read:

932.704 Forfeiture proceedings.—

(11)(a) The Department of Law Enforcement, in consultation with the Florida Sheriffs Association and the Florida Police

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653 Chiefs Association, shall develop guidelines and training  
 654 procedures to be used by state and local law enforcement  
 655 agencies and state attorneys in implementing the Florida  
 656 Contraband Forfeiture Act. ~~Each state or local law enforcement~~  
 657 ~~agency that files civil forfeiture actions under the Florida~~  
 658 ~~Contraband Forfeiture Act shall file, by December 31, 1995, a~~  
 659 ~~certificate signed by the agency head or his or her designee,~~  
 660 ~~which represents that the agency's policies and procedures are~~  
 661 ~~in compliance with the guidelines.~~ Each state or local law  
 662 enforcement agency that seizes property for the purpose of  
 663 forfeiture shall periodically review seizures of assets made by  
 664 the agency's law enforcement officers, settlements, and  
 665 forfeiture proceedings initiated by the agency, to determine  
 666 whether such seizures, settlements, and forfeitures comply with  
 667 the Florida Contraband Forfeiture Act and the guidelines adopted  
 668 under this subsection. The determination of whether an agency  
 669 will file a civil forfeiture action must be the sole  
 670 responsibility of the head of the agency or his or her designee.

671 Section 28. Subsection (7) of section 933.18, Florida  
 672 Statutes, is amended to read:

673 933.18 When warrant may be issued for search of private  
 674 dwelling.--No search warrant shall issue under this chapter or  
 675 under any other law of this state to search any private dwelling  
 676 occupied as such unless:

677 (7) One or more of the following ~~misdemeanor~~ child abuse  
 678 offenses is being committed there:

679 (a) Interference with custody, in violation of s. 787.03.



680 (b) Commission of an unnatural and lascivious act with a  
 681 child, in violation of s. 800.02.

682 (c) Exposure of sexual organs to a child, in violation of  
 683 s. 800.03. If, during a search pursuant to a warrant issued  
 684 under this section, a child is discovered and appears to be in  
 685 imminent danger, the law enforcement officer conducting such  
 686 search may remove the child from the private dwelling and take  
 687 the child into protective custody pursuant to chapter 39. The  
 688 term "private dwelling" shall be construed to include the room  
 689 or rooms used and occupied, not transiently but solely as a  
 690 residence, in an apartment house, hotel, boardinghouse, or  
 691 lodginghouse. No warrant shall be issued for the search of any  
 692 private dwelling under any of the conditions hereinabove  
 693 mentioned except on sworn proof by affidavit of some creditable  
 694 witness that he or she has reason to believe that one of said  
 695 conditions exists, which affidavit shall set forth the facts on  
 696 which such reason for belief is based.

697 Section 29. Subsection (5), subsection (8) of section  
 698 933.40, Florida Statutes, are amended to read:

699 933.40 Agriculture warrants.—

700 (5) Agriculture warrants may be signed by any person  
 701 competent to issue search warrants under s. 933.01, either  
 702 manually, by signature stamp, or by electronic signature. The  
 703 trial court judge ~~or magistrate~~, upon examination of the  
 704 application and proofs submitted, if satisfied that probable  
 705 cause exists for the issuing of one or more agriculture  
 706 warrants, shall issue such agriculture warrants with his or her  
 707 signature and office affixed thereto. Such agriculture warrants

708 may be served and executed by employees of the department, with  
 709 the assistance of third parties supervised by department  
 710 employees, and shall authorize department employees with such  
 711 assistance to undertake all actions authorized by the warrant.

712 (8) An agriculture warrant shall be effective for 60 days  
 713 and shall authorize multiple executions of the warrant prior to  
 714 its expiration. An agriculture warrant may be extended or  
 715 renewed by the trial court judge ~~or magistrate~~ who signed and  
 716 issued the original warrant upon satisfaction of such official  
 717 that probable cause continues to exist for the reissuance of the  
 718 warrant. Such warrant must be returned to the issuing official  
 719 prior to the expiration date specified in the warrant or within  
 720 the extended or renewed time.

721 Section 30. Paragraph (g) of subsection (2) of section  
 722 934.03, Florida Statutes, is amended to read:

723 934.03 Interception and disclosure of wire, oral, or  
 724 electronic communications prohibited.—

725 (2)(g) It is lawful under ss. 934.03-934.09 for an  
 726 employee of:

727 1. An ambulance service licensed pursuant to s. 401.25, a  
 728 fire station employing firefighters as defined by s. 633.30, a  
 729 public utility ~~as defined by ss. 365.01 and 366.02~~, a law  
 730 enforcement agency as defined by s. 934.02(10), or any other  
 731 entity with published emergency telephone numbers;

732 2. An agency operating an emergency telephone number "911"  
 733 system established pursuant to s. 365.171; or

734 3. The central abuse hotline operated pursuant to s.  
 735 39.201, to intercept and record incoming wire communications;

736 however, such employee may intercept and record incoming wire  
 737 communications on designated "911" telephone numbers and  
 738 published nonemergency telephone numbers staffed by trained  
 739 dispatchers at public safety answering points only. It is also  
 740 lawful for such employee to intercept and record outgoing wire  
 741 communications to the numbers from which such incoming wire  
 742 communications were placed when necessary to obtain information  
 743 required to provide the emergency services being requested. For  
 744 the purpose of this paragraph, the term public utility shall be  
 745 defined as provided in s. 366.02 and shall also include a  
 746 person, partnership, association, or corporation now or  
 747 hereafter owning or operating in the state equipment or  
 748 facilities for conveying or transmitting messages or  
 749 communications by telephone, or telegraph to the public for  
 750 compensation.

751 Section 31. Subsection (2) of section 938.15, Florida  
 752 Statutes, is amended to read:

753 938.15 Criminal justice education for local government.--  
 754 In addition to the costs provided for in s. 938.01,  
 755 municipalities and counties may assess an additional \$2 for  
 756 expenditures for criminal justice education degree programs and  
 757 training courses, including basic recruit training, for their  
 758 respective officers and employing agency support personnel,  
 759 provided such education degree programs and training courses are  
 760 approved by the employing agency administrator, on a form  
 761 provided by the commission, for local funding.

762 (2) The Criminal Justice Standards and Training commission  
 763 may inspect and copy the documentation of independent audits

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764 conducted of the municipalities and counties which make such  
765 assessments to ensure that such assessments have been made and  
766 that expenditures are in conformance with the requirements of  
767 this subsection and with other applicable procedures.

768 Section 32. Subsection (3) of section 943.051, Florida  
769 Statutes, is amended to read:

770 943.051 Criminal justice information; collection and  
771 storage; fingerprinting.—

772 (3) (a) A minor who is charged with or found to have  
773 committed an offense that would be a felony if committed by an  
774 adult shall be fingerprinted and the fingerprints shall be  
775 submitted to the department in the manner prescribed by rule.

776 (b) A minor who is charged with or found to have committed  
777 the following offenses shall be fingerprinted and the  
778 fingerprints shall be submitted to the department:

- 779 1. Assault, as defined in s. 784.011.
- 780 2. Battery, as defined in s. 784.03.
- 781 3. Carrying a concealed weapon, as defined in s.  
782 790.01(1).
- 783 4. Unlawful use of destructive devices or bombs, as  
784 defined in s. 790.1615(1).
- 785 5. Negligent treatment of children, as defined in former  
786 s. 827.05.
- 787 6. Assault or battery on a law enforcement officer, a  
788 firefighter, or other specified officers, as defined in s.  
789 784.07(2) (a) and (b).
- 790 7. Open carrying of a weapon, as defined in s. 790.053.
- 791 8. Exposure of sexual organs, as defined in s. 800.03.

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792 9. Unlawful possession of a firearm, as defined in s.  
793 790.22(5).

794 10. Petit theft, as defined in s. 812.014(3).

795 11. Cruelty to animals, as defined in s. 828.12(1).

796 12. Arson, as defined in s. 806.031(1).

797 13. Unlawful possession or discharge of a weapon or  
798 firearm at a school-sponsored event or on school property as  
799 defined in s. 790.115.

800 Section 33. Subsection (6) of section 943.053, Florida  
801 Statutes, is reenacted to read:

802 943.053 Dissemination of criminal justice information;  
803 fees.—

804 (6) Notwithstanding any other provision of law, the  
805 department shall provide to the Florida Department of Revenue  
806 ~~Child Support Enforcement~~ access to Florida criminal records  
807 which are not exempt from disclosure under chapter 119, and to  
808 such information as may be lawfully available from other states  
809 via the National Law Enforcement Telecommunications System, for  
810 the purpose of locating subjects who owe or potentially owe  
811 support, as defined in s. 409.2554, or to whom such obligation  
812 is owed pursuant to Title IV-D of the Social Security Act. Such  
813 information may be provided to child support enforcement  
814 authorities in other states for these specific purposes.

815 Section 34. Subsection (6) of section 943.0581, Florida  
816 Statutes, is amended to read:

817 943.0581 Administrative expunction.—

818 (6) An application or endorsement under this section is not  
819 admissible as evidence in any judicial or administrative

820 proceeding and shall not ~~or otherwise~~ be construed in any way as  
 821 an admission of liability in connection with an arrest.

822 Section 35. Paragraph (a) of subsections (3) and  
 823 subsection (5) of section 943.0582, Florida Statutes, are  
 824 reenacted to read:

825 943.0582 Prearrest, postarrest, or teen court diversion  
 826 program expunction.—

827 (3) The department shall expunge the nonjudicial arrest  
 828 record of a minor who has successfully completed a prearrest or  
 829 postarrest diversion program if that minor:

830 (a) Submits an application for prearrest or postarrest  
 831 diversion expunction, on a form prescribed by the department,  
 832 signed by the minor's parent or legal guardian, or by the minor  
 833 if he or she has reached the age of majority at the time of  
 834 applying.

835 (5) This section operates retroactively to permit the  
 836 expunction of any nonjudicial record of the arrest of a minor  
 837 who has successfully completed a prearrest or postarrest  
 838 diversion program on or after July 1, 2000; however, in the case  
 839 of a minor whose completion of the program occurred before the  
 840 effective date of this section, the application for prearrest or  
 841 postarrest diversion expunction must be submitted within 6  
 842 months after the effective date of this section.

843 Section 36. Paragraph (b) of subsection (4) of section  
 844 943.135, Florida Statutes, is reenacted to read:

845 943.135 Requirements for continued employment.—

846 (4) (b) Any person who qualifies under paragraph (a) may,  
 847 for purposes of meeting the minimum mandatory continuing

848 training or education requirements of this section, at the  
 849 option of an employing agency, associate with that agency for  
 850 the sole purpose of securing continuing training or education as  
 851 required by this section and for allowing the agency to report  
 852 completion of the education or training to the Criminal Justice  
 853 Standards and Training Commission. The employing agency with  
 854 which the person has associated shall submit proof of completion  
 855 of any education or training so obtained for purposes of  
 856 demonstrating compliance with this section and shall indicate  
 857 that the person for whom the credits are reported has secured  
 858 the training under the special status authorized by this  
 859 section. An employing agency may require any person so  
 860 associated to attend continuing training or education at the  
 861 person's own expense and may determine the courses or training  
 862 that a person is to attend while associated with the agency. Any  
 863 person who is permitted to associate with an employing agency  
 864 for purposes of obtaining and reporting education or continuing  
 865 training credits while serving in an elected or appointed public  
 866 office shall not be considered to be employed by the employing  
 867 agency or considered by the association with the employing  
 868 agency to maintain an office under s. 5(a), Art. II of the State  
 869 Constitution.

870 Section 37. Subsection (5) of section 944.023, Florida  
 871 Statutes, is amended to read:

872 944.023 Comprehensive correctional master plan.—

873 (5) The comprehensive correctional master plan shall  
 874 project by year the total operating and capital outlay costs  
 875 necessary for constructing a sufficient number of prison beds to

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876 avoid a deficiency in prison beds. Included in the master plan  
 877 which projects operating and capital outlay costs shall be a  
 878 siting plan which shall assess, rank, and designate appropriate  
 879 sites pursuant to s. 944.095(2)(a)-(k). The master plan shall  
 880 include an assessment of the department's current capability for  
 881 providing the degree of security necessary to ensure public  
 882 safety and should reflect the levels of security needed for the  
 883 forecasted admissions of various types of offenders based upon  
 884 sentence lengths and severity of offenses. The plan shall also  
 885 provide construction options for targeting violent and habitual  
 886 offenders for incarceration while providing specific  
 887 alternatives for the various categories of lesser offenders.

888 Section 38. Subsection (4) of section 944.053, Florida  
 889 Statutes, is amended to read:

890 944.053 Forestry Work Camps.—

891 (4) Forestry Work Camps shall house minimum custody  
 892 inmates and medium custody inmates who are not serving a  
 893 sentence for, or who have not been previously convicted of,  
 894 sexual battery pursuant to s. 794.011 ~~or any sexual offense~~  
 895 ~~specified in s. 917.012(1), unless they have successfully~~  
 896 ~~completed a treatment program pursuant to s. 917.012.~~

897 Section 39. Subsection (1) of section 944.28, Florida  
 898 Statutes, is reenacted to read:

899 944.28 Forfeiture of gain-time and the right to earn gain-  
 900 time in the future.—

901 (1) If a prisoner is convicted of escape, or if the  
 902 clemency, conditional release as described in chapter 947,  
 903 probation or community control as described in chapter 948,



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904 provisional release as described in s. 944.277, parole, or  
905 control release as described in s. 947.146 granted to the  
906 prisoner is revoked, the department may, without notice or  
907 hearing, declare a forfeiture of all gain-time earned according  
908 to the provisions of law by such prisoner prior to such escape  
909 or his or her release under such clemency, conditional release,  
910 probation, community control, provisional release, control  
911 release, or parole.

912 Section 40. Subsection (2) of section 944.474, Florida  
913 Statutes, is amended to read:

914 944.474 Legislative intent; employee wellness program;  
915 drug and alcohol testing.—

916 (2) Under no circumstances shall employees of the  
917 department test positive for illegal use of controlled  
918 substances. An employee of the department may not be under the  
919 influence of alcohol while on duty. In order to ensure that  
920 these prohibitions are adhered to by all employees of the  
921 department and notwithstanding s. 112.0455, the department may  
922 develop a program for the random drug testing of all employees.  
923 The department may randomly evaluate employees for the  
924 contemporaneous use or influence of alcohol through the use of  
925 alcohol tests and observation methods. Notwithstanding s.  
926 112.0455-~~(5)-(a)~~, the department may develop a program for the  
927 reasonable suspicion drug testing of employees who are in  
928 safety-sensitive or special risk positions, as defined in s.  
929 112.0455(5), for the controlled substances listed in s.  
930 893.03(3)(d). The reasonable suspicion drug testing authorized  
931 by this subsection shall be conducted in accordance with s.

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932 112.0455, but may also include testing upon reasonable suspicion  
933 based on violent acts or violent behavior of an employee who is  
934 on or off duty. The department shall adopt rules pursuant to ss.  
935 120.536(1) and 120.54 that are necessary to administer this  
936 subsection.

937 Section 41. Section 944.708, Florida Statutes, is amended  
938 to read:

939 944.708 Rules.--The Department of Corrections and the  
940 Agency for Workforce Innovation ~~Department of Labor and~~  
941 ~~Employment Security~~ shall promulgate rules to implement the  
942 provisions of ss. 944.701-944.707.

943 Section 42. Paragraph (h) of subsection (3) of section  
944 944.801, Florida Statutes, is amended to read:

945 944.801 Education for state prisoners.--

946 (3) The responsibilities of the Correctional Education  
947 Program shall be to:

948 (h) Develop a written procedure for selecting programs to  
949 add to or delete from the vocational curriculum. The procedure  
950 shall include labor market analyses which demonstrate the  
951 projected demand for certain occupations and the projected  
952 supply of potential employees. In conducting these analyses, the  
953 department shall evaluate the feasibility of adding vocational  
954 education programs which have been identified by the Agency for  
955 Workforce Innovation ~~Department of Labor and Employment Security~~  
956 or a regional coordinating council as being in undersupply in  
957 this state. The department shall periodically reevaluate the  
958 vocational education programs in major institutions to determine  
959 which of the programs support and provide relevant skills to

960 inmates who could be assigned to a correctional work program  
 961 that is operated as a Prison Industry Enhancement Program.

962 Section 43. Subsection (3) of section 945.10, Florida  
 963 Statutes, is amended to read:

964 945.10 Confidential information.—

965 (3) Due to substantial concerns regarding institutional  
 966 security and unreasonable and excessive demands on personnel and  
 967 resources if an inmate or an offender has unlimited or routine  
 968 access to records of the Department of Corrections, an inmate or  
 969 an offender who is under the jurisdiction of the department may  
 970 not have unrestricted access to the department's records or to  
 971 information contained in the department's records. However,  
 972 except as to another inmate's or offender's records, the  
 973 department may permit limited access to its records if an inmate  
 974 or an offender makes a written request and demonstrates an  
 975 exceptional need for information contained in the department's  
 976 records and the information is otherwise unavailable.

977 Exceptional circumstances include, but are not limited to:

978 (a) The inmate or offender requests documentation to  
 979 resolve a conflict between the inmate's court documentation and  
 980 the commitment papers or court orders received by the department  
 981 regarding the inmate or offender.

982 (b) The inmate's or offender's release is forthcoming and  
 983 a prospective employer requests, in writing, documentation of  
 984 the inmate's or offender's work performance.

985 (c) The inmate or offender needs information concerning  
 986 the amount of victim restitution paid during the inmate's or  
 987 offender's incarceration.

988 (d) The requested records contain information required to  
 989 process an application or claim by the inmate or offender with  
 990 the Internal Revenue Service, the Social Security  
 991 Administration, the Agency for Workforce Innovation Department  
 992 ~~of Labor and Employment Security~~, or any other similar  
 993 application or claim with a state agency or federal agency.

994 (e) The inmate or offender wishes to obtain the current  
 995 address of a relative whose address is in the department's  
 996 records and the relative has not indicated a desire not to be  
 997 contacted by the inmate or offender.

998 (f) Other similar circumstances that do not present a  
 999 threat to the security, order, or rehabilitative objectives of  
 1000 the correctional system or to any person's safety.

1001 Section 44. Section 947.06, Florida Statutes, is reenacted  
 1002 to read:

1003 947.06 Meeting; when commission may act.--The commission  
 1004 shall meet at regularly scheduled intervals and from time to  
 1005 time as may otherwise be determined by the chair. The making of  
 1006 recommendations to the Governor and Cabinet in matters relating  
 1007 to modifications of acts and decisions of the chair as provided  
 1008 in s. 947.04(1) shall be by a majority vote of the commission.  
 1009 No prisoner shall be placed on parole except as provided in ss.  
 1010 947.172 and 947.174 by a panel of no fewer than two  
 1011 commissioners appointed by the chair. All matters relating to  
 1012 the granting, denying, or revoking of parole shall be decided in  
 1013 a meeting at which the public shall have the right to be  
 1014 present. Victims of the crime committed by the inmate shall be  
 1015 permitted to make an oral statement or submit a written

1016 statement regarding their views as to the granting, denying, or  
 1017 revoking of parole. Persons not members or employees of the  
 1018 commission or victims of the crime committed by the inmate may  
 1019 be permitted to participate in deliberations concerning the  
 1020 granting and revoking of paroles only upon the prior written  
 1021 approval of the chair of the commission. To facilitate the  
 1022 ability of victims and other persons to attend commission  
 1023 meetings, the commission shall meet in various counties  
 1024 including, but not limited to, Broward, Duval, Escambia,  
 1025 Hillsborough, Leon, Miami-Dade, Orange, and Palm Beach, with the  
 1026 location chosen being as close as possible to the location where  
 1027 the parole-eligible inmate committed the offense for which the  
 1028 parole-eligible inmate was sentenced. The commission shall adopt  
 1029 rules governing the oral participation of victims and the  
 1030 submission of written statements by victims.

1031 Section 45. Paragraph (a) of subsection (4) of section  
 1032 947.16, Florida Statutes, is amended to read:

1033 947.16 Eligibility for parole; initial parole interviews;  
 1034 powers and duties of commission.—

1035 (4) A person who has become eligible for an initial parole  
 1036 interview and who may, according to the objective parole  
 1037 guidelines of the commission, be granted parole shall be placed  
 1038 on parole in accordance with the provisions of this law; except  
 1039 that, in any case of a person convicted of murder, robbery,  
 1040 burglary of a dwelling or burglary of a structure or conveyance  
 1041 in which a human being is present, aggravated assault,  
 1042 aggravated battery, kidnapping, sexual battery or attempted  
 1043 sexual battery, incest or attempted incest, an unnatural and

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1044 lascivious act or an attempted unnatural and lascivious act,  
 1045 lewd and lascivious behavior, assault or aggravated assault when  
 1046 a sexual act is completed or attempted, battery or aggravated  
 1047 battery when a sexual act is completed or attempted, arson, or  
 1048 any felony involving the use of a firearm or other deadly weapon  
 1049 or the use of intentional violence, at the time of sentencing  
 1050 the judge may enter an order retaining jurisdiction over the  
 1051 offender for review of a commission release order. This  
 1052 jurisdiction of the trial court judge is limited to the first  
 1053 one-third of the maximum sentence imposed. When any person is  
 1054 convicted of two or more felonies and concurrent sentences are  
 1055 imposed, then the jurisdiction of the trial court judge as  
 1056 provided herein applies to the first one-third of the maximum  
 1057 sentence imposed for the highest felony of which the person was  
 1058 convicted. When any person is convicted of two or more felonies  
 1059 and consecutive sentences are imposed, then the jurisdiction of  
 1060 the trial court judge as provided herein applies to one-third of  
 1061 the total consecutive sentences imposed.

1062 (a) In retaining jurisdiction for the purposes of this  
 1063 act, the trial court judge shall state the justification with  
 1064 individual particularity, and such justification shall be made a  
 1065 part of the court record. A copy of such justification shall be  
 1066 delivered to the department together with the commitment issued  
 1067 by the court pursuant to s. 944.17 ~~944.16~~.

1068 Section 46. Subsection (2) of section 949.071, Florida  
 1069 Statutes, is amended to read:

1070 949.071 Definition of "state" as used in s. 949.07;  
 1071 further declaration relating to interstate compacts.-

1072 (2) It is hereby recognized and further declared that  
 1073 pursuant to the consent and authorization contained in s. 112  
 1074 ~~111(b)~~ of Title 4 of the United States Code ~~as added by Pub. L.~~  
 1075 ~~No. 970 84th Congress, Ch. 941 2d Session~~, this state shall be a  
 1076 party to the Interstate Compact for Adult Offender Supervision,  
 1077 with any additional jurisdiction legally joining in the compact  
 1078 when such jurisdiction enacts the compact in accordance with the  
 1079 terms thereof.

1080 Section 47. Subsection (9) of section 951.23, Florida  
 1081 Statutes, is amended to read:

1082 951.23 County and municipal detention facilities;  
 1083 definitions; administration; standards and requirements.—

1084 (9) INMATE COMMISSARY AND WELFARE FUND.—

1085 (a) A commissary may be operated in the detention  
 1086 facility. If a commissary is established, then an inmate welfare  
 1087 fund shall also be established. The officer in charge will  
 1088 establish a procedure for providing commissary or canteen  
 1089 facilities or access to canteen items for the benefit of the  
 1090 inmate. The commissary or canteen shall not sell food that  
 1091 competes with the detention facility food program. It is  
 1092 recommended that inmates routinely carry no money and that a  
 1093 check-off system from their account be implemented. If money is  
 1094 permitted, a limit shall be set and all money in possession in  
 1095 excess of that limit shall be confiscated and deposited  
 1096 immediately in the inmate welfare fund, if there is one, unless  
 1097 it is needed as evidence in a trial or disciplinary hearing. If  
 1098 a detention facility does not have an inmate welfare fund,  
 1099 confiscated moneys shall be receipted and placed in the inmate's

1100 personal property or inmate bank account. A shopping list shall  
 1101 be developed and printed for the information of all inmates with  
 1102 the prices and special conditions governing each sale shown  
 1103 clearly on such a list. Valuable items purchased by inmates  
 1104 shall be added to their personal property list after purchase  
 1105 and marked for identification.

1106 (b) Canteen prices shall be set so as not to exceed the  
 1107 fair market value for comparable products sold in the community  
 1108 where the facility is located.

1109 (c) Expenses involved in the commissary operation,  
 1110 including compensation for commissary employees and gratuities  
 1111 for inmates who may assist such employees, may be paid from the  
 1112 profit.

1113 (d) Profits from the commissary shall be used for overall  
 1114 inmate welfare, and an inmate welfare fund committee shall  
 1115 recommend what expenditures are to be made. Activities of the  
 1116 committee shall be reviewed by the officer in charge who shall  
 1117 have final authority on expenditures. It is recommended that the  
 1118 jail chaplain be a member of the committee.

1119 (e) The officer in charge shall be responsible for an  
 1120 audit of the fiscal management of the commissary by a  
 1121 disinterested party on an annual basis, which shall include  
 1122 certification of compliance with the pricing requirements of  
 1123 paragraph (9)~~(1)~~(b) above. Appropriate transaction records and  
 1124 stock inventory shall be kept current.

1125 Section 48. Paragraph (c) of subsection (1) of section  
 1126 951.231, Florida Statutes, is amended to read:

1127 951.231 County residential probation program.-



1128 (1) Any prisoner who has been sentenced under s. 921.18 to  
 1129 serve a sentence in a county residential probation center as  
 1130 described in s. 951.23 shall:

1131 (c) Participate in and complete the program required by s.  
 1132 958.045 ~~958.04(4)~~, if required by the supervisor of the center.

1133 Section 49. Subsection (4) of section 957.07, Florida  
 1134 Statutes, is amended to read:

1135 957.07 Cost-saving requirements.-

1136 (4) The Department of Corrections shall provide a report  
 1137 detailing the state cost to design, finance, acquire, lease,  
 1138 construct, and operate a facility similar to the private  
 1139 correctional facility on a per diem basis. This report shall be  
 1140 provided to the Auditor General in sufficient time that it may  
 1141 be certified to the Department of Management Services ~~commission~~  
 1142 to be included in the request for proposals.

1143 Section 50. Subsection (3) of section 960.003, Florida  
 1144 Statutes, is amended to read:

1145 960.003 HIV testing for persons charged with or alleged by  
 1146 petition for delinquency to have committed certain offenses;  
 1147 disclosure of results to victims.-

1148 (3) DISCLOSURE OF RESULTS.-

1149 (a) The results of the test shall be disclosed no later  
 1150 than 2 weeks after the court receives such results, under the  
 1151 direction of the Department of Health, to the person charged  
 1152 with or alleged by petition for delinquency to have committed or  
 1153 to the person convicted of or adjudicated delinquent for any  
 1154 offense enumerated in s. 775.0877(1)(a)-(n), which involves the  
 1155 transmission of body fluids from one person to another, and,

1156 upon request, to the victim or the victim's legal guardian, or  
 1157 the parent or legal guardian of the victim if the victim is a  
 1158 minor, and to public health agencies pursuant to s. 775.0877. If  
 1159 the alleged offender is a juvenile, the test results shall also  
 1160 be disclosed to the parent or guardian. When the victim is a  
 1161 victim as described in paragraph (2)(b), the test results must  
 1162 also be disclosed no later than 2 weeks after the court receives  
 1163 such results, to the person charged with or alleged by petition  
 1164 for delinquency to have committed or to the person convicted of  
 1165 or adjudicated delinquent for any offense enumerated in s.  
 1166 775.0877(1)(a)-(n), or s. 825.1025 regardless of whether the  
 1167 offense involves the transmission of bodily fluids from one  
 1168 person to another, and, upon request, to the victim or the  
 1169 victim's legal guardian, or the parent or legal guardian of the  
 1170 victim, and to public health agencies pursuant to s. 775.0877.  
 1171 Otherwise, HIV test results obtained pursuant to this section  
 1172 are confidential and exempt from the provisions of s. 119.07(1)  
 1173 and s. 24(a), Art. I of the State Constitution and shall not be  
 1174 disclosed to any other person except as expressly authorized by  
 1175 law or court order.

1176 (b) At the time that the results are disclosed to the  
 1177 victim or the victim's legal guardian, or to the parent or legal  
 1178 guardian of a victim if the victim is a minor, the same  
 1179 immediate opportunity for face-to-face counseling which must be  
 1180 made available under s. 381.004(3)~~(e)~~ to those who undergo HIV  
 1181 testing shall also be afforded to the victim or the victim's  
 1182 legal guardian, or to the parent or legal guardian of the victim  
 1183 if the victim is a minor.

1184 Section 51. Subsection (6), subsection (7) of section  
 1185 984.225, Florida Statutes, are amended to read:

1186 984.225 Powers of disposition; placement in a staff-secure  
 1187 shelter.-

1188 (6) The department is deemed to have exhausted the  
 1189 reasonable remedies offered under this chapter if, at the end of  
 1190 the commitment period, the parent, guardian, or legal custodian  
 1191 continues to refuse to allow the child to remain at home or  
 1192 creates unreasonable conditions for the child's return. If, at  
 1193 the end of the commitment period, the child is not reunited with  
 1194 his or her parent, guardian, or custodian due solely to the  
 1195 continued refusal of the parent, guardian, or custodian to  
 1196 provide food, clothing, shelter, and parental support, the child  
 1197 is considered to be threatened with harm as a result of such  
 1198 acts or omissions, and the court shall direct that the child be  
 1199 handled in every respect as a dependent child. Jurisdiction  
 1200 shall be transferred to the Department of Children and Family  
 1201 Services and the child's care shall be governed under the  
 1202 relevant provisions ~~parts II and III~~ of chapter 39.

1203 (7) The court shall review the child's commitment once  
 1204 every 45 days as provided in s. 984.20. The court shall  
 1205 determine if the parent, guardian, or custodian has reasonably  
 1206 participated in and financially contributed to the child's  
 1207 counseling and treatment program. The court shall also determine  
 1208 whether the department's efforts to reunite the family have been  
 1209 reasonable. If the court finds an inadequate level of support or  
 1210 participation by the parent, guardian, or custodian prior to the  
 1211 end of the commitment period, the court shall direct that the

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1212 child be handled in every respect as a dependent child.  
 1213 Jurisdiction shall be transferred to the Department of Children  
 1214 and Family Services and the child's care shall be governed under  
 1215 the relevant provisions ~~parts II and III~~ of chapter 39.

1216 Section 52. Section 985.486, Florida Statutes, is amended  
 1217 to read:

1218 985.486 Intensive residential treatment programs for  
 1219 offenders less than 13 years of age; prerequisite for  
 1220 commitment.--No child who is eligible for commitment to an  
 1221 intensive residential treatment program for offenders less than  
 1222 13 years of age under s 985.483 ~~as established in s. 985.483(1)~~,  
 1223 may be committed to any intensive residential treatment program  
 1224 for offenders less than 13 years of age under s 985.483 ~~as~~  
 1225 ~~established in s. 985.483~~, unless such program has been  
 1226 established by the department through existing resources or  
 1227 specific appropriation, for such program.

1228 Section 53. Paragraph (a) of subsection (4) and subsection  
 1229 (7) of section 985.632, Florida Statutes, are amended to read:

1230 985.632 Quality assurance and cost-effectiveness.--

1231 (4) (a) The Department of Juvenile Justice, in consultation  
 1232 with the Office of Economic and Demographic Research, and  
 1233 contract service providers, shall develop a cost-effectiveness  
 1234 model and apply the model to each commitment program. Program  
 1235 recidivism rates shall be a component of the model. The cost-  
 1236 effectiveness model shall compare program costs to client  
 1237 outcomes and program outputs. It is the intent of the  
 1238 Legislature that continual development efforts take place to  
 1239 improve the validity and reliability of the cost-effectiveness

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1240 model and to integrate the standard methodology developed under  
 1241 s. 985.401(4) for interpreting program outcome evaluations.

1242 ~~(7) No later than November 1, 2001, the department shall~~  
 1243 ~~submit a proposal to the Legislature concerning funding~~  
 1244 ~~incentives and disincentives for the department and for~~  
 1245 ~~providers under contract with the department. The~~  
 1246 ~~recommendations for funding incentives and disincentives shall~~  
 1247 ~~be based upon both quality assurance performance and cost~~  
 1248 ~~effectiveness performance. The proposal should strive to achieve~~  
 1249 ~~consistency in incentives and disincentives for both department~~  
 1250 ~~operated and contractor provided programs. The department may~~  
 1251 ~~include recommendations for the use of liquidated damages in the~~  
 1252 ~~proposal; however, the department is not presently authorized to~~  
 1253 ~~contract for liquidated damages in non hardware secure~~  
 1254 ~~facilities until January 1, 2002.~~

1255 Section 54. Paragraph (b) of subsection (2) of section  
 1256 985.686, Florida Statutes, is reenacted to read:

1257 985.686 Shared county and state responsibility for  
 1258 juvenile detention.—

1259 (2) As used in this section, the term:

1260 (b) "Fiscally constrained county" means a county within a  
 1261 rural area of critical economic concern as designated by the  
 1262 Governor pursuant to s. 288.0656 or each county for which the  
 1263 value of a mill will raise no more than \$5 million in revenue,  
 1264 based on the certified school taxable value certified pursuant  
 1265 to s. 1011.62(4)(a)1.a., from the previous July 1.

1266 Section 55. This act shall take effect July 1, 2010.

1267



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 23 Parole for Adolescent Offenders

SPONSOR(S): Weinstein and others

TIED BILLS: IDEN./SIM. BILLS: SB 184

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee		Krol <i>TIC</i>	Cunningham <i>RC</i>
2)	Criminal & Civil Justice Appropriations Committee			
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

This bill creates the possibility of parole release for adolescent offenders. The bill creates a new inmate designation, "adolescent offender," which is defined as an offender, 15 years old or younger at the time the criminal act was committed, who was sentenced to life or to a single or cumulative term of imprisonment of 10 years or more. The bill excludes an adolescent offender from parole eligibility if he or she had a prior conviction or was adjudicated delinquent for a number of specified offenses. Also, the bill provides that the offender must serve a minimum of 8 years of their sentence before becoming eligible for release.

The bill requires the Florida Parole Commission to conduct an initial eligibility interview with the adolescent offender during the 8<sup>th</sup> year of incarceration, and every 2 years thereafter. To be eligible for parole, the offender must have completed a General Educational Development (GED) program and received no disciplinary reports during the two years prior to the interview and subsequent interviews. The bill provides additional criteria for the consideration of the offender's rehabilitation status.

The bill specifies that an eligible offender must be placed in a facility that has a GED program, unless they have already completed a GED program.

The bill provides that if the offender is granted parole, he or she must participate in any available reentry program for 2 years.

This bill will take effect upon becoming a law and applies with respect to offenses committed before, on, or after that date.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Parole**

Parole is a discretionary prison release mechanism administered by the Florida Parole Commission (commission) through chs. 947, 948, and 949, F.S. An inmate who is granted parole is allowed to serve the remainder of his or her prison sentence outside of confinement according to terms and conditions established by the commission. Parolees are supervised by Correctional Probation Officers of the Department of Corrections (department). Inmates who were sentenced as adults for offenses committed prior to reaching 18 years of age are eligible for parole on the same basis as other inmates. Parole is not available for most crimes that were committed on or after October 1, 1983.<sup>1</sup> There is no parole eligibility for any crime committed on or after October 1, 1995. The commission reported that on June 30, 2009, there were 5,826 inmates currently eligible for parole consideration with about 450 under supervision. This includes a small percentage who committed their parole-eligible crime when they were less than 18 years of age.<sup>2</sup>

The parole process begins with the setting of a presumptive parole release date (PPRD) by the commission after a parole examiner reviews the inmate's file and makes an initial recommendation. The date of the initial interview depends upon the length and type of the parole-eligible sentence. For example, an inmate with a minimum mandatory sentence of 7 to 15 years is not eligible to have an initial interview sooner than 12 months prior to expiration of the minimum mandatory portion of the sentence. An inmate may request one review of the initial PPRD within 60 days after notification.

If the PPRD is more than 2 years after the date of the initial interview a hearing examiner must interview the inmate to review the PPRD within 2 years after the initial interview and every 2 years thereafter.<sup>3</sup> These interviews are limited to determining whether or not information has been gathered

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<sup>1</sup> The exceptions are for capital felony murders committed prior to October 1, 1994, and capital felony sexual battery prior to October 1, 1995.

<sup>2</sup> Parole Commission 2010 Analysis of HB 23.

<sup>3</sup> However, s. 947.174(1)(b), F.S., provides for less frequent reviews for an inmate whose PPRD is more than 5 years from the date of the initial interview if he or she was convicted of murder, attempted murder, sexual battery, or attempted sexual battery, or is serving a 25-year minimum mandatory sentence under s. 775.082, F.S. In such cases, subsequent interviews to review the PPRD may be conducted every 5 years if the commission makes a written finding that it is not reasonable to expect that parole will be granted.



which might affect the PPRD.<sup>4</sup> The department is responsible for bringing to the attention of the commission any information that may be pertinent for review, such as current progress reports, psychological reports, and disciplinary reports.<sup>5</sup> In consultation with the department, the commission has developed guidelines defining unsatisfactory institutional record.<sup>6</sup> The commission has defined what constitutes a satisfactory release plan and verification of the plan prior to release.<sup>7</sup>

The commission determines the terms and conditions of parole. Statutorily, conditions of parole are not specific, except for provisions that require:

- The offender to submit to random substance abuse testing, if the offender's conviction was for a controlled substance violation.
- The offender to not knowingly associate with other criminal gang members or associates, if the offender's conviction was for a crime that involved criminal gang activity.
- The offender to pay debt due and owing to the state under s. 960.17, F.S., or attorney's fees and costs due and owing to the state under s. 938.29, F.S.<sup>8</sup>
- The offender to pay victim restitution.<sup>9</sup>
- The offender to apply for services from the Agency for Persons with Disabilities, if the offender has been diagnosed as mentally retarded.<sup>10</sup>

Most crimes committed by juveniles<sup>11</sup> are dealt with through delinquency proceedings as set forth in ch. 985, F.S. However, the law provides a mechanism for juvenile offenders to be tried and handled as adults. A person who commits a crime while 13 years old or younger may only be tried as an adult if a grand jury indictment is returned.<sup>12</sup> A juvenile who is fourteen or older at the time of committing certain felony offenses may be tried as an adult if a grand jury indictment is returned; if juvenile court jurisdiction is waived and the case is transferred for prosecution as an adult pursuant to s. 985.556, F.S.; or if the state attorney direct files an information in adult court pursuant to s. 985.557, F.S. Section 985.56, F.S., provides that a juvenile charged with an offense punishable by death or life imprisonment may not be tried as an adult unless a grand jury indictment is returned.

### **Sentencing and Classification of Offenders**

A court may sentence as a "youthful offender" any person:

- Who is at least 18 years of age or who has been transferred for prosecution to the criminal division of the circuit court pursuant to ch. 985, F.S.;
- Who is found guilty of or who has tendered, and the court has accepted, a plea of nolo contendere or guilty to a crime that is, under the laws of this state, a felony if such crime was committed before the defendant's 21st birthday; and

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<sup>4</sup> Section 947.174(1)(c), F.S.

<sup>5</sup> Section 947.174(3), F.S.

<sup>6</sup> Section 947.174(5)(a), F.S.

<sup>7</sup> Section 947.174(5)(b), F.S.

<sup>8</sup> Section 947.18, F.S.

<sup>9</sup> Section 947.181, F.S.

<sup>10</sup> Section 947.185, F.S.

<sup>11</sup> Section 985.03(6), F.S., defines juvenile as "any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years."

<sup>12</sup> See *Tate v. State*, 864 So.2d 44 (Fla. 4th Dist. 2003).

- Who has not previously been classified as a youthful offender under the provisions of the Florida Youthful Offender Act;<sup>13</sup> however, any person found guilty of a capital or life felony may, not be sentenced as a youthful offender under the act.<sup>14</sup>

Separate institutions and programs exist for youthful offenders that fall into two age groups: age 14 to 18 years old and age 19 to 24 years old.<sup>15</sup> The department may initially assign inmates who are less than 18 years of age and who have not been assigned by the sentencing judge to a facility for youthful offenders under the provisions of chapter 958 to a facility designated for youthful offenders.<sup>16</sup> The department is required to screen all institutions, facilities, and programs for inmates who meet the requirements specified in s. 958.04(1)(a) and (c) whose age does not exceed 24 years and whose total length of sentence does not exceed 10 years and the department may classify those inmates as a youthful offender.<sup>17</sup> The department may classify any inmate 19 years of age or younger, except a capital or life felon, as a youthful offender if the department determines that the inmate's mental or physical vulnerability would substantially or materially jeopardize his or her safety in a non-youthful facility.<sup>18</sup>

Parole for juveniles who received more than a 10 year adult prison sentence was one of the recommendations made by the Blueprint Commission through the Department of Juvenile Justice.<sup>19</sup>

### **Proposed Changes**

HB 23 creates the offender designation of adolescent offender, which is defined as an offender who was 15 years old or younger at the time of the criminal act who is sentenced to life or to a single or cumulative term of imprisonment of 10 years or more. An adolescent offender may be eligible for parole release.

The bill defines the term "current offense" as one or more crimes committed by the adolescent offender within a 1-month period of time or for which sentences run concurrently.

The bill excludes an adolescent offender from parole eligibility if he or she, before the current offense, had a prior conviction or was adjudicated delinquent for a number of specified offenses:

- Murder,
- Felony battery,
- Aggravated battery,
- Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents or other specified officers,
- Assault or battery on persons 65 years of age or older,
- Kidnapping,
- Persons engaged in criminal offense, having weapons,
- Sexual battery,
- Carjacking,
- Home-invasion robbery,

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<sup>13</sup> Sections 958.011-958.15, F.S.

<sup>14</sup> Section 958.04(1)(c), F.S.

<sup>15</sup> Section 958.11(1), F.S.

<sup>16</sup> Section 944.1905(5)(a), F.S.

<sup>17</sup> Section 958.11(4), F.S.

<sup>18</sup> Section 958.11(6), F.S.

<sup>19</sup> "Getting Smart about Juvenile Justice in Florida," January 2008.

- Abuse, aggravated abuse, and neglect of a child, or
- Cruelty to animals.

The bill requires the commission to conduct an initial eligibility interview during the 8<sup>th</sup> year of incarceration, and every 2 years thereafter. To be eligible for parole, the offender must have completed a General Educational Development (GED) program unless waived due to a disability, and received no disciplinary reports for a period of at least two years. The bill provides additional criteria for the consideration of the offender's rehabilitation status. The hearing examiner must take into serious consideration the wishes of the victim or the opinions of the victim's next of kin, and consider whether:

- The offender was principal to the criminal offense or an accomplice, a relatively minor participant, or acted under extreme duress or domination of another person,
- The offender has shown remorse for the criminal offense,
- The offender's age, maturity, and psychological development at the time of the offense affected her or his behavior,
- The offender, while in the custody of the department, aided inmates suffering from catastrophic or terminal medical, mental or physical conditions or has prevented risk or injury to staff, citizens, or other inmates,
- The offender has successfully completed educational and self-rehabilitation programs, and
- The offender was a victim of sexual, physical, or emotional abuse.

The bill specifies that an adolescent offender must be placed in a facility that has a GED program,<sup>20</sup> unless the offender has already completed a GED program.

The department reports that 432 inmates currently incarcerated committed their primary offense at age 15 or younger and are serving a sentence of 10 years or more. Of these inmates, 154 have served 8 years of their sentence and would be eligible for an initial interview. Of these 154 inmates, 72 have attained GEDs. Of those 72 inmates, only 23 have had no disciplinary reports in the preceding 2 years.<sup>21</sup>

The bill provides that if the offender is granted parole, he or she must participate in any available reentry program for 2 years. The bill defines "re-entry program" as a program that promotes effective reintegration of adolescent offenders back into communities upon release and provides one or more of the following: vocational training, placement services, transitional housing, mentoring, or drug rehabilitation. Priority shall be given to re-entry programs that are residential, highly structured, self-reliant, and therapeutic communities.

This bill will take effect upon becoming a law and will apply with respect to offenses committed before, on, or after that date.

**B. SECTION DIRECTORY:** Section 1. Provides a title for this act as the "Second Chance for Children in Prison Act."

Section 2. Amends s. 947.16, F.S.; relating to eligibility for parole; initial parole interviews; powers and duties of commission.

Section 3. Provides that if an adolescent offender is eligible, he or she must receive an initial interview in their 8th or subsequent year of incarceration on the effective date of this act.

Section 4. This bill takes effect upon becoming a law and applies with respect to offenses committed before, on, or after that date.

<sup>20</sup> According to the Department of Corrections 2009 Analysis of HB 757, only one third of the adult facilities have GED programs.

<sup>21</sup> Department of Corrections 2010 Analysis of HB 23.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See "Fiscal Comments."

#### 2. Expenditures:

See "Fiscal Comments."

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The Department of Corrections (department) reports that if classification staff are tasked with the responsibilities of a commission's "field examiner," (similar to the duties related to conditional release under §947.1405) it may increase their workload depending on the number to be interviewed. In addition, the department's computerized Offender Based Information System (OBIS) would require some reprogramming to capture information that a given inmate is parole eligible.

For Fiscal Year 2007-2008, the annual cost to house a male youthful offender exceeded \$23,000. Although the department does not anticipate a significant number of inmates would be paroled to justify additional probation officers, the cost avoidance would be offset slightly as the average annual cost of supervision is \$1,856.

The Parole Commission reports that the work increase from reviewing existing and future cases would be slight and does not anticipate a need for increase staff.

The Criminal Justice Impact Conference has not yet provided an analysis of HB 23; however in 2009 it reported an indeterminate fiscal impact.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

#### 2. Other:

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill provides very specific language for the hearing examiner to consider regarding whether the inmate has "aided inmates suffering from catastrophic or terminal medical, mental, or physical conditions or has prevented risk or injury to staff, citizens, or other inmates." This language may be tailored to a situation applicable to an inmate who may be affected by this bill if passed. The language provided in this section applies only to the consideration of the hearing examiner but does not specify if the commission should also consider this criterion when deciding whether the offender is rehabilitated.

The bill would allow adolescent offenders to circumvent the mandatory 85% minimum sentenced served requirement as provided in s. 944.275(4)(b)3., F.S.

The bill does not provide the department an alternative if a suitable re-entry program is not available for a paroled offender.

The bill does not specify which agency will waive the GED requirement.

On November 9, 2009, the Supreme Court of the United States heard oral arguments in the cases of Sullivan v. Florida and Graham v. Florida. Both petitioners were juveniles at the time of their offenses and were sentenced to life in prison without the possibility of parole. The issue in these cases is whether sentencing juveniles who committed non-homicide offenses to life in prison without the possibility of parole is cruel and unusual punishment under the Eighth Amendment.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

HB 23

2010

1 A bill to be entitled

2 An act relating to parole for adolescent offenders;  
3 providing a short title; amending s. 947.16, F.S.;  
4 providing definitions; providing that an adolescent  
5 offender who was 15 years of age or younger at the time of  
6 commission of an offense and who is sentenced to life or a  
7 single or cumulative term of 10 years or more in prison is  
8 eligible for parole if the offender has been incarcerated  
9 for a minimum period and has not previously been convicted  
10 of or adjudicated delinquent for certain offenses;  
11 requiring an initial eligibility interview to determine  
12 whether the adolescent offender has been sufficiently  
13 rehabilitated for parole; providing criteria to determine  
14 sufficient rehabilitation; providing eligibility for a  
15 reinterview after a specified period for adolescent  
16 offenders denied parole; providing that the adolescent  
17 offender be incarcerated in a facility that has a GED  
18 program; providing that if the adolescent offender is  
19 granted parole, the adolescent offender must participate  
20 in any available reentry program for 2 years; defining the  
21 term "reentry program"; providing priority for certain  
22 programs; providing for eligibility for an initial  
23 eligibility interview for offenders in their eighth or  
24 subsequent year of incarceration on the effective date of  
25 the act; providing for retroactive application; providing  
26 an effective date.

27  
28 Be It Enacted by the Legislature of the State of Florida:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Section 1. This act may be cited as the "Second Chance for Children in Prison Act."

Section 2. Subsections (2) through (6) of section 947.16, Florida Statutes, are renumbered as subsections (3) through (7), respectively, and a new subsection (2) is added to that section to read:

947.16 Eligibility for parole; initial parole interviews; powers and duties of commission; adolescent offender eligibility.---

(2) (a) As used in this subsection, the term:

1. "Adolescent offender" means an offender who was 15 years of age or younger at the time the criminal act was committed and was sentenced to life or to a single or cumulative term of imprisonment of 10 years or more.

2. "Current offense" means the offense for which the adolescent offender is being considered for parole and any other crimes committed by the adolescent offender within a 1-month period of that offense, or for which sentences run concurrent to that offense.

(b) Notwithstanding the provisions of subsection (1) or of any other law to the contrary, an adolescent offender may be eligible for parole as provided in this subsection. An adolescent offender is ineligible under this subsection if she or he, before conviction of the current offense, was convicted of or adjudicated delinquent for any violation of:

1. Section 782.04, entitled "Murder";

2. Section 784.041, entitled "Felony battery; domestic

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- 57 battery by strangulation";  
 58 3. Section 784.045, entitled "Aggravated battery";  
 59 4. Section 784.07, entitled "Assault or battery of law  
 60 enforcement officers, firefighters, emergency medical care  
 61 providers, public transit employees or agents, or other  
 62 specified officers; reclassification of offenses; minimum  
 63 sentences";  
 64 5. Section 784.08, entitled "Assault or battery on persons  
 65 65 years of age or older; reclassification of offenses; minimum  
 66 sentence";  
 67 6. Section 787.01, entitled "Kidnapping; kidnapping of  
 68 child under age 13, aggravating circumstances";  
 69 7. Section 790.07, entitled "Persons engaged in criminal  
 70 offense, having weapons";  
 71 8. Section 794.011, entitled "Sexual battery";  
 72 9. Section 812.133, entitled "Carjacking";  
 73 10. Section 812.135, entitled "Home-invasion robbery";  
 74 11. Section 827.03, entitled "Abuse, aggravated abuse, and  
 75 neglect of a child; penalties"; or  
 76 12. Section 828.12(2), entitled "Cruelty to animals."  
 77 (c) Before an adolescent offender may be granted parole  
 78 under this subsection, she or he must have an initial  
 79 eligibility interview to determine whether she or he has been  
 80 sufficiently rehabilitated while in the custody of the  
 81 department to justify granting parole. The initial eligibility  
 82 interview will occur in the eighth year of incarceration. In  
 83 order to determine if the adolescent offender has been  
 84 sufficiently rehabilitated, she or he must have successfully



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85 completed the General Educational Development (GED) program  
86 unless waived based on disability and have received no approved  
87 disciplinary reports for a period of at least 2 years  
88 immediately prior to the current eligibility interview. The  
89 hearing examiner must also take into serious consideration the  
90 wishes of the victim or the opinions of the victim's next of kin  
91 and consider whether:

92 1. The adolescent offender was a principal to the criminal  
93 offense or an accomplice to the offense, a relatively minor  
94 participant in the criminal offense, or acted under extreme  
95 duress or domination of another person.

96 2. The adolescent offender has shown remorse for the  
97 criminal offense.

98 3. The adolescent offender's age, maturity, and  
99 psychological development at the time of the offense affected  
100 her or his behavior.

101 4. The adolescent offender, while in the custody of the  
102 department, has aided inmates suffering from catastrophic or  
103 terminal medical, mental, or physical conditions or has  
104 prevented risk or injury to staff, citizens, or other inmates.

105 5. The adolescent offender has successfully completed  
106 educational and self-rehabilitation programs.

107 6. The adolescent offender was a victim of sexual,  
108 physical, or emotional abuse.

109 (d) An adolescent offender who is not granted parole under  
110 this subsection after an initial eligibility interview shall be  
111 eligible for a reinterview 2 years after the date of the denial  
112 of the grant of parole and every 2 years thereafter.

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113 (e) An adolescent offender must serve her or his sentence  
114 in a facility that has a General Educational Development (GED)  
115 program unless the adolescent offender has already successfully  
116 completed a GED program.

117 (f) If the adolescent offender is granted parole, the  
118 adolescent offender must participate in any available reentry  
119 program for 2 years. As used in this paragraph, the term  
120 "reentry program" means a program that promotes effective  
121 reintegration of adolescent offenders back into communities upon  
122 release and provides one or more of the following: vocational  
123 training, placement services, transitional housing, mentoring,  
124 or drug rehabilitation. Priority shall be given to those reentry  
125 programs that are residential, highly structured, self-reliant,  
126 and therapeutic communities.

127 Section 3. An adolescent offender, as defined in s.  
128 947.16(2)(a), Florida Statutes, as created by this act, who is  
129 in her or his eighth or subsequent year of incarceration on the  
130 effective date of this act must receive an initial eligibility  
131 interview as provided in s. 947.16(2)(c), Florida Statutes, as  
132 created by this act, if she or he is otherwise eligible.

133 Section 4. This act shall take effect upon becoming a law,  
134 and applies with respect to offenses committed before, on, or  
135 after that date.

HB 119

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 119

Sexual Offenders and Predators

**SPONSOR(S):** Glorioso

**TIED BILLS:**

**IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee		Kramer <i>TK</i>	Cunningham <i>SK</i>
2)	Military & Local Affairs Policy Committee			
3)	Criminal & Civil Justice Appropriations Committee			
4)	Criminal & Civil Justice Policy Council			
5)				

**SUMMARY ANALYSIS**

The bill creates restrictions for a person convicted of an offense listed in the sexual offender statute where the victim was under the age of 18 as follows:

- The bill makes it a first degree misdemeanor if a person convicted of such an offense commits loitering or prowling within 300 feet of a place where children regularly congregate, including but not limited to, a school, day care center, park or playground.
- The bill makes it a first degree misdemeanor for a person convicted of such an offense to knowingly approach, contact or communicate with a child under 18 years of age in any public park building or on real property comprising any public park or playground with intent to engage in conduct of a sexual nature, or to make a communication of any type containing any content of a sexual nature. This will only apply to an offender who committed the sexual offense on or after July 1, 2010.
- The bill also makes it a first degree misdemeanor for a person convicted of such an offense to:
  - Knowingly be present in any child care facility or pre-K through 12 school or on real property comprising any child care facility or pre-K through 12 school when the child care facility or school is in operation unless the offender has provided written notification of his or her intent to be present to the school board, superintendent, principal, or child care facility owner;
  - Fail to notify the child care facility owner or the principal's office when he or she arrives and departs the child care facility or school; or
  - Fail to remain under the direct supervision of a school official or designated chaperone when present in the vicinity of children.

The bill creates 775.215, F.S. which provides that the adoption of residency distance limitations for persons convicted of a sexual offense is expressly preempted to the state and the provisions of state law establishing such distance limitations supersede the distance limitations in any such municipal or county ordinances.

The bill further provides that any provision of an ordinance adopted by a county or municipality prior to July 1, 2010, imposing residency exclusions for the residence of a sex offender in excess of the requirements of state law is repealed and abolished as of July 1, 2010. The bill provides an exception for a county or municipality ordinance adopted prior to July 1, 2010 upon the recommendation of the chief law enforcement officer of the county or city and upon a finding of public necessity that increases the distance exclusions for residence of a person subject to the provision of state law up to a maximum distance of 1,750 feet.

The bill will prohibit certain offenders on supervision for a sexual offense from visiting areas where children regularly congregate, including but not limited to, schools, day care centers, parks and playgrounds. The bill will prohibit these offenders on supervision from distributing candy or other items to children on Halloween, wearing a Santa Claus, Easter bunny or clown costume or entertaining at children's parties.

On February 25, 2009, the Criminal Justice Impact Conference determined that a substantially similar bill would have an insignificant prison bed impact on the Department of Corrections.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

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**DATE:** 10/15/2009

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

*Sexual Predator/Offender Registration [Sections 2, 4, 6 and 7]:* In very general terms, the distinction between a sexual predator and a sexual offender depends on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense and the date the offense occurred. A sexual predator or sexual offender must comply with a number of statutory requirements.<sup>1</sup> Failure to comply with these requirements is a third or second degree felony, depending of the offense.

During initial registration, a sexual predator or sexual offender is required to provide certain information, including the address of his or her permanent or temporary residence, to the sheriff's department who, in turn, provides this information to the Florida Department of Law Enforcement for inclusion in the statewide database. For a sexual predator or sexual offender who is not in the custody of or under the supervision of the Department of Corrections or a local jail, this information must be provided within 48 hours of establishing or maintaining a residence.

A sexual predator or sexual offender is required to update information regarding his or her permanent or temporary residence. A sexual predator or sexual offender who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence must, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence. Currently, the term "temporary residence" is defined as follows:

a place where the person abides, lodges, or resides for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.<sup>2</sup>

The bill specifies that the definition includes but is not limited to vacation, business or personal travel destinations in or out of the state.

The bill defines the term "transient residence" to mean:

<sup>1</sup> See generally, ss. 775.21, 943.0435 and 944.607, F.S.

<sup>2</sup> s. 775.21(2)(g), F.S.

A place or county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter, and a location that has no specific street address.

The bill requires a sexual predator or sexual offender to provide information regarding his or her transient residence.

*Loitering or prowling:* Certain sexual predators who have committed an offense against a minor victim and certain offenders who are on supervision for a sexual offense are prohibited from working at specified locations.<sup>3</sup> Although there are statutory restrictions on where certain people who have been convicted of a sexual offense can reside,<sup>4</sup> (discussed below) there are no statutory restrictions on where a person who has been convicted of a sexual offense can visit.

The loitering statute, section 856.021, F.S. provides as follows:

(1) It is unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.

(2) Among the circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern.

Currently, a violation of this section is a second degree misdemeanor.

The bill provides restrictions for a person convicted of an offense listed in the sexual offender statute<sup>5</sup> where the victim was under the age of 18 as follows. The bill provides that if a person convicted of such an offense commits loitering or prowling within 300 feet of a place where children regularly congregate, including but not limited to, a school, day care center, park or playground, the offense will be a first degree misdemeanor.

It will be a first degree misdemeanor for a person convicted of such an offense to knowingly approach, contact or communicate with a child under 18 years of age in any public park building or on real property comprising any public park or playground with intent to engage in conduct of a sexual nature, or to make a communication of any type containing any content of a sexual nature. This will only apply to an offender who committed a sexual offense on or after July 1, 2010.

It will also be a first degree misdemeanor for a person convicted of such an offense to:

<sup>3</sup> See s. 775.21(10)(b); 947.1405(7)(a)6.; 948.30(1)(f), F.S.

<sup>4</sup> See s. 794.065; 947.1405(7)(a)2; 948.30(1)(b), F.S.

<sup>5</sup> The offenses referenced include sections 787.01 (kidnapping); s. 787.02 (false imprisonment); s. 787.025 (luring or enticing a child); s. 794.011 (sexual battery); s. 794.05 (unlawful sexual activity with certain minors); s. 796.03 (procuring a person under the age of 18 for prostitution); s. 796.035, (selling or buying of a minor into sex trafficking or prostitution); 800.04 (lewd or lascivious offenses); 825.1025(2)(b) (lewd or lascivious battery on an elderly person); s. 827.071 (promoting sexual performance by a child); s. 847.0133 (selling or showing obscenity to a minor); 847.0135 (traveling to meet a minor for the purpose of engaging in illegal sexual activity); s. 847.0137; (transmitting child pornography); s. 847.0138 (transmitting material harmful to minors); s. 985.701 (sexual misconduct by a Department of Juvenile Justice employee)

1. Knowingly be present in any child care facility or pre-K through 12 school or on real property comprising any child care facility or pre-K through 12 school when the child care facility or school is in operation unless the offender has provided written notification of his or her intent to be present to the school board, superintendent, principal, or child care facility owner;
2. Fail to notify the child care facility owner or the principal's office when he or she arrives and departs the child care facility or school; or
3. Fail to remain under the direct supervision of a school official<sup>6</sup> or designated chaperone when present in the vicinity of children.

The bill provides that it is not a violation of the above provision if, the child care facility or school is a voting location and the offender is present for the purpose of voting during the hours designated for voting or if the offender is only dropping off or picking up his or her own children or grandchildren at the child care facility or school.

*Unlawful place of residence for persons convicted of certain sex offenses:* Before October 1, 2004, there was no statutory prohibition on where a sexual predator or sexual offender who was no longer on supervision could live.<sup>7</sup> In other words, a sexual predator or sexual offender who was not on supervision could live wherever he or she wished but was required to report his or her residence to law enforcement. During the 2004 session, section 794.065, F.S. was created<sup>8</sup> which made it unlawful for a person convicted on or after October 1, 2004 (the effective date of the law) of a specified sexual battery or lewd or lascivious offense<sup>9</sup>, against a victim under the age of 16 from living within 1,000 feet of a school, day care center, park or playground. The offense is a third degree felony if the sexual offense for which the offender was previously convicted was classified as a first degree felony or higher. The offense is a first degree misdemeanor if the sexual offense for which the offender was previously convicted was classified as a second or third degree felony.

In recent years, a large number of cities and counties throughout the state have passed local ordinances designed to restrict where people who have been convicted of a sexual offense can live. According to the Department of Corrections, as of October 19, 2009, there were 148 such local ordinances. Generally, the ordinances appear to be modeled after section 794.065, F.S. but extend the distance from 1,000 feet to 2,500 feet or more. Many of the ordinances also prohibit an offender from living within a certain distance of places such as libraries, churches and bus stops that are not included in the state statute.

A great deal of press coverage has documented that many local residency exclusions make it significantly more difficult for a sexual offender to obtain a legal residence. In Miami-Dade County, a varying number of sexual offenders have reported their address as underneath the Julia Tuttle Bridge.<sup>10</sup>

On April 14, 2009, the Broward County Board of County Commissioners adopted an ordinance creating residency exclusions for sexual offenders that was to be effective for ninety days. The commission also created the Sexual Offender & Sexual Predator Residence Task Force on which was required "to review, research, and make recommendations to the Board of County Commissioners regarding the issues involved with the residency restrictions of sexual offenders and sexual predators convicted of certain sex offenses"<sup>11</sup>

6 The bill defines the term "school official" to mean a principal, school resource officer, teacher or any other employee of the school, the superintendent of schools, a member of the school board, a child care facility owner or a child care provider.

7 In cases in which the victim was a minor, a sexual predator is prohibited from working in a business, school, day care center, park, playground or other place where children regularly congregate. s. 775.21(10)(b), F.S. If a sexual predator or sexual offender is working at or attending an institution of higher education, this fact must be disclosed to FDLE who then, in turn, must inform the institution of higher education. ss. 775.21(6)(a)1b, 943.0435(2)(b)2, F.S.

8 See 2004-391, Laws of Florida.

9 Included are ss. 794.011, 800.04, 827.071 and 847.0145, F.S.

<sup>10</sup> *Roadside Camp for Miami Sex Offenders Leads to Lawsuit*, New York Times, July 10, 2009;

<http://www.nytimes.com/2009/07/10/us/10offender.html>

<sup>11</sup> RESOLUTION NO. 2009-309; [http://bcegov3.broward.org/NewsRelease/Attachments/2199\\_114\\_04-28-](http://bcegov3.broward.org/NewsRelease/Attachments/2199_114_04-28-)

[2009\\_Sexual%20Offender%20resolution.doc](http://bcegov3.broward.org/NewsRelease/Attachments/2199_114_04-28-2009_Sexual%20Offender%20resolution.doc)

On August 25, 2009, the final task force report was released. Among the findings found in the task force report were the following:

- Residency restrictions limit housing availability and create an increased number of homeless sex offenders.
- Because 24 cities within the county had adopted residency ordinances, a high percentage of sex offenders were living (sometimes referred to as clustering) in small unincorporated areas.
- A review of the available research on residency restrictions found "no empirical evidence to indicate that these laws achieve their intended goals of preventing abuse, protecting children, or reducing reoffending."<sup>12</sup>
- No evidence was found indicating that "larger buffer zones are more effective in protecting children than the state's 1,000-foot restriction."<sup>13</sup>

Subsequent to the release of the task force report, the Board of County Commissioners removed the repealer language from the previously adopted ordinance. The ordinance prohibits certain sexual offenders in unincorporated parts of the county from living within 2,500 feet of a school, designated public school bus stop, day care center, park or playground.<sup>14</sup>

*Preemption of local ordinances:* [Section 3] The bill creates 775.215, F.S. which provides that the adoption of residency distance limitations for persons convicted of sexual offenses, is expressly preempted to the state and the provisions of sections 794.065, 947.1405 and 948.30, F.S. establishing such distance limitations supersede the distance limitations in any such municipal or county ordinances.

The bill further provides that any provision of an ordinance adopted by a county or municipality prior to July 1, 2010, imposing residency exclusions for the residence of a person subject to the provisions of s. 794.065, 947.1405 or 948.30 in excess of the requirements of those provisions is repealed and abolished as of July 1, 2010. The bill provides an exception for a county or municipality ordinance adopted prior to July 1, 2010 upon the recommendation of the chief law enforcement officer of the county or city and upon a finding of public necessity that increases the distance exclusions for residence of a person subject to the provision of state law up to a maximum distance of 1,750 feet.

In effect, it appears that this section of statute would bar a county or municipality from adopting any residency exclusion ordinance after July 1, 2010 and would only allow ordinances passed prior to that date to be maintained if they applied distance exclusions up to 1,750 feet, were recommended by the county or city's chief law enforcement officer and based upon a finding of public necessity.

*Probation and community control - generally:* Probation is a form of community supervision of offenders requiring specified contacts with probation officers, compliance with standard statutory terms and conditions, and compliance with any specific terms and conditions required by the sentencing court.<sup>15</sup> Community control is a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or non-institutional residential placement and specific sanctions are imposed and enforced.<sup>16</sup>

*Conditional release - generally:* The conditional release program requires an inmate convicted of repeated violent offenses that is nearing the end of his or her sentence to be released under close supervision.<sup>17</sup> The Parole Commission sets the length and conditions of release after reviewing

<sup>12</sup> Final Report: Sexual Offender & Sexual Predator Residence Task Force, Page 6.

[http://www.royallcreations.com/fatsa/Final\\_Report\\_-\\_Sexual\\_Offender\\_Sexual\\_Residence\\_Task\\_Force.pdf](http://www.royallcreations.com/fatsa/Final_Report_-_Sexual_Offender_Sexual_Residence_Task_Force.pdf)

<sup>13</sup> Id.

<sup>14</sup> Chapter 21, Article XI, Sec. 21-164 – Sec. 21-170, Broward County Code of Ordinances.

<sup>15</sup> Section 948.001(5), F.S.

<sup>16</sup> Section 948.001(2), F.S.

<sup>17</sup> Inmates who qualify for conditional release include: 1) those who have previously served time in a correctional institution and are currently incarcerated for one a list of violent offenses including murder, sexual battery, robbery, assault or battery; 2) inmates



information provided by the Department of Corrections.<sup>18</sup> The Department of Corrections supervises the offender while on conditional release.

*Conditions of probation/community control/conditional release:* Currently, an offender who is on probation or community control for a specified sexual offense<sup>19</sup> and therefore supervised by the Department of Corrections must comply with additional terms and conditions of supervision including the following:

1. A prohibition from living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate if the victim was under the age of 18.<sup>20</sup>
2. A prohibition on any contact with the victim unless approved by the victim, the offender's therapist and the sentencing court.<sup>21</sup>
3. If the victim was under the age of 18, a prohibition on contact with a child under the age of 18 except in specified circumstances.<sup>22</sup>
4. If the victim was under the age of 18, a prohibition on working for pay or as a volunteer at any place where children regularly congregate, including but not limited to schools, day care centers, parks, playgrounds, pet stores, libraries, zoos, theme parks and malls.<sup>23</sup>

For inmates convicted of certain sexual offenses<sup>24</sup> or offenses against children, who are subject to conditional release, section 947.1405(7)(a), F.S., requires the Parole Commission to impose a list of conditions similar to those above.

*Additional conditions required by HB 119 [Sections 8 and 9]:* The bill amends s. 948.30, F.S. to expand the list of offenses for which additional conditions of supervision must be imposed to include all offenses listed in the sexual offender statute (rather than just the five offenses listed in footnote 14 above) and provides that in addition to all other conditions imposed, if the offense was committed on or after July 1, 2010, the court must impose the following conditions:

1. A prohibition on visiting areas where children regularly congregate, including but not limited to, schools, day care centers, parks and playgrounds. The bill provides that the court may also designate additional locations to protect the victim. The bill provides that this does not prohibit the probationer or community controllee's attendance at religious services<sup>25</sup>.
2. A prohibition on distributing candy or other items to children on Halloween; wearing a Santa Claus costume, or other costume to appeal to children, on or preceding Christmas; wearing an Easter Bunny costume, or other costume to appeal to children, on or preceding Easter; entertaining at children's parties; or wearing a clown costume; without prior approval from the Court.

These conditions will apply if the victim was under 18 unless the victim was 16 or 17 and the offender was not more than 21 years of age. Unlike the conditions of probation currently in s. 948.30 relating to residency restrictions which only apply to a person on probation for a specified sexual offense, the new conditions apply to a person "who has been convicted at any time of committing" one of the listed

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sentenced as a habitual offender, a violent habitual offender or a violent career criminal; 3) inmates who were found to be a sexual predator. s. 947.1405(2), F.S.

<sup>18</sup> The length of supervision cannot exceed the maximum penalty imposed by the court. (see s. 947.1405(6)).

<sup>19</sup> s. 948.30(1)(b), F.S. The specified offenses include sexual battery offenses (chapter 794), lewd or lascivious offenses (s. 800.04, F.S.), promoting sexual performance by a child (s. 827.071, F.S.), traveling to meet a minor for the purpose of engaging in illegal sexual activity (874.0135) and selling or buying minors for child pornography (s. 847.0145, F.S.)

<sup>20</sup> Section 948.30(1)(b), F.S.

<sup>21</sup> S. 948.30(1)(d), F.S.

<sup>22</sup> s. 948.30(1)(e), F.S.

<sup>23</sup> s. 948.30(1)(f), F.S.

<sup>24</sup> Offenses include sexual battery (s.794), lewd or lascivious offenses (s.800.04); sexual performance by a child (s. 827.071) and selling or buying of minors (s. 847.0145).

<sup>25</sup> The bill refers to the definition of the term "religious service" contained in s. 775.0861, F.S. The term is defined as "a religious ceremony, prayer, or other activity according to a form and order prescribed for worship, including a service related to a particular occasion."

offenses, regardless of the offense for which they are on supervision. The bill also requires that these conditions be placed on conditional releasees who meet the above criteria.

*Polygraph examinations: [Sections 8 and 9]* Currently, pursuant to s. 948.30(2)(a), F.S., for a probationer or community controllee who committed a specified sexual offense on or after October 1, 1997, the court must order, as part of a treatment program, that the probationer or community controllee participate at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. The examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders where available and must be paid for by the sex offender. The results of the polygraph examination cannot be used as evidence in court to prove that a violation of probation occurred.

The bill requires that the polygraph examiner be authorized by the DOC. The bill also provides that the results of the polygraph examination must be provided to the probationer or community controllee's probation officer and therapist. The bill makes similar changes to the s. 947.1405, F.S., the conditional release statute.

*Evaluation and treatment of offenders on supervision: [Section 10]* Section 948.31, F.S. provides that the court must require a diagnosis and evaluation to determine the need of certain probationers or community controllees for treatment. If the court determines that such a need is established by the diagnosis and evaluation process, the court must require outpatient counseling as a term or condition of probation or community control for any person who was found or pled guilty to sexual battery, a lewd or lascivious offense, exploitation of a child or prostitution.

The bill amends this provision to remove reference to the court requiring a "diagnosis" of the probationer or community controllee and retains the reference to an "evaluation". The bill also removes reference to the court requiring "outpatient" treatment and instead refers to "sex offender treatment".

The bill alters the offenses for which this treatment can be ordered, if needed, to include any offense for which a person can be designated as a sexual predator or subject to registration as a sexual offender.

Current law provides that the treatment can be obtained from a community health center, a recognized social service agency providing mental health services, or a private mental health professional or through other professional counseling. The bill amends this to require that the treatment be obtained from a qualified practitioner as defined in s. 948.001.<sup>26</sup> Treatment may not be administered by a qualified practitioner who has been convicted or adjudicated delinquent of committing an offense listed in the sexual offender statute. The bill provides that the court must impose restrictions against contact with minors if sex offender treatment is recommended.

*Search of registration information: [Section 5]* Section 943.04342, F.S. provides that when the court places a defendant on misdemeanor probation, the public or private entity providing probation services must conduct a search of the probationer's name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by FDLE. The bill requires that the probation service also must search the probationer's name through the Dru Sjodin National Sex Offender Public maintained by the United States Department of Justice.

## B. SECTION DIRECTORY:

Section 1. Creates s. 856.022, F.S., relating to loitering or prowling by certain offenders in close proximity to children.

Section 2. Amends s. 775.21, F.S., relating to Florida Sexual Predators Act.

<sup>26</sup> The term "qualified practitioner" is defined to mean a psychiatrist licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a social worker, a mental health counselor, or a marriage and family therapist licensed under chapter 491 who practices in accordance with his or her respective practice act.

Section 3. Creates s. 775.215, F.S., relating to residency exclusions for sexual offenders or predators; local ordinances preempted.

Section 4. Amends s. 943.0435, F.S., relating to sexual offenders required to register with the department; penalty.

Section 5. Amends s. 943.04352, F.S., relating to search of registration information regarding sexual predators and sexual offenders required when placement on misdemeanor probation.

Section 6. Amends s. 944.606, F.S., relating to sexual offenders; notification upon release.

Section 7. Amends s. 944.607, F.S., relating to notification to Department of Law Enforcement of information on sexual offenders.

Section 8. Amends s. 947.1405, F.S., relating to conditional release program.

Section 9. Amends s. 948.30, F.S., relating to additional terms and conditions of probation or community control for certain sex offenses.

Section 10. Amends s. 948.31, F.S., relating to evaluation and treatment of sexual predators and offenders on probation or community control.

Section 11. Amends s. 985.481, F.S., relating to sexual offenders adjudicated delinquent; notification upon release.

Section 12. Amends s. 985.4815, F.S., relating to notification to Department of Law Enforcement of information on juvenile sexual offenders.

Section 13. Provides effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill creates a first degree misdemeanor offense for a person who has been convicted of a specified sexual offense to loiter or prowl within 300 feet of certain places. The bill will also make it a first degree misdemeanor for a person who has been convicted of certain sexual offenses to approach, contact or communicate with a minor child in a public park or playground or knowingly be present in a child care facility or a school with specified exceptions. This could have a county jail impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See comments below relating to day care centers.

D. FISCAL COMMENTS:

On February 25, 2009, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

The bill provides that with specified exceptions, certain offenders cannot be present in a child care facility or school unless they given written notice to the school or day care. The bill provides if the offender is to be present in the vicinity of children, the offender must remain under direct supervision of a child care facility or school official or designated chaperone. This could place an additional workload on schools and day care centers that provide such supervision.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Florida statutes contain restrictions on where certain sex offenders are permitted to reside. Those restrictions only apply to those who committed a qualifying offense after the effective date of the legislation creating the restriction.<sup>27</sup> The first section of the bill would prohibit certain people who have previously committed a specified sexual offense from going to a school in certain circumstances. Specifically, the provision requires a person who has committed a prior specified sexual offense to give written notice of his or her intent to be present at a school, to notify the school of their arrival and departure and to remain under the direct supervision of a school official. This provision may be challenged as a violation of the ex post facto clause of the state or federal constitution. Courts may treat this provision as if it were a requirement to "register" in which case it may be analogous to the requirements to register as a sexual offender. Thus far, courts have routinely upheld sexual offender registry requirements. See, e.g., *Smith v. Doe*, 123 S.Ct. 1140 (2003).

Alternatively, this requirement of the bill of the bill might be comparable to statutes which restrict where a sexual offender can live. Because statutes of this type are of recent origin, there is a limited amount of relevant case law nationwide and no relevant Florida appellate court caselaw. In *Doe v. Miller*, 405 F.3d 700 (8th Cir. 2005) *cert denied* 126 S.Ct. 757 (2005), the court considered a challenge to an Iowa statute that prohibits a person convicted of certain sex offenses involving minors from residing within 2000 feet of a school or registered child care facility. The court recognized that the "restricted areas in many cities encompass the majority of the available housing in the city, thus leaving only limited areas within city limits available for sex offenders to establish a residence." *Id.* at 705. The question in an ex post fact challenge is whether the law imposes retroactive punishment for a criminal act after it has been committed. The court applied a test set forth by the United States Supreme Court in *Smith v. Doe*, 123 S.Ct. 1140 (2003) where the Supreme Court upheld a challenge to an Alaska statute requiring sex offenders to register.

<sup>27</sup> See ss. 794.065, F.S., 947.1405 and 948.30, F.S.

The 8<sup>th</sup> Circuit summarized the test to be applied as follows:

Under this test, a court must first consider whether the legislature meant the statute in question to establish 'civil' proceedings. If the legislature intended criminal punishment, then the legislative intent controls the inquiry and the law is necessarily punitive. If, however, the legislature intended its law to be civil and nonpunitive, then we must determine whether the law is nevertheless, so punitive either in purpose or in effect as to negate the State's nonpunitive intent. Only the clearest proof will transform what the legislature has denominated a civil regulatory measure into a criminal penalty.

*Miller*, 405 F.3d at 718. (citations and internal quotations omitted).

The court also considered the following factors that the Supreme Court described as "useful guideposts" in determining whether a law has a punitive effect:

Whether the law has been regarded in our history and traditions as punishment, whether it promotes the traditional aims of punishment, whether it imposes an affirmative disability or restraint, whether it has a rational connection to a nonpunitive purpose, and whether it is excessive with respect to that purpose.

*Id.* at 719.

The court considered each of these factors and rejected appellee's claim that the statute violated the ex post facto clause. See also, *Iowa v. Seering*, 701 N.W.2d 655 (Iowa 2005)(Iowa Supreme Court case affirming statute and rejecting ex post facto claim).

On October 1, 2009, applying the same test as that of the *Miller* court, above, the Kentucky Supreme Court held that a state law which restricts where registered sexual offenders may live would be an ex post facto punishment if it were applied to offenders who committed their offense before the effective date of the statute.<sup>28</sup> See also, *State v. Pollard*, 908 N.E. 2d 1145 (Ind. 2009)(holding that residency restriction as applied to defendant who committed offense prior to effective date of statute violated ex post facto clause).

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

*Section 1:* Section 1 of the bill would prohibit an offender who had been convicted of a specified sexual offense against a victim under the age of 18 from being present in a child care facility or school or on the real property of a school or day care while the school is in operation unless he or she provides written notice to the principal or child care facility owner. The bill provides if the offender is to be present in the vicinity of children, the offender must remain under direct supervision of a child care facility or school official or designated chaperone. This could have broad impact on where these offenders would be able to go without providing written notice and having a chaperone. Depending on how the phrase "while the school is in operation" is interpreted, an offender may be prohibited from going to these places, for example, without providing written notice and having a designated chaperone:

- a church that contains a day care center;
- a school parent-teacher conference;
- a school play or music program;
- a high school football game;
- an adult education program held at a high school in the evening.

<sup>28</sup> *Com. v. Baker*, 295 S.W.3d 437 (Ky. 2009)

The provisions of this section of the bill relating to schools apparently apply to any person who has been convicted of one of a list of sexual offenses, regardless of how long ago the offense was committed. By contrast, the sexual offender and sexual predator statutes only apply to offenders who have been released from sanction for their offense after a certain date. For example, the sexual offender statute applies to offenders who have been released from sanction for the qualifying offense on or after October 1, 1997. This section of the bill will limit the behavior of people who are not required to be registered as a sexual predator or sexual offender and have never had such restrictions placed on them.

*Section 3:* It appears that this section of statute would bar a county or municipality from adopting any residency exclusion ordinance after July 1, 2010 and would only allow ordinances passed prior to that date to be maintained if they did not exceed state law or if they were recommended by the county or city's chief law enforcement officer and upon a finding of public necessity and increased the distance exclusions to a maximum distance of 1,750 feet. Although it is somewhat unclear, this would apparently not permit ordinances to be maintained or created which applied to places not included in state law. State law only applies to schools, day care centers, parks and playgrounds. Of particular importance would be whether a county or municipality ordinance which barred residences in proximity to bus stops could be created or allowed to remain in effect. [State law includes bus stops only for the relatively few offenders who are on conditional release.]

The Broward County Sexual Offender & Sexual Predator Residence Task Force report noted that in that county, there were twenty-four city ordinances which all applied to bus stops and further found that "bus stops appear to be the most restrictive part of residence laws across the state".<sup>29</sup> As part of its recommendations, the task force stated, "[i]t is clear that bus stops diminish housing availability within buffer zones to a literal point of non-existence. We recommend that if a residential exclusion zone is passed it should not include bus stops as a prohibited venue."<sup>30</sup>

It also appears that the newly created section of statute would preclude a county or municipal ordinance from applying to offenders convicted of offenses not included in state law.

*Section 9:* Lines 1071 and 1082 refer to the "commission". This section of statute relates to conditions of supervision that must be placed on probationers and community controlees and the reference should be to the "court" rather than the "commission".

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

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<sup>29</sup> *Sexual Offender & Sexual Predator Residence Task Force*, August 25, 2009, p. 25.

<sup>30</sup> *Id.* at 35.

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1 A bill to be entitled

2 An act relating to sexual offenders and predators;  
3 creating s. 856.022, F.S.; prohibiting loitering or  
4 prowling by certain offenders within a specified distance  
5 of places where children regularly congregate; prohibiting  
6 certain actions toward a child at a public park or  
7 playground by certain offenders; prohibiting the presence  
8 of certain offenders at or on real property comprising a  
9 child care facility or pre-K through 12 school without  
10 notice and supervision; providing exceptions; providing  
11 penalties; amending s. 775.21, F.S.; revising and  
12 providing definitions; revising provisions relating to  
13 residence reporting requirements for sexual predators;  
14 creating s. 775.215, F.S.; preempting certain local  
15 ordinances relating to residency limitations for sexual  
16 predators and offenders and providing for repeal of such  
17 ordinances; providing for limited exceptions for distance  
18 provisions in ordinances meeting specified requirements;  
19 amending s. 943.0435, F.S.; revising provisions relating  
20 to residence reporting requirements for sexual offenders;  
21 amending s. 943.04352, F.S.; requiring that the probation  
22 services provider search in an additional specified sex  
23 offender registry for information regarding sexual  
24 predators and sexual offenders when an offender is placed  
25 on misdemeanor probation; amending s. 944.606, F.S.;  
26 revising address reporting requirements for sexual  
27 offenders; amending s. 944.607, F.S.; requiring additional  
28 registration information from sex offenders who are under

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 the supervision of the Department of Corrections but who  
30 are not incarcerated; amending s. 947.1405, F.S.; revising  
31 provisions relating to polygraph examinations of specified  
32 conditional releasees who have committed specified sexual  
33 offenses; providing additional restrictions for certain  
34 conditional releasees who have committed specified sexual  
35 offenses against minors under the age of 16 or have  
36 similar convictions in another jurisdiction; amending s.  
37 948.30, F.S.; revising provisions relating to polygraph  
38 examinations of specified probationers or community  
39 controllees who have committed specified sexual offenses;  
40 providing additional restrictions for certain probationers  
41 or community controllees who committed specified sexual  
42 offenses against minors under the age of 16 or who have  
43 similar convictions in another jurisdiction; amending s.  
44 948.31, F.S.; deleting a requirement for diagnosis of  
45 certain sexual predators and sexual offenders on community  
46 control; revising provisions relating to treatment for  
47 such offenders and predators; amending s. 985.481, F.S.;  
48 providing additional address reporting requirements for  
49 sexual offenders adjudicated delinquent; amending s.  
50 985.4815, F.S.; revising provisions relating to address  
51 and residence reporting requirements for sexual offenders  
52 adjudicated delinquent; providing an effective date.

53  
54 Be It Enacted by the Legislature of the State of Florida:

55  
56 Section 1. Section 856.022, Florida Statutes, is created



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57 to read:

58 856.022 Loitering or prowling by certain offenders in  
 59 close proximity to children; penalty.--

60 (1) This section applies to an offender convicted of  
 61 committing, or attempting, soliciting, or conspiring to commit,  
 62 any of the criminal offenses proscribed in the following  
 63 statutes in this state or similar offenses in another  
 64 jurisdiction against a victim who was under the age of 18 at the  
 65 time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c),  
 66 where the victim is a minor and the offender was not the  
 67 victim's parent or guardian; s. 794.011, excluding s.  
 68 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.  
 69 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.  
 70 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.  
 71 985.701(1); or any similar offense committed in this state which  
 72 has been redesignated from a former statute number to one of  
 73 those listed in this subsection, if the offender has not  
 74 received a pardon for any felony or similar law of another  
 75 jurisdiction necessary for the operation of this subsection and  
 76 a conviction of a felony or similar law of another jurisdiction  
 77 necessary for the operation of this subsection has not been set  
 78 aside in any postconviction proceeding.

79 (2) An offender described in subsection (1) commits  
 80 loitering and prowling by a person convicted of a sexual offense  
 81 against a minor if, in committing loitering and prowling, he or  
 82 she was within 300 feet of a place where children regularly  
 83 congregate, including, but not limited to, a school, day care  
 84 center, playground, or park.

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85 (3) It is unlawful for an offender described in subsection  
86 (1) to:

87 (a) Knowingly approach, contact, or communicate with a  
88 child under 18 years of age in any public park building or on  
89 real property comprising any public park or playground with  
90 intent to engage in conduct of a sexual nature, or to make a  
91 communication of any type containing any content of a sexual  
92 nature. This paragraph applies only to an offender described in  
93 subsection (1) whose offense was committed on or after July 1,  
94 2010.

95 (b)1. Knowingly be present in any child care facility or  
96 pre-K through 12 school or on real property comprising any child  
97 care facility or pre-K through 12 school when the child care  
98 facility or school is in operation unless the offender has  
99 provided written notification of his or her intent to be present  
100 to the school board, superintendent, principal, or child care  
101 facility owner.

102 2. Fail to notify the child care facility owner or the  
103 principal's office when he or she arrives and departs the child  
104 care facility or school.

105 3. Fail to remain under direct supervision of a school  
106 official or designated chaperone when present in the vicinity of  
107 children. As used in this subparagraph, the term "school  
108 official" means a principal, school resource officer, teacher or  
109 any other employee of the school, the superintendent of schools,  
110 a member of the school board, a child care facility owner, or a  
111 child care provider.

112 (4) The offender is not in violation of subsection (3) if:

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113 (a) The child care facility or school is a voting location  
 114 and the offender is present for the purpose of voting during the  
 115 hours designated for voting; or

116 (b) The offender is only dropping off or picking up his or  
 117 her own children or grandchildren at the child care facility or  
 118 school.

119 (5) Any person who violates this section commits a  
 120 misdemeanor of the first degree, punishable as provided in s.  
 121 775.082 or s. 775.083.

122 Section 2. Paragraph (g) of subsection (2), paragraph (c)  
 123 of subsection (4), paragraph (a) of subsection (5), paragraphs  
 124 (a), (f), (g), (i), and (j) of subsection (6), paragraph (a) of  
 125 subsection (7), and paragraph (a) of subsection (8) of section  
 126 775.21, Florida Statutes, are amended, and paragraph (1) is  
 127 added to subsection (2) of that section, to read:

128 775.21 The Florida Sexual Predators Act.--

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

130 (g) "Temporary residence" means a place where the person  
 131 abides, lodges, or resides, including, but not limited to,  
 132 vacation, business, or personal travel destinations in or out of  
 133 this state, for a period of 5 or more days in the aggregate  
 134 during any calendar year and which is not the person's permanent  
 135 address or, for a person whose permanent residence is not in  
 136 this state, a place where the person is employed, practices a  
 137 vocation, or is enrolled as a student for any period of time in  
 138 this state.

139 (1) "Transient residence" means a place or county where a  
 140 person lives, remains, or is located for a period of 5 or more

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141 days in the aggregate during a calendar year and which is not  
 142 the person's permanent or temporary address. The term includes,  
 143 but is not limited to, a place where the person sleeps or seeks  
 144 shelter and a location that has no specific street address.

145 (4) SEXUAL PREDATOR CRITERIA.--

146 (c) If an offender has been registered as a sexual  
 147 predator by the Department of Corrections, the department, or  
 148 any other law enforcement agency and if:

149 1. The court did not, for whatever reason, make a written  
 150 finding at the time of sentencing that the offender was a sexual  
 151 predator; or

152 2. The offender was administratively registered as a  
 153 sexual predator because the Department of Corrections, the  
 154 department, or any other law enforcement agency obtained  
 155 information that indicated that the offender met the criteria  
 156 for designation as a sexual predator based on a violation of a  
 157 similar law in another jurisdiction,

158  
 159 the department shall remove that offender from the department's  
 160 list of sexual predators and, for an offender described under  
 161 subparagraph 1., shall notify the state attorney who prosecuted  
 162 the offense that met the criteria for administrative designation  
 163 as a sexual predator, and, for an offender described under this  
 164 paragraph, shall notify the state attorney of the county where  
 165 the offender establishes or maintains a permanent, ~~or~~ temporary,  
 166 or transient residence. The state attorney shall bring the  
 167 matter to the court's attention in order to establish that the  
 168 offender meets the criteria for designation as a sexual

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169 predator. If the court makes a written finding that the offender  
 170 is a sexual predator, the offender must be designated as a  
 171 sexual predator, must register or be registered as a sexual  
 172 predator with the department as provided in subsection (6), and  
 173 is subject to the community and public notification as provided  
 174 in subsection (7). If the court does not make a written finding  
 175 that the offender is a sexual predator, the offender may not be  
 176 designated as a sexual predator with respect to that offense and  
 177 is not required to register or be registered as a sexual  
 178 predator with the department.

179 (5) SEXUAL PREDATOR DESIGNATION.--An offender is  
 180 designated as a sexual predator as follows:

181 (a)1. An offender who meets the sexual predator criteria  
 182 described in paragraph (4)(d) is a sexual predator, and the  
 183 court shall make a written finding at the time such offender is  
 184 determined to be a sexually violent predator under chapter 394  
 185 that such person meets the criteria for designation as a sexual  
 186 predator for purposes of this section. The clerk shall transmit  
 187 a copy of the order containing the written finding to the  
 188 department within 48 hours after the entry of the order;

189 2. An offender who meets the sexual predator criteria  
 190 described in paragraph (4)(a) who is before the court for  
 191 sentencing for a current offense committed on or after October  
 192 1, 1993, is a sexual predator, and the sentencing court must  
 193 make a written finding at the time of sentencing that the  
 194 offender is a sexual predator, and the clerk of the court shall  
 195 transmit a copy of the order containing the written finding to  
 196 the department within 48 hours after the entry of the order; or

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197 3. If the Department of Corrections, the department, or  
 198 any other law enforcement agency obtains information which  
 199 indicates that an offender who establishes or maintains a  
 200 permanent, ~~or~~ temporary, or transient residence in this state  
 201 meets the sexual predator criteria described in paragraph (4)(a)  
 202 or paragraph (4)(d) because the offender was civilly committed  
 203 or committed a similar violation in another jurisdiction on or  
 204 after October 1, 1993, the Department of Corrections, the  
 205 department, or the law enforcement agency shall notify the state  
 206 attorney of the county where the offender establishes or  
 207 maintains a permanent, ~~or~~ temporary, or transient residence of  
 208 the offender's presence in the community. The state attorney  
 209 shall file a petition with the criminal division of the circuit  
 210 court for the purpose of holding a hearing to determine if the  
 211 offender's criminal record or record of civil commitment from  
 212 another jurisdiction meets the sexual predator criteria. If the  
 213 court finds that the offender meets the sexual predator criteria  
 214 because the offender has violated a similar law or similar laws  
 215 in another jurisdiction, the court shall make a written finding  
 216 that the offender is a sexual predator.

217  
 218 When the court makes a written finding that an offender is a  
 219 sexual predator, the court shall inform the sexual predator of  
 220 the registration and community and public notification  
 221 requirements described in this section. Within 48 hours after  
 222 the court designating an offender as a sexual predator, the  
 223 clerk of the circuit court shall transmit a copy of the court's  
 224 written sexual predator finding to the department. If the

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225 offender is sentenced to a term of imprisonment or supervision,  
 226 a copy of the court's written sexual predator finding must be  
 227 submitted to the Department of Corrections.

228 (6) REGISTRATION.--

229 (a) A sexual predator must register with the department  
 230 through the sheriff's office by providing the following  
 231 information to the department:

232 1. Name, social security number, age, race, sex, date of  
 233 birth, height, weight, hair and eye color, photograph, address  
 234 of legal residence and address of any current temporary  
 235 residence, within the state or out of state, including a rural  
 236 route address and a post office box, if no permanent or  
 237 temporary address, any transient residence within the state,  
 238 address, location or description, and dates of any current or  
 239 known future temporary residence within the state or out of  
 240 state, any electronic mail address and any instant message name  
 241 required to be provided pursuant to subparagraph (g)4., home  
 242 telephone number and any cellular telephone number, date and  
 243 place of any employment, date and place of each conviction,  
 244 fingerprints, and a brief description of the crime or crimes  
 245 committed by the offender. A post office box shall not be  
 246 provided in lieu of a physical residential address.

247 a. If the sexual predator's place of residence is a motor  
 248 vehicle, trailer, mobile home, or manufactured home, as defined  
 249 in chapter 320, the sexual predator shall also provide to the  
 250 department written notice of the vehicle identification number;  
 251 the license tag number; the registration number; and a  
 252 description, including color scheme, of the motor vehicle,

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253 trailer, mobile home, or manufactured home. If a sexual  
254 predator's place of residence is a vessel, live-aboard vessel,  
255 or houseboat, as defined in chapter 327, the sexual predator  
256 shall also provide to the department written notice of the hull  
257 identification number; the manufacturer's serial number; the  
258 name of the vessel, live-aboard vessel, or houseboat; the  
259 registration number; and a description, including color scheme,  
260 of the vessel, live-aboard vessel, or houseboat.

261 b. If the sexual predator is enrolled, employed, or  
262 carrying on a vocation at an institution of higher education in  
263 this state, the sexual predator shall also provide to the  
264 department the name, address, and county of each institution,  
265 including each campus attended, and the sexual predator's  
266 enrollment or employment status. Each change in enrollment or  
267 employment status shall be reported in person at the sheriff's  
268 office, or the Department of Corrections if the sexual predator  
269 is in the custody or control of or under the supervision of the  
270 Department of Corrections, within 48 hours after any change in  
271 status. The sheriff or the Department of Corrections shall  
272 promptly notify each institution of the sexual predator's  
273 presence and any change in the sexual predator's enrollment or  
274 employment status.

275 2. Any other information determined necessary by the  
276 department, including criminal and corrections records;  
277 nonprivileged personnel and treatment records; and evidentiary  
278 genetic markers when available.

279 (f) Within 48 hours after the registration required under  
280 paragraph (a) or paragraph (e), a sexual predator who is not



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281 | incarcerated and who resides in the community, including a  
282 | sexual predator under the supervision of the Department of  
283 | Corrections, shall register in person at a driver's license  
284 | office of the Department of Highway Safety and Motor Vehicles  
285 | and shall present proof of registration. At the driver's license  
286 | office the sexual predator shall:

287 |       1. If otherwise qualified, secure a Florida driver's  
288 | license, renew a Florida driver's license, or secure an  
289 | identification card. The sexual predator shall identify himself  
290 | or herself as a sexual predator who is required to comply with  
291 | this section, provide his or her place of permanent, ~~or~~  
292 | temporary, or transient residence, including a rural route  
293 | address and a post office box, and submit to the taking of a  
294 | photograph for use in issuing a driver's license, renewed  
295 | license, or identification card, and for use by the department  
296 | in maintaining current records of sexual predators. A post  
297 | office box shall not be provided in lieu of a physical  
298 | residential address. If the sexual predator's place of residence  
299 | is a motor vehicle, trailer, mobile home, or manufactured home,  
300 | as defined in chapter 320, the sexual predator shall also  
301 | provide to the Department of Highway Safety and Motor Vehicles  
302 | the vehicle identification number; the license tag number; the  
303 | registration number; and a description, including color scheme,  
304 | of the motor vehicle, trailer, mobile home, or manufactured  
305 | home. If a sexual predator's place of residence is a vessel,  
306 | live-aboard vessel, or houseboat, as defined in chapter 327, the  
307 | sexual predator shall also provide to the Department of Highway  
308 | Safety and Motor Vehicles the hull identification number; the

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309 manufacturer's serial number; the name of the vessel, live-  
 310 aboard vessel, or houseboat; the registration number; and a  
 311 description, including color scheme, of the vessel, live-aboard  
 312 vessel, or houseboat.

313 2. Pay the costs assessed by the Department of Highway  
 314 Safety and Motor Vehicles for issuing or renewing a driver's  
 315 license or identification card as required by this section. The  
 316 driver's license or identification card issued to the sexual  
 317 predator must be in compliance with s. 322.141(3).

318 3. Provide, upon request, any additional information  
 319 necessary to confirm the identity of the sexual predator,  
 320 including a set of fingerprints.

321 (g)1. Each time a sexual predator's driver's license or  
 322 identification card is subject to renewal, and, without regard  
 323 to the status of the predator's driver's license or  
 324 identification card, within 48 hours after any change of the  
 325 predator's residence or change in the predator's name by reason  
 326 of marriage or other legal process, the predator shall report in  
 327 person to a driver's license office and shall be subject to the  
 328 requirements specified in paragraph (f). The Department of  
 329 Highway Safety and Motor Vehicles shall forward to the  
 330 department and to the Department of Corrections all photographs  
 331 and information provided by sexual predators. Notwithstanding  
 332 the restrictions set forth in s. 322.142, the Department of  
 333 Highway Safety and Motor Vehicles is authorized to release a  
 334 reproduction of a color-photograph or digital-image license to  
 335 the Department of Law Enforcement for purposes of public  
 336 notification of sexual predators as provided in this section.

337           2. A sexual predator who vacates a permanent, temporary,  
 338 or transient residence and fails to establish or maintain  
 339 another permanent, ~~or~~ temporary, or transient residence shall,  
 340 within 48 hours after vacating the permanent, temporary, or  
 341 transient residence, report in person to the sheriff's office of  
 342 the county in which he or she is located. The sexual predator  
 343 shall specify the date upon which he or she intends to or did  
 344 vacate such residence. The sexual predator must provide or  
 345 update all of the registration information required under  
 346 paragraph (a). The sexual predator must provide an address for  
 347 the residence or other place ~~location~~ that he or she is or will  
 348 be located ~~occupying~~ during the time in which he or she fails to  
 349 establish or maintain a permanent or temporary residence.

350           3. A sexual predator who remains at a permanent,  
 351 temporary, or transient residence after reporting his or her  
 352 intent to vacate such residence shall, within 48 hours after the  
 353 date upon which the predator indicated he or she would or did  
 354 vacate such residence, report in person to the sheriff's office  
 355 to which he or she reported pursuant to subparagraph 2. for the  
 356 purpose of reporting his or her address at such residence. When  
 357 the sheriff receives the report, the sheriff shall promptly  
 358 convey the information to the department. An offender who makes  
 359 a report as required under subparagraph 2. but fails to make a  
 360 report as required under this subparagraph commits a felony of  
 361 the second degree, punishable as provided in s. 775.082, s.  
 362 775.083, or s. 775.084.

363           4. A sexual predator must register any electronic mail  
 364 address or instant message name with the department prior to

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365 using such electronic mail address or instant message name on or  
 366 after October 1, 2007. The department shall establish an online  
 367 system through which sexual predators may securely access and  
 368 update all electronic mail address and instant message name  
 369 information.

370 (i) A sexual predator who intends to establish a  
 371 permanent, temporary, or transient residence in another state or  
 372 jurisdiction other than the State of Florida shall report in  
 373 person to the sheriff of the county of current residence within  
 374 48 hours before the date he or she intends to leave this state  
 375 to establish residence in another state or jurisdiction. The  
 376 sexual predator must provide to the sheriff the address,  
 377 municipality, county, and state of intended residence. The  
 378 sheriff shall promptly provide to the department the information  
 379 received from the sexual predator. The department shall notify  
 380 the statewide law enforcement agency, or a comparable agency, in  
 381 the intended state or jurisdiction of residence of the sexual  
 382 predator's intended residence. The failure of a sexual predator  
 383 to provide his or her intended place of residence is punishable  
 384 as provided in subsection (10).

385 (j) A sexual predator who indicates his or her intent to  
 386 establish a permanent, temporary, or transient residence ~~reside~~  
 387 in another state or jurisdiction other than the State of Florida  
 388 and later decides to remain in this state shall, within 48 hours  
 389 after the date upon which the sexual predator indicated he or  
 390 she would leave this state, report in person to the sheriff to  
 391 which the sexual predator reported the intended change of  
 392 residence, and report his or her intent to remain in this state.

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393 If the sheriff is notified by the sexual predator that he or she  
 394 intends to remain in this state, the sheriff shall promptly  
 395 report this information to the department. A sexual predator who  
 396 reports his or her intent to establish a permanent, temporary,  
 397 or transient residence ~~reside~~ in another state or jurisdiction,  
 398 but who remains in this state without reporting to the sheriff  
 399 in the manner required by this paragraph, commits a felony of  
 400 the second degree, punishable as provided in s. 775.082, s.  
 401 775.083, or s. 775.084.

402 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

403 (a) Law enforcement agencies must inform members of the  
 404 community and the public of a sexual predator's presence. Upon  
 405 notification of the presence of a sexual predator, the sheriff  
 406 of the county or the chief of police of the municipality where  
 407 the sexual predator establishes or maintains a permanent or  
 408 temporary residence shall notify members of the community and  
 409 the public of the presence of the sexual predator in a manner  
 410 deemed appropriate by the sheriff or the chief of police. Within  
 411 48 hours after receiving notification of the presence of a  
 412 sexual predator, the sheriff of the county or the chief of  
 413 police of the municipality where the sexual predator temporarily  
 414 or permanently resides shall notify each licensed day care  
 415 center, elementary school, middle school, and high school within  
 416 a 1-mile radius of the temporary or permanent residence of the  
 417 sexual predator of the presence of the sexual predator.

418 Information provided to members of the community and the public  
 419 regarding a sexual predator must include:

- 420 1. The name of the sexual predator;

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421 2. A description of the sexual predator, including a  
422 photograph;

423 3. The sexual predator's current permanent, temporary, and  
424 transient addresses, and descriptions of registered locations  
425 that have no specific street address, including the name of the  
426 county or municipality if known;

427 4. The circumstances of the sexual predator's offense or  
428 offenses; and

429 5. Whether the victim of the sexual predator's offense or  
430 offenses was, at the time of the offense, a minor or an adult.

431

432 This paragraph does not authorize the release of the name of any  
433 victim of the sexual predator.

434 (8) VERIFICATION.--The department and the Department of  
435 Corrections shall implement a system for verifying the addresses  
436 of sexual predators. The system must be consistent with the  
437 provisions of the federal Adam Walsh Child Protection and Safety  
438 Act of 2006 and any other federal standards applicable to such  
439 verification or required to be met as a condition for the  
440 receipt of federal funds by the state. The Department of  
441 Corrections shall verify the addresses of sexual predators who  
442 are not incarcerated but who reside in the community under the  
443 supervision of the Department of Corrections and shall report to  
444 the department any failure by a sexual predator to comply with  
445 registration requirements. County and local law enforcement  
446 agencies, in conjunction with the department, shall verify the  
447 addresses of sexual predators who are not under the care,  
448 custody, control, or supervision of the Department of

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449 Corrections. Local law enforcement agencies shall report to the  
450 department any failure by a sexual predator to comply with  
451 registration requirements.

452 (a) A sexual predator must report in person each year  
453 during the month of the sexual predator's birthday and during  
454 every third month thereafter to the sheriff's office in the  
455 county in which he or she resides or is otherwise located to  
456 reregister. The sheriff's office may determine the appropriate  
457 times and days for reporting by the sexual predator, which shall  
458 be consistent with the reporting requirements of this paragraph.  
459 Reregistration shall include any changes to the following  
460 information:

461 1. Name; social security number; age; race; sex; date of  
462 birth; height; weight; hair and eye color; address of any  
463 permanent residence and address of any current temporary  
464 residence, within the state or out of state, including a rural  
465 route address and a post office box; if no permanent or  
466 temporary address, any transient residence within the state;  
467 address, location or description, and dates of any current or  
468 known future temporary residence within the state or out of  
469 state; any electronic mail address and any instant message name  
470 required to be provided pursuant to subparagraph (6)(g)4.; home  
471 telephone number and any cellular telephone number; date and  
472 place of any employment; vehicle make, model, color, and license  
473 tag number; fingerprints; and photograph. A post office box  
474 shall not be provided in lieu of a physical residential address.

475 2. If the sexual predator is enrolled, employed, or  
476 carrying on a vocation at an institution of higher education in

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477 | this state, the sexual predator shall also provide to the  
 478 | department the name, address, and county of each institution,  
 479 | including each campus attended, and the sexual predator's  
 480 | enrollment or employment status.

481 |         3. If the sexual predator's place of residence is a motor  
 482 | vehicle, trailer, mobile home, or manufactured home, as defined  
 483 | in chapter 320, the sexual predator shall also provide the  
 484 | vehicle identification number; the license tag number; the  
 485 | registration number; and a description, including color scheme,  
 486 | of the motor vehicle, trailer, mobile home, or manufactured  
 487 | home. If the sexual predator's place of residence is a vessel,  
 488 | live-aboard vessel, or houseboat, as defined in chapter 327, the  
 489 | sexual predator shall also provide the hull identification  
 490 | number; the manufacturer's serial number; the name of the  
 491 | vessel, live-aboard vessel, or houseboat; the registration  
 492 | number; and a description, including color scheme, of the  
 493 | vessel, live-aboard vessel, or houseboat.

494 |         Section 3. Section 775.215, Florida Statutes, is created  
 495 | to read:

496 |         775.215. Residency exclusions for sexual offenders or  
 497 | predators; local ordinances preempted.--

498 |         (1) The establishment of residency exclusions applicable  
 499 | to the residence of a person required to register as a sexual  
 500 | offender or sexual predator is expressly preempted to the state,  
 501 | and the provisions of ss. 794.065, 947.1405, and 948.30  
 502 | establishing such exclusions supersede any municipal or county  
 503 | ordinances imposing different exclusions.

504 |         (2) (a) Any provision of an ordinance adopted by a county



505 or municipality prior to July 1, 2010, imposing residency  
 506 exclusions for the residence of a person subject to the  
 507 provisions of s. 794.065, s. 947.1405, or s. 948.30 in excess of  
 508 the requirements of those provisions is repealed and abolished  
 509 as of July 1, 2010, except to the extent an ordinance as  
 510 provided in paragraph (b) is adopted prior to that date.

511 (b) A county or municipality may, upon the recommendation  
 512 of its chief law enforcement officer and upon a finding of  
 513 public necessity, adopt an ordinance that increases the distance  
 514 exclusions for the residence of a person subject to the  
 515 provisions of s. 794.065, s. 947.1405, or s. 948.30 up to a  
 516 maximum distance of 1,750 feet.

517 Section 4. Paragraph (c) of subsection (1), subsection  
 518 (2), paragraphs (a), (b), and (c) of subsection (4), subsections  
 519 (7), (8), and (10), and paragraph (c) of subsection (14) of  
 520 section 943.0435, Florida Statutes, are amended to read:

521 943.0435 Sexual offenders required to register with the  
 522 department; penalty.--

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

524 (c) "Permanent residence," and "temporary residence," and  
 525 "transient residence" have the same meaning ascribed in s.  
 526 775.21.

527 (2) A sexual offender shall:

528 (a) Report in person at the sheriff's office:

529 1. In the county in which the offender establishes or  
 530 maintains a permanent, ~~or~~ temporary, or transient residence  
 531 within 48 hours after:

532 a. Establishing permanent, ~~or~~ temporary, or transient

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533 residence in this state; or

534 b. Being released from the custody, control, or  
 535 supervision of the Department of Corrections or from the custody  
 536 of a private correctional facility; or

537 2. In the county where he or she was convicted within 48  
 538 hours after being convicted for a qualifying offense for  
 539 registration under this section if the offender is not in the  
 540 custody or control of, or under the supervision of, the  
 541 Department of Corrections, or is not in the custody of a private  
 542 correctional facility.

543  
 544 Any change in the information required to be provided pursuant  
 545 to paragraph (b), including, but not limited to, any change in  
 546 the sexual offender's permanent, ~~or~~ temporary, or transient  
 547 residence, name, any electronic mail address and any instant  
 548 message name required to be provided pursuant to paragraph  
 549 (4)(d), after the sexual offender reports in person at the  
 550 sheriff's office, shall be accomplished in the manner provided  
 551 in subsections (4), (7), and (8).

552 (b) Provide his or her name, date of birth, social  
 553 security number, race, sex, height, weight, hair and eye color,  
 554 tattoos or other identifying marks, occupation and place of  
 555 employment, address of permanent or legal residence or address  
 556 of any current temporary residence, within the state or and out  
 557 of state, including a rural route address and a post office box,  
 558 if no permanent or temporary address, any transient residence  
 559 within the state, address, location or description, and dates of  
 560 any current or known future temporary residence within the state

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561 or out of state, home telephone number and any cellular  
562 telephone number, any electronic mail address and any instant  
563 message name required to be provided pursuant to paragraph  
564 (4) (d), date and place of each conviction, and a brief  
565 description of the crime or crimes committed by the offender. A  
566 post office box shall not be provided in lieu of a physical  
567 residential address.

568 1. If the sexual offender's place of residence is a motor  
569 vehicle, trailer, mobile home, or manufactured home, as defined  
570 in chapter 320, the sexual offender shall also provide to the  
571 department through the sheriff's office written notice of the  
572 vehicle identification number; the license tag number; the  
573 registration number; and a description, including color scheme,  
574 of the motor vehicle, trailer, mobile home, or manufactured  
575 home. If the sexual offender's place of residence is a vessel,  
576 live-aboard vessel, or houseboat, as defined in chapter 327, the  
577 sexual offender shall also provide to the department written  
578 notice of the hull identification number; the manufacturer's  
579 serial number; the name of the vessel, live-aboard vessel, or  
580 houseboat; the registration number; and a description, including  
581 color scheme, of the vessel, live-aboard vessel, or houseboat.

582 2. If the sexual offender is enrolled, employed, or  
583 carrying on a vocation at an institution of higher education in  
584 this state, the sexual offender shall also provide to the  
585 department through the sheriff's office the name, address, and  
586 county of each institution, including each campus attended, and  
587 the sexual offender's enrollment or employment status. Each  
588 change in enrollment or employment status shall be reported in

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589 person at the sheriff's office, within 48 hours after any change  
590 in status. The sheriff shall promptly notify each institution of  
591 the sexual offender's presence and any change in the sexual  
592 offender's enrollment or employment status.

593

594 When a sexual offender reports at the sheriff's office, the  
595 sheriff shall take a photograph and a set of fingerprints of the  
596 offender and forward the photographs and fingerprints to the  
597 department, along with the information provided by the sexual  
598 offender. The sheriff shall promptly provide to the department  
599 the information received from the sexual offender.

600 (4) (a) Each time a sexual offender's driver's license or  
601 identification card is subject to renewal, and, without regard  
602 to the status of the offender's driver's license or  
603 identification card, within 48 hours after any change in the  
604 offender's permanent, ~~or~~ temporary, or transient residence or  
605 change in the offender's name by reason of marriage or other  
606 legal process, the offender shall report in person to a driver's  
607 license office, and shall be subject to the requirements  
608 specified in subsection (3). The Department of Highway Safety  
609 and Motor Vehicles shall forward to the department all  
610 photographs and information provided by sexual offenders.  
611 Notwithstanding the restrictions set forth in s. 322.142, the  
612 Department of Highway Safety and Motor Vehicles is authorized to  
613 release a reproduction of a color-photograph or digital-image  
614 license to the Department of Law Enforcement for purposes of  
615 public notification of sexual offenders as provided in this  
616 section and ss. 943.043 and 944.606.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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617 (b) A sexual offender who vacates a permanent, temporary,  
 618 or transient residence and fails to establish or maintain  
 619 another permanent, ~~or~~ temporary, or transient residence shall,  
 620 within 48 hours after vacating the permanent, temporary, or  
 621 transient residence, report in person to the sheriff's office of  
 622 the county in which he or she is located. The sexual offender  
 623 shall specify the date upon which he or she intends to or did  
 624 vacate such residence. The sexual offender must provide or  
 625 update all of the registration information required under  
 626 paragraph (2)(b). The sexual offender must provide an address  
 627 for the residence or other place ~~location~~ that he or she is or  
 628 will be located ~~occupying~~ during the time in which he or she  
 629 fails to establish or maintain a permanent or temporary  
 630 residence.

631 (c) A sexual offender who remains at a permanent,  
 632 temporary, or transient residence after reporting his or her  
 633 intent to vacate such residence shall, within 48 hours after the  
 634 date upon which the offender indicated he or she would or did  
 635 vacate such residence, report in person to the agency to which  
 636 he or she reported pursuant to paragraph (b) for the purpose of  
 637 reporting his or her address at such residence. When the sheriff  
 638 receives the report, the sheriff shall promptly convey the  
 639 information to the department. An offender who makes a report as  
 640 required under paragraph (b) but fails to make a report as  
 641 required under this paragraph commits a felony of the second  
 642 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 643 775.084.

644 (7) A sexual offender who intends to establish a

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645 permanent, temporary, or transient residence in another state or  
 646 jurisdiction other than the State of Florida shall report in  
 647 person to the sheriff of the county of current residence within  
 648 48 hours before the date he or she intends to leave this state  
 649 to establish residence in another state or jurisdiction. The  
 650 notification must include the address, municipality, county, and  
 651 state of intended residence. The sheriff shall promptly provide  
 652 to the department the information received from the sexual  
 653 offender. The department shall notify the statewide law  
 654 enforcement agency, or a comparable agency, in the intended  
 655 state or jurisdiction of residence of the sexual offender's  
 656 intended residence. The failure of a sexual offender to provide  
 657 his or her intended place of residence is punishable as provided  
 658 in subsection (9).

659 (8) A sexual offender who indicates his or her intent to  
 660 establish a permanent, temporary, or transient residence ~~reside~~  
 661 in another state or jurisdiction other than the State of Florida  
 662 and later decides to remain in this state shall, within 48 hours  
 663 after the date upon which the sexual offender indicated he or  
 664 she would leave this state, report in person to the sheriff to  
 665 which the sexual offender reported the intended change of  
 666 permanent, temporary, or transient residence, and report his or  
 667 her intent to remain in this state. The sheriff shall promptly  
 668 report this information to the department. A sexual offender who  
 669 reports his or her intent to establish a permanent, temporary,  
 670 or transient residence ~~reside~~ in another state or jurisdiction  
 671 but who remains in this state without reporting to the sheriff  
 672 in the manner required by this subsection commits a felony of

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673 the second degree, punishable as provided in s. 775.082, s.  
 674 775.083, or s. 775.084.

675 (10) The department, the Department of Highway Safety and  
 676 Motor Vehicles, the Department of Corrections, the Department of  
 677 Juvenile Justice, any law enforcement agency in this state, and  
 678 the personnel of those departments; an elected or appointed  
 679 official, public employee, or school administrator; or an  
 680 employee, agency, or any individual or entity acting at the  
 681 request or upon the direction of any law enforcement agency is  
 682 immune from civil liability for damages for good faith  
 683 compliance with the requirements of this section or for the  
 684 release of information under this section, and shall be presumed  
 685 to have acted in good faith in compiling, recording, reporting,  
 686 or releasing the information. The presumption of good faith is  
 687 not overcome if a technical or clerical error is made by the  
 688 department, the Department of Highway Safety and Motor Vehicles,  
 689 the Department of Corrections, the Department of Juvenile  
 690 Justice, the personnel of those departments, or any individual  
 691 or entity acting at the request or upon the direction of any of  
 692 those departments in compiling or providing information, or if  
 693 information is incomplete or incorrect because a sexual offender  
 694 fails to report or falsely reports his or her current place of  
 695 permanent, ~~or~~ temporary, or transient residence.

696 (14)

697 (c) The sheriff's office may determine the appropriate  
 698 times and days for reporting by the sexual offender, which shall  
 699 be consistent with the reporting requirements of this  
 700 subsection. Reregistration shall include any changes to the

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701 following information:

702 1. Name; social security number; age; race; sex; date of  
703 birth; height; weight; hair and eye color; address of any  
704 permanent residence and address of any current temporary  
705 residence, within the state or out of state, including a rural  
706 route address and a post office box; if no permanent or  
707 temporary address, any transient residence within the state;  
708 address, location or description, and dates of any current or  
709 known future temporary residence within the state or out of  
710 state; any electronic mail address and any instant message name  
711 required to be provided pursuant to paragraph (4) (d); home  
712 telephone number and any cellular telephone number; date and  
713 place of any employment; vehicle make, model, color, and license  
714 tag number; fingerprints; and photograph. A post office box  
715 shall not be provided in lieu of a physical residential address.

716 2. If the sexual offender is enrolled, employed, or  
717 carrying on a vocation at an institution of higher education in  
718 this state, the sexual offender shall also provide to the  
719 department the name, address, and county of each institution,  
720 including each campus attended, and the sexual offender's  
721 enrollment or employment status.

722 3. If the sexual offender's place of residence is a motor  
723 vehicle, trailer, mobile home, or manufactured home, as defined  
724 in chapter 320, the sexual offender shall also provide the  
725 vehicle identification number; the license tag number; the  
726 registration number; and a description, including color scheme,  
727 of the motor vehicle, trailer, mobile home, or manufactured  
728 home. If the sexual offender's place of residence is a vessel,



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729 live-aboard vessel, or houseboat, as defined in chapter 327, the  
 730 sexual offender shall also provide the hull identification  
 731 number; the manufacturer's serial number; the name of the  
 732 vessel, live-aboard vessel, or houseboat; the registration  
 733 number; and a description, including color scheme, of the  
 734 vessel, live-aboard vessel or houseboat.

735 4. Any sexual offender who fails to report in person as  
 736 required at the sheriff's office, or who fails to respond to any  
 737 address verification correspondence from the department within 3  
 738 weeks of the date of the correspondence or who fails to report  
 739 electronic mail addresses or instant message names, commits a  
 740 felony of the third degree, punishable as provided in s.  
 741 775.082, s. 775.083, or s. 775.084.

742 Section 5. Section 943.04352, Florida Statutes, is amended  
 43 to read:

744 943.04352 Search of registration information regarding  
 745 sexual predators and sexual offenders required when placement on  
 746 misdemeanor probation.--When the court places a defendant on  
 747 misdemeanor probation pursuant to ss. 948.01 and 948.15, the  
 748 public or private entity providing probation services must  
 749 conduct a search of the probationer's name or other identifying  
 750 information against the registration information regarding  
 751 sexual predators and sexual offenders maintained by the  
 752 Department of Law Enforcement under s. 943.043. The probation  
 753 services provider may conduct the search using the Internet site  
 754 maintained by the Department of Law Enforcement. Also, a  
 755 national search must be conducted through the Dru Sjodin  
 756 National Sex Offender Public Website maintained by the United

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757 States Department of Justice.

758 Section 6. Paragraph (a) of subsection (3) of section  
759 944.606, Florida Statutes, is amended to read:

760 944.606 Sexual offenders; notification upon release.--

761 (3) (a) The department must provide information regarding  
762 any sexual offender who is being released after serving a period  
763 of incarceration for any offense, as follows:

764 1. The department must provide: the sexual offender's  
765 name, any change in the offender's name by reason of marriage or  
766 other legal process, and any alias, if known; the correctional  
767 facility from which the sexual offender is released; the sexual  
768 offender's social security number, race, sex, date of birth,  
769 height, weight, and hair and eye color; address of any planned  
770 permanent residence or temporary residence, within the state or  
771 out of state, including a rural route address and a post office  
772 box; if no permanent or temporary address, any transient  
773 residence within the state; address, location or description,  
774 and dates of any known future temporary residence within the  
775 state or out of state; date and county of sentence and each  
776 crime for which the offender was sentenced; a copy of the  
777 offender's fingerprints and a digitized photograph taken within  
778 60 days before release; the date of release of the sexual  
779 offender; any electronic mail address and any instant message  
780 name required to be provided pursuant to s. 943.0435(4)(d); and  
781 home telephone number and any cellular telephone number; ~~and the~~  
782 ~~offender's intended residence address, if known.~~ The department  
783 shall notify the Department of Law Enforcement if the sexual  
784 offender escapes, absconds, or dies. If the sexual offender is

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785 in the custody of a private correctional facility, the facility  
 786 shall take the digitized photograph of the sexual offender  
 787 within 60 days before the sexual offender's release and provide  
 788 this photograph to the Department of Corrections and also place  
 789 it in the sexual offender's file. If the sexual offender is in  
 790 the custody of a local jail, the custodian of the local jail  
 791 shall register the offender within 3 business days after intake  
 792 of the offender for any reason and upon release, and shall  
 793 notify the Department of Law Enforcement of the sexual  
 794 offender's release and provide to the Department of Law  
 795 Enforcement the information specified in this paragraph and any  
 796 information specified in subparagraph 2. that the Department of  
 797 Law Enforcement requests.

798 2. The department may provide any other information deemed  
 799 necessary, including criminal and corrections records,  
 800 nonprivileged personnel and treatment records, when available.

801 Section 7. Subsections (4) and (6) and paragraph (c) of  
 802 subsection (13) of section 944.607, Florida Statutes, are  
 803 amended to read:

804 944.607 Notification to Department of Law Enforcement of  
 805 information on sexual offenders.--

806 (4) A sexual offender, as described in this section, who  
 807 is under the supervision of the Department of Corrections but is  
 808 not incarcerated must register with the Department of  
 809 Corrections within 3 business days after sentencing for a  
 810 registrable ~~registerable~~ offense and otherwise provide  
 811 information as required by this subsection.

812 (a) The sexual offender shall provide his or her name;

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813 date of birth; social security number; race; sex; height;  
814 weight; hair and eye color; tattoos or other identifying marks;  
815 any electronic mail address and any instant message name  
816 required to be provided pursuant to s. 943.0435(4)(d); ~~and~~  
817 permanent or legal residence and address of temporary residence  
818 within the state or out of state while the sexual offender is  
819 under supervision in this state, including any rural route  
820 address or post office box; if no permanent or temporary  
821 address, any transient residence within the state; and address,  
822 location or description, and dates of any current or known  
823 future temporary residence within the state or out of state. The  
824 Department of Corrections shall verify the address of each  
825 sexual offender in the manner described in ss. 775.21 and  
826 943.0435. The department shall report to the Department of Law  
827 Enforcement any failure by a sexual predator or sexual offender  
828 to comply with registration requirements.

829 (b) If the sexual offender is enrolled, employed, or  
830 carrying on a vocation at an institution of higher education in  
831 this state, the sexual offender shall provide the name, address,  
832 and county of each institution, including each campus attended,  
833 and the sexual offender's enrollment or employment status. Each  
834 change in enrollment or employment status shall be reported to  
835 the department within 48 hours after the change in status. The  
836 Department of Corrections shall promptly notify each institution  
837 of the sexual offender's presence and any change in the sexual  
838 offender's enrollment or employment status.

839 (6) The information provided to the Department of Law  
840 Enforcement must include:

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841 (a) The information obtained from the sexual offender  
 842 under subsection (4);

843 (b) The sexual offender's most current address, and place  
 844 of permanent, and temporary, or transient residence within the  
 845 state or out of state, and address, location or description, and  
 846 dates of any current or known future temporary residence within  
 847 the state or out of state, while the sexual offender is under  
 848 supervision in this state, including the name of the county or  
 849 municipality in which the offender permanently or temporarily  
 850 resides, or has a transient residence, and address, location or  
 851 description, and dates of any current or known future temporary  
 852 residence within the state or out of state, and, if known, the  
 853 intended place of permanent, or temporary, or transient  
 854 residence, and address, location or description, and dates of  
 855 any current or known future temporary residence within the state  
 856 or out of state upon satisfaction of all sanctions;

857 (c) The legal status of the sexual offender and the  
 858 scheduled termination date of that legal status;

859 (d) The location of, and local telephone number for, any  
 860 Department of Corrections' office that is responsible for  
 861 supervising the sexual offender;

862 (e) An indication of whether the victim of the offense  
 863 that resulted in the offender's status as a sexual offender was  
 864 a minor;

865 (f) The offense or offenses at conviction which resulted  
 866 in the determination of the offender's status as a sex offender;  
 867 and

868 (g) A digitized photograph of the sexual offender which

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869 must have been taken within 60 days before the offender is  
 870 released from the custody of the department or a private  
 871 correctional facility by expiration of sentence under s. 944.275  
 872 or must have been taken by January 1, 1998, or within 60 days  
 873 after the onset of the department's supervision of any sexual  
 874 offender who is on probation, community control, conditional  
 875 release, parole, provisional release, or control release or who  
 876 is supervised by the department under the Interstate Compact  
 877 Agreement for Probationers and Parolees. If the sexual offender  
 878 is in the custody of a private correctional facility, the  
 879 facility shall take a digitized photograph of the sexual  
 880 offender within the time period provided in this paragraph and  
 881 shall provide the photograph to the department.

882  
 883 If any information provided by the department changes during the  
 884 time the sexual offender is under the department's control,  
 885 custody, or supervision, including any change in the offender's  
 886 name by reason of marriage or other legal process, the  
 887 department shall, in a timely manner, update the information and  
 888 provide it to the Department of Law Enforcement in the manner  
 889 prescribed in subsection (2).

890 (13)

891 (c) The sheriff's office may determine the appropriate  
 892 times and days for reporting by the sexual offender, which shall  
 893 be consistent with the reporting requirements of this  
 894 subsection. Reregistration shall include any changes to the  
 895 following information:

896 1. Name; social security number; age; race; sex; date of

897 | birth; height; weight; hair and eye color; address of any  
 898 | permanent residence and address of any current temporary  
 899 | residence, within the state or out of state, including a rural  
 900 | route address and a post office box; if no permanent or  
 901 | temporary address, any transient residence; address, location or  
 902 | description, and dates of any current or known future temporary  
 903 | residence within the state or out of state; any electronic mail  
 904 | address and any instant message name required to be provided  
 905 | pursuant to s. 943.0435(4)(d); date and place of any employment;  
 906 | vehicle make, model, color, and license tag number;  
 907 | fingerprints; and photograph. A post office box shall not be  
 908 | provided in lieu of a physical residential address.

909 |       2. If the sexual offender is enrolled, employed, or  
 910 | carrying on a vocation at an institution of higher education in  
 911 | this state, the sexual offender shall also provide to the  
 912 | department the name, address, and county of each institution,  
 913 | including each campus attended, and the sexual offender's  
 914 | enrollment or employment status.

915 |       3. If the sexual offender's place of residence is a motor  
 916 | vehicle, trailer, mobile home, or manufactured home, as defined  
 917 | in chapter 320, the sexual offender shall also provide the  
 918 | vehicle identification number; the license tag number; the  
 919 | registration number; and a description, including color scheme,  
 920 | of the motor vehicle, trailer, mobile home, or manufactured  
 921 | home. If the sexual offender's place of residence is a vessel,  
 922 | live-aboard vessel, or houseboat, as defined in chapter 327, the  
 923 | sexual offender shall also provide the hull identification  
 924 | number; the manufacturer's serial number; the name of the

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925 vessel, live-aboard vessel, or houseboat; the registration  
 926 number; and a description, including color scheme, of the  
 927 vessel, live-aboard vessel or houseboat.

928 4. Any sexual offender who fails to report in person as  
 929 required at the sheriff's office, or who fails to respond to any  
 930 address verification correspondence from the department within 3  
 931 weeks of the date of the correspondence, or who fails to report  
 932 electronic mail addresses or instant message names, commits a  
 933 felony of the third degree, punishable as provided in s.  
 934 775.082, s. 775.083, or s. 775.084.

935 Section 8. Paragraph (b) of subsection (7) of section  
 936 947.1405, Florida Statutes, is amended, and subsection (12) is  
 937 added to that section, to read:

938 947.1405 Conditional release program.--  
 939 (7)

940 (b) For a releasee whose crime was committed on or after  
 941 October 1, 1997, in violation of chapter 794, s. 800.04, s.  
 942 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to  
 943 conditional release supervision, in addition to any other  
 944 provision of this subsection, the commission shall impose the  
 945 following additional conditions of conditional release  
 946 supervision:

947 1. As part of a treatment program, participation in a  
 948 minimum of one annual polygraph examination to obtain  
 949 information necessary for risk management and treatment and to  
 950 reduce the sex offender's denial mechanisms. The polygraph  
 951 examination must be conducted by a polygrapher trained  
 952 specifically in the use of the polygraph for the monitoring of



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953 sex offenders who has been authorized by the department, where  
954 available, and at the expense of the releasee ~~sex offender~~. The  
955 results of the examination shall be provided to the releasee's  
956 probation officer and therapist and may not be used as evidence  
957 in a hearing to prove that a violation of supervision has  
958 occurred.

959 2. Maintenance of a driving log and a prohibition against  
960 driving a motor vehicle alone without the prior approval of the  
961 supervising officer.

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

964 4. If there was sexual contact, a submission to, at the  
965 releasee's ~~probationer's or community controllee's~~ expense, an  
966 HIV test with the results to be released to the victim or the  
67 victim's parent or guardian.

968 5. Electronic monitoring of any form when ordered by the  
969 commission. Any person who has been placed under supervision and  
970 is electronically monitored by the department must pay the  
971 department for the cost of the electronic monitoring service at  
972 a rate that may not exceed the full cost of the monitoring  
973 service. Funds collected under this subparagraph shall be  
974 deposited into the General Revenue Fund. The department may  
975 exempt a person from the payment of all or any part of the  
976 electronic monitoring service cost if the department finds that  
977 any of the factors listed in s. 948.09(3) exist.

978 (12) In addition to all other conditions imposed, for a  
979 releasee who is subject to conditional release for a crime that  
980 was committed on or after July 1, 2010, and who has been

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981 convicted at any time of committing, or attempting, soliciting,  
982 or conspiring to commit, any of the criminal offenses proscribed  
983 in the following statutes in this state or similar offenses in  
984 another jurisdiction against a victim who was under the age of  
985 18 at the time of the offense: s. 787.01, s. 787.02, or s.  
986 787.025(2)(c), where the victim is a minor and the offender was  
987 not the victim's parent or guardian; s. 794.011, excluding s.  
988 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.  
989 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.  
990 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.  
991 985.701(1); or any similar offense committed in this state which  
992 has been redesignated from a former statute number to one of  
993 those listed in this subsection, if the offender has not  
994 received a pardon for any felony or similar law of another  
995 jurisdiction necessary for the operation of this subsection and  
996 a conviction of a felony or similar law of another jurisdiction  
997 necessary for the operation of this subsection has not been set  
998 aside in any postconviction proceeding, unless at the time of  
999 the crime was committed the victim was 16 or 17 years of age and  
1000 the releasee was not more than 21 years of age, the commission  
1001 must impose the following conditions:

1002 (a) A prohibition on visiting areas where children  
1003 regularly congregate, including, but not limited to, schools,  
1004 day care centers, parks, and playgrounds. The commission may  
1005 also designate additional locations to protect a victim. The  
1006 prohibition ordered under this paragraph does not prohibit the  
1007 releasee's attendance at religious services as defined in s.  
1008 775.0861.

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1009        (b) A prohibition on distributing candy or other items to  
 1010 children on Halloween; wearing a Santa Claus costume, or other  
 1011 costume to appeal to children, on or preceding Christmas;  
 1012 wearing an Easter Bunny costume, or other costume to appeal to  
 1013 children, on or preceding Easter; entertaining at children's  
 1014 parties; or wearing a clown costume; without prior approval from  
 1015 the commission.

1016        Section 9. Paragraph (a) of subsection (2) of section  
 1017 948.30, Florida Statutes, is amended, and subsection (4) is  
 1018 added to that section, to read:

1019        948.30 Additional terms and conditions of probation or  
 1020 community control for certain sex offenses.--Conditions imposed  
 1021 pursuant to this section do not require oral pronouncement at  
 1022 the time of sentencing and shall be considered standard  
 23 conditions of probation or community control for offenders  
 1024 specified in this section.

1025        (2) Effective for a probationer or community controllee  
 1026 whose crime was committed on or after October 1, 1997, and who  
 1027 is placed on community control or sex offender probation for a  
 1028 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
 1029 or s. 847.0145, in addition to any other provision of this  
 1030 section, the court must impose the following conditions of  
 1031 probation or community control:

1032        (a) As part of a treatment program, participation at least  
 1033 annually in polygraph examinations to obtain information  
 1034 necessary for risk management and treatment and to reduce the  
 1035 sex offender's denial mechanisms. A polygraph examination must  
 1036 be conducted by a polygrapher trained specifically in the use of

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1037 | the polygraph for the monitoring of sex offenders who has been  
 1038 | authorized by the department, where available, and shall be paid  
 1039 | for by the probationer or community controllee ~~sex offender~~. The  
 1040 | results of the polygraph examination shall be provided to the  
 1041 | probationer's or community controllee's probation officer and  
 1042 | therapist and shall not be used as evidence in court to prove  
 1043 | that a violation of community supervision has occurred.

1044 |       (4) In addition to all other conditions imposed, for a  
 1045 | probationer or community controllee who is subject to  
 1046 | supervision for a crime that was committed on or after July 1,  
 1047 | 2010, and who has been convicted at any time of committing, or  
 1048 | attempting, soliciting, or conspiring to commit, any of the  
 1049 | criminal offenses proscribed in the following statutes in this  
 1050 | state or similar offenses in another jurisdiction against a  
 1051 | victim who was under the age of 18 at the time of the offense:  
 1052 | s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a  
 1053 | minor and the offender was not the victim's parent or guardian;  
 1054 | s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.  
 1055 | 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.  
 1056 | 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.  
 1057 | 847.0145; s. 985.701(1); or any similar offense committed in  
 1058 | this state which has been redesignated from a former statute  
 1059 | number to one of those listed in this subsection, if the  
 1060 | offender has not received a pardon for any felony or similar law  
 1061 | of another jurisdiction necessary for the operation of this  
 1062 | subsection and a conviction of a felony or similar law of  
 1063 | another jurisdiction necessary for the operation of this  
 1064 | subsection has not been set aside in any postconviction

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1065 proceeding, unless at the time the crime was committed the  
 1066 victim was 16 or 17 years of age and the offender was not more  
 1067 than 21 years of age, the court must impose the following  
 1068 conditions:

1069 (a) A prohibition on visiting areas where children  
 1070 regularly congregate, including, but not limited to, schools,  
 1071 day care centers, parks, and playgrounds. The commission may  
 1072 also designate additional locations to protect a victim. The  
 1073 prohibition ordered under this paragraph does not prohibit the  
 1074 releasee's attendance at religious services as defined in s.  
 1075 775.0861.

1076 (b) A prohibition on distributing candy or other items to  
 1077 children on Halloween; wearing a Santa Claus costume, or other  
 1078 costume to appeal to children, on or preceding Christmas;  
 79 wearing an Easter Bunny costume, or other costume to appeal to  
 1080 children, on or preceding Easter; entertaining at children's  
 1081 parties; or wearing a clown costume; without prior approval from  
 1082 the commission.

1083 Section 10. Section 948.31, Florida Statutes, is amended  
 1084 to read:

1085 948.31 ~~Diagnosis, Evaluation, and treatment of~~ sexual  
 1086 predators and offenders placed on probation or community control  
 1087 ~~for certain sex offenses or child exploitation.--The court shall~~  
 1088 ~~require an a diagnosis and evaluation to determine the need of a~~  
 1089 ~~probationer or community controlee offender in community control~~  
 1090 for treatment. If the court determines that a need therefor is  
 1091 established by the ~~such diagnosis and~~ evaluation process, the  
 1092 court shall require sexual offender treatment ~~outpatient~~

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1093 ~~counseling as a term or condition of probation or community~~  
 1094 ~~control for any person who meets the criteria to be designated~~  
 1095 ~~as a sexual predator under s. 775.21 or to be subject to~~  
 1096 ~~registration as a sexual offender under s. 943.0435, s. 944.606,~~  
 1097 ~~or s. 944.607. was found guilty of any of the following, or~~  
 1098 ~~whose plea of guilty or nolo contendere to any of the following~~  
 1099 ~~was accepted by the court:~~

1100 ~~(1) Lewd or lascivious battery, lewd or lascivious~~  
 1101 ~~molestation, lewd or lascivious conduct, or lewd or lascivious~~  
 1102 ~~exhibition, as defined in s. 800.04 or s. 847.0135(5).~~

1103 ~~(2) Sexual battery, as defined in chapter 794, against a~~  
 1104 ~~child.~~

1105 ~~(3) Exploitation of a child as provided in s. 450.151, or~~  
 1106 ~~for prostitution.~~

1107  
 1108 Such treatment counseling shall be required to be obtained from  
 1109 a qualified practitioner as defined in s. 948.001. Treatment may  
 1110 not be administered by a qualified practitioner who has been  
 1111 convicted or adjudicated delinquent of committing, or  
 1112 attempting, soliciting, or conspiring to commit, any offense  
 1113 that is listed in s. 943.0435(1)(a)1.a.(I). The court shall  
 1114 impose a restriction against contact with minors if sexual  
 1115 offender treatment is recommended ~~a community mental health~~  
 1116 ~~center, a recognized social service agency providing mental~~  
 1117 ~~health services, or a private mental health professional or~~  
 1118 ~~through other professional counseling. The evaluation and~~  
 1119 ~~recommendations plan for treatment of counseling for the~~  
 1120 ~~probationer or community controlee individual shall be provided~~

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1121 to the court for review.

1122 Section 11. Paragraph (a) of subsection (3) of section  
1123 985.481, Florida Statutes, is amended to read:

1124 985.481 Sexual offenders adjudicated delinquent;  
1125 notification upon release.--

1126 (3)(a) The department must provide information regarding  
1127 any sexual offender who is being released after serving a period  
1128 of residential commitment under the department for any offense,  
1129 as follows:

1130 1. The department must provide the sexual offender's name,  
1131 any change in the offender's name by reason of marriage or other  
1132 legal process, and any alias, if known; the correctional  
1133 facility from which the sexual offender is released; the sexual  
1134 offender's social security number, race, sex, date of birth,  
1135 height, weight, and hair and eye color; address of any planned  
1136 permanent residence or temporary residence, within the state or  
1137 out of state, including a rural route address and a post office  
1138 box; if no permanent or temporary address, any transient  
1139 residence within the state; address, location or description,  
1140 and dates of any known future temporary residence within the  
1141 state or out of state; date and county of disposition and each  
1142 crime for which there was a disposition; a copy of the  
1143 offender's fingerprints and a digitized photograph taken within  
1144 60 days before release; the date of release of the sexual  
1145 offender; and home telephone number and any cellular telephone  
1146 number; and the offender's intended residence address, if known.  
1147 The department shall notify the Department of Law Enforcement if  
1148 the sexual offender escapes, absconds, or dies. If the sexual

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1149 offender is in the custody of a private correctional facility,  
 1150 the facility shall take the digitized photograph of the sexual  
 1151 offender within 60 days before the sexual offender's release and  
 1152 also place it in the sexual offender's file. If the sexual  
 1153 offender is in the custody of a local jail, the custodian of the  
 1154 local jail shall register the offender within 3 business days  
 1155 after intake of the offender for any reason and upon release,  
 1156 and shall notify the Department of Law Enforcement of the sexual  
 1157 offender's release and provide to the Department of Law  
 1158 Enforcement the information specified in this subparagraph and  
 1159 any information specified in subparagraph 2. which the  
 1160 Department of Law Enforcement requests.

1161 2. The department may provide any other information  
 1162 considered necessary, including criminal and delinquency  
 1163 records, when available.

1164 Section 12. Paragraph (a) of subsection (4), paragraph (a)  
 1165 of subsection (6), and paragraph (b) of subsection (13) of  
 1166 section 985.4815, Florida Statutes, are amended to read:

1167 985.4815 Notification to Department of Law Enforcement of  
 1168 information on juvenile sexual offenders.--

1169 (4) A sexual offender, as described in this section, who  
 1170 is under the supervision of the department but who is not  
 1171 committed must register with the department within 3 business  
 1172 days after adjudication and disposition for a registrable  
 1173 offense and otherwise provide information as required by this  
 1174 subsection.

1175 (a) The sexual offender shall provide his or her name;  
 1176 date of birth; social security number; race; sex; height;



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1177 weight; hair and eye color; tattoos or other identifying marks;  
 1178 ~~and~~ permanent or legal residence and address of temporary  
 1179 residence within the state or out of state while the sexual  
 1180 offender is in the care or custody or under the jurisdiction or  
 1181 supervision of the department in this state, including any rural  
 1182 route address or post office box; if no permanent or temporary  
 1183 address, any transient residence; address, location or  
 1184 description, and dates of any current or known future temporary  
 1185 residence within the state or out of state; and the name and  
 1186 address of each school attended. The department shall verify the  
 1187 address of each sexual offender and shall report to the  
 1188 Department of Law Enforcement any failure by a sexual offender  
 1189 to comply with registration requirements.

1190 (6) (a) The information provided to the Department of Law  
 1191 Enforcement must include the following:

1192 1. The information obtained from the sexual offender under  
 1193 subsection (4).

1194 2. The sexual offender's most current address and place of  
 1195 permanent, ~~or~~ temporary, or transient residence within the state  
 1196 or out of state, and address, location or description, and dates  
 1197 of any current or known future temporary residence within the  
 1198 state or out of state, while the sexual offender is in the care  
 1199 or custody or under the jurisdiction or supervision of the  
 1200 department in this state, including the name of the county or  
 1201 municipality in which the offender permanently or temporarily  
 1202 resides, or has a transient residence, and address, location or  
 1203 description, and dates of any current or known future temporary  
 1204 residence within the state or out of state; and, if known, the

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1205 | intended place of permanent, ~~or~~ temporary, or transient  
 1206 | residence, and address, location or description, and dates of  
 1207 | any current or known future temporary residence within the state  
 1208 | or out of state upon satisfaction of all sanctions.

1209 |         3. The legal status of the sexual offender and the  
 1210 | scheduled termination date of that legal status.

1211 |         4. The location of, and local telephone number for, any  
 1212 | department office that is responsible for supervising the sexual  
 1213 | offender.

1214 |         5. An indication of whether the victim of the offense that  
 1215 | resulted in the offender's status as a sexual offender was a  
 1216 | minor.

1217 |         6. The offense or offenses at adjudication and disposition  
 1218 | that resulted in the determination of the offender's status as a  
 1219 | sex offender.

1220 |         7. A digitized photograph of the sexual offender, which  
 1221 | must have been taken within 60 days before the offender was  
 1222 | released from the custody of the department or a private  
 1223 | correctional facility by expiration of sentence under s.  
 1224 | 944.275, or within 60 days after the onset of the department's  
 1225 | supervision of any sexual offender who is on probation,  
 1226 | postcommitment probation, residential commitment, nonresidential  
 1227 | commitment, licensed child-caring commitment, community control,  
 1228 | conditional release, parole, provisional release, or control  
 1229 | release or who is supervised by the department under the  
 1230 | Interstate Compact Agreement for Probationers and Parolees. If  
 1231 | the sexual offender is in the custody of a private correctional  
 1232 | facility, the facility shall take a digitized photograph of the

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1233 sexual offender within the time period provided in this  
 1234 subparagraph and shall provide the photograph to the department.

1235 (13)

1236 (b) The sheriff's office may determine the appropriate  
 1237 times and days for reporting by the sexual offender, which shall  
 1238 be consistent with the reporting requirements of this  
 1239 subsection. Reregistration shall include any changes to the  
 1240 following information:

1241 1. Name; social security number; age; race; sex; date of  
 1242 birth; height; weight; hair and eye color; address of any  
 1243 permanent residence and address of any current temporary  
 1244 residence, within the state or out of state, including a rural  
 1245 route address and a post office box; if no permanent or  
 1246 temporary address, any transient residence; address, location or  
 1247 description, and dates of any current or known future temporary  
 1248 residence within the state or out of state; name and address of  
 1249 each school attended; date and place of any employment; vehicle  
 1250 make, model, color, and license tag number; fingerprints; and  
 1251 photograph. A post office box shall not be provided in lieu of a  
 1252 physical residential address.

1253 2. If the sexual offender is enrolled, employed, or  
 1254 carrying on a vocation at an institution of higher education in  
 1255 this state, the sexual offender shall also provide to the  
 1256 department the name, address, and county of each institution,  
 1257 including each campus attended, and the sexual offender's  
 1258 enrollment or employment status.

1259 3. If the sexual offender's place of residence is a motor  
 1260 vehicle, trailer, mobile home, or manufactured home, as defined

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1261 in chapter 320, the sexual offender shall also provide the  
 1262 vehicle identification number; the license tag number; the  
 1263 registration number; and a description, including color scheme,  
 1264 of the motor vehicle, trailer, mobile home, or manufactured  
 1265 home. If the sexual offender's place of residence is a vessel,  
 1266 live-aboard vessel, or houseboat, as defined in chapter 327, the  
 1267 sexual offender shall also provide the hull identification  
 1268 number; the manufacturer's serial number; the name of the  
 1269 vessel, live-aboard vessel, or houseboat; the registration  
 1270 number; and a description, including color scheme, of the  
 1271 vessel, live-aboard vessel, or houseboat.

1272 4. Any sexual offender who fails to report in person as  
 1273 required at the sheriff's office, or who fails to respond to any  
 1274 address verification correspondence from the department within 3  
 1275 weeks after the date of the correspondence, commits a felony of  
 1276 the third degree, punishable as provided in ss. 775.082,  
 1277 775.083, and 775.084.

1278 Section 13. This act shall take effect July 1, 2010.



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**PUBLIC SAFETY  
&  
DOMESTIC SECURITY  
POLICY COMMITTEE**

**MONDAY, MARCH 1, 2010  
2:15 P.M. – 4:15 P.M.  
404 HOB**

**AMENDMENT PACKET**

Larry Cretul  
Speaker

Kevin C. Ambler  
Chair





Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

---

1 Council/Committee hearing bill: Public Safety & Domestic  
2 Security Policy Committee  
3 Representative Weinstein offered the following:  
4

5 **Amendment**

6 Remove lines 91-112 and insert:  
7 and consider:

8 1. Whether the adolescent offender was a principal to the  
9 criminal offense or an accomplice to the offense, a relatively  
10 minor participant in the criminal offense, or acted under  
11 extreme duress or domination of another person.

12 2. Whether the adolescent offender committed an act of  
13 violence or threatened to commit an act of violence during the  
14 commission of the criminal offense.

15 3. Whether the adolescent offender has shown remorse for  
16 the criminal offense.

17 4. Whether the adolescent offender's age, maturity, and  
18 psychological development at the time of the offense affected  
19 her or his behavior.



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20       5. Whether the adolescent offender, while in the custody  
21 of the department, has aided inmates suffering from catastrophic  
22 or terminal medical, mental, or physical conditions or has  
23 prevented risk or injury to staff, citizens, or other inmates.

24       6. Whether the adolescent offender has successfully  
25 completed educational, technical, or vocational programs and any  
26 available self-rehabilitation programs.

27       7. Whether the adolescent offender was a victim of sexual,  
28 physical, or emotional abuse.

29       8. The results of any mental health assessment or  
30 evaluation that has been performed on the adolescent offender.

31       (d) An adolescent offender who is not granted parole under  
32 this subsection after an initial eligibility interview shall be  
33 eligible for a reinterview 7 years after the date of the denial  
34 of the grant of parole and every 7 years thereafter.



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COUNCIL/COMMITTEE ACTION

ADOPTED           \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT         \_\_\_ (Y/N)  
WITHDRAWN         \_\_\_ (Y/N)  
OTHER             \_\_\_\_\_

---

1 Council/Committee hearing bill: Public Safety & Domestic  
2 Security Policy Committee  
3 Representative Glorioso offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
7 Section 1. Section 856.022, Florida Statutes, is created  
8 to read:

9 856.022 Loitering or prowling by certain offenders in  
10 close proximity to children; penalty.-

11 (1) Except as provided in subsection (2), this section  
12 applies to a person convicted of committing, or attempting,  
13 soliciting, or conspiring to commit, any of the criminal  
14 offenses proscribed in the following statutes in this state or  
15 similar offenses in another jurisdiction against a victim who  
16 was under the age of 18 at the time of the offense: s. 787.01,  
17 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and  
18 the offender was not the victim's parent or guardian; s.  
19 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.

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20 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.  
21 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.  
22 847.0145; s. 985.701(1); or any similar offense committed in  
23 this state which has been redesignated from a former statute  
24 number to one of those listed in this subsection, if the person  
25 has not received a pardon for any felony or similar law of  
26 another jurisdiction necessary for the operation of this  
27 subsection and a conviction of a felony or similar law of  
28 another jurisdiction necessary for the operation of this  
29 subsection has not been set aside in any postconviction  
30 proceeding.

31 (2) This section does not apply to a person who has been  
32 removed from the requirement to register as a sexual offender or  
33 sexual predator pursuant to s. 943.04354.

34 (3) A person described in subsection (1) commits loitering  
35 and prowling by a person convicted of a sexual offense against a  
36 minor if, in committing loitering and prowling, he or she was  
37 within 300 feet of a place where children were congregating.

38 (4) It is unlawful for a person described in subsection  
39 (1) to:

40 (a) Knowingly approach, contact, or communicate with a  
41 child under 18 years of age in any public park building or on  
42 real property comprising any public park or playground with  
43 intent to engage in conduct of a sexual nature, or to make a  
44 communication of any type containing any content of a sexual  
45 nature. This paragraph applies only to a person described in  
46 subsection (1) whose offense was committed on or after the  
47 effective date of this act.

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48 (b)1. Knowingly be present in any child care facility or  
49 pre-K through 12 school or on real property comprising any child  
50 care facility or pre-K through 12 school when the child care  
51 facility or school is in operation unless the person has  
52 provided written notification of his or her intent to be present  
53 to the school board, superintendent, principal, or child care  
54 facility owner;

55 2. Fail to notify the child care facility owner or the  
56 school principal's office when he or she arrives and departs the  
57 child care facility or school; or

58 3. Fail to remain under direct supervision of a school  
59 official or designated chaperone when present in the vicinity of  
60 children. As used in this paragraph, the term "school official"  
61 means a principal, school resource officer, teacher or any other  
62 employee of the school, the superintendent of schools, a member  
63 of the school board, a child care facility owner, or a child  
64 care provider.

65 (c) A person is not in violation of paragraph (b) if:

66 1. The child care facility or school is a voting location  
67 and the person is present for the purpose of voting during the  
68 hours designated for voting; or

69 2. The person is only dropping off or picking up his or  
70 her own children or grandchildren at the child care facility or  
71 school.

72 (5) Any person who violates this section commits a  
73 misdemeanor of the first degree, punishable as provided in s.  
74 775.082 or s. 775.083.

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75 Section 2. Paragraph (g) of subsection (2), paragraph (c)  
76 of subsection (4), paragraph (a) of subsection (5), paragraphs  
77 (a), (f), (g), (i), and (j) of subsection (6), paragraph (a) of  
78 subsection (7), and paragraph (a) of subsection (8) of section  
79 775.21, Florida Statutes, are amended, and paragraph (1) is  
80 added to subsection (2) of that section, to read:

81 775.21 The Florida Sexual Predators Act.—

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

83 (g) "Temporary residence" means a place where the person  
84 abides, lodges, or resides, including, but not limited to,  
85 vacation, business, or personal travel destinations in or out of  
86 this state, for a period of 5 or more days in the aggregate  
87 during any calendar year and which is not the person's permanent  
88 address or, for a person whose permanent residence is not in  
89 this state, a place where the person is employed, practices a  
90 vocation, or is enrolled as a student for any period of time in  
91 this state.

92 (1) "Transient residence" means a place or county where a  
93 person lives, remains, or is located for a period of 5 or more  
94 days in the aggregate during a calendar year and which is not  
95 the person's permanent or temporary address. The term includes,  
96 but is not limited to, a place where the person sleeps or seeks  
97 shelter and a location that has no specific street address.

98 (4) SEXUAL PREDATOR CRITERIA.—

99 (c) If an offender has been registered as a sexual  
100 predator by the Department of Corrections, the department, or  
101 any other law enforcement agency and if:

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102 1. The court did not, for whatever reason, make a written  
103 finding at the time of sentencing that the offender was a sexual  
104 predator; or

105 2. The offender was administratively registered as a  
106 sexual predator because the Department of Corrections, the  
107 department, or any other law enforcement agency obtained  
108 information that indicated that the offender met the criteria  
109 for designation as a sexual predator based on a violation of a  
110 similar law in another jurisdiction,

111  
112 the department shall remove that offender from the department's  
113 list of sexual predators and, for an offender described under  
114 subparagraph 1., shall notify the state attorney who prosecuted  
115 the offense that met the criteria for administrative designation  
116 as a sexual predator, and, for an offender described under this  
117 paragraph, shall notify the state attorney of the county where  
118 the offender establishes or maintains a permanent, ~~or~~ temporary,  
119 or transient residence. The state attorney shall bring the  
120 matter to the court's attention in order to establish that the  
121 offender meets the criteria for designation as a sexual  
122 predator. If the court makes a written finding that the offender  
123 is a sexual predator, the offender must be designated as a  
124 sexual predator, must register or be registered as a sexual  
125 predator with the department as provided in subsection (6), and  
126 is subject to the community and public notification as provided  
127 in subsection (7). If the court does not make a written finding  
128 that the offender is a sexual predator, the offender may not be  
129 designated as a sexual predator with respect to that offense and

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130 is not required to register or be registered as a sexual  
131 predator with the department.

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

134 (a)1. An offender who meets the sexual predator criteria  
135 described in paragraph (4) (d) is a sexual predator, and the  
136 court shall make a written finding at the time such offender is  
137 determined to be a sexually violent predator under chapter 394  
138 that such person meets the criteria for designation as a sexual  
139 predator for purposes of this section. The clerk shall transmit  
140 a copy of the order containing the written finding to the  
141 department within 48 hours after the entry of the order;

142 2. An offender who meets the sexual predator criteria  
143 described in paragraph (4) (a) who is before the court for  
144 sentencing for a current offense committed on or after October  
145 1, 1993, is a sexual predator, and the sentencing court must  
146 make a written finding at the time of sentencing that the  
147 offender is a sexual predator, and the clerk of the court shall  
148 transmit a copy of the order containing the written finding to  
149 the department within 48 hours after the entry of the order; or

150 3. If the Department of Corrections, the department, or  
151 any other law enforcement agency obtains information which  
152 indicates that an offender who establishes or maintains a  
153 permanent, ~~or~~ temporary, or transient residence in this state  
154 meets the sexual predator criteria described in paragraph (4) (a)  
155 or paragraph (4) (d) because the offender was civilly committed  
156 or committed a similar violation in another jurisdiction on or  
157 after October 1, 1993, the Department of Corrections, the



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158 department, or the law enforcement agency shall notify the state  
159 attorney of the county where the offender establishes or  
160 maintains a permanent, ~~or~~ temporary, or transient residence of  
161 the offender's presence in the community. The state attorney  
162 shall file a petition with the criminal division of the circuit  
163 court for the purpose of holding a hearing to determine if the  
164 offender's criminal record or record of civil commitment from  
165 another jurisdiction meets the sexual predator criteria. If the  
166 court finds that the offender meets the sexual predator criteria  
167 because the offender has violated a similar law or similar laws  
168 in another jurisdiction, the court shall make a written finding  
169 that the offender is a sexual predator.

170

171 When the court makes a written finding that an offender is a  
172 sexual predator, the court shall inform the sexual predator of  
173 the registration and community and public notification  
174 requirements described in this section. Within 48 hours after  
175 the court designating an offender as a sexual predator, the  
176 clerk of the circuit court shall transmit a copy of the court's  
177 written sexual predator finding to the department. If the  
178 offender is sentenced to a term of imprisonment or supervision,  
179 a copy of the court's written sexual predator finding must be  
180 submitted to the Department of Corrections.

181 (6) REGISTRATION.—

182 (a) A sexual predator must register with the department  
183 through the sheriff's office by providing the following  
184 information to the department:

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185 1. Name, social security number, age, race, sex, date of  
186 birth, height, weight, hair and eye color, photograph, address  
187 of legal residence and address of any current temporary  
188 residence, within the state or out of state, including a rural  
189 route address and a post office box, if no permanent or  
190 temporary address, any transient residence within the state,  
191 address, location or description, and dates of any current or  
192 known future temporary residence within the state or out of  
193 state, any electronic mail address and any instant message name  
194 required to be provided pursuant to subparagraph (g)4., home  
195 telephone number and any cellular telephone number, date and  
196 place of any employment, date and place of each conviction,  
197 fingerprints, and a brief description of the crime or crimes  
198 committed by the offender. A post office box shall not be  
199 provided in lieu of a physical residential address.

200 a. If the sexual predator's place of residence is a motor  
201 vehicle, trailer, mobile home, or manufactured home, as defined  
202 in chapter 320, the sexual predator shall also provide to the  
203 department written notice of the vehicle identification number;  
204 the license tag number; the registration number; and a  
205 description, including color scheme, of the motor vehicle,  
206 trailer, mobile home, or manufactured home. If a sexual  
207 predator's place of residence is a vessel, live-aboard vessel,  
208 or houseboat, as defined in chapter 327, the sexual predator  
209 shall also provide to the department written notice of the hull  
210 identification number; the manufacturer's serial number; the  
211 name of the vessel, live-aboard vessel, or houseboat; the

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212 registration number; and a description, including color scheme,  
213 of the vessel, live-aboard vessel, or houseboat.

214 b. If the sexual predator is enrolled, employed, or  
215 carrying on a vocation at an institution of higher education in  
216 this state, the sexual predator shall also provide to the  
217 department the name, address, and county of each institution,  
218 including each campus attended, and the sexual predator's  
219 enrollment or employment status. Each change in enrollment or  
220 employment status shall be reported in person at the sheriff's  
221 office, or the Department of Corrections if the sexual predator  
222 is in the custody or control of or under the supervision of the  
223 Department of Corrections, within 48 hours after any change in  
224 status. The sheriff or the Department of Corrections shall  
225 promptly notify each institution of the sexual predator's  
226 presence and any change in the sexual predator's enrollment or  
227 employment status.

228 2. Any other information determined necessary by the  
229 department, including criminal and corrections records;  
230 nonprivileged personnel and treatment records; and evidentiary  
231 genetic markers when available.

232 (f) Within 48 hours after the registration required under  
233 paragraph (a) or paragraph (e), a sexual predator who is not  
234 incarcerated and who resides in the community, including a  
235 sexual predator under the supervision of the Department of  
236 Corrections, shall register in person at a driver's license  
237 office of the Department of Highway Safety and Motor Vehicles  
238 and shall present proof of registration. At the driver's license  
239 office the sexual predator shall:

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240 1. If otherwise qualified, secure a Florida driver's  
241 license, renew a Florida driver's license, or secure an  
242 identification card. The sexual predator shall identify himself  
243 or herself as a sexual predator who is required to comply with  
244 this section, provide his or her place of permanent, ~~or~~  
245 temporary, or transient residence, including a rural route  
246 address and a post office box, and submit to the taking of a  
247 photograph for use in issuing a driver's license, renewed  
248 license, or identification card, and for use by the department  
249 in maintaining current records of sexual predators. A post  
250 office box shall not be provided in lieu of a physical  
251 residential address. If the sexual predator's place of residence  
252 is a motor vehicle, trailer, mobile home, or manufactured home,  
253 as defined in chapter 320, the sexual predator shall also  
254 provide to the Department of Highway Safety and Motor Vehicles  
255 the vehicle identification number; the license tag number; the  
256 registration number; and a description, including color scheme,  
257 of the motor vehicle, trailer, mobile home, or manufactured  
258 home. If a sexual predator's place of residence is a vessel,  
259 live-aboard vessel, or houseboat, as defined in chapter 327, the  
260 sexual predator shall also provide to the Department of Highway  
261 Safety and Motor Vehicles the hull identification number; the  
262 manufacturer's serial number; the name of the vessel, live-  
263 aboard vessel, or houseboat; the registration number; and a  
264 description, including color scheme, of the vessel, live-aboard  
265 vessel, or houseboat.

266 2. Pay the costs assessed by the Department of Highway  
267 Safety and Motor Vehicles for issuing or renewing a driver's

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268 license or identification card as required by this section. The  
269 driver's license or identification card issued to the sexual  
270 predator must be in compliance with s. 322.141(3).

271 3. Provide, upon request, any additional information  
272 necessary to confirm the identity of the sexual predator,  
273 including a set of fingerprints.

274 (g)1. Each time a sexual predator's driver's license or  
275 identification card is subject to renewal, and, without regard  
276 to the status of the predator's driver's license or  
277 identification card, within 48 hours after any change of the  
278 predator's residence or change in the predator's name by reason  
279 of marriage or other legal process, the predator shall report in  
280 person to a driver's license office and shall be subject to the  
281 requirements specified in paragraph (f). The Department of  
282 Highway Safety and Motor Vehicles shall forward to the  
283 department and to the Department of Corrections all photographs  
284 and information provided by sexual predators. Notwithstanding  
285 the restrictions set forth in s. 322.142, the Department of  
286 Highway Safety and Motor Vehicles is authorized to release a  
287 reproduction of a color-photograph or digital-image license to  
288 the Department of Law Enforcement for purposes of public  
289 notification of sexual predators as provided in this section.

290 2. A sexual predator who vacates a permanent, temporary,  
291 or transient residence and fails to establish or maintain  
292 another permanent, ~~or~~ temporary, or transient residence shall,  
293 within 48 hours after vacating the permanent, temporary, or  
294 transient residence, report in person to the sheriff's office of  
295 the county in which he or she is located. The sexual predator

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296 shall specify the date upon which he or she intends to or did  
297 vacate such residence. The sexual predator must provide or  
298 update all of the registration information required under  
299 paragraph (a). The sexual predator must provide an address for  
300 the residence or other place ~~location~~ that he or she is or will  
301 be located ~~occupying~~ during the time in which he or she fails to  
302 establish or maintain a permanent or temporary residence.

303 3. A sexual predator who remains at a permanent,  
304 temporary, or transient residence after reporting his or her  
305 intent to vacate such residence shall, within 48 hours after the  
306 date upon which the predator indicated he or she would or did  
307 vacate such residence, report in person to the sheriff's office  
308 to which he or she reported pursuant to subparagraph 2. for the  
309 purpose of reporting his or her address at such residence. When  
310 the sheriff receives the report, the sheriff shall promptly  
311 convey the information to the department. An offender who makes  
312 a report as required under subparagraph 2. but fails to make a  
313 report as required under this subparagraph commits a felony of  
314 the second degree, punishable as provided in s. 775.082, s.  
315 775.083, or s. 775.084.

316 4. A sexual predator must register any electronic mail  
317 address or instant message name with the department prior to  
318 using such electronic mail address or instant message name on or  
319 after October 1, 2007. The department shall establish an online  
320 system through which sexual predators may securely access and  
321 update all electronic mail address and instant message name  
322 information.

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323 (i) A sexual predator who intends to establish a  
324 permanent, temporary, or transient residence in another state or  
325 jurisdiction other than the State of Florida shall report in  
326 person to the sheriff of the county of current residence within  
327 48 hours before the date he or she intends to leave this state  
328 to establish residence in another state or jurisdiction. The  
329 sexual predator must provide to the sheriff the address,  
330 municipality, county, and state of intended residence. The  
331 sheriff shall promptly provide to the department the information  
332 received from the sexual predator. The department shall notify  
333 the statewide law enforcement agency, or a comparable agency, in  
334 the intended state or jurisdiction of residence of the sexual  
335 predator's intended residence. The failure of a sexual predator  
336 to provide his or her intended place of residence is punishable  
337 as provided in subsection (10).

338 (j) A sexual predator who indicates his or her intent to  
339 establish a permanent, temporary, or transient residence ~~reside~~  
340 in another state or jurisdiction other than the State of Florida  
341 and later decides to remain in this state shall, within 48 hours  
342 after the date upon which the sexual predator indicated he or  
343 she would leave this state, report in person to the sheriff to  
344 which the sexual predator reported the intended change of  
345 residence, and report his or her intent to remain in this state.  
346 If the sheriff is notified by the sexual predator that he or she  
347 intends to remain in this state, the sheriff shall promptly  
348 report this information to the department. A sexual predator who  
349 reports his or her intent to establish a permanent, temporary,  
350 or transient residence ~~reside~~ in another state or jurisdiction,

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351 but who remains in this state without reporting to the sheriff  
352 in the manner required by this paragraph, commits a felony of  
353 the second degree, punishable as provided in s. 775.082, s.  
354 775.083, or s. 775.084.

355 (7) COMMUNITY AND PUBLIC NOTIFICATION.—

356 (a) Law enforcement agencies must inform members of the  
357 community and the public of a sexual predator's presence. Upon  
358 notification of the presence of a sexual predator, the sheriff  
359 of the county or the chief of police of the municipality where  
360 the sexual predator establishes or maintains a permanent or  
361 temporary residence shall notify members of the community and  
362 the public of the presence of the sexual predator in a manner  
363 deemed appropriate by the sheriff or the chief of police. Within  
364 48 hours after receiving notification of the presence of a  
365 sexual predator, the sheriff of the county or the chief of  
366 police of the municipality where the sexual predator temporarily  
367 or permanently resides shall notify each licensed day care  
368 center, elementary school, middle school, and high school within  
369 a 1-mile radius of the temporary or permanent residence of the  
370 sexual predator of the presence of the sexual predator.

371 Information provided to members of the community and the public  
372 regarding a sexual predator must include:

- 373 1. The name of the sexual predator;
- 374 2. A description of the sexual predator, including a  
375 photograph;
- 376 3. The sexual predator's current permanent, temporary, and  
377 transient addresses, and descriptions of registered locations



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378 that have no specific street address, including the name of the  
379 county or municipality if known;

380 4. The circumstances of the sexual predator's offense or  
381 offenses; and

382 5. Whether the victim of the sexual predator's offense or  
383 offenses was, at the time of the offense, a minor or an adult.

384

385 This paragraph does not authorize the release of the name of any  
386 victim of the sexual predator.

387 (8) VERIFICATION.—The department and the Department of  
388 Corrections shall implement a system for verifying the addresses  
389 of sexual predators. The system must be consistent with the  
390 provisions of the federal Adam Walsh Child Protection and Safety  
391 Act of 2006 and any other federal standards applicable to such  
392 verification or required to be met as a condition for the  
393 receipt of federal funds by the state. The Department of  
394 Corrections shall verify the addresses of sexual predators who  
395 are not incarcerated but who reside in the community under the  
396 supervision of the Department of Corrections and shall report to  
397 the department any failure by a sexual predator to comply with  
398 registration requirements. County and local law enforcement  
399 agencies, in conjunction with the department, shall verify the  
400 addresses of sexual predators who are not under the care,  
401 custody, control, or supervision of the Department of  
402 Corrections. Local law enforcement agencies shall report to the  
403 department any failure by a sexual predator to comply with  
404 registration requirements.

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405 (a) A sexual predator must report in person each year  
406 during the month of the sexual predator's birthday and during  
407 every third month thereafter to the sheriff's office in the  
408 county in which he or she resides or is otherwise located to  
409 reregister. The sheriff's office may determine the appropriate  
410 times and days for reporting by the sexual predator, which shall  
411 be consistent with the reporting requirements of this paragraph.  
412 Reregistration shall include any changes to the following  
413 information:

414 1. Name; social security number; age; race; sex; date of  
415 birth; height; weight; hair and eye color; address of any  
416 permanent residence and address of any current temporary  
417 residence, within the state or out of state, including a rural  
418 route address and a post office box; if no permanent or  
419 temporary address, any transient residence within the state;  
420 address, location or description, and dates of any current or  
421 known future temporary residence within the state or out of  
422 state; any electronic mail address and any instant message name  
423 required to be provided pursuant to subparagraph (6)(g)4.; home  
424 telephone number and any cellular telephone number; date and  
425 place of any employment; vehicle make, model, color, and license  
426 tag number; fingerprints; and photograph. A post office box  
427 shall not be provided in lieu of a physical residential address.

428 2. If the sexual predator is enrolled, employed, or  
429 carrying on a vocation at an institution of higher education in  
430 this state, the sexual predator shall also provide to the  
431 department the name, address, and county of each institution,

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432 including each campus attended, and the sexual predator's  
433 enrollment or employment status.

434 3. If the sexual predator's place of residence is a motor  
435 vehicle, trailer, mobile home, or manufactured home, as defined  
436 in chapter 320, the sexual predator shall also provide the  
437 vehicle identification number; the license tag number; the  
438 registration number; and a description, including color scheme,  
439 of the motor vehicle, trailer, mobile home, or manufactured  
440 home. If the sexual predator's place of residence is a vessel,  
441 live-aboard vessel, or houseboat, as defined in chapter 327, the  
442 sexual predator shall also provide the hull identification  
443 number; the manufacturer's serial number; the name of the  
444 vessel, live-aboard vessel, or houseboat; the registration  
445 number; and a description, including color scheme, of the  
446 vessel, live-aboard vessel, or houseboat.

447 Section 3. Section 794.065, Florida Statutes, is  
448 renumbered as section 775.215, Florida Statutes, and amended to  
449 read:

450 775.215 ~~794.065~~ Residency restriction Unlawful place of  
451 ~~residence~~ for persons convicted of certain sex offenses.-

452 (1) LEGISLATIVE INTENT - It is the intent of the  
453 legislature that there be one state-established residency  
454 restriction distance applicable to the residence of persons  
455 described in this section and that such state-established  
456 residency restriction distance be uniformly applied throughout  
457 the state.

458 (2) As used in this section, the term:

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 119 (2010)

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459 (a) "Child care facility" has the same meaning as provided  
460 in s. 402.302.

461 (b) "Park" means all public and private property  
462 specifically designated as being used for recreational purposes  
463 and where children regularly congregate.

464 (c) "Playground" means a designated independent area in  
465 the community or neighborhood that is designated solely for  
466 children and has one or more play structures.

467 (d) "School" has the same meaning as provided in s.  
468 1003.01 and includes a private school as defined in s. 1002.01,  
469 a voluntary prekindergarten education program as described in s.  
470 1002.53(3), a public school as described in s. 402.3025(1), the  
471 Florida School for the Deaf and the Blind, the Florida Virtual  
472 School as established in s. 1002.37, and a K-8 Virtual School as  
473 established in s. 1002.415, but does not include facilities  
474 dedicated exclusively to the education of adults.

475 (3) (a) ~~(1)~~ No It is unlawful for any person who has been  
476 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,  
477 s. 847.0135(5), or s. 847.0145, regardless of whether  
478 adjudication has been withheld, in which the victim of the  
479 offense was less than 16 years of age, shall to reside within  
480 1,000 feet of any school, child care facility day care center,  
481 park, or playground. However, a person does not violate this  
482 subsection and may not be forced to relocate if he or she is  
483 living in a residence that meets the requirements of this  
484 subsection and a school, child care facility, park, or  
485 playground is subsequently established within 1,000 feet of his  
486 or her residence.

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487        **(b)** A person who violates this subsection and whose  
488 conviction under s. 794.011, s. 800.04, s. 827.071, s.  
489 847.0135(5), or s. 847.0145 was classified as a felony of the  
490 first degree or higher commits a felony of the third degree,  
491 punishable as provided in s. 775.082 or s. 775.083. A person who  
492 violates this subsection and whose conviction under s. 794.011,  
493 s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 was  
494 classified as a felony of the second or third degree commits a  
495 misdemeanor of the first degree, punishable as provided in s.  
496 775.082 or s. 775.083.

497        **(c)**~~(2)~~ This subsection applies to any person convicted of  
498 a violation of s. 794.011, s. 800.04, s. 827.071, s.  
499 847.0135(5), or s. 847.0145 for offenses that occur on or after  
500 October 1, 2004, excluding persons who have been removed from  
501 the requirement to register as a sexual offender or sexual  
502 predator pursuant to s. 943.04354.

503        **(4) (a)** No person who has been convicted of an offense in  
504 another jurisdiction that is similar to a violation of s.  
505 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145,  
506 regardless of whether adjudication has been withheld, in which  
507 the victim of the offense was less than 16 years of age, shall  
508 reside within 1,000 feet of any school, child care facility,  
509 park, or playground. However, a person does not violate this  
510 subsection and may not be forced to relocate if he or she is  
511 living in a residence that meets the requirements of this  
512 subsection and a school, child care facility, park, or  
513 playground is subsequently established within 1,000 feet of his  
514 or her residence.

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515       (b) A person who violates this subsection and whose  
516 conviction in another jurisdiction resulted in a penalty that is  
517 substantially similar to a felony of the first degree or higher  
518 commits a felony of the third degree, punishable as provided in  
519 s. 775.082 or s. 775.083. A person who violates this subsection  
520 and whose conviction in another jurisdiction resulted in a  
521 penalty that is substantially similar to a felony of the second  
522 or third degree commits a misdemeanor of the first degree,  
523 punishable as provided in s. 775.082 or s. 775.083.

524       (c) This subsection applies to any person convicted of an  
525 offense in another jurisdiction that is similar to a violation  
526 of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s.  
527 847.0145 where such offense occurred on or after the effective  
528 date of this bill, excluding persons who have been removed from  
529 the requirement to register as a sexual offender or sexual  
530 predator pursuant to s. 943.04354.

531       Section 4. Paragraph (c) of subsection (1), subsection  
532 (2), paragraphs (a), (b), and (c) of subsection (4), subsections  
533 (7), (8), and (10), and paragraph (c) of subsection (14) of  
534 section 943.0435, Florida Statutes, are amended to read:

535       943.0435 Sexual offenders required to register with the  
536 department; penalty.—

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

538       (c) "Permanent residence," and "temporary residence," and  
539 "transient residence" have the same meaning ascribed in s.  
540 775.21.

541       (2) A sexual offender shall:

542       (a) Report in person at the sheriff's office:

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543 1. In the county in which the offender establishes or  
544 maintains a permanent, ~~or~~ temporary, or transient residence  
545 within 48 hours after:

546 a. Establishing permanent, ~~or~~ temporary, or transient  
547 residence in this state; or

548 b. Being released from the custody, control, or  
549 supervision of the Department of Corrections or from the custody  
550 of a private correctional facility; or

551 2. In the county where he or she was convicted within 48  
552 hours after being convicted for a qualifying offense for  
553 registration under this section if the offender is not in the  
554 custody or control of, or under the supervision of, the  
555 Department of Corrections, or is not in the custody of a private  
556 correctional facility.

557  
558 Any change in the information required to be provided pursuant  
559 to paragraph (b), including, but not limited to, any change in  
560 the sexual offender's permanent, ~~or~~ temporary, or transient  
561 residence, name, any electronic mail address and any instant  
562 message name required to be provided pursuant to paragraph  
563 (4) (d), after the sexual offender reports in person at the  
564 sheriff's office, shall be accomplished in the manner provided  
565 in subsections (4), (7), and (8).

566 (b) Provide his or her name, date of birth, social  
567 security number, race, sex, height, weight, hair and eye color,  
568 tattoos or other identifying marks, occupation and place of  
569 employment, address of permanent or legal residence or address  
570 of any current temporary residence, within the state or and out

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571 of state, including a rural route address and a post office box,  
572 if no permanent or temporary address, any transient residence  
573 within the state, address, location or description, and dates of  
574 any current or known future temporary residence within the state  
575 or out of state, home telephone number and any cellular  
576 telephone number, any electronic mail address and any instant  
577 message name required to be provided pursuant to paragraph  
578 (4) (d), date and place of each conviction, and a brief  
579 description of the crime or crimes committed by the offender. A  
580 post office box shall not be provided in lieu of a physical  
581 residential address.

582 1. If the sexual offender's place of residence is a motor  
583 vehicle, trailer, mobile home, or manufactured home, as defined  
584 in chapter 320, the sexual offender shall also provide to the  
585 department through the sheriff's office written notice of the  
586 vehicle identification number; the license tag number; the  
587 registration number; and a description, including color scheme,  
588 of the motor vehicle, trailer, mobile home, or manufactured  
589 home. If the sexual offender's place of residence is a vessel,  
590 live-aboard vessel, or houseboat, as defined in chapter 327, the  
591 sexual offender shall also provide to the department written  
592 notice of the hull identification number; the manufacturer's  
593 serial number; the name of the vessel, live-aboard vessel, or  
594 houseboat; the registration number; and a description, including  
595 color scheme, of the vessel, live-aboard vessel, or houseboat.

596 2. If the sexual offender is enrolled, employed, or  
597 carrying on a vocation at an institution of higher education in  
598 this state, the sexual offender shall also provide to the



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599 department through the sheriff's office the name, address, and  
600 county of each institution, including each campus attended, and  
601 the sexual offender's enrollment or employment status. Each  
602 change in enrollment or employment status shall be reported in  
603 person at the sheriff's office, within 48 hours after any change  
604 in status. The sheriff shall promptly notify each institution of  
605 the sexual offender's presence and any change in the sexual  
606 offender's enrollment or employment status.

607

608 When a sexual offender reports at the sheriff's office, the  
609 sheriff shall take a photograph and a set of fingerprints of the  
610 offender and forward the photographs and fingerprints to the  
611 department, along with the information provided by the sexual  
612 offender. The sheriff shall promptly provide to the department  
613 the information received from the sexual offender.

614 (4) (a) Each time a sexual offender's driver's license or  
615 identification card is subject to renewal, and, without regard  
616 to the status of the offender's driver's license or  
617 identification card, within 48 hours after any change in the  
618 offender's permanent, ~~or~~ temporary, or transient residence or  
619 change in the offender's name by reason of marriage or other  
620 legal process, the offender shall report in person to a driver's  
621 license office, and shall be subject to the requirements  
622 specified in subsection (3). The Department of Highway Safety  
623 and Motor Vehicles shall forward to the department all  
624 photographs and information provided by sexual offenders.  
625 Notwithstanding the restrictions set forth in s. 322.142, the  
626 Department of Highway Safety and Motor Vehicles is authorized to

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627 | release a reproduction of a color-photograph or digital-image  
628 | license to the Department of Law Enforcement for purposes of  
629 | public notification of sexual offenders as provided in this  
630 | section and ss. 943.043 and 944.606.

631 | (b) A sexual offender who vacates a permanent, temporary,  
632 | or transient residence and fails to establish or maintain  
633 | another permanent, ~~or~~ temporary, or transient residence shall,  
634 | within 48 hours after vacating the permanent, temporary, or  
635 | transient residence, report in person to the sheriff's office of  
636 | the county in which he or she is located. The sexual offender  
637 | shall specify the date upon which he or she intends to or did  
638 | vacate such residence. The sexual offender must provide or  
639 | update all of the registration information required under  
640 | paragraph (2) (b). The sexual offender must provide an address  
641 | for the residence or other place location that he or she is or  
642 | will be located ~~occupying~~ during the time in which he or she  
643 | fails to establish or maintain a permanent or temporary  
644 | residence.

645 | (c) A sexual offender who remains at a permanent,  
646 | temporary, or transient residence after reporting his or her  
647 | intent to vacate such residence shall, within 48 hours after the  
648 | date upon which the offender indicated he or she would or did  
649 | vacate such residence, report in person to the agency to which  
650 | he or she reported pursuant to paragraph (b) for the purpose of  
651 | reporting his or her address at such residence. When the sheriff  
652 | receives the report, the sheriff shall promptly convey the  
653 | information to the department. An offender who makes a report as  
654 | required under paragraph (b) but fails to make a report as

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655 required under this paragraph commits a felony of the second  
656 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
657 775.084.

658 (7) A sexual offender who intends to establish a  
659 permanent, temporary, or transient residence in another state or  
660 jurisdiction other than the State of Florida shall report in  
661 person to the sheriff of the county of current residence within  
662 48 hours before the date he or she intends to leave this state  
663 to establish residence in another state or jurisdiction. The  
664 notification must include the address, municipality, county, and  
665 state of intended residence. The sheriff shall promptly provide  
666 to the department the information received from the sexual  
667 offender. The department shall notify the statewide law  
668 enforcement agency, or a comparable agency, in the intended  
669 state or jurisdiction of residence of the sexual offender's  
670 intended residence. The failure of a sexual offender to provide  
671 his or her intended place of residence is punishable as provided  
672 in subsection (9).

673 (8) A sexual offender who indicates his or her intent to  
674 establish a permanent, temporary, or transient residence ~~reside~~  
675 in another state or jurisdiction other than the State of Florida  
676 and later decides to remain in this state shall, within 48 hours  
677 after the date upon which the sexual offender indicated he or  
678 she would leave this state, report in person to the sheriff to  
679 which the sexual offender reported the intended change of  
680 permanent, temporary, or transient residence, and report his or  
681 her intent to remain in this state. The sheriff shall promptly  
682 report this information to the department. A sexual offender who

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683 reports his or her intent to establish a permanent, temporary,  
684 or transient residence ~~reside~~ in another state or jurisdiction  
685 but who remains in this state without reporting to the sheriff  
686 in the manner required by this subsection commits a felony of  
687 the second degree, punishable as provided in s. 775.082, s.  
688 775.083, or s. 775.084.

689 (10) The department, the Department of Highway Safety and  
690 Motor Vehicles, the Department of Corrections, the Department of  
691 Juvenile Justice, any law enforcement agency in this state, and  
692 the personnel of those departments; an elected or appointed  
693 official, public employee, or school administrator; or an  
694 employee, agency, or any individual or entity acting at the  
695 request or upon the direction of any law enforcement agency is  
696 immune from civil liability for damages for good faith  
697 compliance with the requirements of this section or for the  
698 release of information under this section, and shall be presumed  
699 to have acted in good faith in compiling, recording, reporting,  
700 or releasing the information. The presumption of good faith is  
701 not overcome if a technical or clerical error is made by the  
702 department, the Department of Highway Safety and Motor Vehicles,  
703 the Department of Corrections, the Department of Juvenile  
704 Justice, the personnel of those departments, or any individual  
705 or entity acting at the request or upon the direction of any of  
706 those departments in compiling or providing information, or if  
707 information is incomplete or incorrect because a sexual offender  
708 fails to report or falsely reports his or her current place of  
709 permanent, ~~or~~ temporary, or transient residence.

710 (14)

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711 (c) The sheriff's office may determine the appropriate  
712 times and days for reporting by the sexual offender, which shall  
713 be consistent with the reporting requirements of this  
714 subsection. Reregistration shall include any changes to the  
715 following information:

716 1. Name; social security number; age; race; sex; date of  
717 birth; height; weight; hair and eye color; address of any  
718 permanent residence and address of any current temporary  
719 residence, within the state or out of state, including a rural  
720 route address and a post office box; if no permanent or  
721 temporary address, any transient residence within the state;  
722 address, location or description, and dates of any current or  
723 known future temporary residence within the state or out of  
724 state; any electronic mail address and any instant message name  
725 required to be provided pursuant to paragraph (4)(d); home  
726 telephone number and any cellular telephone number; date and  
727 place of any employment; vehicle make, model, color, and license  
728 tag number; fingerprints; and photograph. A post office box  
729 shall not be provided in lieu of a physical residential address.

730 2. If the sexual offender is enrolled, employed, or  
731 carrying on a vocation at an institution of higher education in  
732 this state, the sexual offender shall also provide to the  
733 department the name, address, and county of each institution,  
734 including each campus attended, and the sexual offender's  
735 enrollment or employment status.

736 3. If the sexual offender's place of residence is a motor  
737 vehicle, trailer, mobile home, or manufactured home, as defined  
738 in chapter 320, the sexual offender shall also provide the

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739 vehicle identification number; the license tag number; the  
740 registration number; and a description, including color scheme,  
741 of the motor vehicle, trailer, mobile home, or manufactured  
742 home. If the sexual offender's place of residence is a vessel,  
743 live-aboard vessel, or houseboat, as defined in chapter 327, the  
744 sexual offender shall also provide the hull identification  
745 number; the manufacturer's serial number; the name of the  
746 vessel, live-aboard vessel, or houseboat; the registration  
747 number; and a description, including color scheme, of the  
748 vessel, live-aboard vessel or houseboat.

749 4. Any sexual offender who fails to report in person as  
750 required at the sheriff's office, or who fails to respond to any  
751 address verification correspondence from the department within 3  
752 weeks of the date of the correspondence or who fails to report  
753 electronic mail addresses or instant message names, commits a  
754 felony of the third degree, punishable as provided in s.  
755 775.082, s. 775.083, or s. 775.084.

756 Section 5. Section 943.04352, Florida Statutes, is amended  
757 to read:

758 943.04352 Search of registration information regarding  
759 sexual predators and sexual offenders required when placement on  
760 misdemeanor probation.—When the court places a defendant on  
761 misdemeanor probation pursuant to ss. 948.01 and 948.15, the  
762 public or private entity providing probation services must  
763 conduct a search of the probationer's name or other identifying  
764 information against the registration information regarding  
765 sexual predators and sexual offenders maintained by the  
766 Department of Law Enforcement under s. 943.043. The probation

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767 services provider may conduct the search using the Internet site  
768 maintained by the Department of Law Enforcement. Also, a  
769 national search must be conducted through the Dru Sjodin  
770 National Sex Offender Public Website maintained by the United  
771 States Department of Justice.

772 Section 6. Paragraph (a) of subsection (3) of section  
773 944.606, Florida Statutes, is amended to read:

774 944.606 Sexual offenders; notification upon release.-

775 (3) (a) The department must provide information regarding  
776 any sexual offender who is being released after serving a period  
777 of incarceration for any offense, as follows:

778 1. The department must provide: the sexual offender's  
779 name, any change in the offender's name by reason of marriage or  
780 other legal process, and any alias, if known; the correctional  
781 facility from which the sexual offender is released; the sexual  
782 offender's social security number, race, sex, date of birth,  
783 height, weight, and hair and eye color; address of any planned  
784 permanent residence or temporary residence, within the state or  
785 out of state, including a rural route address and a post office  
786 box; if no permanent or temporary address, any transient  
787 residence within the state; address, location or description,  
788 and dates of any known future temporary residence within the  
789 state or out of state; date and county of sentence and each  
790 crime for which the offender was sentenced; a copy of the  
791 offender's fingerprints and a digitized photograph taken within  
792 60 days before release; the date of release of the sexual  
793 offender; any electronic mail address and any instant message  
794 name required to be provided pursuant to s. 943.0435(4) (d); and

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795 home telephone number and any cellular telephone number; ~~and the~~  
796 ~~offender's intended residence address, if known.~~ The department  
797 shall notify the Department of Law Enforcement if the sexual  
798 offender escapes, absconds, or dies. If the sexual offender is  
799 in the custody of a private correctional facility, the facility  
800 shall take the digitized photograph of the sexual offender  
801 within 60 days before the sexual offender's release and provide  
802 this photograph to the Department of Corrections and also place  
803 it in the sexual offender's file. If the sexual offender is in  
804 the custody of a local jail, the custodian of the local jail  
805 shall register the offender within 3 business days after intake  
806 of the offender for any reason and upon release, and shall  
807 notify the Department of Law Enforcement of the sexual  
808 offender's release and provide to the Department of Law  
809 Enforcement the information specified in this paragraph and any  
810 information specified in subparagraph 2. that the Department of  
811 Law Enforcement requests.

812 2. The department may provide any other information deemed  
813 necessary, including criminal and corrections records,  
814 nonprivileged personnel and treatment records, when available.

815 Section 7. Subsections (4) and (6) and paragraph (c) of  
816 subsection (13) of section 944.607, Florida Statutes, are  
817 amended to read:

818 944.607 Notification to Department of Law Enforcement of  
819 information on sexual offenders.—

820 (4) A sexual offender, as described in this section, who  
821 is under the supervision of the Department of Corrections but is  
822 not incarcerated must register with the Department of



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823 Corrections within 3 business days after sentencing for a  
824 registrable ~~registerable~~ offense and otherwise provide  
825 information as required by this subsection.

826 (a) The sexual offender shall provide his or her name;  
827 date of birth; social security number; race; sex; height;  
828 weight; hair and eye color; tattoos or other identifying marks;  
829 any electronic mail address and any instant message name  
830 required to be provided pursuant to s. 943.0435(4)(d); and  
831 permanent or legal residence and address of temporary residence  
832 within the state or out of state while the sexual offender is  
833 under supervision in this state, including any rural route  
834 address or post office box; if no permanent or temporary  
835 address, any transient residence within the state; and address,  
836 location or description, and dates of any current or known  
837 future temporary residence within the state or out of state. The  
838 Department of Corrections shall verify the address of each  
839 sexual offender in the manner described in ss. 775.21 and  
840 943.0435. The department shall report to the Department of Law  
841 Enforcement any failure by a sexual predator or sexual offender  
842 to comply with registration requirements.

843 (b) If the sexual offender is enrolled, employed, or  
844 carrying on a vocation at an institution of higher education in  
845 this state, the sexual offender shall provide the name, address,  
846 and county of each institution, including each campus attended,  
847 and the sexual offender's enrollment or employment status. Each  
848 change in enrollment or employment status shall be reported to  
849 the department within 48 hours after the change in status. The  
850 Department of Corrections shall promptly notify each institution

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851 of the sexual offender's presence and any change in the sexual  
852 offender's enrollment or employment status.

853 (6) The information provided to the Department of Law  
854 Enforcement must include:

855 (a) The information obtained from the sexual offender  
856 under subsection (4);

857 (b) The sexual offender's most current address, ~~and~~ place  
858 of permanent, ~~and~~ temporary, or transient residence within the  
859 state or out of state, and address, location or description, and  
860 dates of any current or known future temporary residence within  
861 the state or out of state, while the sexual offender is under  
862 supervision in this state, including the name of the county or  
863 municipality in which the offender permanently or temporarily  
864 resides, or has a transient residence, and address, location or  
865 description, and dates of any current or known future temporary  
866 residence within the state or out of state, and, if known, the  
867 intended place of permanent, ~~or~~ temporary, or transient  
868 residence, and address, location or description, and dates of  
869 any current or known future temporary residence within the state  
870 or out of state upon satisfaction of all sanctions;

871 (c) The legal status of the sexual offender and the  
872 scheduled termination date of that legal status;

873 (d) The location of, and local telephone number for, any  
874 Department of Corrections' office that is responsible for  
875 supervising the sexual offender;

876 (e) An indication of whether the victim of the offense  
877 that resulted in the offender's status as a sexual offender was  
878 a minor;

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879 (f) The offense or offenses at conviction which resulted  
880 in the determination of the offender's status as a sex offender;  
881 and

882 (g) A digitized photograph of the sexual offender which  
883 must have been taken within 60 days before the offender is  
884 released from the custody of the department or a private  
885 correctional facility by expiration of sentence under s. 944.275  
886 or must have been taken by January 1, 1998, or within 60 days  
887 after the onset of the department's supervision of any sexual  
888 offender who is on probation, community control, conditional  
889 release, parole, provisional release, or control release or who  
890 is supervised by the department under the Interstate Compact  
891 Agreement for Probationers and Parolees. If the sexual offender  
892 is in the custody of a private correctional facility, the  
893 facility shall take a digitized photograph of the sexual  
894 offender within the time period provided in this paragraph and  
895 shall provide the photograph to the department.

896  
897 If any information provided by the department changes during the  
898 time the sexual offender is under the department's control,  
899 custody, or supervision, including any change in the offender's  
900 name by reason of marriage or other legal process, the  
901 department shall, in a timely manner, update the information and  
902 provide it to the Department of Law Enforcement in the manner  
903 prescribed in subsection (2).

904 (13)

905 (c) The sheriff's office may determine the appropriate  
906 times and days for reporting by the sexual offender, which shall

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907 | be consistent with the reporting requirements of this  
908 | subsection. Reregistration shall include any changes to the  
909 | following information:

910 |       1. Name; social security number; age; race; sex; date of  
911 | birth; height; weight; hair and eye color; address of any  
912 | permanent residence and address of any current temporary  
913 | residence, within the state or out of state, including a rural  
914 | route address and a post office box; if no permanent or  
915 | temporary address, any transient residence; address, location or  
916 | description, and dates of any current or known future temporary  
917 | residence within the state or out of state; any electronic mail  
918 | address and any instant message name required to be provided  
919 | pursuant to s. 943.0435(4)(d); date and place of any employment;  
920 | vehicle make, model, color, and license tag number;  
921 | fingerprints; and photograph. A post office box shall not be  
922 | provided in lieu of a physical residential address.

923 |       2. If the sexual offender is enrolled, employed, or  
924 | carrying on a vocation at an institution of higher education in  
925 | this state, the sexual offender shall also provide to the  
926 | department the name, address, and county of each institution,  
927 | including each campus attended, and the sexual offender's  
928 | enrollment or employment status.

929 |       3. If the sexual offender's place of residence is a motor  
930 | vehicle, trailer, mobile home, or manufactured home, as defined  
931 | in chapter 320, the sexual offender shall also provide the  
932 | vehicle identification number; the license tag number; the  
933 | registration number; and a description, including color scheme,  
934 | of the motor vehicle, trailer, mobile home, or manufactured

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935 home. If the sexual offender's place of residence is a vessel,  
936 live-aboard vessel, or houseboat, as defined in chapter 327, the  
937 sexual offender shall also provide the hull identification  
938 number; the manufacturer's serial number; the name of the  
939 vessel, live-aboard vessel, or houseboat; the registration  
940 number; and a description, including color scheme, of the  
941 vessel, live-aboard vessel or houseboat.

942 4. Any sexual offender who fails to report in person as  
943 required at the sheriff's office, or who fails to respond to any  
944 address verification correspondence from the department within 3  
945 weeks of the date of the correspondence, or who fails to report  
946 electronic mail addresses or instant message names, commits a  
947 felony of the third degree, punishable as provided in s.  
948 775.082, s. 775.083, or s. 775.084.

949 Section 8. Subsections (9) and (10) of s. 947.005, Florida  
950 Statutes is amended to read and subsections (12), (13), (14),  
951 and (15) of that section are added to read:

952 947.005 Definitions.—As used in this chapter, unless the  
953 context clearly indicates otherwise:

954 (9) "Qualified practitioner" means a social worker, mental  
955 health counselor, or a marriage and family therapist licensed  
956 under ch. 491 who, as determined by rule of the respective  
957 boards, has the coursework, training, qualifications, and  
958 experience to treat sex offenders; or a psychiatrist licensed  
959 under chapter 458 or chapter 459; or a psychologist licensed  
960 under chapter 490, or a social worker, a mental health  
961 counselor, or a marriage and family therapist licensed under

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962 ~~chapter 491 who practices in accordance with his or her~~  
963 ~~respective practice act.~~

964 (10) "Risk assessment" means an assessment completed by a  
965 ~~an independent~~ qualified practitioner to evaluate the level of  
966 risk associated when a sex offender has contact with a child.

967 (12) "Child care facility" has the same meaning as provided  
968 in s. 402.302.

969 (13) "Park" means all public and private property  
970 specifically designated as being used for recreational purposes  
971 and where children regularly congregate.

972 (14) "Playground" means a designated independent area in  
973 the community or neighborhood that is designated solely for  
974 children and has one or more play structures.

975 (15) "School" has the same meaning as provided in s.  
976 1003.01 and includes a private school as defined in s. 1002.01,  
977 a voluntary prekindergarten education program as described in s.  
978 1002.53(3), a public school as described in s. 402.3025(1), the  
979 Florida School for the Deaf and Blind, the Florida Virtual  
980 School as established in s. 1002.37, and a K-8 Virtual School as  
981 established in s. 1002.415, but does not includes facilities  
982 dedicated exclusively to the education of adults.

983 Section 9. Subsection (7) of section 947.1405, Florida  
984 Statutes, is amended, and subsection (12) is added to that  
985 section, to read:

986 947.1405 Conditional release program.—

987 (7) (a) Any inmate who is convicted of a crime committed on  
988 or after October 1, 1995, or who has been previously convicted  
989 of a crime committed on or after October 1, 1995, in violation

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990 of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.  
991 847.0145, and is subject to conditional release supervision,  
992 shall have, in addition to any other conditions imposed, the  
993 following special conditions imposed by the commission:

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

1000 2. If the victim was under the age of 18, a prohibition on  
1001 living within 1,000 feet of a school, child care facility ~~day~~  
1002 ~~care center~~, park, playground, designated public school bus  
1003 stop, or other place where children regularly congregate. A  
1004 releasee who is subject to this subparagraph may not relocate to  
1005 a residence that is within 1,000 feet of a public school bus  
1006 stop. Beginning October 1, 2004, the commission or the  
1007 department may not approve a residence that is located within  
1008 1,000 feet of a school, day care center, park, playground,  
1009 designated school bus stop, or other place where children  
1010 regularly congregate for any releasee who is subject to this  
1011 subparagraph. On October 1, 2004, the department shall notify  
1012 each affected school district of the location of the residence  
1013 of a releasee 30 days prior to release and thereafter, if the  
1014 releasee relocates to a new residence, shall notify any affected  
1015 school district of the residence of the releasee within 30 days  
1016 after relocation. If, on October 1, 2004, any public school bus  
1017 stop is located within 1,000 feet of the existing residence of

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1018 such releasee, the district school board shall relocate that  
1019 school bus stop. Beginning October 1, 2004, a district school  
1020 board may not establish or relocate a public school bus stop  
1021 within 1,000 feet of the residence of a releasee who is subject  
1022 to this subparagraph. The failure of the district school board  
1023 to comply with this subparagraph shall not result in a violation  
1024 of conditional release supervision. A releasee who is subject to  
1025 this subparagraph may not be forced to relocate and does not  
1026 violate his or her conditional release supervision if he or she  
1027 is living in a residence that meets the requirements of this  
1028 subparagraph and a school, child care facility, park,  
1029 playground, designated public school bus stop, or other place  
1030 where children regularly congregate is subsequently established  
1031 within 1,000 feet of his or her residence.

1032 3. Active participation in and successful completion of a  
1033 sex offender treatment program with qualified practitioners  
1034 specifically trained to treat sex offenders, at the releasee's  
1035 own expense. If a qualified practitioner is not available within  
1036 a 50-mile radius of the releasee's residence, the offender shall  
1037 participate in other appropriate therapy.

1038 4. A prohibition on any contact with the victim, directly  
1039 or indirectly, including through a third person, unless approved  
1040 by the victim, a qualified practitioner in the sexual offender  
1041 treatment program ~~the offender's therapist~~, and the sentencing  
1042 court.

1043 5. If the victim was under the age of 18, a prohibition  
1044 against contact with children under the age of 18 without review  
1045 and approval by the commission. The commission may approve



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1046 supervised contact with a child under the age of 18 if the  
1047 approval is based upon a recommendation for contact issued by a  
1048 qualified practitioner who is basing the recommendation on a  
1049 risk assessment. Further, the sex offender must be currently  
1050 enrolled in or have successfully completed a sex offender  
1051 therapy program. The commission may not grant supervised contact  
1052 with a child if the contact is not recommended by a qualified  
1053 practitioner and may deny supervised contact with a child at any  
1054 time. When considering whether to approve supervised contact  
1055 with a child, the commission must review and consider the  
1056 following:

1057       a. A risk assessment completed by a qualified  
1058 practitioner. The qualified practitioner must prepare a written  
1059 report that must include the findings of the assessment and  
1060 address each of the following components:

1061           (I) The sex offender's current legal status;

1062           (II) The sex offender's history of adult charges with  
1063 apparent sexual motivation;

1064           (III) The sex offender's history of adult charges without  
1065 apparent sexual motivation;

1066           (IV) The sex offender's history of juvenile charges,  
1067 whenever available;

1068           (V) The sex offender's offender treatment history,  
1069 including a consultation from the sex offender's treating, or  
1070 most recent treating, therapist;

1071           (VI) The sex offender's current mental status;

1072           (VII) The sex offender's mental health and substance abuse  
1073 history as provided by the Department of Corrections;

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1074 (VIII) The sex offender's personal, social, educational,  
1075 and work history;

1076 (IX) The results of current psychological testing of the  
1077 sex offender if determined necessary by the qualified  
1078 practitioner;

1079 (X) A description of the proposed contact, including the  
1080 location, frequency, duration, and supervisory arrangement;

1081 (XI) The child's preference and relative comfort level  
1082 with the proposed contact, when age-appropriate;

1083 (XII) The parent's or legal guardian's preference  
1084 regarding the proposed contact; and

1085 (XIII) The qualified practitioner's opinion, along with  
1086 the basis for that opinion, as to whether the proposed contact  
1087 would likely pose significant risk of emotional or physical harm  
1088 to the child.

1089

1090 The written report of the assessment must be given to the  
1091 commission.

1092 b. A recommendation made as a part of the risk-assessment  
1093 report as to whether supervised contact with the child should be  
1094 approved;

1095 c. A written consent signed by the child's parent or legal  
1096 guardian, if the parent or legal guardian is not the sex  
1097 offender, agreeing to the sex offender having supervised contact  
1098 with the child after receiving full disclosure of the sex  
1099 offender's present legal status, past criminal history, and the  
1100 results of the risk assessment. The commission may not approve

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1101 contact with the child if the parent or legal guardian refuses  
1102 to give written consent for supervised contact;

1103 d. A safety plan prepared by the qualified practitioner,  
1104 who provides treatment to the offender, in collaboration with  
1105 the sex offender, the child's parent or legal guardian, and the  
1106 child, when age appropriate, which details the acceptable  
1107 conditions of contact between the sex offender and the child.

1108 The safety plan must be reviewed and approved by the Department  
1109 of Corrections before being submitted to the commission; and

1110 e. Evidence that the child's parent or legal guardian, if  
1111 the parent or legal guardian is not the sex offender,  
1112 understands the need for and agrees to the safety plan and has  
1113 agreed to provide, or to designate another adult to provide,  
1114 constant supervision any time the child is in contact with the  
1115 offender.

1116  
1117 The commission may not appoint a person to conduct a risk  
1118 assessment and may not accept a risk assessment from a person  
1119 who has not demonstrated to the commission that he or she has  
1120 met the requirements of a qualified practitioner as defined in  
1121 this section.

1122 6. If the victim was under age 18, a prohibition on  
1123 working for pay or as a volunteer at any school, day care  
1124 center, park, playground, or other place where children  
1125 regularly congregate, as prescribed by the commission.

1126 7. Unless otherwise indicated in the treatment plan  
1127 provided by a qualified practitioner in the sexual offender  
1128 treatment program, a prohibition on viewing, owning, or

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1129 possessing any obscene, pornographic, or sexually stimulating  
1130 visual or auditory material, including telephone, electronic  
1131 media, computer programs, or computer services that are relevant  
1132 to the offender's deviant behavior pattern.

1133 8. Effective for a releasee whose crime is committed on or  
1134 after July 1, 2005, a prohibition on accessing the Internet or  
1135 other computer services until a qualified practitioner in the  
1136 offender's sex offender treatment program, after a risk  
1137 assessment is completed, approves and implements a safety plan  
1138 for the offender's accessing or using the Internet or other  
1139 computer services.

1140 9. A requirement that the releasee must submit two  
1141 specimens of blood to the Florida Department of Law Enforcement  
1142 to be registered with the DNA database.

1143 10. A requirement that the releasee make restitution to  
1144 the victim, as determined by the sentencing court or the  
1145 commission, for all necessary medical and related professional  
1146 services relating to physical, psychiatric, and psychological  
1147 care.

1148 11. Submission to a warrantless search by the community  
1149 control or probation officer of the probationer's or community  
1150 controllee's person, residence, or vehicle.

1151 (b) For a releasee whose crime was committed on or after  
1152 October 1, 1997, in violation of chapter 794, s. 800.04, s.  
1153 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to  
1154 conditional release supervision, in addition to any other  
1155 provision of this subsection, the commission shall impose the

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1156 following additional conditions of conditional release  
1157 supervision:

1158 1. As part of a treatment program, participation in a  
1159 minimum of one annual polygraph examination to obtain  
1160 information necessary for risk management and treatment and to  
1161 reduce the sex offender's denial mechanisms. The polygraph  
1162 examination must be conducted by a polygrapher who is a member  
1163 of a national or state polygraph association and who is  
1164 certified as a post-conviction sex offender polygrapher trained  
1165 specifically in the use of the polygraph for the monitoring of  
1166 sex offenders, where available, and at the expense of the  
1167 releasee sex offender. The results of the examination shall be  
1168 provided to the releasee's probation officer and qualified  
1169 practitioner and may not be used as evidence in a hearing to  
1170 prove that a violation of supervision has occurred.

1171 2. Maintenance of a driving log and a prohibition against  
1172 driving a motor vehicle alone without the prior approval of the  
1173 supervising officer.

1174 3. A prohibition against obtaining or using a post office  
1175 box without the prior approval of the supervising officer.

1176 4. If there was sexual contact, a submission to, at the  
1177 releasee's probationer's or community controllee's expense, an  
1178 HIV test with the results to be released to the victim or the  
1179 victim's parent or guardian.

1180 5. Electronic monitoring of any form when ordered by the  
1181 commission. Any person who has been placed under supervision and  
1182 is electronically monitored by the department must pay the  
1183 department for the cost of the electronic monitoring service at

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1184 a rate that may not exceed the full cost of the monitoring  
1185 service. Funds collected under this subparagraph shall be  
1186 deposited into the General Revenue Fund. The department may  
1187 exempt a person from the payment of all or any part of the  
1188 electronic monitoring service cost if the department finds that  
1189 any of the factors listed in s. 948.09(3) exist.

1190 (12) In addition to all other conditions imposed, for a  
1191 releasee who is subject to conditional release for a crime that  
1192 was committed on or after the effective date of this act, and  
1193 who has been convicted at any time of committing, or attempting,  
1194 soliciting, or conspiring to commit, any of the criminal  
1195 offenses listed in s. 943.0435(1)(a)1.a.(I), or a similar  
1196 offense in another jurisdiction, against a victim who was under  
1197 the age of 18 at the time of the offense; if the releasee has  
1198 not received a pardon for any felony or similar law of another  
1199 jurisdiction necessary for the operation of this subsection, if  
1200 a conviction of a felony or similar law of another jurisdiction  
1201 necessary for the operation of this subsection has not been set  
1202 aside in any postconviction proceeding, or if the releasee has  
1203 not been removed from the requirement to register as a sexual  
1204 offender or sexual predator pursuant to s. 943.04354, the  
1205 commission must impose the following conditions:

1206 (a) A prohibition on visiting schools, child care  
1207 facilities, parks, and playgrounds, without prior approval from  
1208 the releasee's supervising officer. The commission may also  
1209 designate additional locations to protect a victim. The  
1210 prohibition ordered under this paragraph does not prohibit the  
1211 releasee from visiting a school, child care facility, park, or

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1212 playground for the sole purpose of attending a religious service  
1213 as defined in s. 775.0861, or picking up or dropping off the  
1214 releasee's children or grandchildren at a child care facility or  
1215 school.

1216 (b) A prohibition on distributing candy or other items to  
1217 children on Halloween; wearing a Santa Claus costume, or other  
1218 costume to appeal to children, on or preceding Christmas;  
1219 wearing an Easter Bunny costume, or other costume to appeal to  
1220 children, on or preceding Easter; entertaining at children's  
1221 parties; or wearing a clown costume; without prior approval from  
1222 the commission.

1223 Section 10. Subsections (6) and (7) of s. 948.001, Florida  
1224 Statutes, are amended to read and subsections (11), (12), (13),  
1225 and (14) of that section are added to read:

1226 948.001 Definitions.—As used in this chapter, the term:

1227 (6) "Qualified practitioner" means a social worker, mental  
1228 health counselor, or a marriage and family therapist licensed  
1229 under ch. 491 who, as determined by rule of the respective  
1230 boards, has the coursework, training, qualifications, and  
1231 experience to evaluate and treat sexual offenders; or a  
1232 psychiatrist licensed under chapter 458 or chapter 459; or a  
1233 psychologist licensed under chapter 490, ~~or a social worker, a~~  
1234 ~~mental health counselor, or a marriage and family therapist~~  
1235 ~~licensed under chapter 491 who practices in accordance with his~~  
1236 ~~or her respective practice act.~~

1237 (7) "Risk assessment" means an assessment completed by a  
1238 ~~an independent~~ qualified practitioner to evaluate the level of  
1239 risk associated when a sex offender has contact with a child.

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1240 (11) "Child care facility" has the same meaning as provided  
1241 in s. 402.302.

1242 (12) "Park" means all public and private property  
1243 specifically designated as being used for recreational purposes  
1244 and where children regularly congregate.

1245 (13) "Playground" means a designated independent area in  
1246 the community or neighborhood that is designated solely for  
1247 children and has one or more play structures.

1248 (14) "School" has the same meaning as provided in s.  
1249 1003.01 and includes a private school as defined in s. 1002.01,  
1250 a voluntary prekindergarten education program as described in s.  
1251 1002.53(3), a public school as described in s. 402.3025(1), the  
1252 Florida School for the Deaf and Blind, the Florida Virtual  
1253 School as established in s. 1002.37, and a K-8 Virtual School as  
1254 established in s. 1002.415, but does not includes facilities  
1255 dedicated exclusively to the education of adults.

1256 Section 11. Subsection (1) and paragraph (a) of subsection  
1257 (2) of section 948.30, Florida Statutes, is amended, and  
1258 subsection (4) is added to that section, to read:

1259 948.30 Additional terms and conditions of probation or  
1260 community control for certain sex offenses.—Conditions imposed  
1261 pursuant to this section do not require oral pronouncement at  
1262 the time of sentencing and shall be considered standard  
1263 conditions of probation or community control for offenders  
1264 specified in this section.

1265 (1) Effective for probationers or community controllees  
1266 whose crime was committed on or after October 1, 1995, and who  
1267 are placed under supervision for violation of chapter 794, s.



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1268 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, the court  
1269 must impose the following conditions in addition to all other  
1270 standard and special conditions imposed:

1271 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court  
1272 may designate another 8-hour period if the offender's employment  
1273 precludes the above specified time, and the alternative is  
1274 recommended by the Department of Corrections. If the court  
1275 determines that imposing a curfew would endanger the victim, the  
1276 court may consider alternative sanctions.

1277 (b) If the victim was under the age of 18, a prohibition  
1278 on living within 1,000 feet of a school, child care facility ~~day~~  
1279 ~~care center~~, park, playground, or other place where children  
1280 regularly congregate, as prescribed by the court. The 1,000-foot  
1281 distance shall be measured in a straight line from the  
1282 offender's place of residence to the nearest boundary line of  
1283 the school, day care center, park, playground, or other place  
1284 where children congregate. The distance may not be measured by a  
1285 pedestrian route or automobile route. A probationer or community  
1286 controllee who is subject to this paragraph may not be forced to  
1287 relocate and does not violate his or her probation or community  
1288 control if he or she is living in a residence that meets the  
1289 requirements of this paragraph and a school, child care  
1290 facility, park, playground, or other place where children  
1291 regularly congregate is subsequently established within 1,000  
1292 feet of his or her residence.

1293 (c) Active participation in and successful completion of a  
1294 sex offender treatment program with qualified practitioners  
1295 specifically trained to treat sex offenders, at the

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1296 probationer's or community controllee's own expense. If a  
1297 qualified practitioner is not available within a 50-mile radius  
1298 of the probationer's or community controllee's residence, the  
1299 offender shall participate in other appropriate therapy.

1300 (d) A prohibition on any contact with the victim, directly  
1301 or indirectly, including through a third person, unless approved  
1302 by the victim, a qualified practitioner in the sexual offender  
1303 treatment program ~~the offender's therapist~~, and the sentencing  
1304 court.

1305 (e) If the victim was under the age of 18, a prohibition  
1306 on contact with a child under the age of 18 except as provided  
1307 in this paragraph. The court may approve supervised contact with  
1308 a child under the age of 18 if the approval is based upon a  
1309 recommendation for contact issued by a qualified practitioner  
1310 who is basing the recommendation on a risk assessment. Further,  
1311 the sex offender must be currently enrolled in or have  
1312 successfully completed a sex offender therapy program. The court  
1313 may not grant supervised contact with a child if the contact is  
1314 not recommended by a qualified practitioner and may deny  
1315 supervised contact with a child at any time. When considering  
1316 whether to approve supervised contact with a child, the court  
1317 must review and consider the following:

1318 1. A risk assessment completed by a qualified  
1319 practitioner. The qualified practitioner must prepare a written  
1320 report that must include the findings of the assessment and  
1321 address each of the following components:

1322 a. The sex offender's current legal status;

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- 1323       b. The sex offender's history of adult charges with  
1324       apparent sexual motivation;
- 1325       c. The sex offender's history of adult charges without  
1326       apparent sexual motivation;
- 1327       d. The sex offender's history of juvenile charges,  
1328       whenever available;
- 1329       e. The sex offender's offender treatment history,  
1330       including consultations with the sex offender's treating, or  
1331       most recent treating, therapist;
- 1332       f. The sex offender's current mental status;
- 1333       g. The sex offender's mental health and substance abuse  
1334       treatment history as provided by the Department of Corrections;
- 1335       h. The sex offender's personal, social, educational, and  
1336       work history;
- 1337       i. The results of current psychological testing of the sex  
1338       offender if determined necessary by the qualified practitioner;
- 1339       j. A description of the proposed contact, including the  
1340       location, frequency, duration, and supervisory arrangement;
- 1341       k. The child's preference and relative comfort level with  
1342       the proposed contact, when age appropriate;
- 1343       l. The parent's or legal guardian's preference regarding  
1344       the proposed contact; and
- 1345       m. The qualified practitioner's opinion, along with the  
1346       basis for that opinion, as to whether the proposed contact would  
1347       likely pose significant risk of emotional or physical harm to  
1348       the child.
- 1349
- 1350       The written report of the assessment must be given to the court;

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1351 2. A recommendation made as a part of the risk assessment  
1352 report as to whether supervised contact with the child should be  
1353 approved;

1354 3. A written consent signed by the child's parent or legal  
1355 guardian, if the parent or legal guardian is not the sex  
1356 offender, agreeing to the sex offender having supervised contact  
1357 with the child after receiving full disclosure of the sex  
1358 offender's present legal status, past criminal history, and the  
1359 results of the risk assessment. The court may not approve  
1360 contact with the child if the parent or legal guardian refuses  
1361 to give written consent for supervised contact;

1362 4. A safety plan prepared by the qualified practitioner,  
1363 who provides treatment to the offender, in collaboration with  
1364 the sex offender, the child's parent or legal guardian, if the  
1365 parent or legal guardian is not the sex offender, and the child,  
1366 when age appropriate, which details the acceptable conditions of  
1367 contact between the sex offender and the child. The safety plan  
1368 must be reviewed and approved by the court; and

1369 5. Evidence that the child's parent or legal guardian  
1370 understands the need for and agrees to the safety plan and has  
1371 agreed to provide, or to designate another adult to provide,  
1372 constant supervision any time the child is in contact with the  
1373 offender.

1374  
1375 The court may not appoint a person to conduct a risk assessment  
1376 and may not accept a risk assessment from a person who has not  
1377 demonstrated to the court that he or she has met the

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1378 requirements of a qualified practitioner as defined in this  
1379 section.

1380 (f) If the victim was under age 18, a prohibition on  
1381 working for pay or as a volunteer at any place where children  
1382 regularly congregate, including, but not limited to, schools,  
1383 day care centers, parks, playgrounds, pet stores, libraries,  
1384 zoos, theme parks, and malls.

1385 (g) Unless otherwise indicated in the treatment plan  
1386 provided by a qualified practitioner in the sexual offender  
1387 treatment program, a prohibition on viewing, accessing, owning,  
1388 or possessing any obscene, pornographic, or sexually stimulating  
1389 visual or auditory material, including telephone, electronic  
1390 media, computer programs, or computer services that are relevant  
1391 to the offender's deviant behavior pattern.

1392 (h) Effective for probationers and community controllees  
1393 whose crime is committed on or after July 1, 2005, a prohibition  
1394 on accessing the Internet or other computer services until a  
1395 qualified practitioner in the offender's sex offender treatment  
1396 program, after a risk assessment is completed, approves and  
1397 implements a safety plan for the offender's accessing or using  
1398 the Internet or other computer services.

1399 (i) A requirement that the probationer or community  
1400 controllee must submit a specimen of blood or other approved  
1401 biological specimen to the Department of Law Enforcement to be  
1402 registered with the DNA data bank.

1403 (j) A requirement that the probationer or community  
1404 controllee make restitution to the victim, as ordered by the  
1405 court under s. 775.089, for all necessary medical and related

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1406 professional services relating to physical, psychiatric, and  
1407 psychological care.

1408 (k) Submission to a warrantless search by the community  
1409 control or probation officer of the probationer's or community  
1410 controllee's person, residence, or vehicle.

1411 (2) Effective for a probationer or community controllee  
1412 whose crime was committed on or after October 1, 1997, and who  
1413 is placed on community control or sex offender probation for a  
1414 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
1415 or s. 847.0145, in addition to any other provision of this  
1416 section, the court must impose the following conditions of  
1417 probation or community control:

1418 (a) As part of a treatment program, participation at least  
1419 annually in polygraph examinations to obtain information  
1420 necessary for risk management and treatment and to reduce the  
1421 sex offender's denial mechanisms. A polygraph examination must  
1422 be conducted by a polygrapher who is a member of a national or  
1423 state polygraph association and who is certified as a post-  
1424 conviction sex offender polygrapher trained specifically in the  
1425 use of the polygraph for the monitoring of sex offenders, where  
1426 available, and shall be paid for by the probationer or community  
1427 controllee sex-offender. The results of the polygraph  
1428 examination shall be provided to the probationer's or community  
1429 controllee's probation officer and qualified practitioner and  
1430 shall not be used as evidence in court to prove that a violation  
1431 of community supervision has occurred.

1432 (4) In addition to all other conditions imposed, for a  
1433 probationer or community controllee who is subject to

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1434 supervision for a crime that was committed on or after the  
1435 effective date of this act, and who has been convicted at any  
1436 time of committing, or attempting, soliciting, or conspiring to  
1437 commit, any of the criminal offenses listed in s.  
1438 943.0435(1)(a)1.a.(I), or a similar offense in another  
1439 jurisdiction, against a victim who was under the age of 18 at  
1440 the time of the offense; if the offender has not received a  
1441 pardon for any felony or similar law of another jurisdiction  
1442 necessary for the operation of this subsection, if a conviction  
1443 of a felony or similar law of another jurisdiction necessary for  
1444 the operation of this subsection has not been set aside in any  
1445 postconviction proceeding, or if the offender has not been  
1446 removed from the requirement to register as a sexual offender or  
1447 sexual predator pursuant to s. 943.04354, the court must impose  
1448 the following conditions:

1449 (a) A prohibition on visiting schools, child care  
1450 facilities, parks, and playgrounds, without prior approval from  
1451 the offender's supervising officer. The court may also designate  
1452 additional locations to protect a victim. The prohibition  
1453 ordered under this paragraph does not prohibit the offender from  
1454 visiting a school, child care facility, park, or playground for  
1455 the sole purpose of attending a religious service as defined in  
1456 s. 775.0861, or picking up or dropping off the offender's  
1457 children or grandchildren at a child care facility or school.

1458 (b) A prohibition on distributing candy or other items to  
1459 children on Halloween; wearing a Santa Claus costume, or other  
1460 costume to appeal to children, on or preceding Christmas;  
1461 wearing an Easter Bunny costume, or other costume to appeal to

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1462 children, on or preceding Easter; entertaining at children's  
1463 parties; or wearing a clown costume; without prior approval from  
1464 the court.

1465 Section 12. Section 948.31, Florida Statutes, is amended  
1466 to read:

1467 948.31 ~~Diagnosis, Evaluation, and treatment of sexual~~  
1468 ~~predators and offenders placed on probation or community control~~  
1469 ~~for certain sex offenses or child exploitation.~~ The court shall  
1470 require an a diagnosis and evaluation by a qualified  
1471 practitioner to determine the need of a probationer or community  
1472 controlee offender in community control for treatment. If the  
1473 court determines that a need therefor is established by the such  
1474 diagnosis and evaluation process, the court shall require sexual  
1475 offender treatment outpatient counseling as a term or condition  
1476 of probation or community control for any person who is required  
1477 to register as a sexual predator under s. 775.21 or sexual  
1478 offender under s. 943.0435, s. 944.606, or s. 944.607. was found  
1479 guilty of any of the following, or whose plea of guilty or nolo  
1480 contendere to any of the following was accepted by the court:

1481 ~~(1) Lewd or lascivious battery, lewd or lascivious~~  
1482 ~~molestation, lewd or lascivious conduct, or lewd or lascivious~~  
1483 ~~exhibition, as defined in s. 800.04 or s. 847.0135(5).~~

1484 ~~(2) Sexual battery, as defined in chapter 794, against a~~  
1485 ~~child.~~

1486 ~~(3) Exploitation of a child as provided in s. 450.151, or~~  
1487 ~~for prostitution.~~

1488



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1489 Such treatment counseling shall be required to be obtained from  
1490 a qualified practitioner as defined in s. 948.001. Treatment may  
1491 not be administered by a qualified practitioner who has been  
1492 convicted or adjudicated delinquent of committing, or  
1493 attempting, soliciting, or conspiring to commit, any offense  
1494 that is listed in s. 943.0435(1)(a)1.a.(I). The court shall  
1495 impose a restriction against contact with minors if sexual  
1496 offender treatment is recommended a community mental health  
1497 center, a recognized social service agency providing mental  
1498 health services, or a private mental health professional or  
1499 through other professional counseling. The evaluation and  
1500 recommendations plan for treatment of counseling for the  
1501 probationer or community controlee individual shall be provided  
1502 to the court for review.

1503 Section 13. Paragraph (a) of subsection (3) of section  
1504 985.481, Florida Statutes, is amended to read:

1505 985.481 Sexual offenders adjudicated delinquent;  
1506 notification upon release.-

1507 (3)(a) The department must provide information regarding  
1508 any sexual offender who is being released after serving a period  
1509 of residential commitment under the department for any offense,  
1510 as follows:

1511 1. The department must provide the sexual offender's name,  
1512 any change in the offender's name by reason of marriage or other  
1513 legal process, and any alias, if known; the correctional  
1514 facility from which the sexual offender is released; the sexual  
1515 offender's social security number, race, sex, date of birth,  
1516 height, weight, and hair and eye color; address of any planned

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1517 permanent residence or temporary residence, within the state or  
1518 out of state, including a rural route address and a post office  
1519 box; if no permanent or temporary address, any transient  
1520 residence within the state; address, location or description,  
1521 and dates of any known future temporary residence within the  
1522 state or out of state; date and county of disposition and each  
1523 crime for which there was a disposition; a copy of the  
1524 offender's fingerprints and a digitized photograph taken within  
1525 60 days before release; the date of release of the sexual  
1526 offender; and home telephone number and any cellular telephone  
1527 number; and the offender's intended residence address, if known.  
1528 The department shall notify the Department of Law Enforcement if  
1529 the sexual offender escapes, absconds, or dies. If the sexual  
1530 offender is in the custody of a private correctional facility,  
1531 the facility shall take the digitized photograph of the sexual  
1532 offender within 60 days before the sexual offender's release and  
1533 also place it in the sexual offender's file. If the sexual  
1534 offender is in the custody of a local jail, the custodian of the  
1535 local jail shall register the offender within 3 business days  
1536 after intake of the offender for any reason and upon release,  
1537 and shall notify the Department of Law Enforcement of the sexual  
1538 offender's release and provide to the Department of Law  
1539 Enforcement the information specified in this subparagraph and  
1540 any information specified in subparagraph 2. which the  
1541 Department of Law Enforcement requests.

1542 2. The department may provide any other information  
1543 considered necessary, including criminal and delinquency  
1544 records, when available.

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1545 Section 14. Paragraph (a) of subsection (4), paragraph (a)  
1546 of subsection (6), and paragraph (b) of subsection (13) of  
1547 section 985.4815, Florida Statutes, are amended to read:

1548 985.4815 Notification to Department of Law Enforcement of  
1549 information on juvenile sexual offenders.-

1550 (4) A sexual offender, as described in this section, who  
1551 is under the supervision of the department but who is not  
1552 committed must register with the department within 3 business  
1553 days after adjudication and disposition for a registrable  
1554 offense and otherwise provide information as required by this  
1555 subsection.

1556 (a) The sexual offender shall provide his or her name;  
1557 date of birth; social security number; race; sex; height;  
1558 weight; hair and eye color; tattoos or other identifying marks;  
1559 ~~and~~ permanent or legal residence and address of temporary  
1560 residence within the state or out of state while the sexual  
1561 offender is in the care or custody or under the jurisdiction or  
1562 supervision of the department in this state, including any rural  
1563 route address or post office box; if no permanent or temporary  
1564 address, any transient residence; address, location or  
1565 description, and dates of any current or known future temporary  
1566 residence within the state or out of state; and the name and  
1567 address of each school attended. The department shall verify the  
1568 address of each sexual offender and shall report to the  
1569 Department of Law Enforcement any failure by a sexual offender  
1570 to comply with registration requirements.

1571 (6) (a) The information provided to the Department of Law  
1572 Enforcement must include the following:

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1573 1. The information obtained from the sexual offender under  
1574 subsection (4).

1575 2. The sexual offender's most current address and place of  
1576 permanent, ~~or~~ temporary, or transient residence within the state  
1577 or out of state, and address, location or description, and dates  
1578 of any current or known future temporary residence within the  
1579 state or out of state, while the sexual offender is in the care  
1580 or custody or under the jurisdiction or supervision of the  
1581 department in this state, including the name of the county or  
1582 municipality in which the offender permanently or temporarily  
1583 resides, or has a transient residence, and address, location or  
1584 description, and dates of any current or known future temporary  
1585 residence within the state or out of state; and, if known, the  
1586 intended place of permanent, ~~or~~ temporary, or transient  
1587 residence, and address, location or description, and dates of  
1588 any current or known future temporary residence within the state  
1589 or out of state upon satisfaction of all sanctions.

1590 3. The legal status of the sexual offender and the  
1591 scheduled termination date of that legal status.

1592 4. The location of, and local telephone number for, any  
1593 department office that is responsible for supervising the sexual  
1594 offender.

1595 5. An indication of whether the victim of the offense that  
1596 resulted in the offender's status as a sexual offender was a  
1597 minor.

1598 6. The offense or offenses at adjudication and disposition  
1599 that resulted in the determination of the offender's status as a  
1600 sex offender.

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1601           7. A digitized photograph of the sexual offender, which  
1602 must have been taken within 60 days before the offender was  
1603 released from the custody of the department or a private  
1604 correctional facility by expiration of sentence under s.  
1605 944.275, or within 60 days after the onset of the department's  
1606 supervision of any sexual offender who is on probation,  
1607 postcommitment probation, residential commitment, nonresidential  
1608 commitment, licensed child-caring commitment, community control,  
1609 conditional release, parole, provisional release, or control  
1610 release or who is supervised by the department under the  
1611 Interstate Compact Agreement for Probationers and Parolees. If  
1612 the sexual offender is in the custody of a private correctional  
1613 facility, the facility shall take a digitized photograph of the  
1614 sexual offender within the time period provided in this  
1615 subparagraph and shall provide the photograph to the department.

1616           (13)

1617           (b) The sheriff's office may determine the appropriate  
1618 times and days for reporting by the sexual offender, which shall  
1619 be consistent with the reporting requirements of this  
1620 subsection. Reregistration shall include any changes to the  
1621 following information:

1622           1. Name; social security number; age; race; sex; date of  
1623 birth; height; weight; hair and eye color; address of any  
1624 permanent residence and address of any current temporary  
1625 residence, within the state or out of state, including a rural  
1626 route address and a post office box; if no permanent or  
1627 temporary address, any transient residence; address, location or  
1628 description, and dates of any current or known future temporary

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1629 residence within the state or out of state; name and address of  
1630 each school attended; date and place of any employment; vehicle  
1631 make, model, color, and license tag number; fingerprints; and  
1632 photograph. A post office box shall not be provided in lieu of a  
1633 physical residential address.

1634 2. If the sexual offender is enrolled, employed, or  
1635 carrying on a vocation at an institution of higher education in  
1636 this state, the sexual offender shall also provide to the  
1637 department the name, address, and county of each institution,  
1638 including each campus attended, and the sexual offender's  
1639 enrollment or employment status.

1640 3. If the sexual offender's place of residence is a motor  
1641 vehicle, trailer, mobile home, or manufactured home, as defined  
1642 in chapter 320, the sexual offender shall also provide the  
1643 vehicle identification number; the license tag number; the  
1644 registration number; and a description, including color scheme,  
1645 of the motor vehicle, trailer, mobile home, or manufactured  
1646 home. If the sexual offender's place of residence is a vessel,  
1647 live-aboard vessel, or houseboat, as defined in chapter 327, the  
1648 sexual offender shall also provide the hull identification  
1649 number; the manufacturer's serial number; the name of the  
1650 vessel, live-aboard vessel, or houseboat; the registration  
1651 number; and a description, including color scheme, of the  
1652 vessel, live-aboard vessel, or houseboat.

1653 4. Any sexual offender who fails to report in person as  
1654 required at the sheriff's office, or who fails to respond to any  
1655 address verification correspondence from the department within 3  
1656 weeks after the date of the correspondence, commits a felony of

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1657 the third degree, punishable as provided in ss. 775.082,  
1658 775.083, and 775.084.

1659 Section 15. The Legislature intends that nothing in this  
1660 act reduce or diminish a court's jurisdiction.

1661 Section 16. If any provision of this act or its  
1662 application to any person or circumstance is held invalid, the  
1663 invalidity does not affect other provisions or applications of  
1664 this act which can be given effect without the invalid provision  
1665 or application, and to this end the provisions of this act are  
1666 declared severable.

1667 Section 17. This act shall take effect upon becoming a  
1668 law.

1669

1670

1671

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

1672

Remove the entire title and insert:

1673

A bill to be entitled

1674

An act relating to sexual offenders and predators;

1675

creating s. 856.022, F.S.; prohibiting loitering or

1676

prowling by certain offenders within a specified distance

1677

of places where children were congregating; prohibiting

1678

certain actions toward a child at a public park or

1679

playground by certain offenders; prohibiting the presence

1680

of certain offenders at or on real property comprising a

1681

child care facility or pre-K through 12 school without

1682

notice and supervision; providing exceptions; providing

1683

penalties; amending s. 775.21, F.S.; revising and

1684

providing definitions; revising provisions relating to

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1685 residence reporting requirements for sexual predators;  
1686 renumbering s. 794.065, F.S., as s. 775.215, F.S.;

1687 providing definitions; substituting the term "child care  
1688 facility" for the term "day care center"; providing that  
1689 the section does not apply to a person living in an  
1690 approved residence before the establishment of a school,  
1691 child care facility, park, or playground within 1,000 feet  
1692 of the residence; including offenses in other  
1693 jurisdictions that are similar to the offenses listed in  
1694 provisions providing residency restrictions for persons  
1695 convicted of certain sex offenses, applicable to offenses  
1696 committed on or after a specified date; providing that the  
1697 section does not apply to persons who were removed from  
1698 the requirement to register as a sexual offender or sexual  
1699 predator under a specified provision; amending s.  
1700 943.0435, F.S.; revising provisions relating to residence  
1701 reporting requirements for sexual offenders; amending s.  
1702 943.04352, F.S.; requiring that the probation services  
1703 provider search in an additional specified sex offender  
1704 registry for information regarding sexual predators and  
1705 sexual offenders when an offender is placed on misdemeanor  
1706 probation; amending s. 944.606, F.S.; revising address  
1707 reporting requirements for sexual offenders; amending s.  
1708 944.607, F.S.; requiring additional registration  
1709 information from sex offenders who are under the  
1710 supervision of the Department of Corrections but who are  
1711 not incarcerated; amending s. 947.1405, F.S.; revising  
1712 provisions relating to polygraph examinations of specified



COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 119 (2010)

Amendment No. 1

1713 conditional releasees who have committed specified sexual  
1714 offenses; providing additional restrictions for certain  
1715 conditional releasees who have committed specified sexual  
1716 offenses against minors under the age of 18 or have  
1717 similar convictions in another jurisdiction; amending s.  
1718 948.30, F.S.; revising provisions relating to polygraph  
1719 examinations of specified probationers or community  
1720 controllees who have committed specified sexual offenses;  
1721 providing additional restrictions for certain probationers  
1722 or community controllees who committed specified sexual  
1723 offenses against minors under the age of 18 or who have  
1724 similar convictions in another jurisdiction; amending s.  
1725 948.31, F.S.; deleting a requirement for diagnosis of  
1726 certain sexual predators and sexual offenders on community  
1727 control; revising provisions relating to treatment for  
1728 such offenders and predators; amending s. 985.481, F.S.;  
1729 providing additional address reporting requirements for  
1730 sexual offenders adjudicated delinquent; amending s.  
1731 985.4815, F.S.; revising provisions relating to address  
1732 and residence reporting requirements for sexual offenders  
1733 adjudicated delinquent; providing legislative intent;  
1734 providing severability; providing an effective date.