

1                                   A bill to be entitled  
 2           An act relating to custody and supervision of  
 3           specified offenders; amending s. 794.011, F.S.;  
 4           excluding certain offenders from eligibility to  
 5           receive basic gain-time; amending s. 944.275, F.S.;  
 6           excluding certain offenders from eligibility to  
 7           receive incentive gain-time; amending s. 948.05, F.S.;  
 8           excluding certain offenders from eligibility for  
 9           specified reductions to a term of supervision;  
 10          amending s. 948.30, F.S.; requiring a court to impose  
 11          additional conditions of supervision on specified  
 12          offenders; providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16           Section 1. Subsection (7) of section 794.011, Florida  
 17   Statutes, is amended to read:

18           794.011 Sexual battery.—

19           (7) (a) A person who is convicted of committing a sexual  
 20   battery on or after October 1, 1992, is not eligible for basic  
 21   gain-time under s. 944.275.

22           (b) Notwithstanding paragraph (a), for sentences imposed  
 23   for offenses committed on or after July 1, 2023, a person who is  
 24   convicted of committing, or attempting, soliciting, or  
 25   conspiring to commit a sexual battery in violation of this

26 | section is not eligible for basic gain-time under s. 944.275.

27 |     (c) This subsection may be cited as the "Junny Rios-  
28 | Martinez, Jr. Act of 1992."

29 |     Section 2. Subsection (4) of section 944.275, Florida  
30 | Statutes, is amended to read:

31 |         944.275 Gain-time.—

32 |         (4) (a) As a means of encouraging satisfactory behavior,  
33 | the department shall grant basic gain-time at the rate of 10  
34 | days for each month of each sentence imposed on a prisoner,  
35 | subject to the following:

36 |             1. Portions of any sentences to be served concurrently  
37 | shall be treated as a single sentence when determining basic  
38 | gain-time.

39 |             2. Basic gain-time for a partial month shall be prorated  
40 | on the basis of a 30-day month.

41 |             3. When a prisoner receives a new maximum sentence  
42 | expiration date because of additional sentences imposed, basic  
43 | gain-time shall be granted for the amount of time the maximum  
44 | sentence expiration date was extended.

45 |         (b) For each month in which an inmate works diligently,  
46 | participates in training, uses time constructively, or otherwise  
47 | engages in positive activities, the department may grant  
48 | incentive gain-time in accordance with this paragraph. The rate  
49 | of incentive gain-time in effect on the date the inmate  
50 | committed the offense which resulted in his or her incarceration

51 shall be the inmate's rate of eligibility to earn incentive  
52 gain-time throughout the period of incarceration and shall not  
53 be altered by a subsequent change in the severity level of the  
54 offense for which the inmate was sentenced.

55 1. For sentences imposed for offenses committed prior to  
56 January 1, 1994, up to 20 days of incentive gain-time may be  
57 granted. If granted, such gain-time shall be credited and  
58 applied monthly.

59 2. For sentences imposed for offenses committed on or  
60 after January 1, 1994, and before October 1, 1995:

61 a. For offenses ranked in offense severity levels 1  
62 through 7, under former s. 921.0012 or former s. 921.0013, up to  
63 25 days of incentive gain-time may be granted. If granted, such  
64 gain-time shall be credited and applied monthly.

65 b. For offenses ranked in offense severity levels 8, 9,  
66 and 10, under former s. 921.0012 or former s. 921.0013, up to 20  
67 days of incentive gain-time may be granted. If granted, such  
68 gain-time shall be credited and applied monthly.

69 3. For sentences imposed for offenses committed on or  
70 after October 1, 1995, the department may grant up to 10 days  
71 per month of incentive gain-time.

72 (c) An inmate who performs some outstanding deed, such as  
73 saving a life or assisting in recapturing an escaped inmate, or  
74 who in some manner performs an outstanding service that would  
75 merit the granting of additional deductions from the term of his

76 | or her sentence may be granted meritorious gain-time of from 1  
77 | to 60 days.

78 |       (d) Notwithstanding the monthly maximum awards of  
79 | incentive gain-time under subparagraphs (b)1., 2., and 3., the  
80 | education program manager shall recommend, and the Department of  
81 | Corrections may grant, a one-time award of 60 additional days of  
82 | incentive gain-time to an inmate who is otherwise eligible and  
83 | who successfully completes requirements for and is, or has been  
84 | during the current commitment, awarded a high school equivalency  
85 | diploma or vocational certificate. Under no circumstances may an  
86 | inmate receive more than 60 days for educational attainment  
87 | pursuant to this section.

88 |       (e) 1. Notwithstanding subparagraph (b)3., for sentences  
89 | imposed for offenses committed on or after October 1, 2014, and  
90 | before July 1, 2023, the department may not grant incentive  
91 | gain-time if the offense is a violation of s. 782.04(1)(a)2.c.;  
92 | s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,  
93 | excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.  
94 | 847.0135(5).

95 |       2. Notwithstanding subparagraph (b)3., for sentences  
96 | imposed for offenses committed on or after July 1, 2023, the  
97 | department may not grant incentive gain-time if the offense is  
98 | for committing, or attempting, soliciting, or conspiring to  
99 | commit a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or  
100 | 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s.

101 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

102 (f) An inmate who is subject to subparagraph (b)3. is not  
 103 eligible to earn or receive gain-time under paragraph (a),  
 104 paragraph (b), paragraph (c), or paragraph (d) or any other type  
 105 of gain-time in an amount that would cause a sentence to expire,  
 106 end, or terminate, or that would result in a prisoner's release,  
 107 prior to serving a minimum of 85 percent of the sentence  
 108 imposed. For purposes of this paragraph, credits awarded by the  
 109 court for time physically incarcerated shall be credited toward  
 110 satisfaction of 85 percent of the sentence imposed. Except as  
 111 provided by this section, a prisoner may not accumulate further  
 112 gain-time awards at any point when the tentative release date is  
 113 the same as that date at which the prisoner will have served 85  
 114 percent of the sentence imposed. State prisoners sentenced to  
 115 life imprisonment shall be incarcerated for the rest of their  
 116 natural lives, unless granted pardon or clemency.

117 Section 3. Paragraph (e) of subsection (2) of section  
 118 948.05, Florida Statutes, is amended, and paragraph (f) is added  
 119 to that section, to read:

120 948.05 Court to admonish or commend probationer or  
 121 offender in community control; graduated incentives.-

122 (2) The department shall implement a system of graduated  
 123 incentives to promote compliance with the terms of supervision,  
 124 encourage educational achievement and stable employment, and  
 125 prioritize the highest levels of supervision for probationers or

126 offenders presenting the greatest risk of recidivism.

127 (e) A probationer or offender in community control who  
 128 commits a subsequent violation of probation may forfeit any  
 129 previously earned probation incentive, as determined appropriate  
 130 by his or her probation officer.

131 (f) A probationer or offender in community control who is  
 132 placed under supervision for committing or attempting,  
 133 soliciting, or conspiring to commit a violation of any felony  
 134 offense described in s. 775.21(4)(a)(1)a. or b. or s.  
 135 943.0435(1)(h)1.a., or who qualifies as a violent felony  
 136 offender of special concern under s. 948.06(8)(b) is not  
 137 eligible for any reduction of his or her supervision term under  
 138 this section.

139 Section 4. Section 948.30, Florida Statutes, is amended to  
 140 read:

141 948.30 Additional terms and conditions of probation or  
 142 community control for certain sex offenses.—Conditions imposed  
 143 pursuant to this section do not require oral pronouncement at  
 144 the time of sentencing and shall be considered standard  
 145 conditions of probation or community control for offenders  
 146 specified in this section.

147 (1) Effective for probationers or community controllees  
 148 whose crime was committed on or after October 1, 1995, and who  
 149 are placed under supervision for a violation of chapter 794, s.  
 150 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose

151 crime was committed on or after July 1, 2021, and who are placed  
 152 under supervision for a violation of s. 787.06(3)(b), (d), (f),  
 153 or (g), or whose crime was committed on or after July 1, 2023,  
 154 and who are placed under supervision for attempting, soliciting,  
 155 or conspiring to commit a violation of s. 787.06(3)(b), (d),  
 156 (f), or (g), chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
 157 or s. 847.0145, the court must impose the following conditions  
 158 in addition to all other standard and special conditions  
 159 imposed:

160 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court  
 161 may designate another 8-hour period if the offender's employment  
 162 precludes the above specified time, and the alternative is  
 163 recommended by the Department of Corrections. If the court  
 164 determines that imposing a curfew would endanger the victim, the  
 165 court may consider alternative sanctions.

166 (b) If the victim was under the age of 18, a prohibition  
 167 on living within 1,000 feet of a school, child care facility,  
 168 park, playground, or other place where children regularly  
 169 congregate, as prescribed by the court. The 1,000-foot distance  
 170 shall be measured in a straight line from the offender's place  
 171 of residence to the nearest boundary line of the school, child  
 172 care facility, park, playground, or other place where children  
 173 congregate. The distance may not be measured by a pedestrian  
 174 route or automobile route. A probationer or community controllee  
 175 who is subject to this paragraph may not be forced to relocate

176 and does not violate his or her probation or community control  
 177 if he or she is living in a residence that meets the  
 178 requirements of this paragraph and a school, child care  
 179 facility, park, playground, or other place where children  
 180 regularly congregate is subsequently established within 1,000  
 181 feet of his or her residence.

182 (c) Active participation in and successful completion of a  
 183 sex offender treatment program with qualified practitioners  
 184 specifically trained to treat sex offenders, at the  
 185 probationer's or community controllee's own expense. If a  
 186 qualified practitioner is not available within a 50-mile radius  
 187 of the probationer's or community controllee's residence, the  
 188 offender shall participate in other appropriate therapy.

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

193 (e) If the victim was under the age of 18, a prohibition  
 194 on contact with a child under the age of 18 except as provided  
 195 in this paragraph. The court may approve supervised contact with  
 196 a child under the age of 18 if the approval is based upon a  
 197 recommendation for contact issued by a qualified practitioner  
 198 who is basing the recommendation on a risk assessment. Further,  
 199 the sex offender must be currently enrolled in or have  
 200 successfully completed a sex offender therapy program. The court



201 may not grant supervised contact with a child if the contact is  
 202 not recommended by a qualified practitioner and may deny  
 203 supervised contact with a child at any time. When considering  
 204 whether to approve supervised contact with a child, the court  
 205 must review and consider the following:

206 1. A risk assessment completed by a qualified  
 207 practitioner. The qualified practitioner must prepare a written  
 208 report that must include the findings of the assessment and  
 209 address each of the following components:

- 210 a. The sex offender's current legal status;
- 211 b. The sex offender's history of adult charges with  
 212 apparent sexual motivation;
- 213 c. The sex offender's history of adult charges without  
 214 apparent sexual motivation;
- 215 d. The sex offender's history of juvenile charges,  
 216 whenever available;
- 217 e. The sex offender's offender treatment history,  
 218 including consultations with the sex offender's treating, or  
 219 most recent treating, therapist;
- 220 f. The sex offender's current mental status;
- 221 g. The sex offender's mental health and substance abuse  
 222 treatment history as provided by the Department of Corrections;
- 223 h. The sex offender's personal, social, educational, and  
 224 work history;
- 225 i. The results of current psychological testing of the sex

226 offender if determined necessary by the qualified practitioner;

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

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

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

233 m. The qualified practitioner's opinion, along with the  
234 basis for that opinion, as to whether the proposed contact would  
235 likely pose significant risk of emotional or physical harm to  
236 the child.

237  
238 The written report of the assessment must be given to the court;

239 2. A recommendation made as a part of the risk assessment  
240 report as to whether supervised contact with the child should be  
241 approved;

242 3. A written consent signed by the child's parent or legal  
243 guardian, if the parent or legal guardian is not the sex  
244 offender, agreeing to the sex offender having supervised contact  
245 with the child after receiving full disclosure of the sex  
246 offender's present legal status, past criminal history, and the  
247 results of the risk assessment. The court may not approve  
248 contact with the child if the parent or legal guardian refuses  
249 to give written consent for supervised contact;

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

251 | who provides treatment to the offender, in collaboration with  
 252 | the sex offender, the child's parent or legal guardian, if the  
 253 | parent or legal guardian is not the sex offender, and the child,  
 254 | when age appropriate, which details the acceptable conditions of  
 255 | contact between the sex offender and the child. The safety plan  
 256 | must be reviewed and approved by the court; and

257 |         5. Evidence that the child's parent or legal guardian  
 258 | understands the need for and agrees to the safety plan and has  
 259 | agreed to provide, or to designate another adult to provide,  
 260 | constant supervision any time the child is in contact with the  
 261 | offender.

262 |  
 263 | The court may not appoint a person to conduct a risk assessment  
 264 | and may not accept a risk assessment from a person who has not  
 265 | demonstrated to the court that he or she has met the  
 266 | requirements of a qualified practitioner as defined in this  
 267 | section.

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

273 |         (g) Unless otherwise indicated in the treatment plan  
 274 | provided by a qualified practitioner in the sexual offender  
 275 | treatment program, a prohibition on viewing, accessing, owning,

276 or possessing any obscene, pornographic, or sexually stimulating  
277 visual or auditory material, including telephone, electronic  
278 media, computer programs, or computer services that are relevant  
279 to the offender's deviant behavior pattern.

280 (h) Effective for probationers and community controllees  
281 whose crime is committed on or after July 1, 2005, a prohibition  
282 on accessing the Internet or other computer services until a  
283 qualified practitioner in the offender's sex offender treatment  
284 program, after a risk assessment is completed, approves and  
285 implements a safety plan for the offender's accessing or using  
286 the Internet or other computer services.

287 (i) A requirement that the probationer or community  
288 controllee must submit a specimen of blood or other approved  
289 biological specimen to the Department of Law Enforcement to be  
290 registered with the DNA data bank.

291 (j) A requirement that the probationer or community  
292 controllee make restitution to the victim, as ordered by the  
293 court under s. 775.089, for all necessary medical and related  
294 professional services relating to physical, psychiatric, and  
295 psychological care.

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

299 (2) Effective for a probationer or community controllee  
300 whose crime was committed on or after October 1, 1997, and who

301 is placed on community control or sex offender probation for a  
 302 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
 303 or s. 847.0145, or whose crime was committed on or after July 1,  
 304 2021, and who is placed on community control or sex offender  
 305 probation for a violation of s. 787.06(3)(b), (d), (f), or (g),  
 306 or whose crime was committed on or after July 1, 2023, and who  
 307 is placed on community control or sex offender probation for  
 308 attempting, soliciting, or conspiring to commit a violation of  
 309 s. 787.06(3)(b), (d), (f), or (g), chapter 794, s. 800.04, s.  
 310 827.071, s. 847.0135(5), or s. 847.0145, in addition to any  
 311 other provision of this section, the court must impose the  
 312 following conditions of probation or community control:

313 (a) As part of a treatment program, participation at least  
 314 annually in polygraph examinations to obtain information  
 315 necessary for risk management and treatment and to reduce the  
 316 sex offender's denial mechanisms. A polygraph examination must  
 317 be conducted by a polygrapher who is a member of a national or  
 318 state polygraph association and who is certified as a  
 319 postconviction sex offender polygrapher, where available, and  
 320 shall be paid for by the probationer or community controllee.  
 321 The results of the polygraph examination shall be provided to  
 322 the probationer's or community controllee's probation officer  
 323 and qualified practitioner and shall not be used as evidence in  
 324 court to prove that a violation of community supervision has  
 325 occurred.

326 (b) Maintenance of a driving log and a prohibition against  
 327 driving a motor vehicle alone without the prior approval of the  
 328 supervising officer.

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

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

335 (e) Electronic monitoring when deemed necessary by the  
 336 community control or probation officer and his or her  
 337 supervisor, and ordered by the court at the recommendation of  
 338 the Department of Corrections.

339 (3) Effective for a probationer or community controllee  
 340 whose crime was committed on or after September 1, 2005, and  
 341 who:

342 (a) Is placed on probation or community control for a  
 343 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,  
 344 or s. 847.0145, or is placed on probation or community control  
 345 on or after July 1, 2023, for attempting, soliciting, or  
 346 conspiring to commit a violation of chapter 794, s. 800.04(4),  
 347 (5), or (6), s. 827.071, or s. 847.0145, and the unlawful sexual  
 348 activity involved a victim 15 years of age or younger and the  
 349 offender is 18 years of age or older;

350 (b) Is designated a sexual predator pursuant to s. 775.21;

351 or

352 (c) Has previously been convicted of a violation of  
 353 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.  
 354 847.0145 and the unlawful sexual activity involved a victim 15  
 355 years of age or younger and the offender is 18 years of age or  
 356 older,

357  
 358 the court must order, in addition to any other provision of this  
 359 section, mandatory electronic monitoring as a condition of the  
 360 probation or community control supervision.

361 (4) In addition to all other conditions imposed, for a  
 362 probationer or community controllee who is subject to  
 363 supervision for a crime that was committed on or after May 26,  
 364 2010, and who has been convicted at any time of committing, or  
 365 attempting, soliciting, or conspiring to commit, any of the  
 366 criminal offenses listed in s. 943.0435(1)(h)1.a.(I), or a  
 367 similar offense in another jurisdiction, against a victim who  
 368 was under the age of 18 at the time of the offense; if the  
 369 offender has not received a pardon for any felony or similar law  
 370 of another jurisdiction necessary for the operation of this  
 371 subsection, if a conviction of a felony or similar law of  
 372 another jurisdiction necessary for the operation of this  
 373 subsection has not been set aside in any postconviction  
 374 proceeding, or if the offender has not been removed from the  
 375 requirement to register as a sexual offender or sexual predator

376 pursuant to s. 943.04354, the court must impose the following  
 377 conditions:

378 (a) A prohibition on visiting schools, child care  
 379 facilities, parks, and playgrounds, without prior approval from  
 380 the offender's supervising officer. The court may also designate  
 381 additional locations to protect a victim. The prohibition  
 382 ordered under this paragraph does not prohibit the offender from  
 383 visiting a school, child care facility, park, or playground for  
 384 the sole purpose of attending a religious service as defined in  
 385 s. 775.0861 or picking up or dropping off the offender's  
 386 children or grandchildren at a child care facility or school.

387 (b) A prohibition on distributing candy or other items to  
 388 children on Halloween; wearing a Santa Claus costume, or other  
 389 costume to appeal to children, on or preceding Christmas;  
 390 wearing an Easter Bunny costume, or other costume to appeal to  
 391 children, on or preceding Easter; entertaining at children's  
 392 parties; or wearing a clown costume; without prior approval from  
 393 the court.

394 (5) Effective for a probationer or community controllee  
 395 whose crime was committed on or after October 1, 2014, and who  
 396 is placed on probation or community control for a violation of  
 397 chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.  
 398 847.0145, or whose crime was committed on or after July 1, 2023,  
 399 and who is placed on probation or community control for  
 400 attempting, soliciting, or conspiring to commit a violation of



401 chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.  
402 847.0145, in addition to all other conditions imposed, the court  
403 must impose a condition prohibiting the probationer or community  
404 controllee from viewing, accessing, owning, or possessing any  
405 obscene, pornographic, or sexually stimulating visual or  
406 auditory material unless otherwise indicated in the treatment  
407 plan provided by a qualified practitioner in the sexual offender  
408 treatment program. Visual or auditory material includes, but is  
409 not limited to, telephone, electronic media, computer programs,  
410 and computer services.

411 Section 5. This act shall take effect July 1, 2023.