



Criminal Justice Subcommittee

January 12, 2012

8:30 AM

404 HOB

REVISED

**Dean Cannon
Speaker**

**Gayle Harrell
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Criminal Justice Subcommittee

Start Date and Time: Thursday, January 12, 2012 08:30 am

End Date and Time: Thursday, January 12, 2012 10:30 am

Location: 404 HOB

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 233 Substance Abuse Education and Intervention Programs by Rouson
HB 729 Hiring, Leasing, or Obtaining Personal Property or Equipment with Intent to Defraud by Pilon
HB 759 False Reports to Law Enforcement Officers by Hager
HB 777 Securities Law Violations by Eisnaugle

Consideration of the following proposed committee bill(s):

PCB CRJS 12-01 -- Sexual Offenses

NOTICE FINALIZED on 01/10/2012 16:15 by hudson.jessica

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 233 Substance Abuse Education and Intervention Programs
SPONSOR(S): Rouson
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 498

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Williams <i>AW</i>	Cunningham <i>CU</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 948.03, F.S., sets forth standard conditions of supervision that a court may impose on offenders convicted of a felony. These conditions include requirements that an offender report to the probation and parole supervisors as directed, permit such supervisors to visit him or her at his or her home or elsewhere, work faithfully at suitable employment insofar as may be possible, remain within a specified place, submit written monthly reports, abide by the laws of the state, etc.

The bill adds a standard condition of supervision to s. 948.03, F.S., requiring probationers to be placed in a licensed substance abuse education and intervention program if the probationer is convicted of a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S.

Section 948.15, F.S., relating to misdemeanor probation, currently authorizes misdemeanor probation services to be provided by both public and private entities under the supervision of the board of county commissioners or the court. Private entities who wish to provide misdemeanor probation services must contract with the county in which the services are to be rendered.

The bill amends s. 948.15, F.S., to specify that licensed substance abuse education and intervention programs, pursuant to a contract with the county, may provide misdemeanor probation supervision services for defendants found guilty of a misdemeanor for possession of a controlled substance or drug or paraphernalia under ch. 893, F.S.

This bill does not appear to have a fiscal impact on state or local government and is effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Terms and Conditions of State Probation

Probation is a form of community supervision requiring specified contacts with parole and probation officers and compliance with court-ordered conditions of supervision.¹ Generally, persons convicted of a felony are placed on *state* probation, supervised by the Department of Corrections, while those convicted of a misdemeanor are placed on *county* probation, supervised by a public or private entity operating under the supervision of the board of county commissioners or the court.² When someone is sentenced to probation, the court determines the terms and conditions of their supervision.³

Section 948.03, F.S., sets forth standard conditions of supervision that a court may impose on offenders sentenced to *state* probation. These conditions require probationers to:

- Report to the probation and parole supervisors as directed.
- Permit such supervisors to visit him or her at his or her home or elsewhere.
- Work faithfully at suitable employment insofar as may be possible.
- Remain within a specified place.
- Live without violating any law.
- Make reparation or restitution to the aggrieved party for the damage or loss caused by his or her offense in an amount to be determined by the court.
- Make payment of the debt due and owing to a county or municipal detention facility for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility.
- Support his or her legal dependents to the best of his or her ability.
- Pay any monies owed to the crime victims compensation trust fund.
- Pay the application fee and costs of the public defender.
- Not associate with persons engaged in criminal activities.
- Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances.
- Be prohibited from possessing, carrying, or owning any weapon, without the consent of the correctional probation officer, or any firearm.
- Be prohibited from using intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician and from knowingly visiting places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.
- Submit to the drawing of blood or other biological specimens, and reimburse the appropriate agency for the costs of drawing and transmitting the blood or other biological specimens to the Department of Law Enforcement.
- Submit to the taking of a digitized photograph by the department as a part of the offender's records.⁴

Effect of the Bill

The bill amends s. 948.03, F.S., to add a standard condition of supervision that a court may impose. This condition requires probationers to be placed in a licensed substance abuse education and intervention program if the probationer is convicted of a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, F.S.

¹ Section 948.001(8), F.S.

² See ss. 948.01 and 948.15, F.S.

³ Section 948.03, F.S.

⁴ Section 948.03(1), F.S.

Misdemeanor Probation Services

Section 948.15, F.S., relates to misdemeanor (i.e., county) probation. The term for misdemeanor probation generally cannot exceed 6 months unless otherwise specified by the court.⁵ Currently, misdemeanor probation services can be provided by both public and private entities under the supervision of the board of county commissioners or the court.⁶

Private entities who wish to provide misdemeanor probation services must contract with the county in which the services are to be rendered.⁷ Terms of the contract must state, but are not limited to:

- The extent of the services to be rendered by the entity providing supervision or rehabilitation.
- Staff qualifications and criminal record checks of staff in accordance with essential standards established by the American Correctional Association as of January 1, 1991.
- Staffing levels.
- The number of face-to-face contacts with the offender.
- Procedures for handling the collection of all offender fees and restitution.
- Procedures for handling indigent offenders which ensure placement irrespective of ability to pay.
- Circumstances under which revocation of an offender's probation may be recommended.
- Reporting and recordkeeping requirements.
- Default and contract termination procedures.
- Procedures that aid offenders with job assistance.
- Procedures for accessing criminal history records of probationers.⁸

Private entities must also provide the chief judge's office with a quarterly report summarizing the number of offenders supervised, payment of the required contribution under supervision or rehabilitation, and the number of offenders for whom supervision or rehabilitation will be terminated.⁹ Additionally, all records of the private entity must be open to inspection upon the request of the county, the court, the Auditor General, the Office of Program Policy Analysis and Government Accountability, or agents thereof.¹⁰

Private entities that provide misdemeanor probation services to offenders and that charge a fee for such services must also register with the board of county commissioners in the county in which the services are offered, and provide the following information for each program it operates:

- The length of time the program has been operating in the county.
- A list of the staff and a summary of their qualifications.
- A summary of the types of services that are offered under the program
- The fees the entity charges for court-ordered services and its procedures, if any, for handling indigent offenders.¹¹

Effect of the Bill

As noted above, both public and private entities are currently authorized to provide misdemeanor probation services through a contract with the county. The bill amends s. 948.15, F.S., to provide that probation supervision services may be provided by a licensed substance abuse education and treatment intervention program for defendants found guilty of a misdemeanor drug or paraphernalia possession charge under chapter 893, F.S. The bill requires such entities to comply with the contractual provisions outlined above and to provide substance abuse education and intervention as well as any other terms and conditions of probation.

⁵ If the use of alcohol was a significant factor in the misdemeanor offense, the period of probation may be up to 1 year. Section 948.15(1), F.S.

⁶ Section 948.15(2), F.S.

⁷ In a county with a population of less than 70,000, the county court judge, or the administrative judge of the county court in a county that has more than one county court judge, must approve the contract. Section 948.15(3), F.S.

⁸ Section 948.15(3), F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 948.15(4), F.S.

The bill also authorizes any public or private entity that contracts with a county to provide probation supervision services to provide licensed substance abuse education and treatment intervention programs.

B. SECTION DIRECTORY:

Section 1. Amends s. 948.03, F.S., relating to terms and conditions of probation.

Section 2. Amends s. 948.15, F.S., relating to misdemeanor probation services.

Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state government revenues.

2. Expenditures:

The bill does not appear to have any impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

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 the bill 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 and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

1. Generally, persons convicted of a felony are placed on state probation, supervised by the Department of Corrections, while those convicted of a misdemeanor are placed on county probation, supervised by a public or private entity operating under the supervision of the board of county commissioners or the court. The bill adds a standard condition of supervision to s. 948.03, F.S., requiring probationers to be placed in a licensed substance abuse education and intervention program if the probationer is convicted of specified *misdemeanors*. However, s. 948.03, F.S., sets forth standard conditions of supervision that a court may impose on offenders convicted of *felonies*.
2. As noted above, both public and private entities are currently authorized to provide misdemeanor probation services pursuant to a contract with the county. It is unclear why there is a need to specify that licensed substance abuse education and intervention programs are authorized to provide such services.
3. The bill uses inconsistent terminology when referring to the misdemeanor probation services being provided. For example, the phrase "probation services" is sometimes referred to as "probation supervision services," and the phrase "substance abuse education and intervention" is sometimes referred to as "substance abuse education and *treatment* intervention."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to substance abuse education and
 intervention programs; amending s. 948.03, F.S.;
 providing for the placement of certain misdemeanor
 controlled substance offenders in licensed substance
 abuse education and intervention programs as a
 standard condition of probation; amending s. 948.15,
 F.S.; providing that probation supervision services
 for defendants found guilty of certain misdemeanor
 controlled substance offenses may be provided by
 licensed substance abuse education and intervention
 programs; authorizing certain entities providing
 probation services to provide licensed substance abuse
 education and intervention programs; requiring private
 entities providing such programs to contract with the
 county and comply with other applicable provisions;
 providing an effective date.

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

Section 1. Paragraph (q) is added to subsection (1) of
 section 948.03, Florida Statutes, to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of
 probation. Conditions specified in this section do not require
 oral pronouncement at the time of sentencing and may be
 considered standard conditions of probation. These conditions
 may include among them the following, that the probationer or

29 offender in community control shall:

30 (g) Be placed in a licensed substance abuse education and
 31 intervention program as provided in s. 948.15 if the probationer
 32 or offender is convicted of a misdemeanor for possession of a
 33 controlled substance or drug paraphernalia under chapter 893.

34 Section 2. Section 948.15, Florida Statutes, is amended to
 35 read:

36 948.15 Misdemeanor probation services.-

37 (1) A defendant ~~Defendants~~ found guilty of a misdemeanor
 38 ~~misdemeanors~~ who is ~~are~~ placed on probation shall be under
 39 supervision not to exceed 6 months unless otherwise specified by
 40 the court. Probation supervision services for a defendant found
 41 guilty of a misdemeanor for possession of a controlled substance
 42 or drug paraphernalia under chapter 893 may be provided by a
 43 licensed substance abuse education and intervention program,
 44 which shall provide substance abuse education and intervention
 45 as well as any other terms and conditions of probation. In
 46 relation to any offense other than a felony in which the use of
 47 alcohol is a significant factor, the period of probation may be
 48 up to 1 year.

49 (2) A private entity or public entity, including a
 50 licensed substance abuse education and intervention program,
 51 under the supervision of the board of county commissioners or
 52 the court may provide probation services and licensed substance
 53 abuse education and treatment intervention programs for
 54 offenders sentenced by the county court.

55 (3) Any private entity, including a licensed substance
 56 abuse education and intervention program, providing services for

57 | the supervision of misdemeanor probationers must contract with
 58 | the county in which the services are to be rendered. In a county
 59 | having ~~with~~ a population of fewer ~~less~~ than 70,000, the county
 60 | court judge, or the administrative judge of the county court in
 61 | a county that has more than one county court judge, must approve
 62 | the contract. Terms of the contract must state, but are not
 63 | limited to:

- 64 | (a) The extent of the services to be rendered by the
- 65 | entity providing supervision or rehabilitation.
- 66 | (b) Staff qualifications and criminal record checks of
- 67 | staff in accordance with essential standards established by the
- 68 | American Correctional Association as of January 1, 1991.
- 69 | (c) Staffing levels.
- 70 | (d) The number of face-to-face contacts with the offender.
- 71 | (e) Procedures for handling the collection of all offender
- 72 | fees and restitution.
- 73 | (f) Procedures for handling indigent offenders which
- 74 | ensure placement irrespective of ability to pay.
- 75 | (g) Circumstances under which revocation of an offender's
- 76 | probation may be recommended.
- 77 | (h) Reporting and recordkeeping requirements.
- 78 | (i) Default and contract termination procedures.
- 79 | (j) Procedures that aid offenders with job assistance.
- 80 | (k) Procedures for accessing criminal history records of
- 81 | probationers.

82 |
 83 | In addition, the entity shall supply the chief judge's office
 84 | with a quarterly report summarizing the number of offenders

85 supervised by the private entity, payment of the required
 86 contribution under supervision or rehabilitation, and the number
 87 of offenders for whom supervision or rehabilitation will be
 88 terminated. All records of the entity must be open to inspection
 89 upon the request of the county, the court, the Auditor General,
 90 the Office of Program Policy Analysis and Government
 91 Accountability, or agents thereof.

92 (4) A private entity that provides court-ordered services
 93 to offenders and that charges a fee for such services must
 94 register with the board of county commissioners in the county in
 95 which the services are offered. The entity shall provide the
 96 following information for each program it operates:

97 (a) The length of time the program has been operating in
 98 the county.

99 (b) A list of the staff and a summary of their
 100 qualifications.

101 (c) A summary of the types of services that are offered
 102 under the program.

103 (d) The fees the entity charges for court-ordered services
 104 and its procedures, if any, for handling indigent offenders.

105 (5) The private entity, including a licensed substance
 106 abuse education and intervention program, providing misdemeanor
 107 supervision services must ~~shall~~ also comply with all other
 108 applicable provisions of law.

109 Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 729 Hiring, Leasing, or Obtaining Personal Property or Equipment with Intent to Defraud
SPONSOR(S): Pilon
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1276

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Krol TK	Cunningham <i>JK</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 812.155, F.S., creates offenses related to hiring, leasing, or obtaining personal property or equipment with the intent to defraud. Specifically, s. 812.155(3), F.S., provides it is a crime to knowingly abandon or refuse to redeliver rented personal property or equipment at the conclusion of the rental period where the failure to return such property or equipment is done without the consent of the person letting such property or equipment. The statute specifies that the following is evidence of abandonment or refusal to redeliver the property or equipment:

- Failure to redeliver the property or equipment within 5 days from the receipt of the certified letter of the demand for return.
- Failure to pay any amount due which is incurred as the result of the failure to redeliver property after the rental period expires and after the demand for return is made.

Property or equipment owners can make a demand for the return of overdue property or equipment and for payment of amounts due. Currently, this demand must be made in person, by hand delivery, or by certified mail, return receipt requested, addressed to the lessee's address in the rental contract.

The bill:

- Makes the evidentiary examples described above *rebuttable presumptions* of abandonment or refusal to redeliver the property or equipment (rather than simply *evidence*).
- Provides the demand for return of such property or equipment can be sent by a courier service with tracking capabilities.
- Prohibits possession of the personal property or equipment by a third party from being used as a defense for failure to return the property.
- Makes minor changes to the statute to improve its organization and readability.

Currently, Florida law does not specify how or when a leased vehicle can be reported as stolen, nor is there a statewide standard law enforcement procedure.

The bill entitles the lessor of any vehicle that is not returned at the conclusion of the lease and that meets the requirements of s. 812.155, F.S., to:

- Report the vehicle as stolen to law enforcement.
- Have the vehicle listed as a stolen vehicle on any local or national registries, such as FCIC/NCIC.

The bill appears to have no fiscal impact and is effective October 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Offense Related to the Hiring, Leasing, or Obtaining Personal Property or Equipment

Sections 812.155(1), (2), and (3), F.S., create offenses related to hiring, leasing, or obtaining personal property or equipment with the intent to defraud. These offenses prohibit a person from:

- (1) Obtaining any personal property or equipment by trick, deceit, or fraudulent or willful false representation.¹
- (2) Hiring or leasing personal property or equipment with intent to defraud.²
- (3) Knowingly abandoning or refusing to redeliver rented personal property or equipment at the conclusion of the rental period where the failure to return such property or equipment is done without the consent of the person letting such property or equipment.³

The offenses described above are first degree misdemeanors⁴ if the offense involves property valued at less than \$300, or third degree felonies⁵ if the property is valued at \$300 or more.

Section 812.155(5), F.S., specifies that property or equipment owners can make a demand for the return of overdue property or equipment and for payment of amounts due. Currently, this demand must be made in person, by hand delivery, or by certified mail, return receipt requested, addressed to the lessee's address in the rental contract.⁶

Effect of the Bill

The bill allows the demand for the return of overdue property or equipment and for payments of amounts due to be made by courier service with tracking capabilities.

The bill also makes minor changes to the language in s. 815.155(1), (2), and (3), F.S., to improve the statute's organization and readability.

Statutory Evidentiary Examples

Section 812.155, F.S., sets forth various evidentiary provisions relating to the above described offenses. For example, paragraphs (4)(b) and (c), F.S., provide the following examples as evidence of abandonment or refusal to redeliver the property or equipment at the conclusion of the rental period:

- (b) Failure to redeliver the property or equipment within 5 days after receipt of, or within 5 days after return receipt from, the certified mailing⁷ of the demand for return.⁸
- (c) Failure to pay any amount due⁹ which is incurred as the result of the failure to redeliver property after the rental period expires, and after the demand for return is made.¹⁰

¹ Section 812.155(1), F.S.

² Section 812.155(2), F.S.

³ Section 812.155(3), F.S.

⁴ A first degree misdemeanor is punishable by a fine of up to \$1,000 and imprisonment of up to one year. Sections 775.082 and 775.083, F.S.

⁵ A third degree felony is punishable by a fine of up to \$5,000 and imprisonment of up to five years. Sections 775.082 and 775.083, F.S.

⁶ Section 812.155(5), F.S.

⁷ Notice mailed by certified mail, return receipt requested, to the address given by the renter at the time of rental is be deemed sufficient and equivalent to notice having been received by the renter, should the notice be returned undelivered. Section 812.155(4)(b), F.S.

⁸ Section 812.155(4)(b), F.S.

⁹ Amounts due include unpaid rental for the time period during which the property or equipment was not returned and include the lesser of the cost of repairing or replacing the property or equipment if it has been damaged. Section 812.155(4)(c), F.S.

¹⁰ Section 812.155(4)(c), F.S.

Effect of the Bill

The bill makes the above-listed evidentiary examples *rebuttable presumptions* of abandonment or refusal to redeliver the property (rather than simply *evidence* of abandonment or refusal to redeliver the property or equipment).

The bill also provides that a lessee may not use possession of the personal property or equipment by a third party as a defense to failure to return such property.

Reporting a Hired Vehicle as Stolen

Currently, Florida law does not specify how or when a leased vehicle can be reported as stolen, nor is there a statewide standard law enforcement procedure.¹¹ However, the Florida Sheriff's Association's model policy on the subject is described below.

Before reporting a hired vehicle as stolen, law enforcement must first receive several documents, as suggested by the State Attorney's Office:

- Legible copies of the rental agreement, both front and backsides.
- An affidavit on the failure to redeliver a hired vehicle, which should contain:
 - The reportee's ability to identify the subject, or a statement that they looked at the subject's photo identification, and if possible, a photocopy of the subject's drivers license.
 - A statement that no extensions to the rental agreement were given at any time and indicate the attempts made by the rental company to recover the vehicle such as: telephone calls, personal visits, and certified notifications.
- A certified or registered letter should have been sent to the last known address of the subject, requesting that the vehicle be returned or the case will be turned over to a law enforcement agency.¹²

At the time of reporting, the vehicle should be at least 5 days overdue.¹³ The reporting law enforcement officer will provide all pertinent information to the Sheriff's Judicial Process Unit for entry into the Florida Crime Information Center (FCIC),¹⁴ the National Crime Information Center (NCIC),¹⁵ and appropriate bulletins will be issued subsequent to the completion of the affidavit.¹⁶

Effect of the Bill

The bill entitles the lessor of any vehicle that is not returned at the conclusion of the lease and that meets the requirements of s. 812.155, F.S., to:

- Report the vehicle as stolen to law enforcement.
- Have the vehicle listed as a stolen vehicle on any local or national registries, such as FCIC/NCIC.

¹¹ E-mail from Steve Casey, Florida Sheriff's Association. January 6, 2012. (On file with subcommittee staff).

¹² Brevard County Sheriff's Office Policy/Procedure 500.68 Stolen Vehicle Investigations. Last revised on July 26, 2010.

¹³ *Id.*

¹⁴ The Florida Crime Information Center (FCIC) is an electronic database of crime data managed by the Florida Department of Law Enforcement (FDLE). It contains Florida stolen property information as reported to FDLE by law enforcement agencies through the state. "The Florida Crime Information Center." FDLE Stolen Vehicles Search.

<http://pas.fdle.state.fl.us/pas/item/displayVehicleSearch.a> (last accessed on January 9, 2012).

¹⁵ The National Crime Information Center (NCIC) is an electronic clearinghouse of crime data that can be tapped into by virtually every criminal justice agency nationwide, 24 hours a day, 365 days a year. NCIC is managed by the FBI and federal, state, local, and tribal criminal justice agencies. NCIC helps law enforcement officers recover stolen property. "National Crime Information Center." Federal Bureau of Investigation. <http://www.fbi.gov/about-us/cjis/ncic> (last accessed on January 9, 2012).

¹⁶ *Id.*

B. SECTION DIRECTORY:

Section 1. Amends s. 812.155, F.S., relating to hiring, leasing, or obtaining personal property or equipment with the intent to defraud; failing to return hired or leased personal property or equipment; rules of evidence.

Section 2. Provides an effective date of October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill entitles a lessor to report a vehicle that is not returned as stolen to law enforcement who must then list the vehicle as stolen on any local or national registries. This may result in the recovery of more stolen vehicles.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

In 2005, the evidentiary examples contained in s. 812.155(4)(b) and (c), F.S., were considered to be "prima facie evidence of fraudulent intent." That year, in *State v. Rygwelski*, Florida's 2nd District Court of Appeal upheld the statute finding that the term "prima facie evidence" created a permissive inference rather than an unconstitutional mandatory presumption.^{17,18}

¹⁷ *State v. Rygwelski*, 899 So.2d 498 (Fla. 2nd DCA 2005). See *State v. Higsby*, 899 So.2d 1269 (Fla. 2nd DCA 2005).

¹⁸ In 2006, the Legislature removed the term "prima facie evidence of fraudulent intent" from s. 812.155(4)(b) and (c), F.S., and replaced it with "evidence of abandonment or refusal to redeliver the property or equipment." "Prima facie" was also removed from s. 812.155(a), F.S., however, the term "fraudulent intent" remained in statute. Chapter 2006-51, L.O.F.

The bill provides that the evidentiary examples in s. 812.155(4)(b) and (c), F.S., are "rebuttable presumptions." It could be argued that under the finding of *State v. Rygwelski*, the rebuttable presumptions could be considered to be an unconstitutional mandatory presumption.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 76-89 of the bill create a rebuttable presumption of abandonment or refusal to redeliver the property when the lessee fails to redeliver the property or equipment within 5 days from mailing the certified mailing of the demand for return. This may create a problem if the certified mailing takes more than 5 days to reach the lessee.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to hiring, leasing, or obtaining
 3 personal property or equipment with the intent to
 4 defraud; amending s. 812.155, F.S.; revising
 5 requirements for notice to the lessee of the property
 6 or equipment after failure to return it when due;
 7 providing that failure to redeliver the property or
 8 equipment within a specified period after such notice
 9 creates a rebuttable presumption of abandonment or
 10 refusal to redeliver the property or equipment;
 11 providing that possession of the property or equipment
 12 by a third party is not a defense to failure to return
 13 the property or equipment; providing that the lessor
 14 of a vehicle that is not returned at the conclusion of
 15 the lease who satisfies specified requirements
 16 concerning the vehicle is entitled to report the
 17 vehicle as stolen; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 812.155, Florida Statutes, is amended
 22 to read:

23 812.155 Hiring, leasing, or obtaining personal property or
 24 equipment with the intent to defraud; failing to return hired or
 25 leased personal property or equipment; rules of evidence.—

26 (1) OBTAINING BY TRICK, FALSE REPRESENTATION, ETC.—A
 27 person who ~~whoever~~, with the intent to defraud the owner or any
 28 other person lawfully possessing any personal property or

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29 equipment, obtains the custody of the ~~such personal~~ property or
 30 equipment by trick, deceit, or fraudulent or willful false
 31 representation commits: ~~shall be guilty of~~

32 (a) A misdemeanor of the second degree, punishable as
 33 provided in s. 775.082 or s. 775.083, if ~~unless~~ the value of the
 34 ~~personal~~ property or equipment is less than ~~of a value of~~ \$300.
 35 ~~or more; in that event the violation constitutes~~

36 (b) A felony of the third degree, punishable as provided
 37 in s. 775.082, s. 775.083, or s. 775.084, if the value of the
 38 property or equipment is \$300 or more.

39 (2) HIRING OR LEASING WITH THE INTENT TO DEFRAUD.—A person
 40 ~~who~~ ~~Whoever~~, with intent to defraud the owner or any other
 41 person lawfully possessing any personal property or equipment of
 42 the rental thereof, hires or leases the ~~personal~~ property or
 43 equipment from the owner or the owner's agents or any other
 44 person in lawful possession thereof commits: ~~shall, upon~~
 45 ~~conviction, be guilty of~~

46 (a) A misdemeanor of the second degree, punishable as
 47 provided in s. 775.082 or s. 775.083, if ~~unless~~ the value of the
 48 ~~personal~~ property or equipment is less than ~~of a value of~~ \$300.
 49 ~~or more; in that event the violation constitutes~~

50 (b) A felony of the third degree, punishable as provided
 51 in s. 775.082, s. 775.083, or s. 775.084, if the value of the
 52 property or equipment is \$300 or more.

53 (3) FAILURE TO REDELIVER HIRED OR LEASED PERSONAL
 54 PROPERTY.—A person who ~~Whoever~~, after hiring or leasing any
 55 personal property or equipment under an agreement to redeliver
 56 the property or equipment ~~same~~ to the person letting it, ~~such~~

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57 ~~personal property or equipment~~ or his or her agent, at the
 58 termination of the period for which it was let, ~~shall, without~~
 59 ~~the consent of such person or persons~~ knowingly and without the
 60 consent of such person or persons abandons ~~abandon~~ or refuses
 61 ~~refuse~~ to redeliver the ~~personal~~ property or equipment as
 62 agreed, commits: shall, upon conviction, be guilty of

63 (a) A misdemeanor of the second degree, punishable as
 64 provided in s. 775.082 or s. 775.083, if unless the value of the
 65 ~~personal~~ property or equipment is less than of a value of \$300.
 66 ~~or more; in that event the violation constitutes~~

67 (b) A felony of the third degree, punishable as provided
 68 in s. 775.082, s. 775.083, or s. 775.084, if the value of the
 69 property or equipment is \$300 or more.

70 (4) EVIDENCE.—

71 (a) In prosecutions under this section, obtaining the
 72 property or equipment under false pretenses; absconding without
 73 payment; or removing or attempting to remove the property or
 74 equipment from the county without the express written consent of
 75 the lessor, is evidence of fraudulent intent.

76 (b) In a prosecution under subsection (3), failure to
 77 redeliver the property or equipment within 5 days from mailing
 78 the demand for return by certified mail, return receipt
 79 requested, or delivery by a courier service with tracking
 80 capability to the lessee's address on the rental contract after
 81 ~~receipt of,~~ or within 5 days after return receipt from, the
 82 certified mailing or delivery by the courier service of the
 83 demand for return creates a rebuttable presumption is evidence
 84 of abandonment or refusal to redeliver the property. Notice

85 mailed by certified mail, return receipt requested, or delivery
 86 by a courier service with tracking capabilities to the address
 87 given by the renter at the time of rental shall be deemed
 88 sufficient and equivalent to notice having been received by the
 89 renter, if ~~should~~ the notice is ~~be~~ returned undelivered.

90 (c) In a prosecution under subsection (3), failure to pay
 91 any amount due which is incurred as the result of the failure to
 92 redeliver property or equipment after the rental period expires,
 93 and after the demand for return, creates a rebuttable
 94 presumption ~~is made, is evidence~~ of abandonment or refusal to
 95 redeliver the property or equipment. Amounts due include unpaid
 96 rental for the time period during which the property or
 97 equipment was not returned and include the lesser of the cost of
 98 repairing or replacing the property or equipment if it has been
 99 damaged.

100 (5) DEMAND FOR RETURN.—Demand for return of overdue
 101 property or equipment and for payment of amounts due may be made
 102 in person, by hand delivery, or by certified mail, return
 103 receipt requested, or courier service with tracking capabilities
 104 addressed to the lessee's address shown in the rental contract.

105 (6) NOTICE REQUIRED.—As a prerequisite to prosecution
 106 under this section, the following statement must be contained in
 107 the agreement under which the owner or person lawfully
 108 possessing the property or equipment has relinquished its
 109 custody, or in an addendum to that agreement, and the statement
 110 must be initialed by the person hiring or leasing the rental
 111 property or equipment:
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113 Failure to return rental property or equipment upon
 114 expiration of the rental period and failure to pay all
 115 amounts due (including costs for damage to the property or
 116 equipment) are evidence of abandonment or refusal to
 117 redeliver the property, punishable in accordance with
 118 section 812.155, Florida Statutes.

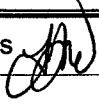

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 120 (7) POSSESSION BY OTHERS NOT A DEFENSE.—Possession of
 121 personal property or equipment by a third party is not a defense
 122 to failure to return the property.

123 (8) REPORTING VEHICLE AS STOLEN.—A lessor of a vehicle
 124 that is not returned at the conclusion of the lease who
 125 satisfies the requirements of this section concerning the
 126 vehicle is entitled to report the vehicle as stolen to law
 127 enforcement and have the vehicle listed as stolen on any local
 128 or national registries of such vehicles.

129 Section 2. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 759 False Reports to Law Enforcement Officers
SPONSOR(S): Hager
TIED BILLS: None **IDEN./SIM. BILLS:** SB 302

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Williams 	Cunningham 
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 837.05(1), F.S., specifies that except as provided in subsection (2), a person who knowingly gives false information to a law enforcement officer (LEO) concerning the alleged commission of any crime commits a first degree misdemeanor. Subsection (2) of the statute enhances the penalty to a third degree felony when a person knowingly gives false information to an LEO concerning the alleged commission of a capital felony.

The bill amends s. 837.05(1), F.S., to remove the phrase, "except as provided in subsection (2)," and to make second or subsequent violations of subsection (1) third degree felonies. The bill also amends s. 837.05(2), F.S., to provide that except as provided in subsection (1), a person commits a third degree felony if they knowingly give false information to an LEO concerning the alleged commission of a capital felony.

On December 14, 2011, the Criminal Justice Impact Conference met and determined that due to the unknown number of persons convicted of second or subsequent violations of s. 837.05(1), F.S., the prison bed impact of the bill is indeterminate.

The bill is effective October 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 837.05(1), F.S., specifies that except as provided in subsection (2), it is a first degree misdemeanor¹ for a person to knowingly give false information to a law enforcement officer (LEO) concerning the alleged commission of any crime.

Subsection (2) of the statute enhances the penalty to a third degree felony² when a person knowingly gives false information to an LEO concerning the alleged commission of a capital felony.³

Effect of the Bill

The bill amends s. 837.05(1), F.S., to remove the phrase, "*except as provided in subsection (2),*" and to make second or subsequent violations of subsection (1) third degree felonies.

The bill also amends s. 837.05(2), F.S., to provide that except as provided in subsection (1), a person commits a third degree felony if they knowingly give false information to an LEO concerning the alleged commission of a capital felony.

B. SECTION DIRECTORY:

Section 1. Amends s. 837.05, F.S., relating to false reports to law enforcement authorities.

Section 2. Provides an effective date of October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state government revenues.

2. Expenditures:

The bill increases the penalty for second or subsequent violations of s. 837.05(1), F.S., from a first degree misdemeanor to a third degree felony. On December 14, 2011, the Criminal Justice Impact Conference determined that due to the unknown number of persons convicted of second or subsequent violations of s. 837.05(1), F.S., the prison bed impact of the bill is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill increases the criminal penalty for second or subsequent violations of s. 837.05(1), F.S., from a first degree misdemeanor to a third degree felony. As a result, the bill may have a positive jail bed impact on local governments.

¹ A first degree misdemeanor is punishable by up to one year in county jail and a maximum \$1,000 fine. Sections 775.082 and 775.083, F.S.

² A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

³ Section 837.05, F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

As noted above, s. 837.05(1), F.S., currently specifies that *except as provided in subsection (2)*, it is a first degree misdemeanor for a person to knowingly give false information to an LEO concerning the alleged commission of any crime. Subsection (2) of the statute makes it a third degree felony for a person to knowingly give false information to an LEO concerning the alleged commission of a capital felony.

The bill amends s. 837.05(1), F.S., to remove the phrase, "*except as provided in subsection (2)*." The bill then amends subsection (2) to provide that "*except as provided in subsection (1)*," a person commits a third degree felony if they knowingly give false information to an LEO concerning the alleged commission of a capital felony. By switching this "exception" language from subsection (1) to subsection (2), a person convicted of a first offense of giving false information to an LEO could be charged with a misdemeanor, even if the false information concerned a capital felony.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to false reports to law enforcement officers; amending s. 837.05, F.S.; increasing criminal penalties for a second or subsequent conviction of providing false information to a law enforcement officer concerning the alleged commission of a crime; providing an effective date.

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

Section 1. Section 837.05, Florida Statutes, is amended to read:

837.05 False reports to law enforcement authorities.-

(1) A person who ~~Except as provided in subsection (2),~~ ~~whoever~~ knowingly gives false information to a any law enforcement officer concerning the alleged commission of any crime, commits:

(a) For a first offense resulting in conviction, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) For a second or subsequent offense resulting in conviction, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Except as provided in subsection (1), a person who ~~whoever~~ knowingly gives false information to a law enforcement officer concerning the alleged commission of a capital felony, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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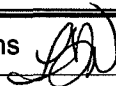

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Section 2. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 777 Securities Law Violations
SPONSOR(S): Eisnaugle
TIED BILLS: None IDEN./SIM. BILLS: SB 1290

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Williams 	Cunningham 
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Chapter 517, F.S., entitled the "Florida Securities and Investor Protection Act" (FSIPA), is designed to protect the public from fraudulent and deceptive practices in the sale and marketing of securities. This purpose is achieved principally by requiring the registration of securities and securities dealers.

Section 517.07(1), F.S., makes it unlawful for any person to sell or offer to sell specified securities unless they are registered. In addition to being registered, s. 517.07(2), F.S., requires that a securities purchaser be furnished with a prospectus meeting specified requirements. Violations of s. 517.07(1) and (2), F.S., are currently 3rd degree felonies, ranked in Level 2 of the Offense Severity Ranking Chart.

Section 517.12(1), F.S., makes it unlawful for a dealer, associated person, or issuer of securities to sell or offer for sale any securities in or from offices in Florida, or sell securities to persons in Florida from offices outside of Florida, by mail or otherwise, unless the person has been registered. A violation of s. 517.12(1), F.S., is a 3rd degree felony ranked in Level 1 of the Offense Severity Ranking Chart.

The bill increases the ranking of securities-related offenses in the Offense Severity Ranking Chart as follows:

- A violation of s. 517.07(1), F.S., goes from a Level 2 offense to a Level 4 offense; and
- A violation of s. 517.12(1), F.S., goes from a Level 1 offense to a Level 4 offense.

As a result, the lowest permissible sentence for these offenses will be increased.

The bill may have a negative prison and jail bed impact and is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Criminal Punishment Code - Offense Severity Ranking Chart

The Criminal Punishment Code applies to sentencing for felony offenses (except capital felonies) committed on or after October 1, 1998.¹ Criminal offenses are ranked in the Offense Severity Ranking Chart from Level 1 (least severe) to Level 10 (most severe) and are assigned points based on the severity of the offense as determined by the legislature.² As the offense level increases, the number of points rises. If an offense is not listed in the ranking chart, it defaults to a ranking based on the degree of the felony.³

A defendant's sentence is calculated based on points, which are assigned for factors including: the offense for which the defendant is being sentenced; victim injury; additional offenses that the defendant committed at the time of the primary offense; the defendant's prior record and other aggravating factors.⁴ The points are added in order to determine the "lowest permissible sentence" for the offense. If the total sentence points equals or is less than 44 points, the lowest permissible sentence is a non-state prison sanction (i.e., jail). If the total sentence points exceed 44 points, a prison sentence is the lowest permissible sentence. In each instance, the sentencing range is the lowest permissible sentence up to the maximum penalty provided in s. 775.082, F.S., which is based on the degree of the felony.⁵

Florida Securities and Investor Protection Act

Chapter 517, F.S., is entitled the "Florida Securities and Investor Protection Act" (FSIPA).⁶ The purpose of FSIPA is to protect the public from fraudulent and deceptive practices in the sale and marketing of securities.^{7, 8} This purpose is achieved principally by requiring the registration of securities and securities dealers, which provides potential investors with sufficient information to enable them to protect themselves.⁹

The Office of Financial Regulation (OFR)¹⁰ is the entity responsible for registering securities and securities dealers.¹¹ The processes for registering are outlined in ss. 517.081, 517.082, 517.12, and 517.1201, F.S., which include requirements that OFR be provided an application, certain financial statements, and other specified information.

¹ Section 921.002, F.S.

² Section 921.0022, F.S.

³ Section 921.0023, F.S.

⁴ Section 921.0024, F.S.

⁵ The statutory maximum sentence for a first degree felony is thirty years, for a second degree felony is fifteen years and for a third degree felony is five years. Section 775.082, F.S.

⁶ Section 517.011, F.S.

⁷ Section 517.021, F.S., defines the term "security" to include any of the following: notes, stocks, treasury stocks, bond, a debenture, an evidence of indebtedness, certificates of deposit, certificates of deposit for a security, certificates of interest or participation, whiskey warehouse receipts or other commodity warehouse receipts, certificates of interest in a profit-sharing agreement or the right to participate therein, certificates of interest in an oil, gas, petroleum, mineral, or mining title or lease or the right to participate therein, collateral trust certificates, reorganization certificates, preorganization subscriptions, transferable shares, investment contracts, a beneficial interest in title to property, profits, or earnings, an interest in or under a profit-sharing or participation agreement or scheme, any option contract which entitles the holder to purchase or sell a given amount of the underlying security at a fixed price within a specified period of time, other instruments commonly known as a security, including an interim or temporary bond, debenture, note, or certificate, receipts for a security, or for subscription to a security, or any right to subscribe to or purchase any security. And viatical settlement investments.

⁸ *Rushing v. Wells Fargo Bank, N.A.*, 752 F. Supp. 2d 1254 (M.D. Fla. 2010); *Arthur Young & Co. v. Mariner Corp.*, 630 So.2d 1199, 1203 (Fla. 4th DCA 1994).

⁹ 32 Fla. Jur 2d Investment Securities, Etc. s. 122

¹⁰ The Office of Financial Regulation regulates the banking, finance and securities industries in Florida and is administratively housed within the Department of Financial Services. OFR is headed by a commissioner appointed by the Financial Services Commission, which consists of the Governor and Cabinet. (<http://www.flofr.com/Office/Aboutofr.aspx>)(last visited on January 5, 2012).

¹¹ Sections 517.081 and 517.12, F.S.

Section 517.07(1), F.S., makes it unlawful for any person to sell or offer to sell specified securities unless they are registered. In addition to being registered, s. 517.07(2), F.S., requires that a securities purchaser be furnished with a prospectus meeting the requirements of rules adopted by the Financial Services Commission. Violations of s. 517.07(1) and (2), F.S., are currently 3rd degree felonies, ranked in Level 2 of the Offense Severity Ranking Chart.¹² A Level 2 offense equates to 10 sentencing points.

Section 517.12(1), F.S., specifies that no dealer, associated person, or issuer¹³ of securities shall sell or offer for sale any securities in or from offices in Florida, or sell securities to persons in this state from offices outside this state, by mail or otherwise, unless the person has been registered with OFR. In addition, OFR is prohibited from registering any person as an associated person of a dealer unless the dealer with which the applicant seeks registration is lawfully registered with the office pursuant to chapter 517, F.S.¹⁴ A violation of s. 517.12(1), F.S., is a 3rd degree felony ranked in Level 1 of the Offense Severity Ranking Chart.¹⁵ A Level 1 offense equates to 4 sentencing points.

In addition to the above-described unlawful acts, FSIPA contains many other provisions that prescribe unlawful behavior relating to securities.¹⁶ With one exception,¹⁷ these offenses are 3rd degree felonies, and except as provided above, are ranked in Level 1 of the Offense Severity Ranking Chart.¹⁸

Effect of the Bill

The bill increases the ranking of securities-related offenses in the Offense Severity Ranking Chart as follows:

- A violation of s. 517.07(1), F.S. (requiring certain securities to be registered prior to sale), goes from a Level 2 offense (equating to 10 sentencing points) to a Level 4 offense (equating to 22 sentencing points)
- A violation of s. 517.12(1), F.S. (requiring securities dealers, etc. to be registered), goes from a Level 1 offense (equating to 4 sentencing points) to a Level 4 offense (equating to 22 sentencing points).

As a result, the lowest permissible sentence for violations of ss. 517.07(1) and 517.12(1), F.S., will be increased.

B. SECTION DIRECTORY:

Section 1. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 2. Provides an effective date upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state government revenues.

¹² See ss. 517.302 and 921.0022(3)(b), F.S.

¹³ Section 517.021, F.S., defines the terms “dealer,” “associated person,” and “issuer.”

¹⁴ Section 517.12(1), F.S.

¹⁵ See ss. 517.302 and 921.0022(3)(a), F.S.

¹⁶ See, e.g., ss. 517.301, 517.311, and 517.312, F.S.

¹⁷ A person who violates s. 517.312(1), F.S., by obtaining money or property of an aggregate value exceeding \$50,000 from five or more persons is guilty of a 1st degree felony. Section 517.302(2), F.S.

¹⁸ See ss. 517.302 and 921.0022(3)(a), F.S.

2. Expenditures:

The Criminal Justice Impact Conference has not met to determine the prison bed impact of the bill. However, the Florida Department of Law Enforcement reported that there were 48 convictions for violations of s. 517.07(1), F.S., and 53 convictions for violations of s. 517.12(1), F.S., from 2006 - 2011.¹⁹ Based on these numbers, the bill will likely have an insignificant prison bed impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill increases the lowest permissible sentence for violations of ss. 517.07(1) and 517.12(1), F.S., each of which are 3rd degree felonies. As such, the bill could have a negative jail bed impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁹ Office of Financial Regulation. Analysis on HB 777. January 6, 2012. (On file with House Criminal Justice Subcommittee staff).

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A bill to be entitled
 An act relating to securities law violations; amending
 s. 921.0022, F.S.; reclassifying certain securities
 law offenses for purposes of the offense severity
 ranking chart of the Criminal Punishment Code;
 providing an effective date.

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

Section 1. Paragraphs (b) and (d) of subsection (3) of
 section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity
 ranking chart.—

- (3) OFFENSE SEVERITY RANKING CHART
- (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

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19			Act.
	403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
20	517.07(2)	3rd	Registration of securities and Furnishing of prospectus required.
21	590.28(1)	3rd	Intentional burning of lands.
22	784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
23	787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
24	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
25			

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26	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
27	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
28	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
29	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
30	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
31	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit,

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			etc., credit card, value over \$300.
32	817.52 (3)	3rd	Failure to redeliver hired vehicle.
33	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
34	817.60 (5)	3rd	Dealing in credit cards of another.
35	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
36	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
37	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
38	831.01	3rd	Forgery.
39	831.02	3rd	Uttering forged instrument;

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			utters or publishes alteration with intent to defraud.
40	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
41	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
42	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
43	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
44	832.05 (3) (a)	3rd	Cashing or depositing item with intent to defraud.
45	843.08	3rd	Falsely impersonating an officer.
46	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.,

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47			(2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.
48	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
49	(d) LEVEL 4		
50			
51	Florida Statute	Felony Degree	Description
52	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.
53	499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
54	499.0051(2)	3rd	Failure to authenticate pedigree papers.
	499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell,

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55			contraband prescription drugs.
56	<u>517.07 (1)</u>	<u>3rd</u>	<u>Registration of securities.</u>
57	<u>517.12 (1)</u>	<u>3rd</u>	<u>Registration of dealers, associated persons, and issuers required.</u>
58	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
59	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
60	784.075	3rd	Battery on detention or commitment facility staff.
61	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
62	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
63	784.081 (3)	3rd	Battery on specified official or employee.

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64	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
65	784.083(3)	3rd	Battery on code inspector.
66	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
67	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
68	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
69	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
70	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.

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71	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
72	790.115(2)(c)	3rd	Possessing firearm on school property.
73	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
74	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
75	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
76	810.06	3rd	Burglary; possession of tools.
77	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.

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78	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
79	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
80	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
81	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
82	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
83	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
84	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

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85	837.02(1)	3rd	Perjury in official proceedings.
86	837.021(1)	3rd	Make contradictory statements in official proceedings.
87	838.022	3rd	Official misconduct.
88	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
89	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
90	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
91	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or

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92			bond jumping).
	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
93			
	874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
94			
	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).
95			
	914.14(2)	3rd	Witnesses accepting bribes.
96			
	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
97			
	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
98			
	918.12	3rd	Tampering with jurors.
99			
	934.215	3rd	Use of two-way communications

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device to facilitate commission
of a crime.

100

101

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CRJS 12-01 Sexual Offenses
SPONSOR(S): Criminal Justice Subcommittee
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee		Cunningham	Cunningham <i>SK</i>

SUMMARY ANALYSIS

PCB CRJS 12-01 amends a variety of statutes related to sexual offenders to bring them further in line with the federal Adam Walsh Act. Specifically, the PCB amends ss. 775.21, 943.0435, 944.606, and 944.607, F.S., to add the following offenses to the list of offenses that qualify a person as a sexual predator and sexual offender:

- Section 393.135(2), F.S. (sexual misconduct with an individual with a developmental disability)
- Section 394.4593(2), F.S. (sexual misconduct with a patient)
- Section 796.045, F.S. (sex trafficking)
- Section 916.1075(2), F.S. (sexual misconduct with a forensic client)

The PCB also:

- Requires sexual predators and offenders to provide the sheriff and FDLE any Internet identifier the offender uses and defines the term "Internet identifier."
- Requires sexual offenders and predators to provide information about their passport, immigration status, vehicles, professional licenses, and other specified information to the sheriff as part of the registration process.
- Permits specified sexual offenders to petition the court for removal from the requirement to register as a sexual offender if 15 years have elapsed since the offender's registration period began and if other criteria are met.
- Expands the victim age criteria that must be met before a person can be removed from the sexual offender registry pursuant to s. 943.04354, F.S.
- Requires states agencies and governmental subdivisions, prior to making any decision to appoint or employ a person to work at specified locations, to conduct a search of that person's name or other identifying information through the Dru Sjodin National Sex Offender Public Website maintained by the United States Department of Justice.
- Increases the penalty for third or subsequent violations of s. 800.03, F.S. (exposure of sexual organs), from a 1st degree misdemeanor to a 3rd degree felony.
- Requires sexual offenders who are arrested for another offense (other than a misdemeanor offender under ch. 316, F.S.), to be held until first appearance in order to ensure the full participation of the prosecutor and the protection of the public.
- Makes technical corrections to the Criminal Punishment Code; offense severity ranking chart.

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the PCB. However, the bill may have a prison bed impact in that it increases the number of people subject to sex offender registration requirements and adds additional information that sexual predators and offenders must provide when registering. Failure to register is generally punishable as an unranked third degree felony. The bill may also have a jail bed impact and a fiscal impact on the Florida Department of Law Enforcement. See fiscal section.

The bill is effective October 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sexual Predator Qualifying Offenses (Section 1)

Section 775.21, F.S., which contains various registration requirements for sexual predators, provides in part that a person must be designated a sexual predator if the person is convicted, on or after October 1, 1993, of:

1. A capital, life, or first-degree felony violation, or any attempt thereof, of any of the criminal offenses prescribed in the following statutes in this state or a similar offense in another jurisdiction:
 - Sections 787.01 (kidnapping) or 787.02, F.S. (false imprisonment), where the victim is a minor and the defendant is not the victim's parent or guardian
 - Section 794.011, F.S. (sexual battery)
 - Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)
 - Section 847.0145, F.S. (selling or buying of minors); or

2. Any felony violation, or attempt thereof, of:
 - Sections 787.01, (kidnapping), 787.02, (false imprisonment), and 787.025(2)(c), F.S. (luring or enticing a child), where the victim is a minor and the defendant is not the victim's parent or guardian
 - Section 794.011, F.S. (sexual battery) excluding s. 794.011(10), F.S.¹
 - Section 794.05, F.S. (unlawful activity with certain minors)
 - Section 796.03, F.S. (procuring a person under the age of 18 for prostitution)
 - Section 796.035, F.S. (selling or buying of minors into sex trafficking or prostitution)
 - Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)
 - Section 825.1025, F.S. (lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.
 - Section 827.071, F.S. (sexual performance by a child)
 - Section 847.0135(5), F.S. (computer pornography)
 - Section 847.0145, F.S. (selling or buying of minors)
 - Section 985.701(1), F.S. (sexual misconduct with a juvenile offender); and
 - The offender has previously been convicted of any of the statutes enumerated above, including s. 847.0133, F.S. (protection of minors / obscenity).

Effect of the PCB

The PCB amends s. 775.21, F.S., to add the following qualifying offenses to the list of offenses contained in 2. (enumerated above):

- Section 393.135(2), F.S. (sexual misconduct with an individual with a developmental disability)
- Section 394.4593(2), F.S. (sexual misconduct with a patient)
- Section 796.045, F.S. (sex trafficking)
- Section 916.1075(2), F.S. (sexual misconduct with a forensic client)

¹ Section 794.011(10), F.S., relates to falsely accusing specified persons of sexual battery.

Sexual Offender Qualifying Offenses (Sections 4, 8 and 9)

Section 943.0435, F.S., which contains various registration requirements for sexual offenders, defines the term "sexual offender," in part, as a person who:

1. Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction:
 - Sections 787.01, (kidnapping), 787.02, (false imprisonment), and 787.025(2)(c), F.S. (luring or enticing a child), where the victim is a minor and the defendant is not the victim's parent or guardian
 - Section 794.011, F.S. (sexual battery) excluding s. 794.011(10), F.S.
 - Section 794.05, F.S. (unlawful activity with certain minors)
 - Section 796.03, F.S. (procuring a person under the age of 18 for prostitution)
 - Section 796.035, F.S. (selling or buying of minors into sex trafficking or prostitution)
 - Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)
 - Section 825.1025, F.S. (lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person)
 - Section 827.071, F.S. (sexual performance by a child)
 - Section 847.0133, F.S. (prohibition of certain acts in connection with obscenity)
 - Section 847.0135, F.S. (computer pornography and traveling to meet a minor) excluding s. 847.0135(6), F.S.
 - Section 847.0137, F.S. (transmission of pornography by electronic device or equipment)
 - Section 847.0138, F.S. (transmission of material harmful to minors to a minor by electronic device or equipment)
 - Section 847.0145, F.S. (selling or buying of minors)
 - Section 985.701(1), F.S. (sexual misconduct with a juvenile offender); and
2. Has been released on or after October 1, 1997, from the sanction² imposed for any conviction of an offense described above.

Sections 944.606 and 944.607, F.S., which contain provisions relating to sexual offenders in the custody of or under the supervision of the Department of Corrections (DOC), also contain definitions of the term "sexual offender" that include the list of qualifying offenses enumerated above.

Effect of the PCB

The PCB amends the definition of the term "sexual offender" in ss. 943.0435, 944.606, and 944.607, F.S., to add the following qualifying offenses:

- Section 393.135(2), F.S. (sexual misconduct with an individual with a developmental disability)
- Section 394.4593(2), F.S. (sexual misconduct with a patient)
- Section 796.045, F.S. (sex trafficking)
- Section 916.1075(2), F.S. (sexual misconduct with a forensic client)

Sexual Predator and Sexual Offender Registration (Sections 1, 4, 8, 9, 12 and 13)

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.³ A sexual predator or sexual offender must comply

² A sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility. Section 943.0435(1)(a), F.S.

³ See generally, ss. 775.21, 943.0435, and 944.607, F.S.

with a number of statutory registration requirements.⁴ Failure to comply with these requirements is generally a third degree felony.⁵

Sexual predators and offenders must register at the sheriff's office within 48 hours of establishing or maintaining a residence.⁶ During initial registration, a sexual predator or sexual offender is required to provide certain information, including their name, address, e-mail address, home and cellular telephone number, and instant message name, to the sheriff's department.⁷ The sheriff's department then provides this information to the Florida Department of Law Enforcement (FDLE) for inclusion in the statewide database.⁸

A sexual predator or sexual offender is also required to re-register at specified intervals and to immediately report any changes to his or her registration information.⁹ For example, a predator or offender who changes his or her residence or name must, within 48 hours after such change, report in person to a Department of Highway Safety and Motor Vehicles (DHSMV) driver license office.¹⁰ In addition, predators or offenders who intend to establish a residence in another state or jurisdiction other than Florida are required to report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave the state.¹¹

Effect of the PCB

The PCB amends ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815 F.S., to require sexual predators and offenders to provide the following registration information:

- Information about any tattoos or other identifying marks the offender may have.
- All e-mail addresses, home telephone numbers, and cellular telephone numbers (current law only requires offenders to provide *one* of each).
- The make, model, color, registration numbers, and license tag number of all vehicles the offender owns.
- Palm prints.
- Information about the offender's passport, if the offender has one.
- Documents establishing the offender's immigration status, if the offender is an alien.
- Information about any professional licenses the offender may have.
- Whether the offender is volunteering at an institution of higher education.

The PCB amends ss. 775.21 and 943.0435, F.S., to:

- Require sexual predators and offenders who are unable to obtain or update a driver license or state identification card with DHSMV to report any change in the offender's residence or name within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to DHSMV.
- Require sexual predators and offenders to report to the sheriff of the county of current residence within 21 days before his or her planned departure if the intended residence of five days or more is outside of the United States.
- Require sexual predators and offenders who intend to establish a residence in another country to provide the sheriff the address, municipality, county, state, and *country* of the offender's intended residence.
- Require FDLE to notify the applicable law enforcement agency in the country where the offender intends to reside.

⁴ *Id.*

⁵ Sections 775.21(10) and 943.0435(14), F.S.

⁶ *See* ss. 775.21 and 943.0435, F.S. Sexual predators or sexual offenders who are in the custody of or under the supervision of DOC or a local jail are required to register with DOC and the jail, respectively.

⁷ *See* generally, ss. 775.21, 943.0435, 944.607, and 985.4815, F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

- Provides that an offender who knowingly provides false registration information by act or omission commits a 3rd degree felony (this provision is also added to ss. 944.607 and 985.4815, F.S.).

Sexual Predator / Offender Registration - Instant Message Name (Sections 1, 4, 7, 8, and 9)

In addition to providing the above-described information during initial registration, sexual predators and offenders are required to provide the sheriff any instant message name the offender wants to use.¹² Sexual predators and offenders must also register any instant message name with FDLE prior to using such name.¹³

Sections 775.21, 943.0435, 944.606, and 944.607, F.S., define the term “instant message name” as “an identifier that allows a person to communicate in real time with another person using the Internet.”

Effect of the PCB

The PCB amends ss. 775.21, 943.0435, 944.606, and 944.607, F.S., to replace the term “instant message name” with “Internet identifier.” The PCB defines the term “Internet identifier” as “all electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN).” The PCB specifies that an offender’s voluntary disclosure of his or her date of birth, social security number, or PIN as an Internet identifier waives the disclosure exemption for such personal information. As a result, sexual predators and offenders will be required to register their Internet identifiers with the sheriff and with FDLE.

The PCB also replaces the term “instant message name” with the term “Internet identifier” in s. 943.0437, F.S., which authorizes FDLE to provide information relating to electronic mail addresses and Internet identifiers maintained as part of the sex offender registry to commercial social networking websites.¹⁴

Search of Registration Information (Section 5)

Section 943.04351, F.S., requires states agencies and governmental subdivisions, prior to making any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at specified locations,¹⁵ to conduct a search of that person’s name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by FDLE.

Effect of the PCB

The PCB amends s. 943.04351, F.S., to require states agencies and governmental subdivisions to also search the person’s name through the Dru Sjodin National Sex Offender Public Website maintained by the United States Department of Justice.

Removal of the Requirement to Register as a Sexual Offender (Sections 4 and 6)

Generally, sexual predators and offenders must maintain registration with FDLE for the duration of the offender’s life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation or that met the criteria for classifying the person as a sexual offender for purposes of registration.¹⁶ However, there are ways in which the registration requirement can be removed.

¹² See generally, ss. 775.21, 943.0435, 944.606, and 944.607, F.S.

¹³ FDLE maintains an online system through which sexual predators and offenders can update their instant message name information. Sections 775.21 and 943.0435, F.S.

¹⁴ Such websites can use this information for the purpose of comparing users and potential users of the website against the list provided by FDLE. Section 943.0437(2), F.S.

¹⁵ These locations include parks, playgrounds, day care centers, or other places where children regularly congregate.

¹⁶ Sections 775.21(6) and 943.0435(11), F.S.

Section 943.0435(11), F.S.

Section 943.0435(11)(a), F.S., currently permits sexual offenders who have been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and have not been arrested for any felony or misdemeanor offense since release to petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender, provided that the offender's requirement to register was not based on an adult conviction:

- For a violation of ss. 787.01 or 787.02, F.S.;
- For a violation of s. 794.011, F.S., excluding s. 794.011(10), F.S.;
- For a violation of s. 800.04(4)(b), F.S., where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
- For a violation of s. 800.04(5)(b), F.S.;
- For a violation of s. 800.04(5)c.2., F.S., where the court finds the offense involved unclothed genitals or genital area;
- For any attempt or conspiracy to commit any such offense; or
- For a violation of similar law of another jurisdiction.¹⁷

Effect of the PCB

The PCB amends s. 943.0435(11)(a), F.S., to modify and expand the instances in which specified sexual offenders can petition the court to have the registration requirement removed. These changes bring the statute in line with the federal Adam Walsh Act.

1. Sexual offenders may petition the criminal division of the circuit court in the circuit in which the offender resides for removal from the requirement to register if:
 - 25 years have elapsed since the offender's registration period for the most recent conviction requiring registration began;
 - The offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than one year imprisonment for 25 years prior to petitioning the court;
 - The offender has successfully completed all sanctions imposed for all offenses that required the offender to register;
 - The offender's requirement to register was not based upon an adult conviction:
 - For a violation of ss. 787.01, F.S.;
 - For a violation of s. 794.011, F.S., excluding s. 794.011(10), F.S.;
 - For a violation of s. 800.04(4)(b), F.S., where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
 - For a violation of s. 800.04(5)(b), F.S.;
 - For a violation of s. 800.04(5)c.2., F.S., where the court finds the offense involved unclothed genitals or genital area;
 - For any attempt or conspiracy to commit any of the above-described offenses; or
 - For a violation of similar law of another jurisdiction.
 - For offenders whose requirement to register is based upon a conviction in another state, the offender is not required to register as a sexual offender pursuant to the laws of the state where the conviction occurred.

¹⁷ The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief. Section 943.0435(11)(a), F.S.

2. Sexual offenders whose requirement to register was based upon an adult conviction for a violation of ss. 787.02 or 827.071(5), F.S., for any attempt or conspiracy to commit such offenses, or for a violation of a similar law in another jurisdiction, may petition the criminal division of the circuit court in the circuit in which the offender resides for removal from the requirement to register if:
 - 15 years have elapsed since the offender's registration period for the most recent conviction requiring registration began;
 - The offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than one year imprisonment for 10 years prior to petitioning the court;
 - The offender has successfully completed all sanctions imposed for all offenses that required the offender to register;
 - For offenders whose requirement to register is based upon a conviction in another state, the offender is not required to register as a sexual offender pursuant to the laws of the state where the conviction occurred.

3. Sexual offenders required to register pursuant to s. 943.0435(1)(a)1.d., F.S. (specified juvenile sexual offenders), may petition the criminal division of the circuit court in the circuit in which the offender resides for removal from the requirement to register if:
 - 25 years have elapsed since the offender's registration period for the most recent adjudication requiring registration began;
 - The offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than one year imprisonment for 25 years prior to petitioning the court;
 - The offender has successfully completed all sanctions imposed for all offenses that required the offender to register.

The PCB specifies that the registration period of a sexual offender sentenced to a term of incarceration or committed to a residential program begins upon release for the most recent conviction that required the offender to register. Additionally, an offender's registration period is tolled during any period in which the offender is incarcerated, civilly committed, detained pursuant to ch. 985, F.S., or committed to a residential program.

The PCB also requires FDLE to be given notice of the petition at least 3 weeks prior to the hearing on the matter (currently only the state attorney is required to be given notice), and requires the court to instruct the petitioner to provide FDLE with a certified copy of the order granting relief.

These changes will likely have the effect of increasing the number of persons eligible to have the requirement to register as a sexual predator or offender removed pursuant to s. 943.04354, F.S.

Section 943.04354, F.S.

Currently, s. 943.04354(1), F.S., provides that a person can be considered for removal of the requirement to register as a sexual offender or predator if the person:

1. Was or will be convicted or adjudicated delinquent of a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., or the person committed a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., for which adjudication of guilt was or will be withheld, and the person does not have any other conviction, adjudication of delinquency, or withhold of adjudication of guilt for a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S.;
2. Is required to register as a sexual offender or predator solely on the basis of this violation; and
3. Is not more than 4 years older than the victim of this violation who was 14 years of age or older but not more than 17 years of age at the time the person committed this violation.

Subsection (2) of the statute provides that if a person meets the above criteria, and the violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., was committed on or after July 1, 2007, the person may move the court that will sentence or dispose of this violation to remove the requirement that the person register as a sexual offender or predator.¹⁸ At sentencing or disposition of this violation, the court must rule on this motion and, if the court determines the person meets the above criteria and the removal of the registration requirement will not conflict with federal law, it may grant the motion and order the removal of the registration requirement.¹⁹

Subsection (3) of the statute specifies that a person who meets the above criteria and who is subject to registration as a sexual offender or sexual predator for a violation of ss. 794.011, 800.04, or 827.071, F.S., that occurred before July 1, 2007, may petition the court in which the sentence or disposition for the violation of ss. 794.011, 800.04, or 827.071, F.S., occurred for removal of the requirement to register as a sexual offender or predator.²⁰ The court shall rule on the petition and, if the court determines the person meets the above criteria and removal of the registration requirement will not conflict with federal law, it may grant the petition and order the removal of the registration requirement.²¹

Effect of the PCB

The PCB makes a variety of changes to s. 943.04354(1), F.S., to bring the statute in line with the federal Adam Walsh Act. Specifically, the PCB provides that a person can be considered for removal of the requirement to register as a sexual offender or predator if the person:

1. Was convicted, regardless of adjudication, or adjudicated delinquent of a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., or a similar offense in another jurisdiction, and the person does not have any other conviction, regardless of adjudication, or adjudication of delinquency for a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., or a similar offense in another jurisdiction;
2. (a) Was required to register as a sexual offender or predator solely on the basis of the conviction or adjudication described in 1.; or
(b) Was convicted, regardless of adjudication, or adjudicated delinquent of an offense in another jurisdiction that is similar to an offense listed in 1. and no longer meets the criteria for registration as a sexual offender under the laws of the jurisdiction where the similar offense occurred; and
3. Is not more than 4 years older than the victim of this violation who was 13 years of age or older but less than 18 years of age at the time the person committed this violation.

The PCB amends s. 943.04354(2), F.S., to:

- Specify that the motion must be filed in the *sentencing* court, or for persons convicted or adjudicated delinquent in another jurisdiction, the criminal circuit court of the circuit in which the petitioner resides.
- Require persons convicted or adjudicated delinquent of an offense in another jurisdiction to provide the court written confirmation that he or she is not required to register in the state where the conviction or adjudication occurred.

¹⁸ The person must allege in the motion that he or she meets the above criteria and that removal of the registration requirement will not conflict with federal law. The state attorney must be given notice of the motion at least 21 days before the date of sentencing or disposition of this violation and may present evidence in opposition to the requested relief or may otherwise demonstrate why the motion should be denied. Section 943.04354(2), F.S.

¹⁹ If the court denies the motion, the person is not authorized under this section to petition for removal of the registration requirement. Section 943.04354(2), F.S.

²⁰ The person must allege in the petition that he or she meets the above criteria and that removal of the registration requirement will not conflict with federal law. The state attorney must be given notice of the petition at least 21 days before the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why the petition should be denied. Section 943.04354(3)(a) and (b), F.S.

²¹ If the court denies the petition, the person is not authorized under this section to file any further petition for removal of the registration requirement. Section 943.04354(3)(b), F.S.

- Require that FDLE be given notice of the motion at least 3 weeks prior to the date of sentencing, disposition of the violation, or hearing on the motion (currently only the state attorney is required to be given notice).
- Require the court to instruct the moving party to provide FDLE with a certified copy of the order granting relief.

The PCB also amends s. 943.04354(2), F.S., to remove the language requiring that the offense be committed on or after July 1, 2007, and repeals s. 943.04354(3), F.S. As a result, the registration removal provisions of s. 943.04354, F.S., will apply to all eligible sexual offenders, regardless of their offense date.

These changes will likely have the effect of increasing the number of persons eligible to have the requirement to register as a sexual predator or offender removed pursuant to s. 943.04354, F.S.

Definition of Risk Assessment (Section 10)

Section 947.1405(7), F.S., requires the Parole Commission (Commission) to impose specified special conditions of supervision on certain conditional releasees. One of these conditions prohibits contact with children under the age of 18, if the victim was under the age of 18, without review and approval by the Commission. The Commission may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment.

Section 947.005, F.S., currently defines the term “risk assessment” as “an assessment completed by an independent qualified practitioner to evaluate the level of risk associated when a sex offender has contact with a child.”

In 2010, the definition of the term “risk assessment” in s. 948.001, F.S. (relating to probation), was amended to remove the requirement that the assessment be completed by *an independent* qualified practitioner.²² However, this change was not made to the definition contained in s. 947.005, F.S.

Effect of the PCB

The PCB amends the definition of the term “risk assessment” in s. 947.005, F.S., to remove the requirement that the assessment be completed by *an independent* qualified practitioner.

Conditions of Supervision – Sex Offender Treatment (Section 11)

Since 1995, there has been a condition of probation requiring sexual offenders convicted of specified offenses to successfully complete sexual offender treatment.²³ Currently, this condition of probation, found in s. 948.30(1)(c), F.S., is a standard condition of probation and only applies to probationers whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of ch. 794, F.S., s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, F.S.

Section 948.31, F.S., mandates that courts require an evaluation by a qualified practitioner to determine the need of a probationer for treatment. If the court determines that such a need is established by the evaluation process, the court must require sex offender treatment as a term or condition of probation for any person who is required to register as a sexual predator or sexual offender. The court is required to impose a restriction against contact with minors if sexual offender treatment is recommended.²⁴ This section of statute applies to all sexual offenders on probation – not just those convicted of specified offenses.

²² Chapter 2010-92, L.O.F.

²³ Chapter 1995-283, L.O.F.

²⁴ Section 948.30, F.S., currently contains standard conditions of probation that require sex offender treatment for certain offenders and that prohibit certain sex offenders from having contact with minors if the victim of the offender’s offense was under 18. The bill requires courts to impose a restriction against contact with minors regardless of whether the offender’s victim was a minor.

Effect of the PCB

The PCB amends s. 948.31, F.S., to authorize (rather than mandate) a court to require probationers who are required to register as a sexual offender to undergo an evaluation by a qualified practitioner to determine whether the offender needs sex offender treatment. If the practitioner recommends treatment, the offender must successfully complete and pay for such treatment, which must be provided by a qualified practitioner.

The PCB also amends s. 948.31, F.S., to remove the requirement that the court impose a restriction against contact with minors if sexual offender treatment is recommended. This prohibition is not needed in s. 948.31, F.S., as there is already a standard condition of supervision in s. 948.30(1)(e), F.S., prohibiting specified sexual offenders from having contact with minors.

Exposure of Sexual Organs (Section 2)

Section 800.03, F.S., makes it a first degree misdemeanor²⁵ for a person to expose or exhibit one's sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner, or to be naked in public except in any place provided or set apart for that purpose.

Effect of the PCB

The PCB makes third or subsequent violations of s. 800.03, F.S., third degree felonies.²⁶

Bail Determinations (Section 3)

Pretrial Release

Pretrial release is an alternative to incarceration that allows arrested defendants to be released from jail while they await disposition of their criminal charges.²⁷ Generally, pretrial release is granted by releasing a defendant on their own recognizance, by requiring the defendant to post bail, and/or by requiring the defendant to participate in a pretrial release program.²⁸

Bail requires an accused to pay a set sum of money to the sheriff to secure his or her release. If a defendant released on bail fails to appear before the court at the appointed place and time, the bail is forfeited. Section 903.046, F.S., currently states that the purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger from the criminal defendant. The statute further specifies that when determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, courts must consider the following:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.
- The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.²⁹

²⁵ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²⁶ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

²⁷ Report No. 10-08, "Pretrial Release Programs' Compliance with New Reporting Requirements is Mixed," Office of Program Policy Analysis & Government Accountability, January 2010.

²⁸ *Id.*

²⁹ Section 903.046(2)(d), F.S., specifies that any defendant who failed to appear on the day of any required court proceeding in the case at issue, but who later voluntarily appeared or surrendered, is not eligible for a recognizance bond; and any defendant who failed to appear on the day of any required court proceeding in the case at issue and who was later arrested is not eligible for a recognizance bond or for any form of bond which does not require a monetary undertaking or commitment equal to or greater than \$2,000 or twice the value of the monetary commitment or undertaking of the original bond, whichever is greater. Section 903.046(2)(d), F.S., also specifies that notwithstanding anything in s. 903.046, F.S., the court has discretion in determining conditions of release if the defendant proves circumstances beyond his or her control for the failure to appear; and that s. 903.046, F.S., may not be construed as imposing additional duties or obligations on a governmental entity related to monetary bonds.

- The nature and probability of danger which the defendant's release poses to the community.
- The source of funds used to post bail.
- Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.
- The street value of any drug or controlled substance connected to or involved in the criminal charge.³⁰
- The nature and probability of intimidation and danger to victims.
- Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release.
- Any other facts that the court considers relevant.
- Whether the crime charged is a violation of ch. 874, F.S.,³¹ or alleged to be subject to enhanced punishment under ch. 874, F.S. If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement, he or she shall not be eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.³²

Effect of the PCB

The PCB amends s. 903.046, F.S., to add the following to the list of factors a court must consider when determining whether to release a defendant on bail or other conditions:

- Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under ch. 316, F.S.,³³ is required to register as a sexual offender under s. 943.0435, F.S., or a sexual predator under s. 775.21, F.S.; and, if so, he or she is not eligible for release on bail or surety bond until the first appearance³⁴ on the case in order to ensure the full participation of the prosecutor and the protection of the public.

The Criminal Punishment Code - Offense Severity Ranking Chart

The Criminal Punishment Code applies to sentencing for felony offenses (except capital felonies) committed on or after October 1, 1998.³⁵ Criminal offenses are ranked in the Offense Severity Ranking Chart from Level 1 (least severe) to Level 10 (most severe) and are assigned points based on the severity of the offense as determined by the legislature.³⁶ A defendant's sentence is calculated based on points and are added in order to determine the "lowest permissible sentence" for the offense.

A violation of s. 796.03, F.S. (procuring person under age of 18 for prostitution), is currently ranked in Level 7 of the ranking chart but is incorrectly described in the chart as "procuring any person under 16 years for prostitution."³⁷ Similarly, a violation of s. 787.02(3)(a), F.S. (false imprisonment of a child under 13 while committing other specified offenses) is currently ranked in Level 9 of the ranking chart, but is incorrectly listed as a 1st degree felony (the offense is a 1st degree felony punishable for life imprisonment).

Effect of the PCB

The PCB amends the ranking chart to correct the above-described inaccuracies.

³⁰ Section 903.046(2)(d), F.S., specifies that it is the finding and intent of the Legislature that crimes involving drugs and other controlled substances are of serious social concern, that the flight of defendants to avoid prosecution is of similar serious social concern, and that frequently such defendants are able to post monetary bail using the proceeds of their unlawful enterprises to defeat the social utility of pretrial bail. Therefore, the courts should carefully consider the utility and necessity of substantial bail in relation to the street value of the drugs or controlled substances involved.

³¹ Chapter 874, F.S., relates to criminal gang enforcement and prevention.

³² Section 903.046, F.S.

³³ Chapter 316, F.S., is the State Uniform Traffic Control chapter.

³⁴ See Rule 3.130, Fla. R. Crim. Proc.

³⁵ Section 921.002, F.S.

³⁶ Section 921.0022, F.S.

³⁷ Section 921.0022(3)(g), F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 775.21, F.S., relating to The Florida Sexual Predators Act.

Section 2. Amends s. 800.03, F.S., relating to exposure of sexual organs.

Section 3. Amends s. 903.046, F.S., relating to purpose of and criteria for bail determination.

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

Section 5. Amends s. 943.04351, F.S., relating to search of registration information regarding sexual predators and sexual offenders required prior to appointment or employment.

Section 6. Amends s. 943.04354, F.S., relating to removal of the requirement to register as a sexual offender or sexual predator in special circumstances.

Section 7. Amends s. 943.0437, F.S., relating to commercial social networking websites.

Section 8. Amends s. 944.606, F.S., relating to sexual offenders; notification upon release.

Section 9. Amends s. 944.607, F.S., relating to notification to Department of Law Enforcement of information on sexual offenders.

Section 10. Amends s. 947.005, F.S., relating to definitions.

Section 11. Amends s. 948.31, F.S., relating to evaluation and treatment of sexual predators and sexual offenders on probation or community control.

Section 12. Amends s. 985.481, F.S., relating to sexual offender adjudicated delinquent; notification upon release.

Section 13. Amends s. 985.4815, F.S., relating to notification to the Department of Law Enforcement of information on juvenile sexual offenders.

Section 14. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 15. The PCB is effective October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The PCB does not appear to have any impact on state revenues.

2. Expenditures:

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the PCB. The PCB may have a prison bed impact on the Department of Corrections in that it increases the number of people subject to sex offender registration requirements and adds additional information that sexual predators and offenders must provide when registering. However, failure to register is generally punishable as an unranked third degree felony, so the impact to state prison beds may be insignificant. The PCB may also have a prison bed impact because it makes third or subsequent violations of s. 800.03, F.S. (exposure of sexual organs) a third degree felony (rather than a misdemeanor).

The PCB will likely require FDLE to spend funds to hire contract programming staff to complete programming and testing necessary to implement the qualifying offense and registration provisions of the PCB.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

In January, 2012, there were 48,700 registered sexual offenders and 9,289 registered sexual predators in Florida. It is unknown how many of these persons are arrested each year. The bill prohibits such persons from being released on bail or surety bond until first appearance. However, since first appearance must occur within 24 hours of arrest, the impact on local jails will likely be insignificant.

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 the 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 and municipalities; and
- Is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to sex offenses; amending s. 775.21,
 3 F.S.; replacing the definition of the term "instant
 4 message name" with the definition of the term
 5 "Internet identifier"; providing that voluntary
 6 disclosure of specified information waives a
 7 disclosure exemption for such information; conforming
 8 provisions; adding additional offenses to the list of
 9 sexual predator qualifying offenses; requiring
 10 disclosure of additional information during the sexual
 11 offender registration process; requiring that a sexual
 12 predator who is unable to secure or update a driver's
 13 license or identification card within a specified
 14 period must report specified information to the local
 15 sheriff's office within a specified period after such
 16 change with confirmation that he or she also reported
 17 such information to the Department of Highway Safety
 18 and Motor Vehicles; revising reporting requirements if
 19 a sexual predator plans to leave the United States for
 20 more than a specified period; providing criminal
 21 penalties for knowingly providing false registration
 22 information by act or omission; amending s. 800.03,
 23 F.S.; providing enhanced penalties for third or
 24 subsequent indecent exposure violations; amending s.
 25 903.046, F.S.; requiring a court considering whether
 26 to release a defendant on bail to determine whether
 27 the defendant is subject to registration as a sexual
 28 offender or predator and, if so, to hold the defendant

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29 without bail until the first appearance on the case;
 30 providing an exception; amending s. 943.0435, F.S.;
 31 adding additional offenses to the list of sexual
 32 offender qualifying offenses; replacing the definition
 33 of the term "instant message name" with the definition
 34 of the term "Internet identifier"; conforming
 35 provisions; requiring disclosure of additional sexual
 36 offender registration information; requiring that a
 37 sexual predator who is unable to secure or update a
 38 driver's license or identification card within a
 39 specified period must report specified information to
 40 the local sheriff's office within a specified period
 41 of such change with confirmation that he or she also
 42 reported such information to the Department of Highway
 43 Safety and Motor Vehicles; providing additional
 44 requirements for sexual offenders intending to reside
 45 outside of the United States; revising criteria
 46 applicable to provisions allowing removal from the
 47 requirement to register as a sexual offender; amending
 48 s. 943.04351, F.S.; requiring a specified national
 49 search of registration information regarding sexual
 50 predators and sexual offenders prior to appointment or
 51 employment of persons by state agencies and
 52 governmental subdivisions; amending s. 943.04354,
 53 F.S.; revising the criteria applicable to provisions
 54 allowing removal of the requirement to register as a
 55 sexual offender or sexual predator; amending s.
 56 943.0437, F.S.; replacing the term "instant message

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57 name" with the term "Internet identifier"; amending
 58 ss. 944.606 and 944.607, F.S.; adding additional
 59 offenses to the list of sexual offender qualifying
 60 offenses; replacing the definition of the term
 61 "instant message name" with the definition of the term
 62 "Internet identifier"; conforming provisions;
 63 requiring disclosure of additional registration
 64 information; amending s. 947.005, F.S.; revising the
 65 definition of the term "risk assessment"; amending s.
 66 948.31, F.S.; authorizing the court to require sexual
 67 offenders who are on probation or community control to
 68 undergo an evaluation to determine whether the
 69 offender needs sexual offender treatment; removing a
 70 provision prohibiting contact with minors if sexual
 71 offender treatment is recommended; amending ss.
 72 985.481 and 985.4815, F.S.; requiring disclosure of
 73 additional registration information by certain sexual
 74 offenders adjudicated delinquent and certain juvenile
 75 sexual offenders; amending s. 921.0022, F.S.;
 76 correcting references; providing an effective date.

77

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

79

80 Section 1. Paragraph (i) of subsection (2), paragraph (a)
 81 of subsection (4), subsections (6) and (8), and paragraph (a) of
 82 subsection (10) of section 775.21, Florida Statutes, are amended
 83 to read:

84 775.21 The Florida Sexual Predators Act.—

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85 (2) DEFINITIONS.—As used in this section, the term:
 86 (i) "Internet identifier ~~Instant message name~~" means all
 87 electronic mail, chat, instant messenger, social networking, or
 88 similar name used for Internet communication, but does not
 89 include a date of birth, social security number, or personal
 90 identification number (PIN). Voluntary disclosure by the sexual
 91 predator of his or her date of birth, social security number, or
 92 personal identification number (PIN) as an Internet identifier
 93 waives the disclosure exemption in this paragraph for such
 94 personal information ~~an identifier that allows a person to~~
 95 ~~communicate in real time with another person using the Internet.~~

96 (4) SEXUAL PREDATOR CRITERIA.—

97 (a) For a current offense committed on or after October 1,
 98 1993, upon conviction, an offender shall be designated as a
 99 "sexual predator" under subsection (5), and subject to
 100 registration under subsection (6) and community and public
 101 notification under subsection (7) if:

102 1. The felony is:

103 a. A capital, life, or first-degree felony violation, or
 104 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
 105 is a minor and the defendant is not the victim's parent or
 106 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
 107 violation of a similar law of another jurisdiction; or

108 b. Any felony violation, or any attempt thereof, of s.
 109 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 110 787.025(2)(c), where the victim is a minor and the defendant is
 111 not the victim's parent or guardian; s. 794.011, excluding s.
 112 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 796.045; s.

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113 800.04; s. 825.1025~~(2)(b)~~; s. 827.071; s. 847.0135(5); s.
 114 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a
 115 similar law of another jurisdiction, and the offender has
 116 previously been convicted of or found to have committed, or has
 117 pled nolo contendere or guilty to, regardless of adjudication,
 118 any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
 119 787.02, or s. 787.025(2)(c), where the victim is a minor and the
 120 defendant is not the victim's parent or guardian; s. 794.011,
 121 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.
 122 796.045; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
 123 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2);
 124 or s. 985.701(1); or a violation of a similar law of another
 125 jurisdiction;

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

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

132 (6) REGISTRATION.—

133 (a) A sexual predator must register with the department
 134 through the sheriff's office by providing the following
 135 information to the department:

136 1. Name; social security number; age; race; sex; date of
 137 birth; height; weight; tattoos or other identifying marks; hair
 138 and eye color; photograph; address of legal residence and
 139 address of any current temporary residence, within the state or
 140 out of state, including a rural route address and a post office

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141 | box; if no permanent or temporary address, any transient
 142 | residence within the state; address, location or description,
 143 | and dates of any current or known future temporary residence
 144 | within the state or out of state; all any electronic mail
 145 | addresses ~~address~~ and all any Internet identifiers ~~instant~~
 146 | ~~message name~~ required to be provided pursuant to subparagraph
 147 | (g)4.; all home telephone numbers ~~number~~ and ~~any~~ cellular
 148 | telephone numbers ~~number~~; date and place of any employment; the
 149 | make, model, color, registration number, and license tag number
 150 | of all vehicles owned; date and place of each conviction;
 151 | fingerprints; palm prints; and a brief description of the crime
 152 | or crimes committed by the offender. A post office box shall not
 153 | be provided in lieu of a physical residential address. The
 154 | sexual predator must also produce his or her passport, if he or
 155 | she has a passport, and, if he or she is an alien, must produce
 156 | or provide information about documents establishing his or her
 157 | immigration status. The sexual predator must also provide
 158 | information about any professional licenses he or she may have.
 159 | a. If the sexual predator's place of residence is a motor
 160 | vehicle, trailer, mobile home, or manufactured home, as defined
 161 | in chapter 320, the sexual predator shall also provide to the
 162 | department written notice of the vehicle identification number;
 163 | the license tag number; the registration number; and a
 164 | description, including color scheme, of the motor vehicle,
 165 | trailer, mobile home, or manufactured home. If a sexual
 166 | predator's place of residence is a vessel, live-aboard vessel,
 167 | or houseboat, as defined in chapter 327, the sexual predator
 168 | shall also provide to the department written notice of the hull

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169 identification number; the manufacturer's serial number; the
 170 name of the vessel, live-aboard vessel, or houseboat; the
 171 registration number; and a description, including color scheme,
 172 of the vessel, live-aboard vessel, or houseboat.

173 b. If the sexual predator is enrolled, employed,
 174 volunteering, or carrying on a vocation at an institution of
 175 higher education in this state, the sexual predator shall also
 176 provide to the department the name, address, and county of each
 177 institution, including each campus attended, and the sexual
 178 predator's enrollment, volunteer, or employment status. Each
 179 change in enrollment or employment status shall be reported in
 180 person at the sheriff's office, or the Department of Corrections
 181 if the sexual predator is in the custody or control of or under
 182 the supervision of the Department of Corrections, within 48
 183 hours after any change in status. The sheriff or the Department
 184 of Corrections shall promptly notify each institution of the
 185 sexual predator's presence and any change in the sexual
 186 predator's enrollment, volunteer or employment status.

187 2. Any other information determined necessary by the
 188 department, including criminal and corrections records;
 189 nonprivileged personnel and treatment records; and evidentiary
 190 genetic markers when available.

191 (b) If the sexual predator is in the custody or control
 192 of, or under the supervision of, the Department of Corrections,
 193 or is in the custody of a private correctional facility, the
 194 sexual predator must register with the Department of
 195 Corrections. A sexual predator who is under the supervision of
 196 the Department of Corrections but who is not incarcerated must

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197 register with the Department of Corrections within 3 business
 198 days after the court finds the offender to be a sexual predator.
 199 The Department of Corrections shall provide to the department
 200 registration information and the location of, and local
 201 telephone number for, any Department of Corrections office that
 202 is responsible for supervising the sexual predator. In addition,
 203 the Department of Corrections shall notify the department if the
 204 sexual predator escapes or absconds from custody or supervision
 205 or if the sexual predator dies.

206 (c) If the sexual predator is in the custody of a local
 207 jail, the custodian of the local jail shall register the sexual
 208 predator within 3 business days after intake of the sexual
 209 predator for any reason and upon release, and shall forward the
 210 registration information to the department. The custodian of the
 211 local jail shall also take a digitized photograph of the sexual
 212 predator while the sexual predator remains in custody and shall
 213 provide the digitized photograph to the department. The
 214 custodian shall notify the department if the sexual predator
 215 escapes from custody or dies.

216 (d) If the sexual predator is under federal supervision,
 217 the federal agency responsible for supervising the sexual
 218 predator may forward to the department any information regarding
 219 the sexual predator which is consistent with the information
 220 provided by the Department of Corrections under this section,
 221 and may indicate whether use of the information is restricted to
 222 law enforcement purposes only or may be used by the department
 223 for purposes of public notification.

224 (e)1. If the sexual predator is not in the custody or

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225 | control of, or under the supervision of, the Department of
 226 | Corrections or is not in the custody of a private correctional
 227 | facility, the sexual predator shall register in person:

228 | a. At the sheriff's office in the county where he or she
 229 | establishes or maintains a residence within 48 hours after
 230 | establishing or maintaining a residence in this state; and

231 | b. At the sheriff's office in the county where he or she
 232 | was designated a sexual predator by the court within 48 hours
 233 | after such finding is made.

234 | 2. Any change in the sexual predator's permanent or
 235 | temporary residence, name, or all ~~any~~ electronic mail addresses
 236 | ~~address~~ and all Internet identifiers ~~any instant message name~~
 237 | required to be provided pursuant to subparagraph (g)4., after
 238 | the sexual predator registers in person at the sheriff's office
 239 | as provided in subparagraph 1., shall be accomplished in the
 240 | manner provided in paragraphs (g), (i), and (j). When a sexual
 241 | predator registers with the sheriff's office, the sheriff shall
 242 | take a photograph, ~~and~~ a set of fingerprints, and palm prints of
 243 | the predator and forward the photographs, palm prints, and
 244 | fingerprints to the department, along with the information that
 245 | the predator is required to provide pursuant to this section.

246 | (f) Within 48 hours after the registration required under
 247 | paragraph (a) or paragraph (e), a sexual predator who is not
 248 | incarcerated and who resides in the community, including a
 249 | sexual predator under the supervision of the Department of
 250 | Corrections, shall register in person at a driver's license
 251 | office of the Department of Highway Safety and Motor Vehicles
 252 | and shall present proof of registration. At the driver's license

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253 | office the sexual predator shall:

254 | 1. If otherwise qualified, secure a Florida driver's
 255 | license, renew a Florida driver's license, or secure an
 256 | identification card. The sexual predator shall identify himself
 257 | or herself as a sexual predator who is required to comply with
 258 | this section, provide his or her place of permanent, temporary,
 259 | or transient residence, including a rural route address and a
 260 | post office box, and submit to the taking of a photograph for
 261 | use in issuing a driver's license, renewed license, or
 262 | identification card, and for use by the department in
 263 | maintaining current records of sexual predators. A post office
 264 | box shall not be provided in lieu of a physical residential
 265 | address. If the sexual predator's place of residence is a motor
 266 | vehicle, trailer, mobile home, or manufactured home, as defined
 267 | in chapter 320, the sexual predator shall also provide to the
 268 | Department of Highway Safety and Motor Vehicles the vehicle
 269 | identification number; the license tag number; the registration
 270 | number; and a description, including color scheme, of the motor
 271 | vehicle, trailer, mobile home, or manufactured home. If a sexual
 272 | predator's place of residence is a vessel, live-aboard vessel,
 273 | or houseboat, as defined in chapter 327, the sexual predator
 274 | shall also provide to the Department of Highway Safety and Motor
 275 | Vehicles the hull identification number; the manufacturer's
 276 | serial number; the name of the vessel, live-aboard vessel, or
 277 | houseboat; the registration number; and a description, including
 278 | color scheme, of the vessel, live-aboard vessel, or houseboat.

279 | 2. Pay the costs assessed by the Department of Highway
 280 | Safety and Motor Vehicles for issuing or renewing a driver's

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281 license or identification card as required by this section. The
 282 driver's license or identification card issued to the sexual
 283 predator must be in compliance with s. 322.141(3).

284 3. Provide, upon request, any additional information
 285 necessary to confirm the identity of the sexual predator,
 286 including a set of fingerprints.

287 (g)1. Each time a sexual predator's driver's license or
 288 identification card is subject to renewal, and, without regard
 289 to the status of the predator's driver's license or
 290 identification card, within 48 hours after any change of the
 291 predator's residence or change in the predator's name by reason
 292 of marriage or other legal process, the predator shall report in
 293 person to a driver's license office and shall be subject to the
 294 requirements specified in paragraph (f). The Department of
 295 Highway Safety and Motor Vehicles shall forward to the
 296 department and to the Department of Corrections all photographs
 297 and information provided by sexual predators. Notwithstanding
 298 the restrictions set forth in s. 322.142, the Department of
 299 Highway Safety and Motor Vehicles is authorized to release a
 300 reproduction of a color-photograph or digital-image license to
 301 the Department of Law Enforcement for purposes of public
 302 notification of sexual predators as provided in this section. A
 303 sexual predator who is unable to secure or update a driver's
 304 license or identification card with the Department of Highway
 305 Safety and Motor Vehicles as provided in paragraph (f) and this
 306 paragraph must also report any change of the predator's
 307 residence or change in the predator's name by reason of marriage
 308 or other legal process within 48 hours after the change to the

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309 | sheriff's office in the county where the predator resides or is
 310 | located and provide confirmation that he or she reported such
 311 | information to the Department of Highway Safety and Motor
 312 | Vehicles.

313 | 2. A sexual predator who vacates a permanent, temporary,
 314 | or transient residence and fails to establish or maintain
 315 | another permanent, temporary, or transient residence shall,
 316 | within 48 hours after vacating the permanent, temporary, or
 317 | transient residence, report in person to the sheriff's office of
 318 | the county in which he or she is located. The sexual predator
 319 | shall specify the date upon which he or she intends to or did
 320 | vacate such residence. The sexual predator must provide or
 321 | update all of the registration information required under
 322 | paragraph (a). The sexual predator must provide an address for
 323 | the residence or other place that he or she is or will be
 324 | located during the time in which he or she fails to establish or
 325 | maintain a permanent or temporary residence.

326 | 3. A sexual predator who remains at a permanent,
 327 | temporary, or transient residence after reporting his or her
 328 | intent to vacate such residence shall, within 48 hours after the
 329 | date upon which the predator indicated he or she would or did
 330 | vacate such residence, report in person to the sheriff's office
 331 | to which he or she reported pursuant to subparagraph 2. for the
 332 | purpose of reporting his or her address at such residence. When
 333 | the sheriff receives the report, the sheriff shall promptly
 334 | convey the information to the department. An offender who makes
 335 | a report as required under subparagraph 2. but fails to make a
 336 | report as required under this subparagraph commits a felony of

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337 | the second degree, punishable as provided in s. 775.082, s.
 338 | 775.083, or s. 775.084.

339 | 4. A sexual predator must register all any electronic mail
 340 | addresses and Internet identifiers ~~address or instant message~~
 341 | ~~name~~ with the department prior to using such electronic mail
 342 | addresses and Internet identifiers ~~address or instant message~~
 343 | ~~name on or after October 1, 2007~~. The department shall establish
 344 | an online system through which sexual predators may securely
 345 | access and update all electronic mail address and Internet
 346 | identifier ~~instant message name~~ information.

347 | (h) The department must notify the sheriff and the state
 348 | attorney of the county and, if applicable, the police chief of
 349 | the municipality, where the sexual predator maintains a
 350 | residence.

351 | (i) A sexual predator who intends to establish a
 352 | permanent, temporary, or transient residence in another state or
 353 | jurisdiction other than the State of Florida shall report in
 354 | person to the sheriff of the county of current residence within
 355 | 48 hours before the date he or she intends to leave this state
 356 | to establish residence in another state or jurisdiction or
 357 | within 21 days before his or her planned departure date if the
 358 | intended residence of 5 days or more is outside of the United
 359 | States. The sexual predator must provide to the sheriff the
 360 | address, municipality, county, ~~and state,~~ and country of
 361 | intended residence. The sheriff shall promptly provide to the
 362 | department the information received from the sexual predator.
 363 | The department shall notify the statewide law enforcement
 364 | agency, or a comparable agency, in the intended state, ~~or~~

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365 | jurisdiction, or country of residence of the sexual predator's
 366 | intended residence. The failure of a sexual predator to provide
 367 | his or her intended place of residence is punishable as provided
 368 | in subsection (10).

369 | (j) A sexual predator who indicates his or her intent to
 370 | establish a permanent, temporary, or transient residence in
 371 | another state, a ~~or~~ jurisdiction other than the State of
 372 | Florida, or another country and later decides to remain in this
 373 | state shall, within 48 hours after the date upon which the
 374 | sexual predator indicated he or she would leave this state,
 375 | report in person to the sheriff to which the sexual predator
 376 | reported the intended change of residence, and report his or her
 377 | intent to remain in this state. If the sheriff is notified by
 378 | the sexual predator that he or she intends to remain in this
 379 | state, the sheriff shall promptly report this information to the
 380 | department. A sexual predator who reports his or her intent to
 381 | establish a permanent, temporary, or transient residence in
 382 | another state, a ~~or~~ jurisdiction other than the State of
 383 | Florida, or another country, but who remains in this state
 384 | without reporting to the sheriff in the manner required by this
 385 | paragraph, commits a felony of the second degree, punishable as
 386 | provided in s. 775.082, s. 775.083, or s. 775.084.

387 | (k)1. The department is responsible for the online
 388 | maintenance of current information regarding each registered
 389 | sexual predator. The department must maintain hotline access for
 390 | state, local, and federal law enforcement agencies to obtain
 391 | instantaneous locator file and offender characteristics
 392 | information on all released registered sexual predators for

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393 | purposes of monitoring, tracking, and prosecution. The
 394 | photograph and fingerprints do not have to be stored in a
 395 | computerized format.

396 | 2. The department's sexual predator registration list,
 397 | containing the information described in subparagraph (a)1., is a
 398 | public record. The department is authorized to disseminate this
 399 | public information by any means deemed appropriate, including
 400 | operating a toll-free telephone number for this purpose. When
 401 | the department provides information regarding a registered
 402 | sexual predator to the public, department personnel must advise
 403 | the person making the inquiry that positive identification of a
 404 | person believed to be a sexual predator cannot be established
 405 | unless a fingerprint comparison is made, and that it is illegal
 406 | to use public information regarding a registered sexual predator
 407 | to facilitate the commission of a crime.

408 | 3. The department shall adopt guidelines as necessary
 409 | regarding the registration of sexual predators and the
 410 | dissemination of information regarding sexual predators as
 411 | required by this section.

412 | (1) A sexual predator must maintain registration with the
 413 | department for the duration of his or her life, unless the
 414 | sexual predator has received a full pardon or has had a
 415 | conviction set aside in a postconviction proceeding for any
 416 | offense that met the criteria for the sexual predator
 417 | designation.

418 | (8) VERIFICATION.—The department and the Department of
 419 | Corrections shall implement a system for verifying the addresses
 420 | of sexual predators. The system must be consistent with the

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421 provisions of the federal Adam Walsh Child Protection and Safety
 422 Act of 2006 and any other federal standards applicable to such
 423 verification or required to be met as a condition for the
 424 receipt of federal funds by the state. The Department of
 425 Corrections shall verify the addresses of sexual predators who
 426 are not incarcerated but who reside in the community under the
 427 supervision of the Department of Corrections and shall report to
 428 the department any failure by a sexual predator to comply with
 429 registration requirements. County and local law enforcement
 430 agencies, in conjunction with the department, shall verify the
 431 addresses of sexual predators who are not under the care,
 432 custody, control, or supervision of the Department of
 433 Corrections. Local law enforcement agencies shall report to the
 434 department any failure by a sexual predator to comply with
 435 registration requirements.

436 (a) A sexual predator must report in person each year
 437 during the month of the sexual predator's birthday and during
 438 every third month thereafter to the sheriff's office in the
 439 county in which he or she resides or is otherwise located to
 440 reregister. The sheriff's office may determine the appropriate
 441 times and days for reporting by the sexual predator, which shall
 442 be consistent with the reporting requirements of this paragraph.
 443 Reregistration shall include any changes to the following
 444 information:

- 445 1. Name; social security number; age; race; sex; date of
 446 birth; height; weight; tattoos or other identifying marks; hair
 447 and eye color; address of any permanent residence and address of
 448 any current temporary residence, within the state or out of

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449 | state, including a rural route address and a post office box; if
 450 | no permanent or temporary address, any transient residence
 451 | within the state; address, location or description, and dates of
 452 | any current or known future temporary residence within the state
 453 | or out of state; all ~~any~~ electronic mail addresses ~~address~~ and
 454 | all Internet identifiers ~~any instant message name~~ required to be
 455 | provided pursuant to subparagraph (6)(g)4.; all home telephone
 456 | numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date
 457 | and place of any employment; the ~~vehicle~~ make, model, color,
 458 | registration number, and license tag number of all vehicles
 459 | owned; fingerprints; palm prints; and photograph. A post office
 460 | box shall not be provided in lieu of a physical residential
 461 | address. The sexual predator must also produce his or her
 462 | passport, if he or she has a passport, and, if he or she is an
 463 | alien, must produce or provide information about documents
 464 | establishing his or her immigration status. The sexual predator
 465 | must also provide information about any professional licenses he
 466 | or she may have.

467 | 2. If the sexual predator is enrolled, employed,
 468 | volunteering, or carrying on a vocation at an institution of
 469 | higher education in this state, the sexual predator shall also
 470 | provide to the department the name, address, and county of each
 471 | institution, including each campus attended, and the sexual
 472 | predator's enrollment, volunteer or employment status.

473 | 3. If the sexual predator's place of residence is a motor
 474 | vehicle, trailer, mobile home, or manufactured home, as defined
 475 | in chapter 320, the sexual predator shall also provide the
 476 | vehicle identification number; the license tag number; the

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477 registration number; and a description, including color scheme,
 478 of the motor vehicle, trailer, mobile home, or manufactured
 479 home. If the sexual predator's place of residence is a vessel,
 480 live-aboard vessel, or houseboat, as defined in chapter 327, the
 481 sexual predator shall also provide the hull identification
 482 number; the manufacturer's serial number; the name of the
 483 vessel, live-aboard vessel, or houseboat; the registration
 484 number; and a description, including color scheme, of the
 485 vessel, live-aboard vessel, or houseboat.

486 (b) The sheriff's office shall, within 2 working days,
 487 electronically submit and update all information provided by the
 488 sexual predator to the department in a manner prescribed by the
 489 department.

490 (10) PENALTIES.—

491 (a) Except as otherwise specifically provided, a sexual
 492 predator who fails to register; who fails, after registration,
 493 to maintain, acquire, or renew a driver's license or
 494 identification card; who fails to provide required location
 495 information, electronic mail address information, Internet
 496 identifier ~~instant message name~~ information, all home telephone
 497 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~, or
 498 change-of-name information; who fails to make a required report
 499 in connection with vacating a permanent residence; who fails to
 500 reregister as required; who fails to respond to any address
 501 verification correspondence from the department within 3 weeks
 502 of the date of the correspondence; who knowingly provides false
 503 registration information by act or omission; or who otherwise
 504 fails, by act or omission, to comply with the requirements of

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505 | this section, commits a felony of the third degree, punishable
 506 | as provided in s. 775.082, s. 775.083, or s. 775.084.

507 | Section 2. Section 800.03, Florida Statutes, is amended to
 508 | read:

509 | 800.03 Exposure of sexual organs.—

510 | (1) It is unlawful to expose or exhibit one's sexual organs
 511 | in public or on the private premises of another, or so near
 512 | thereto as to be seen from such private premises, in a vulgar or
 513 | indecent manner, or to be naked in public except in any place
 514 | provided or set apart for that purpose.

515 | (2) (a) Except as provided in paragraph (b), a violation
 516 | Violation of this section is a misdemeanor of the first degree,
 517 | punishable as provided in s. 775.082 or s. 775.083.

518 | (b) A third or subsequent violation of this section is a
 519 | felony of the third degree, punishable as provided in s.
 520 | 775.082, s. 775.083, or s. 775.084.

521 | (3) A mother's breastfeeding of her baby does not under any
 522 | circumstance violate this section.

523 | Section 3. Paragraph (m) is added to subsection (2) of
 524 | section 903.046, Florida Statutes, to read:

525 | 903.046 Purpose of and criteria for bail determination.—

526 | (2) When determining whether to release a defendant on
 527 | bail or other conditions, and what that bail or those conditions
 528 | may be, the court shall consider:

529 | (m) Whether the defendant, other than a defendant whose
 530 | only criminal charge is a misdemeanor offense under chapter 316,
 531 | is required to register as a sexual offender under s. 943.0435
 532 | or a sexual predator under s. 775.21; and, if so, he or she is

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533 not eligible for release on bail or surety bond until the first
 534 appearance on the case in order to ensure the full participation
 535 of the prosecutor and the protection of the public.

536 Section 4. Paragraphs (a) and (g) of subsection (1),
 537 subsection (2), paragraphs (a) and (d) of subsection (4),
 538 subsections (7), (8) and (11), and paragraph (c) of subsection
 539 (14) of section 943.0435, Florida Statutes, are amended to read:

540 943.0435 Sexual offenders required to register with the
 541 department; penalty.-

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

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

546 a.(I) Has been convicted of committing, or attempting,
 547 soliciting, or conspiring to commit, any of the criminal
 548 offenses proscribed in the following statutes in this state or
 549 similar offenses in another jurisdiction: s. 393.135(2); s.
 550 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 551 the victim is a minor and the defendant is not the victim's
 552 parent or guardian; s. 794.011, excluding s. 794.011(10); s.
 553 794.05; s. 796.03; s. 796.035; s. 796.045; s. 800.04; s.
 554 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 555 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.
 556 916.1075(2); or s. 985.701(1); or any similar offense committed
 557 in this state which has been redesignated from a former statute
 558 number to one of those listed in this sub-sub-subparagraph; and
 559 (II) Has been released on or after October 1, 1997, from
 560 the sanction imposed for any conviction of an offense described

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561 in sub-sub-subparagraph (I). For purposes of sub-sub-
 562 subparagraph (I), a sanction imposed in this state or in any
 563 other jurisdiction includes, but is not limited to, a fine,
 564 probation, community control, parole, conditional release,
 565 control release, or incarceration in a state prison, federal
 566 prison, private correctional facility, or local detention
 567 facility;

568 b. Establishes or maintains a residence in this state and
 569 who has not been designated as a sexual predator by a court of
 570 this state but who has been designated as a sexual predator, as
 571 a sexually violent predator, or by another sexual offender
 572 designation in another state or jurisdiction and was, as a
 573 result of such designation, subjected to registration or
 574 community or public notification, or both, or would be if the
 575 person were a resident of that state or jurisdiction, without
 576 regard to whether the person otherwise meets the criteria for
 577 registration as a sexual offender;

578 c. Establishes or maintains a residence in this state who
 579 is in the custody or control of, or under the supervision of,
 580 any other state or jurisdiction as a result of a conviction for
 581 committing, or attempting, soliciting, or conspiring to commit,
 582 any of the criminal offenses proscribed in the following
 583 statutes or similar offense in another jurisdiction: s.
 584 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 585 787.025(2)(c), where the victim is a minor and the defendant is
 586 not the victim's parent or guardian; s. 794.011, excluding s.
 587 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 796.045; s.
 588 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,

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589 | excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 590 | s. 916.1075(2); or s. 985.701(1); or any similar offense
 591 | committed in this state which has been redesignated from a
 592 | former statute number to one of those listed in this sub-
 593 | subparagraph; or

594 | d. On or after July 1, 2007, has been adjudicated
 595 | delinquent for committing, or attempting, soliciting, or
 596 | conspiring to commit, any of the criminal offenses proscribed in
 597 | the following statutes in this state or similar offenses in
 598 | another jurisdiction when the juvenile was 14 years of age or
 599 | older at the time of the offense:

600 | (I) Section 794.011, excluding s. 794.011(10);

601 | (II) Section 800.04(4)(b) where the victim is under 12
 602 | years of age or where the court finds sexual activity by the use
 603 | of force or coercion;

604 | (III) Section 800.04(5)(c)1. where the court finds
 605 | molestation involving unclothed genitals; or

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

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

611 |
 612 | For each violation of a qualifying offense listed in this
 613 | subsection, except for a violation of s. 794.011, the court
 614 | shall make a written finding of the age of the victim at the
 615 | time of the offense. For a violation of s. 800.04(4), the court
 616 | shall additionally make a written finding indicating that the

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617 offense did or did not involve sexual activity and indicating
 618 that the offense did or did not involve force or coercion. For a
 619 violation of s. 800.04(5), the court shall additionally make a
 620 written finding that the offense did or did not involve
 621 unclothed genitals or genital area and that the offense did or
 622 did not involve the use of force or coercion.

623 (g) "Internet identifier Instant message name" has the
 624 same meaning as provided in s. 775.21 ~~means an identifier that~~
 625 ~~allows a person to communicate in real time with another person~~
 626 ~~using the Internet.~~

627 (2) A sexual offender shall:

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

629 1. In the county in which the offender establishes or
 630 maintains a permanent, temporary, or transient residence within
 631 48 hours after:

632 a. Establishing permanent, temporary, or transient
 633 residence in this state; or

634 b. Being released from the custody, control, or
 635 supervision of the Department of Corrections or from the custody
 636 of a private correctional facility; or

637 2. In the county where he or she was convicted within 48
 638 hours after being convicted for a qualifying offense for
 639 registration under this section if the offender is not in the
 640 custody or control of, or under the supervision of, the
 641 Department of Corrections, or is not in the custody of a private
 642 correctional facility.

643

644 Any change in the information required to be provided pursuant

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645 to paragraph (b), including, but not limited to, any change in
 646 the sexual offender's permanent, temporary, or transient
 647 residence, name, all any electronic mail addresses ~~address~~ and
 648 all Internet identifiers ~~any instant message name~~ required to be
 649 provided pursuant to paragraph (4)(d), after the sexual offender
 650 reports in person at the sheriff's office, shall be accomplished
 651 in the manner provided in subsections (4), (7), and (8).

652 (b) Provide his or her name; date of birth; social
 653 security number; race; sex; height; weight; hair and eye color;
 654 tattoos or other identifying marks; occupation and place of
 655 employment; address of permanent or legal residence or address
 656 of any current temporary residence, within the state or out of
 657 state, including a rural route address and a post office box; if
 658 no permanent or temporary address, any transient residence
 659 within the state, address, location or description, and dates of
 660 any current or known future temporary residence within the state
 661 or out of state; the make, model, color, registration number,
 662 and license tag number of all vehicles owned; all home telephone
 663 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; all
 664 any electronic mail addresses ~~address~~ and all Internet
 665 identifiers ~~any instant message name~~ required to be provided
 666 pursuant to paragraph (4)(d); fingerprints; palm prints;
 667 photograph; date and place of each conviction; and a brief
 668 description of the crime or crimes committed by the offender. A
 669 post office box shall not be provided in lieu of a physical
 670 residential address. The sexual offender must also produce his
 671 or her passport, if he or she has a passport, and, if he or she
 672 is an alien, must produce or provide information about documents

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673 establishing his or her immigration status. The sexual offender
 674 must also provide information about any professional licenses he
 675 or she may have.

676 1. If the sexual offender's place of residence is a motor
 677 vehicle, trailer, mobile home, or manufactured home, as defined
 678 in chapter 320, the sexual offender shall also provide to the
 679 department through the sheriff's office written notice of the
 680 vehicle identification number; the license tag number; the
 681 registration number; and a description, including color scheme,
 682 of the motor vehicle, trailer, mobile home, or manufactured
 683 home. If the sexual offender's place of residence is a vessel,
 684 live-aboard vessel, or houseboat, as defined in chapter 327, the
 685 sexual offender shall also provide to the department written
 686 notice of the hull identification number; the manufacturer's
 687 serial number; the name of the vessel, live-aboard vessel, or
 688 houseboat; the registration number; and a description, including
 689 color scheme, of the vessel, live-aboard vessel, or houseboat.

690 2. If the sexual offender is enrolled, employed,
 691 volunteering, or carrying on a vocation at an institution of
 692 higher education in this state, the sexual offender shall also
 693 provide to the department through the sheriff's office the name,
 694 address, and county of each institution, including each campus
 695 attended, and the sexual offender's enrollment or employment
 696 status. Each change in enrollment, volunteer or employment
 697 status shall be reported in person at the sheriff's office,
 698 within 48 hours after any change in status. The sheriff shall
 699 promptly notify each institution of the sexual offender's
 700 presence and any change in the sexual offender's enrollment,

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701 volunteer or employment status.

702 (c) Provide any other information determined necessary by
 703 the department, including criminal and corrections records;
 704 nonprivileged personnel and treatment records; and evidentiary
 705 genetic markers when available.

706
 707 When a sexual offender reports at the sheriff's office, the
 708 sheriff shall take a photograph, ~~and~~ a set of fingerprints, and
 709 palm prints of the offender and forward the photographs, palm
 710 prints, and fingerprints to the department, along with the
 711 information provided by the sexual offender. The sheriff shall
 712 promptly provide to the department the information received from
 713 the sexual offender.

714 (4) (a) Each time a sexual offender's driver's license or
 715 identification card is subject to renewal, and, without regard
 716 to the status of the offender's driver's license or
 717 identification card, within 48 hours after any change in the
 718 offender's permanent, temporary, or transient residence or
 719 change in the offender's name by reason of marriage or other
 720 legal process, the offender shall report in person to a driver's
 721 license office, and shall be subject to the requirements
 722 specified in subsection (3). The Department of Highway Safety
 723 and Motor Vehicles shall forward to the department all
 724 photographs and information provided by sexual offenders.
 725 Notwithstanding the restrictions set forth in s. 322.142, the
 726 Department of Highway Safety and Motor Vehicles is authorized to
 727 release a reproduction of a color-photograph or digital-image
 728 license to the Department of Law Enforcement for purposes of

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729 public notification of sexual offenders as provided in this
 730 section and ss. 943.043 and 944.606. A sexual offender who is
 731 unable to secure or update a driver's license or identification
 732 card with the Department of Highway Safety and Motor Vehicles as
 733 provided in subsection (3) and this subsection must also report
 734 any change in the sexual offender's permanent, temporary, or
 735 transient residence or change in the offender's name by reason
 736 of marriage or other legal process within 48 hours after the
 737 change to the sheriff's office in the county where the offender
 738 resides or is located and provide confirmation that he or she
 739 reported such information to Department of Highway Safety and
 740 Motor Vehicles.

741 (d) A sexual offender must register all any electronic
 742 mail addresses and Internet identifiers ~~address or instant~~
 743 ~~message name~~ with the department prior to using such electronic
 744 mail addresses and Internet identifiers ~~address or instant~~
 745 ~~message name on or after October 1, 2007.~~ The department shall
 746 establish an online system through which sexual offenders may
 747 securely access and update all electronic mail address and
 748 Internet identifier ~~instant message name~~ information.

749 (7) A sexual offender who intends to establish a
 750 permanent, temporary, or transient residence in another state or
 751 jurisdiction other than the State of Florida shall report in
 752 person to the sheriff of the county of current residence within
 753 48 hours before the date he or she intends to leave this state
 754 to establish residence in another state or jurisdiction or
 755 within 21 days before his or her planned departure date if the
 756 intended residence of 5 days or more is outside of the United

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757 States. The notification must include the address, municipality,
 758 county, ~~and~~ state, and country of intended residence. The
 759 sheriff shall promptly provide to the department the information
 760 received from the sexual offender. The department shall notify
 761 the statewide law enforcement agency, or a comparable agency, in
 762 the intended state, ~~or~~ jurisdiction, or country of residence of
 763 the sexual offender's intended residence. The failure of a
 764 sexual offender to provide his or her intended place of
 765 residence is punishable as provided in subsection (9).

766 (8) A sexual offender who indicates his or her intent to
 767 establish a permanent, temporary, or transient residence in
 768 another state, a ~~or~~ jurisdiction other than the State of
 769 Florida, or another country and later decides to remain in this
 770 state shall, within 48 hours after the date upon which the
 771 sexual offender indicated he or she would leave this state,
 772 report in person to the sheriff to which the sexual offender
 773 reported the intended change of permanent, temporary, or
 774 transient residence, and report his or her intent to remain in
 775 this state. The sheriff shall promptly report this information
 776 to the department. A sexual offender who reports his or her
 777 intent to establish a permanent, temporary, or transient
 778 residence in another state, a ~~or~~ jurisdiction other than the
 779 State of Florida, or another country but who remains in this
 780 state without reporting to the sheriff in the manner required by
 781 this subsection commits a felony of the second degree,
 782 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

783 (11) Except as provided in paragraphs (a) and (b) and s.
 784 943.04354, a sexual offender must maintain registration with the

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785 department for the duration of his or her life, unless the
 786 sexual offender has received a full pardon or has had a
 787 conviction set aside in a postconviction proceeding for any
 788 offense that meets the criteria for classifying the person as a
 789 sexual offender for purposes of registration. ~~However, a sexual~~
 790 ~~offender:~~

791 (a)1. A sexual offender may petition the criminal division
 792 of the circuit court of the circuit in which the sexual offender
 793 resides for the purpose of removing the requirement for
 794 registration as a sexual offender if: ~~Who has been lawfully~~
 795 ~~released from confinement, supervision, or sanction, whichever~~
 796 ~~is later, for at least 25 years and has not been arrested for~~
 797 ~~any felony or misdemeanor offense since release, provided that~~
 798 ~~the sexual offender's requirement to register was not based upon~~
 799 ~~an adult conviction:~~

800 a. Twenty-five years have elapsed since the sexual
 801 offender's registration period for the most recent conviction
 802 that required the offender to register began;

803 b. The sexual offender has not been convicted or
 804 adjudicated delinquent of any felony offense or of an offense
 805 punishable by more than a year imprisonment for twenty-five
 806 years prior to petitioning the court;

807 c. The sexual offender has successfully completed all
 808 sanctions imposed for all offenses that required the offender to
 809 register;

810 d. The sexual offender's requirement to register was not
 811 based upon an adult conviction for a violation of s. 787.01; s.
 812 794.011, excluding s. 794.011(10); s. 800.04(4)(b) where the

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813 court finds the offense involved a victim under 12 years of age
 814 or sexual activity by the use of force or coercion; s.
 815 800.04(5)(b); s. 800.04(5)(c)2. where the court finds the
 816 offense involved unclothed genitals or genital area; for any
 817 attempt or conspiracy to commit any offense listed in this sub-
 818 subparagraph; or for a violation of similar law of another
 819 jurisdiction; and

820 e. For sexual offenders whose requirement to register is
 821 based upon a conviction in another state, the sexual offender is
 822 not required to register as a sexual offender pursuant to the
 823 laws of the state where the conviction occurred.

824 ~~a. For a violation of s. 787.01 or s. 787.02;~~

825 ~~b. For a violation of s. 794.011, excluding s.~~
 826 ~~794.011(10);~~

827 ~~e. For a violation of s. 800.04(4)(b) where the court~~
 828 ~~finds the offense involved a victim under 12 years of age or~~
 829 ~~sexual activity by the use of force or coercion;~~

830 ~~d. For a violation of s. 800.04(5)(b);~~

831 ~~e. For a violation of s. 800.04(5)c.2. where the court~~
 832 ~~finds the offense involved unclothed genitals or genital area;~~

833 ~~f. For any attempt or conspiracy to commit any such~~
 834 ~~offense; or~~

835 ~~g. For a violation of similar law of another jurisdiction,~~

836

837 ~~may petition the criminal division of the circuit court of the~~
 838 ~~circuit in which the sexual offender resides for the purpose of~~
 839 ~~removing the requirement for registration as a sexual offender.~~

840 2. A sexual offender whose requirement to register was

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841 based upon an adult conviction for a violation of s. 787.02, s.
 842 827.071(5), for any attempt or conspiracy to commit any offense
 843 listed in this subparagraph, or for a violation of similar law
 844 of another jurisdiction, may petition the criminal division of
 845 the circuit court of the circuit in which the sexual offender
 846 resides for the purpose of removing the requirement for
 847 registration as a sexual offender if:

848 a. Fifteen years have elapsed since the sexual offender's
 849 registration period for the most recent conviction that required
 850 the offender to register began.

851 b. The sexual offender has not been convicted or
 852 adjudicated delinquent of any felony offense or of an offense
 853 punishable by more than a year imprisonment for ten years prior
 854 to petitioning the court;

855 c. The sexual offender has successfully completed all
 856 sanctions imposed for all offenses that required the offender to
 857 register; and

858 d. For sexual offenders whose requirement to register is
 859 based upon a conviction in another state, the sexual offender is
 860 not required to register as a sexual offender pursuant to the
 861 laws of the state where the conviction occurred.

862 3. A sexual offender required to register under sub-
 863 subparagraph (1)(a)1.d. may petition the criminal division of
 864 the circuit court of the circuit in which the sexual offender
 865 resides for the purpose of removing the requirement for
 866 registration as a sexual offender if:

867 a. Twenty-five years have elapsed since the sexual
 868 offender's registration period for the most recent adjudication

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869 that required the offender to register began;

870 b. The sexual offender has not been convicted or
 871 adjudicated delinquent of any felony offense or of an offense
 872 punishable by more than a year imprisonment for twenty-five
 873 years prior to petitioning the court; and

874 c. The sexual offender has successfully completed all
 875 sanctions imposed for any offense that required the offender to
 876 register.

877 42. The court may grant or deny relief if the offender
 878 demonstrates to the court that ~~he or she has not been arrested~~
 879 ~~for any crime since release;~~ the requested relief complies with
 880 the provisions of paragraph (a), the federal Adam Walsh Child
 881 Protection and Safety Act of 2006, and any other federal
 882 standards applicable to the removal of registration requirements
 883 for a sexual offender or required to be met as a condition for
 884 the receipt of federal funds by the state; and the court is
 885 otherwise satisfied that the offender is not a current or
 886 potential threat to public safety. The state attorney in the
 887 circuit in which the petition is filed and the department must
 888 be given notice of the petition at least 3 weeks before the
 889 hearing on the matter. The state attorney may present evidence
 890 in opposition to the requested relief or may otherwise
 891 demonstrate the reasons why the petition should be denied. If
 892 the court grants the petition, the court shall instruct the
 893 petitioner to provide the department a certified copy of the
 894 order granting relief. If the court denies the petition, the
 895 court may set a future date at which the sexual offender may
 896 again petition the court for relief, subject to the standards

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897 for relief provided in this subsection.

898 ~~5.3.~~ The department shall remove an offender from
 899 classification as a sexual offender for purposes of registration
 900 if the offender provides to the department a certified copy of
 901 the court's written findings or order that indicates that the
 902 offender is no longer required to comply with the requirements
 903 for registration as a sexual offender.

904 6. For purposes of this paragraph:

905 a. The registration period of a sexual offender sentenced
 906 to a term of incarceration or committed to a residential program
 907 begins upon release for the most recent conviction that required
 908 the sexual offender to register.

909 b. A sexual offender's registration period is tolled during
 910 any period in which the offender is incarcerated, civilly
 911 committed, detained pursuant to ch. 985, or committed to a
 912 residential program.

913 (b) As defined in sub-subparagraph (1)(a)1.b. must
 914 maintain registration with the department for the duration of
 915 his or her life until the person provides the department with an
 916 order issued by the court that designated the person as a sexual
 917 predator, as a sexually violent predator, or by another sexual
 918 offender designation in the state or jurisdiction in which the
 919 order was issued which states that such designation has been
 920 removed or demonstrates to the department that such designation,
 921 if not imposed by a court, has been removed by operation of law
 922 or court order in the state or jurisdiction in which the
 923 designation was made, and provided such person no longer meets
 924 the criteria for registration as a sexual offender under the

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925 laws of this state.

926 (14)

927 (c) The sheriff's office may determine the appropriate
 928 times and days for reporting by the sexual offender, which shall
 929 be consistent with the reporting requirements of this
 930 subsection. Reregistration shall include any changes to the
 931 following information:

932 1. Name; social security number; age; race; sex; date of
 933 birth; height; weight; hair and eye color; address of any
 934 permanent residence and address of any current temporary
 935 residence, within the state or out of state, including a rural
 936 route address and a post office box; if no permanent or
 937 temporary address, any transient residence within the state;
 938 address, location or description, and dates of any current or
 939 known future temporary residence within the state or out of
 940 state; all any electronic mail addresses ~~address~~ and all
 941 Internet identifiers ~~any instant message name~~ required to be
 942 provided pursuant to paragraph (4) (d); all home telephone
 943 numbers ~~number~~ and all any cellular telephone numbers ~~number~~;
 944 date and place of any employment; the ~~vehicle~~ make, model,
 945 color, registration number, and license tag number of all
 946 vehicles owned; fingerprints; palm prints; and photograph. A
 947 post office box shall not be provided in lieu of a physical
 948 residential address. The sexual offender must also produce his
 949 or her passport, if he or she has a passport, and, if he or she
 950 is an alien, must produce or provide information about documents
 951 establishing his or her immigration status. The sexual predator
 952 must also provide information about any professional licenses he

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953 | or she may have.

954 | 2. If the sexual offender is enrolled, volunteering,
 955 | employed, or carrying on a vocation at an institution of higher
 956 | education in this state, the sexual offender shall also provide
 957 | to the department the name, address, and county of each
 958 | institution, including each campus attended, and the sexual
 959 | offender's enrollment, volunteer or employment status.

960 | 3. If the sexual offender's place of residence is a motor
 961 | vehicle, trailer, mobile home, or manufactured home, as defined
 962 | in chapter 320, the sexual offender shall also provide the
 963 | vehicle identification number; the license tag number; the
 964 | registration number; and a description, including color scheme,
 965 | of the motor vehicle, trailer, mobile home, or manufactured
 966 | home. If the sexual offender's place of residence is a vessel,
 967 | live-aboard vessel, or houseboat, as defined in chapter 327, the
 968 | sexual offender shall also provide the hull identification
 969 | number; the manufacturer's serial number; the name of the
 970 | vessel, live-aboard vessel, or houseboat; the registration
 971 | number; and a description, including color scheme, of the
 972 | vessel, live-aboard vessel or houseboat.

973 | 4. Any sexual offender who fails to report in person as
 974 | required at the sheriff's office, ~~or~~ who fails to respond to any
 975 | address verification correspondence from the department within 3
 976 | weeks of the date of the correspondence, ~~or~~ who fails to report
 977 | all electronic mail addresses and all Internet identifiers ~~or~~
 978 | ~~instant message names,~~ or who knowingly provides false
 979 | registration information by act or omission; commits a felony of
 980 | the third degree, punishable as provided in s. 775.082, s.

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981 775.083, or s. 775.084.

982 Section 5. Section 943.04351, Florida Statutes, is amended
 983 to read:

984 943.04351 Search of registration information regarding
 985 sexual predators and sexual offenders required prior to
 986 appointment or employment.—A state agency or governmental
 987 subdivision, prior to making any decision to appoint or employ a
 988 person to work, whether for compensation or as a volunteer, at
 989 any park, playground, day care center, or other place where
 990 children regularly congregate, must conduct a search of that
 991 person's name or other identifying information against the
 992 registration information regarding sexual predators and sexual
 993 offenders maintained by the Department of Law Enforcement under
 994 s. 943.043. The agency or governmental subdivision may conduct
 995 the search using the Internet site maintained by the Department
 996 of Law Enforcement. Also, a national search must be conducted
 997 through the Dru Sjodin National Sex Offender Public Website
 998 maintained by the United States Department of Justice. This
 999 section does not apply to those positions or appointments within
 1000 a state agency or governmental subdivision for which a state and
 1001 national criminal history background check is conducted.

1002 Section 6. Section 943.04354, Florida Statutes, is amended
 1003 to read:

1004 943.04354 Removal of the requirement to register as a
 1005 sexual offender or sexual predator in special circumstances.—

1006 (1) For purposes of this section, a person shall be
 1007 considered for removal of the requirement to register as a
 1008 sexual offender or sexual predator only if the person:

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1009 (a) Was ~~or will be~~ convicted, regardless of adjudication,
 1010 or adjudicated delinquent of a violation of s. 794.011, s.
 1011 800.04, s. 827.071, or s. 847.0135(5), or a similar offense in
 1012 another jurisdiction, ~~or the person committed a violation of s.~~
 1013 ~~794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which~~
 1014 ~~adjudication of guilt was or will be withheld,~~ and the person
 1015 does not have any other conviction, regardless of adjudication,
 1016 or adjudication of delinquency, ~~or withhold of adjudication of~~
 1017 ~~guilt~~ for a violation of s. 794.011, s. 800.04, s. 827.071, or
 1018 s. 847.0135(5), or a similar offense in another jurisdiction;

1019 (b)1. Was convicted, regardless of adjudication, or
 1020 adjudicated delinquent of an offense listed in paragraph (a) and
 1021 is ~~is~~ required to register as a sexual offender or sexual
 1022 predator solely on the basis of this conviction or adjudication
 1023 violation; or and

1024 2. Was convicted, regardless of adjudication, or
 1025 adjudicated delinquent of an offense in another jurisdiction
 1026 that is similar to an offense listed in paragraph (a) and no
 1027 longer meets the criteria for registration as a sexual offender
 1028 under the laws of the jurisdiction where the similar offense
 1029 occurred; and

1030 (c) Is not more than 4 years older than the victim of this
 1031 violation who was 13 ~~14~~ years of age or older but less ~~not more~~
 1032 than 18 ~~17~~ years of age at the time the person committed this
 1033 violation.

1034 (2) If a person meets the criteria in subsection (1) ~~and~~
 1035 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~
 1036 ~~847.0135(5) was committed on or after July 1, 2007, the person~~

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1037 may move the sentencing court, or for persons convicted or
 1038 adjudicated delinquent of a qualifying offense in another
 1039 jurisdiction, the criminal circuit court of the circuit in which
 1040 the person resides, ~~that will sentence or dispose of this~~
 1041 ~~violation~~ to remove the requirement that the person register as
 1042 a sexual offender or sexual predator. The person must allege in
 1043 the motion that he or she meets the criteria in subsection (1)
 1044 and that removal of the registration requirement will not
 1045 conflict with federal law. Persons convicted or adjudicated
 1046 delinquent of an offense in another jurisdiction that is similar
 1047 to an offense listed in paragraph (a) must provide the court
 1048 written confirmation that he or she is not required to register
 1049 in the state where the conviction or adjudication occurred. The
 1050 state attorney and the department must be given notice of the
 1051 motion at least 21 days before the date of sentencing, ~~or~~
 1052 disposition of the ~~this~~ violation, or hearing on the motion and
 1053 may present evidence in opposition to the requested relief or
 1054 may otherwise demonstrate why the motion should be denied. At
 1055 sentencing, ~~or~~ disposition of the ~~this~~ violation, or hearing on
 1056 the motion, the court shall rule on this motion and, if the
 1057 court determines the person meets the criteria in subsection (1)
 1058 and the removal of the registration requirement will not
 1059 conflict with federal law, it may grant the motion and order the
 1060 removal of the registration requirement. The court shall
 1061 instruct the person to provide the department a certified copy
 1062 of the order granting relief. If the court denies the motion,
 1063 the person is not authorized under this section to petition for
 1064 removal of the registration requirement.

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1065 ~~(3)(a) This subsection applies to a person who:~~
 1066 ~~1. Is not a person described in subsection (2) because the~~
 1067 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~
 1068 ~~committed on or after July 1, 2007;~~
 1069 ~~2. Is subject to registration as a sexual offender or~~
 1070 ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~
 1071 ~~827.071; and~~
 1072 ~~3. Meets the criteria in subsection (1).~~
 1073 ~~(b) A person may petition the court in which the sentence~~
 1074 ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~
 1075 ~~827.071 occurred for removal of the requirement to register as a~~
 1076 ~~sexual offender or sexual predator. The person must allege in~~
 1077 ~~the petition that he or she meets the criteria in subsection (1)~~
 1078 ~~and removal of the registration requirement will not conflict~~
 1079 ~~with federal law. The state attorney must be given notice of the~~
 1080 ~~petition at least 21 days before the hearing on the petition and~~
 1081 ~~may present evidence in opposition to the requested relief or~~
 1082 ~~may otherwise demonstrate why the petition should be denied. The~~
 1083 ~~court shall rule on the petition and, if the court determines~~
 1084 ~~the person meets the criteria in subsection (1) and removal of~~
 1085 ~~the registration requirement will not conflict with federal law,~~
 1086 ~~it may grant the petition and order the removal of the~~
 1087 ~~registration requirement. If the court denies the petition, the~~
 1088 ~~person is not authorized under this section to file any further~~
 1089 ~~petition for removal of the registration requirement.~~
 1090 (3)(4) If a person provides to the Department of Law
 1091 Enforcement a certified copy of the court's order removing the
 1092 requirement that the person register as a sexual offender or

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1093 sexual predator for the violation of s. 794.011, s. 800.04, s.
 1094 827.071, or s. 847.0135(5), or a similar offense in another
 1095 jurisdiction, the registration requirement will not apply to the
 1096 person and the department shall remove all information about the
 1097 person from the public registry of sexual offenders and sexual
 1098 predators maintained by the department. However, the removal of
 1099 this information from the public registry does not mean that the
 1100 public is denied access to information about the person's
 1101 criminal history or record that is otherwise available as a
 1102 public record.

1103 Section 7. Subsection (2) and paragraph (a) of subsection
 1104 (3) of section 943.0437, Florida Statutes, is amended to read:

1105 943.0437 Commercial social networking websites.—

1106 (2) The department may provide information relating to
 1107 electronic mail addresses and Internet identifiers ~~instant~~
 1108 ~~message names~~ maintained as part of the sexual offender registry
 1109 to commercial social networking websites or third parties
 1110 designated by commercial social networking websites. The
 1111 commercial social networking website may use this information
 1112 for the purpose of comparing registered users and screening
 1113 potential users of the commercial social networking website
 1114 against the list of electronic mail addresses and Internet
 1115 identifiers ~~instant message names~~ provided by the department.

1116 (3) This section shall not be construed to impose any
 1117 civil liability on a commercial social networking website for:

1118 (a) Any action voluntarily taken in good faith to remove
 1119 or disable any profile of a registered user associated with an
 1120 electronic mail address or Internet identifier ~~instant message~~

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1121 ~~name~~ contained in the sexual offender registry.

1122 Section 8. Paragraphs (b) and (d) of subsection (1) and

1123 paragraph (a) of subsection (3) of section 944.606, Florida

1124 Statutes, are amended to read:

1125 944.606 Sexual offenders; notification upon release.—

1126 (1) As used in this section:

1127 (b) "Sexual offender" means a person who has been

1128 convicted of committing, or attempting, soliciting, or

1129 conspiring to commit, any of the criminal offenses proscribed in

1130 the following statutes in this state or similar offenses in

1131 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,

1132 s. 787.02, or s. 787.025(2) (c), where the victim is a minor and

1133 the defendant is not the victim's parent or guardian; s.

1134 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.

1135 796.045; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.

1136 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.

1137 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any

1138 similar offense committed in this state which has been

1139 redesignated from a former statute number to one of those listed

1140 in this subsection, when the department has received verified

1141 information regarding such conviction; an offender's

1142 computerized criminal history record is not, in and of itself,

1143 verified information.

1144 (d) "Internet identifier ~~Instant message name~~" has the

1145 same meaning as provided in s. 775.21 ~~means an identifier that~~

1146 ~~allows a person to communicate in real time with another person~~

1147 ~~using the Internet.~~

1148 (3) (a) The department must provide information regarding

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1149 any sexual offender who is being released after serving a period
 1150 of incarceration for any offense, as follows:

1151 1. The department must provide: the sexual offender's
 1152 name, any change in the offender's name by reason of marriage or
 1153 other legal process, and any alias, if known; the correctional
 1154 facility from which the sexual offender is released; the sexual
 1155 offender's social security number, race, sex, date of birth,
 1156 height, weight, and hair and eye color; address of any planned
 1157 permanent residence or temporary residence, within the state or
 1158 out of state, including a rural route address and a post office
 1159 box; if no permanent or temporary address, any transient
 1160 residence within the state; address, location or description,
 1161 and dates of any known future temporary residence within the
 1162 state or out of state; date and county of sentence and each
 1163 crime for which the offender was sentenced; a copy of the
 1164 offender's fingerprints, palm prints, and a digitized photograph
 1165 taken within 60 days before release; the date of release of the
 1166 sexual offender; all any electronic mail addresses ~~address~~ and
 1167 all Internet identifiers ~~any instant message name~~ required to be
 1168 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone
 1169 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
 1170 about any professional licenses the offender may have, if known;
 1171 and passport information, if he or she has a passport, and, if
 1172 he or she is an alien, information about documents establishing
 1173 his or her immigration status ~~number~~. The department shall
 1174 notify the Department of Law Enforcement if the sexual offender
 1175 escapes, absconds, or dies. If the sexual offender is in the
 1176 custody of a private correctional facility, the facility shall

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1177 take the digitized photograph of the sexual offender within 60
 1178 days before the sexual offender's release and provide this
 1179 photograph to the Department of Corrections and also place it in
 1180 the sexual offender's file. If the sexual offender is in the
 1181 custody of a local jail, the custodian of the local jail shall
 1182 register the offender within 3 business days after intake of the
 1183 offender for any reason and upon release, and shall notify the
 1184 Department of Law Enforcement of the sexual offender's release
 1185 and provide to the Department of Law Enforcement the information
 1186 specified in this paragraph and any information specified in
 1187 subparagraph 2. that the Department of Law Enforcement requests.

1188 2. The department may provide any other information deemed
 1189 necessary, including criminal and corrections records,
 1190 nonprivileged personnel and treatment records, when available.

1191 Section 9. Paragraphs (a) and (f) of subsection (1),
 1192 subsection (4), and paragraph (c) of subsection (13) of section
 1193 944.607, Florida Statutes, are amended to read:

1194 944.607 Notification to Department of Law Enforcement of
 1195 information on sexual offenders.-

1196 (1) As used in this section, the term:

1197 (a) "Sexual offender" means a person who is in the custody
 1198 or control of, or under the supervision of, the department or is
 1199 in the custody of a private correctional facility:

1200 1. On or after October 1, 1997, as a result of a
 1201 conviction for committing, or attempting, soliciting, or
 1202 conspiring to commit, any of the criminal offenses proscribed in
 1203 the following statutes in this state or similar offenses in
 1204 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,

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1205 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 1206 the defendant is not the victim's parent or guardian; s.
 1207 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
 1208 796.035; s. 796.045; s. 800.04; s. 825.1025; s. 827.071; s.
 1209 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
 1210 847.0138; s. 847.0145; 916.1075(2); or s. 985.701(1); or any
 1211 similar offense committed in this state which has been
 1212 redesignated from a former statute number to one of those listed
 1213 in this paragraph; or

1214 2. Who establishes or maintains a residence in this state
 1215 and who has not been designated as a sexual predator by a court
 1216 of this state but who has been designated as a sexual predator,
 1217 as a sexually violent predator, or by another sexual offender
 1218 designation in another state or jurisdiction and was, as a
 1219 result of such designation, subjected to registration or
 1220 community or public notification, or both, or would be if the
 1221 person were a resident of that state or jurisdiction, without
 1222 regard as to whether the person otherwise meets the criteria for
 1223 registration as a sexual offender.

1224 (f) "Internet identifier Instant message name" has the
 1225 same meaning as provided in s. 775.21 ~~means an identifier that~~
 1226 ~~allows a person to communicate in real time with another person~~
 1227 ~~using the Internet.~~

1228 (4) A sexual offender, as described in this section, who
 1229 is under the supervision of the Department of Corrections but is
 1230 not incarcerated must register with the Department of
 1231 Corrections within 3 business days after sentencing for a
 1232 registrable offense and otherwise provide information as

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1233 required by this subsection.

1234 (a) The sexual offender shall provide his or her name;

1235 date of birth; social security number; race; sex; height;

1236 weight; hair and eye color; tattoos or other identifying marks;

1237 all any electronic mail addresses ~~address~~ and all Internet

1238 identifiers ~~any instant message name~~ required to be provided

1239 pursuant to s. 943.0435(4)(d); the make, model, color,

1240 registration number, and license tag number of all vehicles

1241 owned; permanent or legal residence and address of temporary

1242 residence within the state or out of state while the sexual

1243 offender is under supervision in this state, including any rural

1244 route address or post office box; if no permanent or temporary

1245 address, any transient residence within the state; and address,

1246 location or description, and dates of any current or known

1247 future temporary residence within the state or out of state. The

1248 sexual offender must also produce his or her passport, if he or

1249 she has a passport, and, if he or she is an alien, must produce

1250 or provide information about documents establishing his or her

1251 immigration status. The Department of Corrections shall verify

1252 the address of each sexual offender in the manner described in

1253 ss. 775.21 and 943.0435. The department shall report to the

1254 Department of Law Enforcement any failure by a sexual predator

1255 or sexual offender to comply with registration requirements.

1256 (b) If the sexual offender is enrolled, employed,

1257 volunteering, or carrying on a vocation at an institution of

1258 higher education in this state, the sexual offender shall

1259 provide the name, address, and county of each institution,

1260 including each campus attended, and the sexual offender's

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1261 enrollment, volunteer, or employment status. Each change in
 1262 enrollment, volunteer, or employment status shall be reported to
 1263 the department within 48 hours after the change in status. The
 1264 Department of Corrections shall promptly notify each institution
 1265 of the sexual offender's presence and any change in the sexual
 1266 offender's enrollment, volunteer, or employment status.

1267 (13)

1268 (c) The sheriff's office may determine the appropriate
 1269 times and days for reporting by the sexual offender, which shall
 1270 be consistent with the reporting requirements of this
 1271 subsection. Reregistration shall include any changes to the
 1272 following information:

1273 1. Name; social security number; age; race; sex; date of
 1274 birth; height; weight; hair and eye color; address of any
 1275 permanent residence and address of any current temporary
 1276 residence, within the state or out of state, including a rural
 1277 route address and a post office box; if no permanent or
 1278 temporary address, any transient residence; address, location or
 1279 description, and dates of any current or known future temporary
 1280 residence within the state or out of state; all any electronic
 1281 mail addresses ~~address~~ and all Internet identifiers ~~any instant~~
 1282 ~~message name~~ required to be provided pursuant to s.

1283 943.0435(4)(d); date and place of any employment; the ~~vehiele~~
 1284 make, model, color, registration number, and license tag number
 1285 of all vehicles owned; fingerprints; palm prints; and
 1286 photograph. A post office box shall not be provided in lieu of a
 1287 physical residential address. The sexual offender must also
 1288 produce his or her passport, if he or she has a passport, and,

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1289 if he or she is an alien, must produce or provide information
 1290 about documents establishing his or her immigration status. The
 1291 offender must also provide information about any professional
 1292 licenses he or she may have.

1293 2. If the sexual offender is enrolled, employed,
 1294 volunteering, or carrying on a vocation at an institution of
 1295 higher education in this state, the sexual offender shall also
 1296 provide to the department the name, address, and county of each
 1297 institution, including each campus attended, and the sexual
 1298 offender's enrollment, volunteer, or employment status.

1299 3. If the sexual offender's place of residence is a motor
 1300 vehicle, trailer, mobile home, or manufactured home, as defined
 1301 in chapter 320, the sexual offender shall also provide the
 1302 vehicle identification number; the license tag number; the
 1303 registration number; and a description, including color scheme,
 1304 of the motor vehicle, trailer, mobile home, or manufactured
 1305 home. If the sexual offender's place of residence is a vessel,
 1306 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1307 sexual offender shall also provide the hull identification
 1308 number; the manufacturer's serial number; the name of the
 1309 vessel, live-aboard vessel, or houseboat; the registration
 1310 number; and a description, including color scheme, of the
 1311 vessel, live-aboard vessel or houseboat.

1312 4. Any sexual offender who fails to report in person as
 1313 required at the sheriff's office, or who fails to respond to any
 1314 address verification correspondence from the department within 3
 1315 weeks of the date of the correspondence, or who fails to report
 1316 all electronic mail addresses and all Internet identifiers ~~or~~

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1317 ~~instant message names, or who knowingly provides false~~
 1318 registration information by act or omission; commits a felony of
 1319 the third degree, punishable as provided in s. 775.082, s.
 1320 775.083, or s. 775.084.

1321 Section 10. Subsection (11) of section 947.005, Florida
 1322 Statutes, is amended to read:

1323 947.005 Definitions.—As used in this chapter, unless the
 1324 context clearly indicates otherwise:

1325 (11) "Risk assessment" means an assessment completed by a
 1326 ~~an independent~~ qualified practitioner to evaluate the level of
 1327 risk associated when a sex offender has contact with a child.

1328 Note.—Repealed by s. 32, ch. 93-406.

1329 Section 11. Section 948.31, Florida Statutes, is amended
 1330 to read:

1331 948.31 Evaluation and treatment of sexual predators and
 1332 offenders on probation or community control.— ~~The court shall~~
 1333 ~~require an evaluation by a qualified practitioner to determine~~
 1334 ~~the need of a probationer or community controllee for treatment.~~
 1335 ~~If the court determines that a need therefor is established by~~
 1336 ~~the evaluation process, the court shall require sexual offender~~
 1337 ~~treatment as a term or condition of probation or community~~
 1338 ~~control for~~ The court may require any probationer or community
 1339 controllee person who is required to register as a sexual
 1340 predator under s. 775.21 or sexual offender under s. 943.0435,
 1341 s. 944.606, or s. 944.607, to undergo an evaluation, at the
 1342 probationer or community controllee's expense, by a qualified
 1343 practitioner to determine whether such person needs sexual
 1344 offender treatment. If the qualified practitioner determines

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1345 that sexual offender treatment is needed and recommends
 1346 treatment, the probationer or community controllee must
 1347 successfully complete and pay for the treatment. Such treatment
 1348 must ~~shall be required to~~ be obtained from a qualified
 1349 practitioner as defined in s. 948.001. Treatment may not be
 1350 administered by a qualified practitioner who has been convicted
 1351 or adjudicated delinquent of committing, or attempting,
 1352 soliciting, or conspiring to commit, any offense that is listed
 1353 in s. 943.0435(1)(a)1.a.(I). ~~The court shall impose a~~
 1354 ~~restriction against contact with minors if sexual offender~~
 1355 ~~treatment is recommended. The evaluation and recommendations for~~
 1356 ~~treatment of the probationer or community controllee shall be~~
 1357 ~~provided to the court for review.~~

1358 Note.—Former s. 948.03(4).

1359 Section 12. Paragraph (a) of subsection (3) of section
 1360 985.481, Florida Statutes, is amended to read:

1361 985.481 Sexual offenders adjudicated delinquent;
 1362 notification upon release.—

1363 (3)(a) The department must provide information regarding
 1364 any sexual offender who is being released after serving a period
 1365 of residential commitment under the department for any offense,
 1366 as follows:

1367 1. The department must provide the sexual offender's name,
 1368 any change in the offender's name by reason of marriage or other
 1369 legal process, and any alias, if known; the correctional
 1370 facility from which the sexual offender is released; the sexual
 1371 offender's social security number, race, sex, date of birth,
 1372 height, weight, and hair and eye color; the make, model, color,

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1373 registration number, and license tag number of all vehicles
 1374 owned, if known; address of any planned permanent residence or
 1375 temporary residence, within the state or out of state, including
 1376 a rural route address and a post office box; if no permanent or
 1377 temporary address, any transient residence within the state;
 1378 address, location or description, and dates of any known future
 1379 temporary residence within the state or out of state; date and
 1380 county of disposition and each crime for which there was a
 1381 disposition; a copy of the offender's fingerprints and a
 1382 digitized photograph taken within 60 days before release; the
 1383 date of release of the sexual offender; all ~~and~~ home telephone
 1384 numbers ~~number~~ and any cellular telephone numbers; information
 1385 about any professional licenses the offender may have, if known;
 1386 and passport information, if he or she has a passport, and, if
 1387 he or she is an alien, information about documents establishing
 1388 his or her immigration status ~~number~~. The department shall
 1389 notify the Department of Law Enforcement if the sexual offender
 1390 escapes, absconds, or dies. If the sexual offender is in the
 1391 custody of a private correctional facility, the facility shall
 1392 take the digitized photograph of the sexual offender within 60
 1393 days before the sexual offender's release and also place it in
 1394 the sexual offender's file. If the sexual offender is in the
 1395 custody of a local jail, the custodian of the local jail shall
 1396 register the offender within 3 business days after intake of the
 1397 offender for any reason and upon release, and shall notify the
 1398 Department of Law Enforcement of the sexual offender's release
 1399 and provide to the Department of Law Enforcement the information
 1400 specified in this subparagraph and any information specified in

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1401 subparagraph 2. which the Department of Law Enforcement
 1402 requests.

1403 2. The department may provide any other information
 1404 considered necessary, including criminal and delinquency
 1405 records, when available.

1406 Section 13. Subsection (4), and paragraph (b) of
 1407 subsection (13) of section 985.4815, Florida Statutes, are
 1408 amended to read:

1409 985.4815 Notification to Department of Law Enforcement of
 1410 information on juvenile sexual offenders.-

1411 (4) A sexual offender, as described in this section, who
 1412 is under the supervision of the department but who is not
 1413 committed must register with the department within 3 business
 1414 days after adjudication and disposition for a registrable
 1415 offense and otherwise provide information as required by this
 1416 subsection.

1417 (a) The sexual offender shall provide his or her name;
 1418 date of birth; social security number; race; sex; height;
 1419 weight; hair and eye color; tattoos or other identifying marks;
 1420 the make, model, color, registration number, and license tag
 1421 number of all vehicles owned; permanent or legal residence and
 1422 address of temporary residence within the state or out of state
 1423 while the sexual offender is in the care or custody or under the
 1424 jurisdiction or supervision of the department in this state,
 1425 including any rural route address or post office box; if no
 1426 permanent or temporary address, any transient residence;
 1427 address, location or description, and dates of any current or
 1428 known future temporary residence within the state or out of

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1429 state; and the name and address of each school attended. The
 1430 sexual offender must also produce his or her passport, if he or
 1431 she has a passport, and, if he or she is an alien, must produce
 1432 or provide information about documents establishing his or her
 1433 immigration status. The offender must also provide information
 1434 about any professional licenses he or she may have. The
 1435 department shall verify the address of each sexual offender and
 1436 shall report to the Department of Law Enforcement any failure by
 1437 a sexual offender to comply with registration requirements.

1438 (b) If the sexual offender is enrolled, employed,
 1439 volunteering, or carrying on a vocation at an institution of
 1440 higher education in this state, the sexual offender shall
 1441 provide the name, address, and county of each institution,
 1442 including each campus attended, and the sexual offender's
 1443 enrollment, volunteer, or employment status. Each change in
 1444 enrollment, volunteer, or employment status shall be reported to
 1445 the department within 48 hours after the change in status. The
 1446 department shall promptly notify each institution of the sexual
 1447 offender's presence and any change in the sexual offender's
 1448 enrollment, volunteer, or employment status.

1449 (13)

1450 (b) The sheriff's office may determine the appropriate
 1451 times and days for reporting by the sexual offender, which shall
 1452 be consistent with the reporting requirements of this
 1453 subsection. Reregistration shall include any changes to the
 1454 following information:

- 1455 1. Name; social security number; age; race; sex; date of
- 1456 birth; height; weight; hair and eye color; fingerprints; palm

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1457 prints; address of any permanent residence and address of any
 1458 current temporary residence, within the state or out of state,
 1459 including a rural route address and a post office box; if no
 1460 permanent or temporary address, any transient residence;
 1461 address, location or description, and dates of any current or
 1462 known future temporary residence within the state or out of
 1463 state; passport information, if he or she has a passport, and,
 1464 if he or she is an alien, information about documents
 1465 establishing his or her immigration status; name and address of
 1466 each school attended; date and place of any employment; the
 1467 ~~vehicle~~ make, model, color, registration number, and license tag
 1468 number of all vehicles owned; fingerprints; and photograph. A
 1469 post office box shall not be provided in lieu of a physical
 1470 residential address. The offender must also provide information
 1471 about any professional licenses he or she may have.

1472 2. If the sexual offender is enrolled, employed,
 1473 volunteering, or carrying on a vocation at an institution of
 1474 higher education in this state, the sexual offender shall also
 1475 provide to the department the name, address, and county of each
 1476 institution, including each campus attended, and the sexual
 1477 offender's enrollment, volunteer, or employment status.

1478 3. If the sexual offender's place of residence is a motor
 1479 vehicle, trailer, mobile home, or manufactured home, as defined
 1480 in chapter 320, the sexual offender shall also provide the
 1481 vehicle identification number; the license tag number; the
 1482 registration number; and a description, including color scheme,
 1483 of the motor vehicle, trailer, mobile home, or manufactured
 1484 home. If the sexual offender's place of residence is a vessel,

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1485 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1486 sexual offender shall also provide the hull identification
 1487 number; the manufacturer's serial number; the name of the
 1488 vessel, live-aboard vessel, or houseboat; the registration
 1489 number; and a description, including color scheme, of the
 1490 vessel, live-aboard vessel, or houseboat.

1491 4. Any sexual offender who fails to report in person as
 1492 required at the sheriff's office, or who fails to respond to any
 1493 address verification correspondence from the department within 3
 1494 weeks after the date of the correspondence, or who knowingly
 1495 provides false registration information by act or omission;
 1496 commits a felony of the third degree, punishable as provided in
 1497 ss. 775.082, 775.083, and 775.084.

1498 Section 14. Paragraphs (g) and (i) of subsection (3) of
 1499 section 921.0022, Florida Statutes, are amended to read:

1500 921.0022 Criminal Punishment Code; offense severity
 1501 ranking chart.—

1502 (3) OFFENSE SEVERITY RANKING CHART

1503 (g) LEVEL 7

1504

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily

1505

1506

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL	ORIGINAL	YEAR
1507	injury.	
316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1508	327.35 (3) (c) 2.	3rd
1509	402.319 (2)	2nd
1510	409.920 (2) (b) 1.a.	3rd
1511	409.920 (2) (b) 1.b.	2nd
1512		

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

	BILL		ORIGINAL	YEAR
1513	456.065(2)	3rd	Practicing a health care profession without a license.	
1514	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.	
1515	458.327(1)	3rd	Practicing medicine without a license.	
1516	459.013(1)	3rd	Practicing osteopathic medicine without a license.	
1517	460.411(1)	3rd	Practicing chiropractic medicine without a license.	
1518	461.012(1)	3rd	Practicing podiatric medicine without a license.	
1519	462.17	3rd	Practicing naturopathy without a license.	
1520	463.015(1)	3rd	Practicing optometry without a license.	
	464.016(1)	3rd	Practicing nursing without a	

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL	ORIGINAL	YEAR
1521	license.	
465.015(2)	3rd Practicing pharmacy without a license.	
1522		
466.026(1)	3rd Practicing dentistry or dental hygiene without a license.	
1523		
467.201	3rd Practicing midwifery without a license.	
1524		
468.366	3rd Delivering respiratory care services without a license.	
1525		
483.828(1)	3rd Practicing as clinical laboratory personnel without a license.	
1526		
483.901(9)	3rd Practicing medical physics without a license.	
1527		
484.013(1)(c)	3rd Preparing or dispensing optical devices without a prescription.	
1528		
484.053	3rd Dispensing hearing aids without a license.	
1529		

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BILL		ORIGINAL	YEAR
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.	
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.	
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.	
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other	

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL	ORIGINAL	YEAR
1534	registration violations.	
775.21(10)(b)	3rd Sexual predator working where children regularly congregate.	
1535		
775.21(10)(g)	3rd Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.	
1536		
782.051(3)	2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.	
1537		
782.07(1)	2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).	
1538		
782.071	2nd Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).	
1539		

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

	BILL		ORIGINAL	YEAR
1540	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).	
1541	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.	
1542	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.	
1543	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.	
1544	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.	
1545	784.048 (7)	3rd	Aggravated stalking; violation of court order.	
1546	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.	
1547	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.	

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

	BILL		ORIGINAL	YEAR
1548	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.	
1549	784.081(1)	1st	Aggravated battery on specified official or employee.	
1550	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.	
1551	784.083(1)	1st	Aggravated battery on code inspector.	
1552	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).	
1553	790.16(1)	1st	Discharge of a machine gun under specified circumstances.	
1554	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.	
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or	

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BILL	ORIGINAL	YEAR
1555	790.166(3) 2nd	attempting to commit a felony. Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1556	790.166(4) 2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1557	790.23 1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1558	794.08(4) 3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1559	796.03 2nd	Procuring any person under <u>18</u> 16 years for prostitution.
1560	800.04(5)(c)1. 2nd	Lewd or lascivious molestation;

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BILL	ORIGINAL	YEAR	
1561	800.04(5)(c)2.	2nd	victim less than 12 years of age; offender less than 18 years.
1562	806.01(2)	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
1563	810.02(3)(a)	2nd	Maliciously damage structure by fire or explosive.
1564	810.02(3)(b)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1565	810.02(3)(d)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1566	810.02(3)(e)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1567	812.014(2)(a)1.	1st	Burglary of authorized emergency vehicle.
			Property stolen, valued at

BILL	ORIGINAL	YEAR
1568	812.014 (2) (b) 2. 2nd	<p>\$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.</p> <p>Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.</p>
1569	812.014 (2) (b) 3. 2nd	<p>Property stolen, emergency medical equipment; 2nd degree grand theft.</p>
1570	812.014 (2) (b) 4. 2nd	<p>Property stolen, law enforcement equipment from authorized emergency vehicle.</p>
1571	812.0145 (2) (a) 1st	<p>Theft from person 65 years of age or older; \$50,000 or more.</p>
1572	812.019 (2) 1st	<p>Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.</p>
1573		

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	BILL		ORIGINAL	YEAR
1574	812.131(2)(a)	2nd	Robbery by sudden snatching.	
1575	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.	
1576	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.	
1577	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.	
1578	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.	
1579	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.	
	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or	

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BILL	ORIGINAL	YEAR
1580	disfigurement.	
825.103(2)(b)	2nd Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.	
1581	Neglect of a child causing great bodily harm, disability, or disfigurement.	
827.03(3)(b)	2nd	
1582	Impregnation of a child under 16 years of age by person 21 years of age or older.	
827.04(3)	3rd	
1583	Giving false information about alleged capital felony to a law enforcement officer.	
837.05(2)	3rd	
1584	Bribery.	
838.015	2nd	
1585	Unlawful compensation or reward for official behavior.	
838.016	2nd	
1586	Unlawful harm to a public servant.	
838.021(3)(a)	2nd	
1587		

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	BILL		ORIGINAL	YEAR
1588	838.22	2nd	Bid tampering.	
1589	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.	
1590	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.	
1591	872.06	2nd	Abuse of a dead human body.	
1592	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.	
1593	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.	

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	BILL		ORIGINAL	YEAR
1594	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.	
1595	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).	
1596	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.	
1597	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.	
1598	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.	
	893.135(1)(d)1.	1st	Trafficking in phencyclidine,	

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BILL	ORIGINAL	YEAR
1599	more than 28 grams, less than 200 grams.	
893.135(1)(e)1.	1st Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.	
1600		
893.135(1)(f)1.	1st Trafficking in amphetamine, more than 14 grams, less than 28 grams.	
1601		
893.135 (1)(g)1.a.	1st Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.	
1602		
893.135 (1)(h)1.a.	1st Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.	
1603		
893.135 (1)(j)1.a.	1st Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.	
1604		
893.135 (1)(k)2.a.	1st Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.	
1605		

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

	BILL		ORIGINAL	YEAR
1606	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.	
1607	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.	
1608	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.	
1609	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.	
1610	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.	
1611	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.	

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL	3rd	ORIGINAL	YEAR
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	1612
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.	1613
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.	1614
944.607(10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.	1615
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	1616
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.	1617

BILL		ORIGINAL	YEAR
1618	985.4815 (10)	3rd Sexual offender; failure to submit to the taking of a digitized photograph.	
1619	985.4815 (12)	3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	
1620	985.4815 (13)	3rd Sexual offender; failure to report and reregister; failure to respond to address verification.	
1621	(i) LEVEL 9		
1622	Florida Statute	Felony Degree	Description
1623	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
1624	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
1625	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
1626			

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

	BILL		ORIGINAL	YEAR
1627	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.	
1628	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.	
1629	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.	
1630	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.	
1631	775.0844	1st	Aggravated white collar crime.	
1632	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.	
	782.04(3)	1st, PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and	

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL	ORIGINAL	YEAR
1633	other specified felonies.	
782.051(1)	1st Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).	
1634		
782.07(2)	1st Aggravated manslaughter of an elderly person or disabled adult.	
1635		
787.01(1)(a)1.	1st, PBL Kidnapping; hold for ransom or reward or as a shield or hostage.	
1636		
787.01(1)(a)2.	1st, PBL Kidnapping with intent to commit or facilitate commission of any felony.	
1637		
787.01(1)(a)4.	1st, PBL Kidnapping with intent to interfere with performance of any governmental or political function.	
1638		
787.02(3)(a)	1 st , <u>PBL</u> False imprisonment; child under age 13; perpetrator also commits aggravated child abuse,	

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL	ORIGINAL	YEAR
1639	790.161 1st	sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
1640	790.166(2) 1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
1641	794.011(2) 1st	Attempted sexual battery; victim less than 12 years of age.
1642	794.011(2) Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
1643	794.011(4) 1st	Sexual battery; victim 12 years or older, certain circumstances.
1644	794.011(8)(b) 1st	Sexual battery; engage in sexual conduct with minor 12 to

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL	ORIGINAL	YEAR
1645	18 years by person in familial or custodial authority.	
794.08(2)	1st Female genital mutilation; victim younger than 18 years of age.	
1646	Life Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.	
800.04(5)(b)		
1647	1st,PBL Robbery with firearm or other deadly weapon.	
812.13(2)(a)		
1648	1st,PBL Carjacking; firearm or other deadly weapon.	
812.133(2)(a)		
1649	1st Home-invasion robbery with weapon.	
812.135(2)(b)		
1650	2nd, PBL Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.	
817.568(7)		
1651		

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

	BILL		ORIGINAL	YEAR
1652	827.03(2)	1st	Aggravated child abuse.	
1653	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.	
1654	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.	
1655	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.	
1656	893.135	1st	Attempted capital trafficking offense.	
1657	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.	
1658	893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.	

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

	BILL		ORIGINAL	YEAR
1659	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.	
1660	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.	
1661	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.	
1662	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams.	
1663	893.135 (1) (h) 1.c.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.	
1664	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.	
1665	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.	
1666	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.	

BILL	ORIGINAL	YEAR
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896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.
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1667

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Section 15. This act shall take effect October 1, 2012.



Criminal Justice Subcommittee

Thursday January 12, 2012

8:30 AM

404 HOB

AMENDMENT PACKET

**Dean Cannon
Speaker**

**Gayle Harrell
Chair**

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 233 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee

3 Representative Rouson offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (2) of section 948.15, Florida
8 Statutes, is amended to read:

9 948.15 Misdemeanor probation services.—

10 (2) (a) A private entity or public entity under the
11 supervision of the board of county commissioners or the court
12 may provide probation services for offenders sentenced by the
13 county court.

14 (b) Where the board of county commissioners or court has
15 established a misdemeanor probation program targeting defendants
16 convicted of a misdemeanor for possession of a controlled
17 substance or drug paraphernalia under chapter 893, probation
18 supervision services for such persons shall be provided by a
19 licensed substance abuse education and intervention provider.

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Amendment No. 1

20 Such providers shall provide substance abuse education and
21 intervention services as well as probation supervision services.

22 Section 2. This act shall take effect July 1, 2012.

23 -----
24
25 **T I T L E A M E N D M E N T**

26 Remove the entire title and insert:

27 An act relating to misdemeanor probation services; amending
28 s. 948.15, F.S.; requiring probation supervision services for
29 defendants found guilty of certain misdemeanor controlled
30 substance offenses to be provided by a licensed substance abuse
31 education and intervention provider in certain instances;
32 requiring a licensed substance abuse education and intervention
33 provider to provide substance abuse education and intervention
34 services and probation supervision services; providing an
35 effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 729 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee

3 Representative Pilon offered the following:
4

5 **Amendment (with title amendment)**

6 Remove lines 70-104 and insert:

7 (4) EVIDENCE.—

8 (a) In prosecutions under this section, obtaining the
9 property or equipment under false pretenses; absconding without
10 payment; or removing or attempting to remove the property or
11 equipment from the county without the express written consent of
12 the lessor, is prima facie evidence of fraudulent intent.

13 (b) In a prosecution under subsection (3), failure to
14 redeliver the property or equipment within 5 days after
15 receiving the demand for return from a courier service with
16 tracking capability or by certified mail, return receipt
17 requested, after receipt of, or within 5 days after delivery by
18 the courier service or return receipt from~~7~~ the certified
19 mailing of the demand for return is prima facie evidence of

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 729 (2012)

Amendment No. 1

20 abandonment or refusal to redeliver the property. Notice mailed
21 by a courier service with tracking capabilities or by certified
22 mail, return receipt requested, to the address given by the
23 renter at the time of rental shall be deemed sufficient and
24 equivalent to notice having been received by the renter, if
25 ~~should~~ the notice is ~~be~~ returned undelivered.

26 (c) In a prosecution under subsection (3), failure to pay
27 any amount due which is incurred as the result of the failure to
28 redeliver property or equipment after the rental period expires,
29 and after the demand for return is made, is prima facie evidence
30 of abandonment or refusal to redeliver the property or
31 equipment. Amounts due include unpaid rental for the time period
32 during which the property or equipment was not returned and
33 include the lesser of the cost of repairing or replacing the
34 property or equipment if it has been damaged.

35 (5) DEMAND FOR RETURN.—Demand for return of overdue
36 property or equipment and for payment of amounts due may be made
37 in person, by hand delivery, courier service with tracking
38 capabilities, or by certified mail, return receipt requested,
39 addressed to the lessee's address shown in the rental contract.

40
41
42 -----
43 **T I T L E A M E N D M E N T**

44 Remove lines 7-10 and insert:
45 providing examples of prima facie evidence to be used in
46 prosecutions of this section;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 759 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee

3 Representative Hager offered the following:

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Amendment

Remove everything after the enacting clause and insert:
Section 1. Section 837.05, Florida Statutes, is amended to
read:

837.05 False reports to law enforcement authorities.-

(1) Except as provided in subsection (2), a person who
~~whoever~~ knowingly gives false information to a any law
enforcement officer concerning the alleged commission of any
crime, commits:

(a) For a first offense resulting in conviction, a
misdemeanor of the first degree, punishable as provided in s.
775.082 or s. 775.083.

(b) For a second or subsequent offense resulting in
conviction, a felony of the third degree, punishable as provided
in s. 775.082, s. 775.083, or s. 775.084.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 759 (2012)

Amendment No. 1

20 (2) A person who ~~whoever~~ knowingly gives false information
21 to a law enforcement officer concerning the alleged commission
22 of a capital felony, commits a felony of the third degree,
23 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

24 Section 2. This act shall take effect October 1, 2012.