

1 A bill to be entitled
2 An act relating to child pornography; amending ss.
3 16.56, 39.01, 39.0132, 39.0139, 39.301, 39.509,
4 90.404, 92.56, 92.561, 92.565, 435.04, 456.074,
5 480.041, 480.043, 743.067, 772.102, and 775.082, F.S.;
6 conforming provisions to changes made by the act;
7 amending s. 775.0847, F.S.; revising definitions;
8 conforming provisions to changes made by the act;
9 amending ss. 775.0877, 775.21, 775.215, 784.046,
10 794.0115, 794.024, 794.056, and 796.001, F.S.;
11 conforming provisions to changes made by the act;
12 repealing s. 827.071, F.S., relating to sexual
13 performance by a child; amending s. 847.001, F.S.;
14 revising definitions; creating s. 847.003, F.S.;
15 providing definitions; prohibiting a person from using
16 a child in a sexual performance or promoting a sexual
17 performance by a child; providing penalties; amending
18 ss. 847.0135 and 847.01357, F.S.; conforming
19 provisions to changes made by the act; amending s.
20 847.0137, F.S.; revising and providing definitions;
21 prohibiting a person from possessing, with the intent
22 to promote, child pornography; prohibiting a person
23 from knowingly possessing, controlling, or
24 intentionally viewing child pornography; providing
25 penalties; providing application and construction;
26 providing that each act of transmitting child

27 | pornography is a separate offense; amending ss.
 28 | 856.022, 895.02, 905.34, 934.07, 938.085, 938.10,
 29 | 943.0435, 943.04354, 943.0585, 943.059, 944.606, and
 30 | 944.607, F.S.; conforming provisions to changes made
 31 | by the act; amending s. 947.1405, F.S.; requiring
 32 | certain conditions of supervision to be imposed on
 33 | conditional releasees convicted of specified offenses;
 34 | amending s. 948.013, F.S.; prohibiting certain
 35 | offenders from being placed on administrative
 36 | probation; amending ss. 948.03, 948.04, 948.06,
 37 | 948.062, and 948.101, F.S.; conforming provisions to
 38 | changes made by the act; amending s. 948.30, F.S.;
 39 | requiring that certain conditions of supervision be
 40 | imposed on offenders convicted of specified offenses;
 41 | amending ss. 948.32, 960.03, 960.197, 985.04, 985.475,
 42 | 1012.315, and 921.0022, F.S.; conforming provisions to
 43 | changes made by the act; reenacting s. 944.11(2),
 44 | F.S., to incorporate the amendment made by the act to
 45 | s. 847.001, F.S., in a reference thereto; providing a
 46 | directive to the Division of Law Revision and
 47 | Information; providing an effective date.

48 |
 49 | Be It Enacted by the Legislature of the State of Florida:

50 |
 51 | Section 1. Paragraph (a) of subsection (1) of section
 52 | 16.56, Florida Statutes, is amended to read:

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

53 16.56 Office of Statewide Prosecution.—

54 (1) There is created in the Department of Legal Affairs an
55 Office of Statewide Prosecution. The office shall be a separate
56 "budget entity" as that term is defined in chapter 216. The
57 office may:

58 (a) Investigate and prosecute the offenses of:

59 1. Bribery, burglary, criminal usury, extortion, gambling,
60 kidnapping, larceny, murder, prostitution, perjury, robbery,
61 carjacking, and home-invasion robbery;

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

63 3. Any violation of ~~the provisions of~~ the Florida RICO
64 (Racketeer Influenced and Corrupt Organization) Act, including
65 any offense listed in the definition of racketeering activity in
66 s. 895.02(1)(a), providing such listed offense is investigated
67 in connection with a violation of s. 895.03 and is charged in a
68 separate count of an information or indictment containing a
69 count charging a violation of s. 895.03, the prosecution of
70 which listed offense may continue independently if the
71 prosecution of the violation of s. 895.03 is terminated for any
72 reason;

73 4. Any violation of ~~the provisions of~~ the Florida Anti-
74 Fencing Act;

75 5. Any violation of ~~the provisions of~~ the Florida
76 Antitrust Act of 1980, as amended;

77 6. Any crime involving, or resulting in, fraud or deceit
78 upon any person;

79 7. Any violation of s. 847.0135, relating to computer
80 pornography and child exploitation prevention, or any offense
81 related to a violation of former s. 827.071, s. 847.003, s.
82 847.0135, or s. 847.0137 ~~any violation of chapter 827~~ where the
83 crime is facilitated by or connected to the use of the Internet
84 or any device capable of electronic data storage or
85 transmission;

86 8. Any violation of ~~the provisions of~~ chapter 815;

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

88 10. Any violation of ~~the provisions of~~ the Florida Motor
89 Fuel Tax Relief Act of 2004;

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

91 12. Any crime involving voter registration, voting, or
92 candidate or issue petition activities;

93 13. Any criminal violation of the Florida Money Laundering
94 Act;

95 14. Any criminal violation of the Florida Securities and
96 Investor Protection Act; or

97 15. Any violation of ~~the provisions of~~ chapter 787, as
98 well as any and all offenses related to a violation of ~~the~~
99 ~~provisions of~~ chapter 787;

100

101 or any attempt, solicitation, or conspiracy to commit any of the
102 crimes specifically enumerated above. The office shall have such
103 power only when any such offense is occurring, or has occurred,
104 in two or more judicial circuits as part of a related

105 transaction, or when any such offense is connected with an
 106 organized criminal conspiracy affecting two or more judicial
 107 circuits. Informations or indictments charging such offenses
 108 shall contain general allegations stating the judicial circuits
 109 and counties in which crimes are alleged to have occurred or the
 110 judicial circuits and counties in which crimes affecting such
 111 circuits or counties are alleged to have been connected with an
 112 organized criminal conspiracy.

113 Section 2. Paragraph (c) of subsection (30) and paragraph
 114 (g) of subsection (69) of section 39.01, Florida Statutes, are
 115 amended to read:

116 39.01 Definitions.—When used in this chapter, unless the
 117 context otherwise requires:

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

120 (c) Allows, encourages, or forces the sexual exploitation
 121 of a child, which includes allowing, encouraging, or forcing a
 122 child to:

- 123 1. Solicit for or engage in prostitution; or
- 124 2. Engage in a sexual performance, as defined by former s.
 125 827.081 or s. 847.003 ~~chapter 827.~~

126 (69) "Sexual abuse of a child" for purposes of finding a
 127 child to be dependent means one or more of the following acts:

128 (g) The sexual exploitation of a child, which includes the
 129 act of a child offering to engage in or engaging in
 130 prostitution, provided that the child is not under arrest or is

131 not being prosecuted in a delinquency or criminal proceeding for
 132 a violation of any offense in chapter 796 based on such
 133 behavior; or allowing, encouraging, or forcing a child to:

- 134 1. Solicit for or engage in prostitution;
- 135 2. Engage in a sexual performance, as defined by former s.
 136 827.071 or s. 847.003 ~~chapter 827~~; or
- 137 3. Participate in the trade of human trafficking as
 138 provided in s. 787.06(3)(g).

139 Section 3. Paragraph (b) of subsection (4) of section
 140 39.0132, Florida Statutes, is amended to read:

141 39.0132 Oaths, records, and confidential information.—

142 (4)

143 (b) The department shall disclose to the school
 144 superintendent the presence of any child in the care and custody
 145 or under the jurisdiction or supervision of the department who
 146 has a known history of criminal sexual behavior with other
 147 juveniles; is an alleged juvenile sex offender, as defined in s.
 148 39.01; or has pled guilty or nolo contendere to, or has been
 149 found to have committed, a violation of chapter 794, chapter
 150 796, chapter 800, former s. 827.071, s. 847.003, ~~or s. 847.0133,~~
 151 or s. 847.0137, regardless of adjudication. Any employee of a
 152 district school board who knowingly and willfully discloses such
 153 information to an unauthorized person commits a misdemeanor of
 154 the second degree, punishable as provided in s. 775.082 or s.
 155 775.083.

156 Section 4. Paragraph (a) of subsection (3) of section

157 39.0139, Florida Statutes, is amended to read:

158 39.0139 Visitation or other contact; restrictions.—

159 (3) PRESUMPTION OF DETRIMENT.—

160 (a) A rebuttable presumption of detriment to a child is
161 created when:

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

165 2. A parent or caregiver has been found guilty of,
166 regardless of adjudication, or has entered a plea of guilty or
167 nolo contendere to, charges under the following statutes or
168 substantially similar statutes of other jurisdictions:

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

171 b. Section 794.011, relating to sexual battery;

172 c. Section 798.02, relating to lewd and lascivious
173 behavior;

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

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

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

178 g. Section 847.003, relating to sexual performance by a
179 child; or

180 h. Section 847.0137, relating to child pornography; or

181 3. A court of competent jurisdiction has determined a
182 parent or caregiver to be a sexual predator as defined in s.

183 775.21 or a parent or caregiver has received a substantially
 184 similar designation under laws of another jurisdiction.

185 Section 5. Paragraph (b) of subsection (2) of section
 186 39.301, Florida Statutes, is amended to read:

187 39.301 Initiation of protective investigations.—

188 (2)

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

191 1. A child is known or suspected to be the victim of child
 192 abuse, as defined in s. 827.03, or of neglect of a child, as
 193 defined in s. 827.03.

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

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

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

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

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

206 Section 6. Paragraph (a) of subsection (6) of section
 207 39.509, Florida Statutes, is amended to read:

208 39.509 Grandparents rights.—Notwithstanding any other

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209 provision of law, a maternal or paternal grandparent as well as
210 a stepgrandparent is entitled to reasonable visitation with his
211 or her grandchild who has been adjudicated a dependent child and
212 taken from the physical custody of the parent unless the court
213 finds that such visitation is not in the best interest of the
214 child or that such visitation would interfere with the goals of
215 the case plan. Reasonable visitation may be unsupervised and,
216 where appropriate and feasible, may be frequent and continuing.
217 Any order for visitation or other contact must conform to the
218 provisions of s. 39.0139.

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

222 (a) The finding of guilt, regardless of adjudication, or
223 entry or plea of guilty or nolo contendere to charges under the
224 following statutes, or similar statutes of other jurisdictions:
225 s. 787.04, relating to removing minors from the state or
226 concealing minors contrary to court order; s. 794.011, relating
227 to sexual battery; s. 798.02, relating to lewd and lascivious
228 behavior; chapter 800, relating to lewdness and indecent
229 exposure; s. 826.04, relating to incest; ~~or~~ chapter 827,
230 relating to the abuse of children, s. 847.003, relating to
231 sexual performance by a child; or s. 847.0137, relating to child
232 pornography.

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

235 90.404 Character evidence; when admissible.—

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

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

242 2. For the purposes of this paragraph, the term "child
 243 molestation" means conduct proscribed by s. 787.025(2)(c), s.
 244 787.06(3)(g), former s. 787.06(3)(h), s. 794.011, excluding s.
 245 794.011(10), s. 794.05, former s. 796.03, former s. 796.035, s.
 246 800.04, former s. 827.071, s. 847.003, s. 847.0135(5), s.
 247 847.0137, s. 847.0145, or s. 985.701(1) when committed against a
 248 person 16 years of age or younger.

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

254 2. For the purposes of this paragraph, the term "sexual
 255 offense" means conduct proscribed by s. 787.025(2)(c), s.
 256 787.06(3)(b), (d), (f), or (g), former s. 787.06(3)(h), s.
 257 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03,
 258 former s. 796.035, s. 825.1025(2)(b), former s. 827.071, s.
 259 847.003, s. 847.0135(5), s. 847.0137, s. 847.0145, or s.
 260 985.701(1).

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

263 92.56 Judicial proceedings and court records involving
 264 sexual offenses and human trafficking.—

265 (2) A defendant charged with a crime described in s.
 266 787.06(3)(a)1., (c)1., or (e)1.;s. 787.06(3)(b), (d), (f), or
 267 (g); chapter 794; ~~or chapter 800;~~ or with child abuse or
 268 aggravated child abuse, ~~or sexual performance by a child as~~
 269 described in chapter 827; or with sexual performance by a child
 270 as described in former s. 827.071 or s. 847.003 may apply to
 271 the trial court for an order of disclosure of information in
 272 court records held confidential and exempt pursuant to s.
 273 119.0714(1)(h) or maintained as confidential and exempt pursuant
 274 to court order under this section. Such identifying information
 275 concerning the victim may be released to the defendant or his or
 276 her attorney in order to prepare the defense. The confidential
 277 and exempt status of this information may not be construed to
 278 prevent the disclosure of the victim's identity to the
 279 defendant; however, the defendant may not disclose the victim's
 280 identity to any person other than the defendant's attorney or
 281 any other person directly involved in the preparation of the
 282 defense. A willful and knowing disclosure of the identity of the
 283 victim to any other person by the defendant constitutes
 284 contempt.

285 (3) The state may use a pseudonym instead of the victim's
 286 name to designate the victim of a crime described in s.

287 787.06(3)(a)1., (c)1., or (e)1.;~~in s. 787.06(3)(b), (d), (f),~~
 288 or (g);~~or in chapter 794; or chapter 800; or~~ of child abuse
 289 or aggravated child abuse,~~or sexual performance by a child as~~
 290 described in chapter 827; of sexual performance by a child as
 291 described in former s. 827.071 or s. 847.003; or of any crime
 292 involving the production, possession, or promotion of child
 293 pornography as described in chapter 847, in all court records
 294 and records of court proceedings, both civil and criminal.

295 (5) This section does not prohibit the publication or
 296 broadcast of the substance of trial testimony in a prosecution
 297 for an offense described in s. 787.06(3)(a)1., (c)1., or (e)1.;~~in~~
 298 s. 787.06(3)(b), (d), (f), or (g);~~in~~ chapter 794;~~in~~ or chapter
 299 800;~~in~~ a crime of child abuse or aggravated child abuse,~~or~~
 300 sexual performance by a child, as described in chapter 827; or
 301 sexual performance by a child as described in former s. 827.071
 302 or s. 847.003, but the publication or broadcast may not include
 303 an identifying photograph, an identifiable voice, or the name or
 304 address of the victim, unless the victim has consented in
 305 writing to the publication and filed such consent with the court
 306 or unless the court has declared such records not confidential
 307 and exempt as provided for in subsection (1).

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

310 92.561 Prohibition on reproduction of child pornography.—

311 (1) In a criminal proceeding, any property or material
 312 that portrays sexual performance by a child as defined in former

313 s. 827.071 or s. 847.003, or constitutes child pornography as
 314 defined in s. 847.0137 ~~847.001~~, must remain secured or locked in
 315 the care, custody, and control of a law enforcement agency, the
 316 state attorney, or the court.

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

319 92.565 Admissibility of confession in sexual abuse cases.—

320 (2) In any criminal action in which the defendant is
 321 charged with a crime against a victim under s. 794.011; s.
 322 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse;
 323 s. 827.04, involving sexual abuse; former s. 827.071; s.
 324 847.003; ~~or~~ s. 847.0135(5); or s. 847.0137, or any other crime
 325 involving sexual abuse of another, or with any attempt,
 326 solicitation, or conspiracy to commit any of these crimes, the
 327 defendant's memorialized confession or admission is admissible
 328 during trial without the state having to prove a corpus delicti
 329 of the crime if the court finds in a hearing conducted outside
 330 the presence of the jury that the state is unable to show the
 331 existence of each element of the crime, and having so found,
 332 further finds that the defendant's confession or admission is
 333 trustworthy. Factors which may be relevant in determining
 334 whether the state is unable to show the existence of each
 335 element of the crime include, but are not limited to, the fact
 336 that, at the time the crime was committed, the victim was:

337 (a) Physically helpless, mentally incapacitated, or
 338 mentally defective, as those terms are defined in s. 794.011;

339 (b) Physically incapacitated due to age, infirmity, or any
 340 other cause; or

341 (c) Less than 12 years of age.

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

344 435.04 Level 2 screening standards.—

345 (2) The security background investigations under this
 346 section must ensure that no persons subject to the provisions of
 347 this section have been arrested for and are awaiting final
 348 disposition of, have been found guilty of, regardless of
 349 adjudication, or entered a plea of nolo contendere or guilty to,
 350 or have been adjudicated delinquent and the record has not been
 351 sealed or expunged for, any offense prohibited under any of the
 352 following provisions of state law or similar law of another
 353 jurisdiction:

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

356 (qq) Chapter 847, relating to obscenity and child
 357 pornography ~~obscene literature~~.

358 Section 12. Paragraph (o) of subsection (5) of section
 359 456.074, Florida Statutes, is amended, paragraphs (r) and (s) of
 360 that subsection are redesignated as paragraphs (s) and (t),
 361 respectively, and a new paragraph (r) is added to that
 362 subsection, to read:

363 456.074 Certain health care practitioners; immediate
 364 suspension of license.—

365 (5) The department shall issue an emergency order
366 suspending the license of a massage therapist or establishment
367 as defined in chapter 480 upon receipt of information that the
368 massage therapist, a person with an ownership interest in the
369 establishment, or, for a corporation that has more than \$250,000
370 of business assets in this state, the owner, officer, or
371 individual directly involved in the management of the
372 establishment has been convicted or found guilty of, or has
373 entered a plea of guilty or nolo contendere to, regardless of
374 adjudication, a felony offense under any of the following
375 provisions of state law or a similar provision in another
376 jurisdiction:

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

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

380 Section 13. Paragraph (o) of subsection (7) of section
381 480.041, Florida Statutes, is amended, paragraphs (r) and (s) of
382 that subsection are redesignated as paragraphs (s) and (t),
383 respectively, and a new paragraph (r) is added to that
384 subsection, to read:

385 480.041 Massage therapists; qualifications; licensure;
386 endorsement.—

387 (7) The board shall deny an application for a new or
388 renewal license if an applicant has been convicted or found
389 guilty of, or enters a plea of guilty or nolo contendere to,
390 regardless of adjudication, a felony offense under any of the

391 following provisions of state law or a similar provision in
 392 another jurisdiction:

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

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

396 Section 14. Paragraph (o) of subsection (8) of section
 397 480.043, Florida Statutes, is amended, paragraphs (r) and (s) of
 398 that subsection are redesignated as paragraphs (s) and (t),
 399 respectively, and a new paragraph (r) is added to that
 400 subsection, to read:

401 480.043 Massage establishments; requisites; licensure;
 402 inspection.—

403 (8) The department shall deny an application for a new or
 404 renewal license if a person with an ownership interest in the
 405 establishment or, for a corporation that has more than \$250,000
 406 of business assets in this state, the owner, officer, or
 407 individual directly involved in the management of the
 408 establishment has been convicted or found guilty of, or entered
 409 a plea of guilty or nolo contendere to, regardless of
 410 adjudication, a felony offense under any of the following
 411 provisions of state law or a similar provision in another
 412 jurisdiction:

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

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

416 Section 15. Paragraph (b) of subsection (3) of section

417 743.067, Florida Statutes, is amended to read:

418 743.067 Unaccompanied homeless youths.—

419 (3) An unaccompanied homeless youth may:

420 (b) Notwithstanding s. 394.4625(1), consent to medical,
 421 dental, psychological, substance abuse, and surgical diagnosis
 422 and treatment, including preventative care and care by a
 423 facility licensed under chapter 394, chapter 395, or chapter 397
 424 and any forensic medical examination for the purpose of
 425 investigating any felony offense under chapter 784, chapter 787,
 426 chapter 794, chapter 800, ~~or~~ chapter 827, s. 847.003, or s.
 427 847.0137, for:

428 1. Himself or herself; or

429 2. His or her child, if the unaccompanied homeless youth
 430 is unmarried, is the parent of the child, and has actual custody
 431 of the child.

432 Section 16. Paragraph (a) of subsection (1) of section
 433 772.102, Florida Statutes, is amended to read:

434 772.102 Definitions.—As used in this chapter, the term:

435 (1) "Criminal activity" means to commit, to attempt to
 436 commit, to conspire to commit, or to solicit, coerce, or
 437 intimidate another person to commit:

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

440 1. Section 210.18, relating to evasion of payment of
 441 cigarette taxes.

442 2. Section 414.39, relating to public assistance fraud.

- 443 3. Section 440.105 or s. 440.106, relating to workers'
 444 compensation.
- 445 4. Part IV of chapter 501, relating to telemarketing.
- 446 5. Chapter 517, relating to securities transactions.
- 447 6. Section 550.235 or s. 550.3551, relating to dogracing
 448 and horseracing.
- 449 7. Chapter 550, relating to jai alai frontons.
- 450 8. Chapter 552, relating to the manufacture, distribution,
 451 and use of explosives.
- 452 9. Chapter 562, relating to beverage law enforcement.
- 453 10. Section 624.401, relating to transacting insurance
 454 without a certificate of authority, s. 624.437(4)(c)1., relating
 455 to operating an unauthorized multiple-employer welfare
 456 arrangement, or s. 626.902(1)(b), relating to representing or
 457 aiding an unauthorized insurer.
- 458 11. Chapter 687, relating to interest and usurious
 459 practices.
- 460 12. Section 721.08, s. 721.09, or s. 721.13, relating to
 461 real estate timeshare plans.
- 462 13. Chapter 782, relating to homicide.
- 463 14. Chapter 784, relating to assault and battery.
- 464 15. Chapter 787, relating to kidnapping or human
 465 trafficking.
- 466 16. Chapter 790, relating to weapons and firearms.
- 467 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,
 468 relating to prostitution.

- 469 | 18. Chapter 806, relating to arson.
- 470 | 19. Section 810.02(2)(c), relating to specified burglary
- 471 | of a dwelling or structure.
- 472 | 20. Chapter 812, relating to theft, robbery, and related
- 473 | crimes.
- 474 | 21. Chapter 815, relating to computer-related crimes.
- 475 | 22. Chapter 817, relating to fraudulent practices, false
- 476 | pretenses, fraud generally, and credit card crimes.
- 477 | 23. Former s. Section 827.071, relating to commercial
- 478 | sexual exploitation of children.
- 479 | 24. Chapter 831, relating to forgery and counterfeiting.
- 480 | 25. Chapter 832, relating to issuance of worthless checks
- 481 | and drafts.
- 482 | 26. Section 836.05, relating to extortion.
- 483 | 27. Chapter 837, relating to perjury.
- 484 | 28. Chapter 838, relating to bribery and misuse of public
- 485 | office.
- 486 | 29. Chapter 843, relating to obstruction of justice.
- 487 | 30. Section 847.003, relating to sexual performance by a
- 488 | child.
- 489 | 31.30. Section 847.011, s. 847.012, s. 847.013, s. 847.06,
- 490 | or s. 847.07, relating to obscene literature and profanity.
- 491 | 32.31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
- 492 | s. 849.25, relating to gambling.
- 493 | 33.32. Chapter 893, relating to drug abuse prevention and
- 494 | control.

495 34.33. Section 914.22 or s. 914.23, relating to witnesses,
 496 victims, or informants.

497 35.34. Section 918.12 or s. 918.13, relating to tampering
 498 with jurors and evidence.

499 Section 17. Paragraph (a) of subsection (9) of section
 500 775.082, Florida Statutes, is amended to read:

501 775.082 Penalties; applicability of sentencing structures;
 502 mandatory minimum sentences for certain reoffenders previously
 503 released from prison.—

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

- 506 a. Treason;
- 507 b. Murder;
- 508 c. Manslaughter;
- 509 d. Sexual battery;
- 510 e. Carjacking;
- 511 f. Home-invasion robbery;
- 512 g. Robbery;
- 513 h. Arson;
- 514 i. Kidnapping;
- 515 j. Aggravated assault with a deadly weapon;
- 516 k. Aggravated battery;
- 517 l. Aggravated stalking;
- 518 m. Aircraft piracy;
- 519 n. Unlawful throwing, placing, or discharging of a
 520 destructive device or bomb;

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

523 p. Armed burglary;

524 q. Burglary of a dwelling or burglary of an occupied
525 structure; or

526 r. Any felony violation of s. 790.07, s. 800.04, s.
527 827.03, former s. 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s.
528 847.0137;

529
530 within 3 years after being released from a state correctional
531 facility operated by the Department of Corrections or a private
532 vendor or within 3 years after being released from a
533 correctional institution of another state, the District of
534 Columbia, the United States, any possession or territory of the
535 United States, or any foreign jurisdiction, following
536 incarceration for an offense for which the sentence is
537 punishable by more than 1 year in this state.

538 2. "Prison releasee reoffender" also means any defendant
539 who commits or attempts to commit any offense listed in sub-
540 subparagraphs (a)1.a.-r. while the defendant was serving a
541 prison sentence or on escape status from a state correctional
542 facility operated by the Department of Corrections or a private
543 vendor or while the defendant was on escape status from a
544 correctional institution of another state, the District of
545 Columbia, the United States, any possession or territory of the
546 United States, or any foreign jurisdiction, following

547 incarceration for an offense for which the sentence is
 548 punishable by more than 1 year in this state.

549 3. If the state attorney determines that a defendant is a
 550 prison releasee reoffender as defined in subparagraph 1., the
 551 state attorney may seek to have the court sentence the defendant
 552 as a prison releasee reoffender. Upon proof from the state
 553 attorney that establishes by a preponderance of the evidence
 554 that a defendant is a prison releasee reoffender as defined in
 555 this section, such defendant is not eligible for sentencing
 556 under the sentencing guidelines and must be sentenced as
 557 follows:

558 a. For a felony punishable by life, by a term of
 559 imprisonment for life;

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

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

564 d. For a felony of the third degree, by a term of
 565 imprisonment of 5 years.

566 Section 18. Paragraphs (b) and (f) of subsection (1) and
 567 subsection (2) of section 775.0847, Florida Statutes, are
 568 amended to read:

569 775.0847 Possession or promotion of certain visual
 570 depictions ~~images~~ of child pornography; reclassification.-

571 (1) For purposes of this section:

572 (b) "Child pornography" has the same meaning as provided

573 ~~in s. 847.0137 means any image depicting a minor engaged in~~
574 ~~sexual conduct.~~

575 (f) "Sexual conduct" means actual or simulated sexual
576 intercourse, deviate sexual intercourse, sexual bestiality,
577 masturbation, or sadomasochistic abuse; actual or simulated lewd
578 exhibition of the genitals; actual physical contact with a
579 person's clothed or unclothed genitals, pubic area, buttocks,
580 or, if such person is a female, breast with the intent to arouse
581 or gratify the sexual desire of either party; or any act or
582 conduct which constitutes sexual battery or simulates that
583 sexual battery is being or will be committed. A mother's
584 breastfeeding of her baby does not under any circumstance
585 constitute "sexual conduct."

586 (2) A violation of former s. 827.071, s. 847.003, s.
587 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to
588 the next higher degree as provided in subsection (3) if:

589 (a) The offender possesses 10 or more visual depictions or
590 images of any form of child pornography regardless of content;
591 and

592 (b) The content of at least one visual depiction or image
593 contains one or more of the following:

- 594 1. A child who is younger than the age of 5.
- 595 2. Sadomasochistic abuse involving a child.
- 596 3. Sexual battery involving a child.
- 597 4. Sexual bestiality involving a child.
- 598 5. Any movie involving a child, regardless of length and

599 | regardless of whether the movie contains sound.

600 | Section 19. Paragraph (1) of subsection (1) of section
601 | 775.0877, Florida Statutes, is amended to read:

602 | 775.0877 Criminal transmission of HIV; procedures;
603 | penalties.—

604 | (1) In any case in which a person has been convicted of or
605 | has pled nolo contendere or guilty to, regardless of whether
606 | adjudication is withheld, any of the following offenses, or the
607 | attempt thereof, which offense or attempted offense involves the
608 | transmission of body fluids from one person to another:

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

611 |
612 | the court shall order the offender to undergo HIV testing, to be
613 | performed under the direction of the Department of Health in
614 | accordance with s. 381.004, unless the offender has undergone
615 | HIV testing voluntarily or pursuant to procedures established in
616 | s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
617 | rule providing for HIV testing of criminal offenders or inmates,
618 | subsequent to her or his arrest for an offense enumerated in
619 | paragraphs (a)-(n) for which she or he was convicted or to which
620 | she or he pled nolo contendere or guilty. The results of an HIV
621 | test performed on an offender pursuant to this subsection are
622 | not admissible in any criminal proceeding arising out of the
623 | alleged offense.

624 | Section 20. Paragraph (a) of subsection (4) and paragraph

625 (b) of subsection (10) of section 775.21, Florida Statutes, are
 626 amended to read:

627 775.21 The Florida Sexual Predators Act.—

628 (4) SEXUAL PREDATOR CRITERIA.—

629 (a) For a current offense committed on or after October 1,
 630 1993, upon conviction, an offender shall be designated as a
 631 "sexual predator" under subsection (5), and subject to
 632 registration under subsection (6) and community and public
 633 notification under subsection (7) if:

634 1. The felony is:

635 a. A capital, life, or first degree felony violation, or
 636 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
 637 is a minor and the defendant is not the victim's parent or
 638 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
 639 violation of a similar law of another jurisdiction; or

640 b. Any felony violation, or any attempt thereof, of s.
 641 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 642 787.025(2)(c), where the victim is a minor and the defendant is
 643 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
 644 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
 645 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
 646 800.04; s. 810.145(8)(b); s. 825.1025; former s. 827.071; s.
 647 847.003; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
 648 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a
 649 similar law of another jurisdiction, and the offender has
 650 previously been convicted of or found to have committed, or has

651 | pled nolo contendere or guilty to, regardless of adjudication,
 652 | any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
 653 | 787.02, or s. 787.025(2)(c), where the victim is a minor and the
 654 | defendant is not the victim's parent or guardian; s.
 655 | 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
 656 | 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
 657 | former s. 796.035; s. 800.04; s. 825.1025; former s. 827.071; s.
 658 | 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 659 | 847.0137; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a
 660 | violation of a similar law of another jurisdiction;

661 | 2. The offender has not received a pardon for any felony
 662 | or similar law of another jurisdiction that is necessary for the
 663 | operation of this paragraph; and

664 | 3. A conviction of a felony or similar law of another
 665 | jurisdiction necessary to the operation of this paragraph has
 666 | not been set aside in any postconviction proceeding.

667 | (10) PENALTIES.—

668 | (b) A sexual predator who has been convicted of or found
 669 | to have committed, or has pled nolo contendere or guilty to,
 670 | regardless of adjudication, any violation, or attempted
 671 | violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 672 | the victim is a minor and the defendant is not the victim's
 673 | parent or guardian; s. 794.011, excluding s. 794.011(10); s.
 674 | 794.05; former s. 796.03; former s. 796.035; s. 800.04; former
 675 | s. 827.071; s. 847.003; s. 847.0133; s. 847.0135(5); s.
 676 | 847.0137; s. 847.0145; or s. 985.701(1); or a violation of a

677 similar law of another jurisdiction when the victim of the
678 offense was a minor, and who works, whether for compensation or
679 as a volunteer, at any business, school, child care facility,
680 park, playground, or other place where children regularly
681 congregate, commits a felony of the third degree, punishable as
682 provided in s. 775.082, s. 775.083, or s. 775.084.

683 Section 21. Subsection (2) and paragraphs (a) and (c) of
684 subsection (3) of section 775.215, Florida Statutes, are amended
685 to read:

686 775.215 Residency restriction for persons convicted of
687 certain sex offenses.—

688 (2) (a) A person who has been convicted of a violation of
689 s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
690 847.0135(5), or s. 847.0145, regardless of whether adjudication
691 has been withheld, in which the victim of the offense was less
692 than 16 years of age, may not reside within 1,000 feet of any
693 school, child care facility, park, or playground. However, a
694 person does not violate this subsection and may not be forced to
695 relocate if he or she is living in a residence that meets the
696 requirements of this subsection and a school, child care
697 facility, park, or playground is subsequently established within
698 1,000 feet of his or her residence.

699 (b) A person who violates this subsection and whose
700 conviction under s. 794.011, s. 800.04, former s. 827.071, s.
701 847.003, s. 847.0135(5), or s. 847.0145 was classified as a
702 felony of the first degree or higher commits a felony of the

703 third degree, punishable as provided in s. 775.082 or s.
704 775.083. A person who violates this subsection and whose
705 conviction under s. 794.011, s. 800.04, former s. 827.071, s.
706 847.003, s. 847.0135(5), or s. 847.0145 was classified as a
707 felony of the second or third degree commits a misdemeanor of
708 the first degree, punishable as provided in s. 775.082 or s.
709 775.083.

710 (c) This subsection applies to any person convicted of a
711 violation of s. 794.011, s. 800.04, former s. 827.071, s.
712 847.003, s. 847.0135(5), or s. 847.0145 for offenses that occur
713 on or after October 1, 2004, excluding persons who have been
714 removed from the requirement to register as a sexual offender or
715 sexual predator pursuant to s. 943.04354.

716 (3) (a) A person who has been convicted of an offense in
717 another jurisdiction that is similar to a violation of s.
718 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
719 847.0135(5), or s. 847.0145, regardless of whether adjudication
720 has been withheld, in which the victim of the offense was less
721 than 16 years of age, may not reside within 1,000 feet of any
722 school, child care facility, park, or playground. However, a
723 person does not violate this subsection and may not be forced to
724 relocate if he or she is living in a residence that meets the
725 requirements of this subsection and a school, child care
726 facility, park, or playground is subsequently established within
727 1,000 feet of his or her residence.

728 (c) This subsection applies to any person convicted of an

729 offense in another jurisdiction that is similar to a violation
 730 of s. 794.011, s. 800.04, former s. 827.071, s. 847.003, s.
 731 847.0135(5), or s. 847.0145 if such offense occurred on or after
 732 May 26, 2010, excluding persons who have been removed from the
 733 requirement to register as a sexual offender or sexual predator
 734 pursuant to s. 943.04354.

735 Section 22. Paragraph (c) of subsection (1) of section
 736 784.046, Florida Statutes, is amended to read:

737 784.046 Action by victim of repeat violence, sexual
 738 violence, or dating violence for protective injunction; dating
 739 violence investigations, notice to victims, and reporting;
 740 pretrial release violations; public records exemption.—

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

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

- 743 1. Sexual battery, as defined in chapter 794;
- 744 2. A lewd or lascivious act, as defined in chapter 800,
 745 committed upon or in the presence of a person younger than 16
 746 years of age;
- 747 3. Luring or enticing a child, as described in chapter
 748 787;
- 749 4. Sexual performance by a child, as described in former
 750 s. 827.071 or s. 847.003 ~~chapter 827~~; or
- 751 5. Any other forcible felony wherein a sexual act is
 752 committed or attempted,

753
 754 regardless of whether criminal charges based on the incident

755 were filed, reduced, or dismissed by the state attorney.

756 Section 23. Subsection (2) of section 794.0115, Florida
757 Statutes, is amended to read:

758 794.0115 Dangerous sexual felony offender; mandatory
759 sentencing.—

760 (2) Any person who is convicted of a violation of s.
761 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.
762 800.04(4) or (5); s. 825.1025(2) or (3); former s. 827.071(2),
763 (3), or (4); s. 847.003; s. 847.0137(2)(a); or s. 847.0145; or
764 of any similar offense under a former designation, which offense
765 the person committed when he or she was 18 years of age or
766 older, and the person:

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

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

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

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

778 (e) Has previously been convicted of a violation of s.
779 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s.
780 800.04(4) or (5); s. 825.1025(2) or (3); former s. 827.071(2),

781 (3), or (4); s. 847.003; s. 847.0137(2)(a); or s. 847.0145; of
 782 any offense under a former statutory designation which is
 783 similar in elements to an offense described in this paragraph;
 784 or of any offense that is a felony in another jurisdiction, or
 785 would be a felony if that offense were committed in this state,
 786 and which is similar in elements to an offense described in this
 787 paragraph,

788
 789 is a dangerous sexual felony offender, who must be sentenced to
 790 a mandatory minimum term of 25 years imprisonment up to, and
 791 including, life imprisonment. If the offense described in this
 792 subsection was committed on or after October 1, 2014, a person
 793 who qualifies as a dangerous sexual felony offender pursuant to
 794 this subsection must be sentenced to a mandatory minimum term of
 795 50 years imprisonment up to, and including, life imprisonment.

796 Section 24. Subsection (1) of section 794.024, Florida
 797 Statutes, is amended to read:

798 794.024 Unlawful to disclose identifying information.—

799 (1) A public employee or officer who has access to the
 800 photograph, name, or address of a person who is alleged to be
 801 the victim of an offense described in this chapter, chapter 800,
 802 s. 827.03, s. 827.04, former ~~or~~ s. 827.071, s. 847.003, or s.
 803 847.0137 may not willfully and knowingly disclose it to a person
 804 who is not assisting in the investigation or prosecution of the
 805 alleged offense or to any person other than the defendant, the
 806 defendant's attorney, a person specified in an order entered by

807 the court having jurisdiction of the alleged offense, or
 808 organizations authorized to receive such information made exempt
 809 by s. 119.071(2)(h), or to a rape crisis center or sexual
 810 assault counselor, as defined in s. 90.5035(1)(b), who will be
 811 offering services to the victim.

812 Section 25. Subsection (1) of section 794.056, Florida
 813 Statutes, is amended to read:

814 794.056 Rape Crisis Program Trust Fund.—

815 (1) The Rape Crisis Program Trust Fund is created within
 816 the Department of Health for the purpose of providing funds for
 817 rape crisis centers in this state. Trust fund moneys shall be
 818 used exclusively for the purpose of providing services for
 819 victims of sexual assault. Funds credited to the trust fund
 820 consist of those funds collected as an additional court
 821 assessment in each case in which a defendant pleads guilty or
 822 nolo contendere to, or is found guilty of, regardless of
 823 adjudication, an offense provided in s. 775.21(6) and (10)(a),
 824 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 825 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 826 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 827 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 828 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
 829 796.06; s. 796.07(2)(a)–(d) and (i); s. 800.03; s. 800.04; s.
 830 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 831 825.1025; former s. 827.071; s. 836.10; s. 847.003; s. 847.0133;
 832 s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c),

833 (7), (8), (9) (a), (13), and (14) (c); or s. 985.701(1). Funds
834 credited to the trust fund also shall include revenues provided
835 by law, moneys appropriated by the Legislature, and grants from
836 public or private entities.

837 Section 26. Section 796.001, Florida Statutes, is amended
838 to read:

839 796.001 Offenses by adults involving minors; intent.—It is
840 the intent of the Legislature that adults who involve minors in
841 any behavior prohibited under this chapter be prosecuted under
842 other laws of this state, such as, but not limited to, s.
843 787.06, chapter 794, chapter 800, s. 810.145, former s. 827.071
844 ~~chapter 827~~, and chapter 847. The Legislature finds that
845 prosecution of such adults under this chapter is inappropriate
846 since a minor is unable to consent to such behavior.

847 Section 27. Section 827.071, Florida Statutes, is
848 repealed.

849 Section 28. Subsections (3) and (16) of section 847.001,
850 Florida Statutes, are amended to read:

851 847.001 Definitions.—As used in this chapter, the term:

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

855 (16) "Sexual conduct" means actual or simulated sexual
856 intercourse, deviate sexual intercourse, sexual bestiality,
857 masturbation, or sadomasochistic abuse; actual or simulated lewd
858 exhibition of the genitals; actual physical contact with a

859 person's clothed or unclothed genitals, pubic area, buttocks,
 860 or, if such person is a female, breast with the intent to arouse
 861 or gratify the sexual desire of either party; or any act or
 862 conduct which constitutes sexual battery or simulates that
 863 sexual battery is being or will be committed. A mother's
 864 breastfeeding of her baby does not under any circumstance
 865 constitute "sexual conduct."

866 Section 29. Section 847.003, Florida Statutes, is created
 867 to read:

868 847.003 Sexual performance by a child; penalties.—

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

870 (a) "Performance" means any play, motion picture,
 871 photograph, or dance or any other visual representation
 872 exhibited before an audience.

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

877 (c) "Sexual performance" means any performance or part
 878 thereof which includes sexual conduct by a minor.

879 (2) A person who, knowing the character and content
 880 thereof, employs, authorizes, or induces a minor to engage in a
 881 sexual performance or, being a parent, legal guardian, or
 882 custodian of such minor, consents to the participation by such
 883 minor in a sexual performance commits the offense of use of a
 884 child in a sexual performance, a felony of the second degree,

885 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

886 (3) A person who, knowing the character and content
 887 thereof, produces, directs, or promotes any performance that
 888 includes sexual conduct by a minor commits the offense of
 889 promoting a sexual performance by a child, a felony of the
 890 second degree, punishable as provided in s. 775.082, s. 775.083,
 891 or s. 775.084.

892 Section 30. Subsections (3) and (4) of section 847.0135,
 893 Florida Statutes, are amended to read:

894 847.0135 Computer pornography; prohibited computer usage;
 895 traveling to meet minor; penalties.—

896 (3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES
 897 PROHIBITED.—Any person who knowingly uses a computer online
 898 service, Internet service, local bulletin board service, or any
 899 other device capable of electronic data storage or transmission
 900 to:

901 (a) Seduce, solicit, lure, or entice, or attempt to
 902 seduce, solicit, lure, or entice, a child or another person
 903 believed by the person to be a child, ~~to commit any illegal act~~
 904 ~~described in chapter 794, chapter 800, former s. 827.071 or~~
 905 ~~chapter 827, s. 847.003, or s. 847.0137~~ or to otherwise engage
 906 in any unlawful sexual conduct with a child or with another
 907 person believed by the person to be a child; or

908 (b) Solicit, lure, or entice, or attempt to solicit, lure,
 909 or entice a parent, legal guardian, or custodian of a child or a
 910 person believed to be a parent, legal guardian, or custodian of

911 a child to consent to the participation of such child in any act
912 described in chapter 794, chapter 800, former s. 827.071 ~~or~~
913 ~~chapter 827,~~ s. 847.003, or s. 847.0137, or to otherwise engage
914 in any sexual conduct,

915
916 commits a felony of the third degree, punishable as provided in
917 s. 775.082, s. 775.083, or s. 775.084. Any person who, in
918 violating this subsection, misrepresents his or her age, commits
919 a felony of the second degree, punishable as provided in s.
920 775.082, s. 775.083, or s. 775.084. Each separate use of a
921 computer online service, Internet service, local bulletin board
922 service, or any other device capable of electronic data storage
923 or transmission wherein an offense described in this section is
924 committed may be charged as a separate offense.

925 (4) TRAVELING TO MEET A MINOR.—Any person who travels any
926 distance either within this state, to this state, or from this
927 state by any means, who attempts to do so, or who causes another
928 to do so or to attempt to do so for the purpose of engaging in
929 any illegal act described in chapter 794, chapter 800, former s.
930 827.071 ~~or chapter 827,~~ s. 847.003, or s. 847.0137, or to
931 otherwise engage in other unlawful sexual conduct with a child
932 or with another person believed by the person to be a child
933 after using a computer online service, Internet service, local
934 bulletin board service, or any other device capable of
935 electronic data storage or transmission to:

936 (a) Seduce, solicit, lure, or entice or attempt to seduce,

937 solicit, lure, or entice a child or another person believed by
 938 the person to be a child, to engage in any illegal act described
 939 in chapter 794, chapter 800, former s. 827.071 ~~or chapter 827,~~
 940 s. 847.003, or s. 847.0137, or to otherwise engage in other
 941 unlawful sexual conduct with a child; or

942 (b) Solicit, lure, or entice or attempt to solicit, lure,
 943 or entice a parent, legal guardian, or custodian of a child or a
 944 person believed to be a parent, legal guardian, or custodian of
 945 a child to consent to the participation of such child in any act
 946 described in chapter 794, chapter 800, former s. 827.071 ~~or~~
 947 ~~chapter 827,~~ s. 847.003, or s. 847.0137, or to otherwise engage
 948 in any sexual conduct,

949
 950 commits a felony of the second degree, punishable as provided in
 951 s. 775.082, s. 775.083, or s. 775.084.

952 Section 31. Subsection (1) of section 847.01357, Florida
 953 Statutes, is amended to read:

954 847.01357 Exploited children's civil remedy.—

955 (1) Any person who, while under the age of 18, was a
 956 victim of a sexual abuse crime listed in chapter 794, chapter
 957 800, former s. 827.071 ~~chapter 827,~~ or chapter 847, where any
 958 portion of such abuse was used in the production of child
 959 pornography, and who suffers personal or psychological injury as
 960 a result of the production, promotion, or possession of such
 961 images or movies, may bring an action in an appropriate state
 962 court against the producer, promoter, or possessor of such

963 images or movies, regardless of whether the victim is now an
 964 adult. In any action brought under this section, a prevailing
 965 plaintiff shall recover the actual damages such person sustained
 966 and the cost of the suit, including reasonable attorney
 967 ~~attorney's~~ fees. Any victim who is awarded damages under this
 968 section shall be deemed to have sustained damages of at least
 969 \$150,000.

970 Section 32. Section 847.0137, Florida Statutes, is amended
 971 to read:

972 847.0137 Child pornography; Transmission of pornography by
 973 ~~electronic device or equipment~~ prohibited acts; penalties.—

974 (1) For purposes of this section:

975 (a) "Child pornography" means a visual depiction of sexual
 976 conduct, where:

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

979 2. Such visual depiction has been created, adapted, or
 980 modified to appear that an identifiable minor is engaging in
 981 sexual conduct.

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

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

988 2. Whose image as a minor was used in creating, adapting,

989 or modifying the visual depiction.

990 (c) "Intentionally view" means to deliberately,
 991 purposefully, and voluntarily view. Proof of intentional viewing
 992 requires establishing that a person deliberately, purposefully,
 993 and voluntarily viewed more than one visual depiction over any
 994 period of time.

995 (d)-(a) "Minor" means any person less than 18 years of age.

996 (e) "Promote" means to procure, manufacture, issue, sell,
 997 give, provide, lend, mail, deliver, transfer, transmute,
 998 publish, distribute, circulate, disseminate, present, exhibit,
 999 or advertise or to offer or agree to do the same.

1000 (f)-(b) "Transmit" means the act of sending and causing to
 1001 be delivered any visual depiction image, information, or data
 1002 from one or more persons or places to one or more other persons
 1003 or places over or through any medium, including the Internet, by
 1004 use of any electronic equipment or device.

1005 (g) "Visual depiction" includes, but is not limited to,
 1006 any photograph, picture, motion picture, film, video,
 1007 representation, or computer or computer-generated image or
 1008 picture, whether made or produced by electronic, mechanical, or
 1009 other means. The term also includes undeveloped film and
 1010 videotape, data stored on computer disk or by electronic means
 1011 which is capable of conversion into a visual image, and data
 1012 that is capable of conversion into a visual image that has been
 1013 transmitted by any means, whether stored in a permanent or
 1014 nonpermanent format.

1015 (2) (a) It is unlawful for a person to possess, with the
 1016 intent to promote, child pornography. The possession of three or
 1017 more visual depictions of child pornography is prima facie
 1018 evidence of an intent to promote. A person who violates this
 1019 paragraph commits a felony of the second degree, punishable as
 1020 provided in s. 775.082, s. 775.083, or s. 775.084.

1021 (b) It is unlawful for a person to knowingly possess,
 1022 control, or intentionally view child pornography. The
 1023 possession, control, or intentional viewing of each visual
 1024 depiction of child pornography is a separate offense. If such
 1025 visual depiction includes sexual conduct by more than one minor,
 1026 each such minor in each such visual depiction that is knowingly
 1027 possessed, controlled, or intentionally viewed is a separate
 1028 offense. A person who violates this paragraph commits a felony
 1029 of the third degree, punishable as provided in s. 775.082, s.
 1030 775.083, or s. 775.084.

1031 (c) This subsection does not apply to child pornography
 1032 possessed, controlled, or intentionally viewed as part of a law
 1033 enforcement investigation.

1034 (d) Prosecution of a person for an offense under this
 1035 subsection does not prohibit prosecution of that person in this
 1036 state for a violation of any law of this state, including a law
 1037 providing for greater penalties than prescribed in this section
 1038 or any other crime punishing the sexual performance or sexual
 1039 exploitation of children.

1040 (3) (a)-(2) Notwithstanding ss. 847.012 and 847.0133, a any

1041 person in this state who knew or reasonably should have known
1042 that he or she was transmitting child pornography, ~~as defined in~~
1043 ~~s. 847.001~~, to another person in this state or in another
1044 jurisdiction commits a felony of the third degree, punishable as
1045 provided in s. 775.082, s. 775.083, or s. 775.084.

1046 (b)(3) Notwithstanding ss. 847.012 and 847.0133, a any
1047 person in any jurisdiction other than this state who knew or
1048 reasonably should have known that he or she was transmitting
1049 child pornography, ~~as defined in s. 847.001~~, to another any
1050 person in this state commits a felony of the third degree,
1051 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1052 (c)(4) This subsection does ~~section shall~~ not be construed
1053 ~~to~~ prohibit prosecution of a person in this state or another
1054 jurisdiction for a violation of any law of this state, including
1055 a law providing for greater penalties than prescribed in this
1056 subsection ~~section~~, for the transmission of child pornography,
1057 ~~as defined in s. 847.001~~, to another any person in this state.

1058 (d)(5) A person is subject to prosecution in this state
1059 pursuant to chapter 910 for any act or conduct proscribed by
1060 this subsection ~~section~~, including a person in a jurisdiction
1061 other than this state, if the act or conduct violates paragraph
1062 (b) ~~subsection (3)~~.

1063 (e) This subsection does ~~The provisions of this section do~~
1064 not apply to subscription-based transmissions such as list
1065 servers.

1066 (f) For purposes of this subsection, each act of

1067 transmitting child pornography is a separate offense.

1068 Section 33. Subsection (1) of section 856.022, Florida
 1069 Statutes, is amended to read:

1070 856.022 Loitering or prowling by certain offenders in
 1071 close proximity to children; penalty.—

1072 (1) Except as provided in subsection (2), this section
 1073 applies to a person convicted of committing, or attempting,
 1074 soliciting, or conspiring to commit, any of the criminal
 1075 offenses proscribed in the following statutes in this state or
 1076 similar offenses in another jurisdiction against a victim who
 1077 was under 18 years of age at the time of the offense: s. 787.01,
 1078 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 1079 the offender was not the victim's parent or guardian; s.
 1080 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;
 1081 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025;
 1082 former s. 827.071; s. 847.003; s. 847.0133; s. 847.0135,
 1083 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 1084 s. 985.701(1); or any similar offense committed in this state
 1085 which has been redesignated from a former statute number to one
 1086 of those listed in this subsection, if the person has not
 1087 received a pardon for any felony or similar law of another
 1088 jurisdiction necessary for the operation of this subsection and
 1089 a conviction of a felony or similar law of another jurisdiction
 1090 necessary for the operation of this subsection has not been set
 1091 aside in any postconviction proceeding.

1092 Section 34. Paragraph (a) of subsection (1) of section

1093 895.02, Florida Statutes, is amended to read:
 1094 895.02 Definitions.—As used in ss. 895.01-895.08, the
 1095 term:
 1096 (1) "Racketeering activity" means to commit, to attempt to
 1097 commit, to conspire to commit, or to solicit, coerce, or
 1098 intimidate another person to commit:
 1099 (a) Any crime that is chargeable by petition, indictment,
 1100 or information under the following provisions of the Florida
 1101 Statutes:
 1102 1. Section 210.18, relating to evasion of payment of
 1103 cigarette taxes.
 1104 2. Section 316.1935, relating to fleeing or attempting to
 1105 elude a law enforcement officer and aggravated fleeing or
 1106 eluding.
 1107 3. Section 403.727(3)(b), relating to environmental
 1108 control.
 1109 4. Section 409.920 or s. 409.9201, relating to Medicaid
 1110 fraud.
 1111 5. Section 414.39, relating to public assistance fraud.
 1112 6. Section 440.105 or s. 440.106, relating to workers'
 1113 compensation.
 1114 7. Section 443.071(4), relating to creation of a
 1115 fictitious employer scheme to commit reemployment assistance
 1116 fraud.
 1117 8. Section 465.0161, relating to distribution of medicinal
 1118 drugs without a permit as an Internet pharmacy.

- 1119 | 9. Section 499.0051, relating to crimes involving
- 1120 | contraband and adulterated drugs.
- 1121 | 10. Part IV of chapter 501, relating to telemarketing.
- 1122 | 11. Chapter 517, relating to sale of securities and
- 1123 | investor protection.
- 1124 | 12. Section 550.235 or s. 550.3551, relating to dogracing
- 1125 | and horseracing.
- 1126 | 13. Chapter 550, relating to jai alai frontons.
- 1127 | 14. Section 551.109, relating to slot machine gaming.
- 1128 | 15. Chapter 552, relating to the manufacture,
- 1129 | distribution, and use of explosives.
- 1130 | 16. Chapter 560, relating to money transmitters, if the
- 1131 | violation is punishable as a felony.
- 1132 | 17. Chapter 562, relating to beverage law enforcement.
- 1133 | 18. Section 624.401, relating to transacting insurance
- 1134 | without a certificate of authority, s. 624.437(4)(c)1., relating
- 1135 | to operating an unauthorized multiple-employer welfare
- 1136 | arrangement, or s. 626.902(1)(b), relating to representing or
- 1137 | aiding an unauthorized insurer.
- 1138 | 19. Section 655.50, relating to reports of currency
- 1139 | transactions, when such violation is punishable as a felony.
- 1140 | 20. Chapter 687, relating to interest and usurious
- 1141 | practices.
- 1142 | 21. Section 721.08, s. 721.09, or s. 721.13, relating to
- 1143 | real estate timeshare plans.
- 1144 | 22. Section 775.13(5)(b), relating to registration of

1145 persons found to have committed any offense for the purpose of
 1146 benefiting, promoting, or furthering the interests of a criminal
 1147 gang.

1148 23. Section 777.03, relating to commission of crimes by
 1149 accessories after the fact.

1150 24. Chapter 782, relating to homicide.

1151 25. Chapter 784, relating to assault and battery.

1152 26. Chapter 787, relating to kidnapping or human
 1153 trafficking.

1154 27. Chapter 790, relating to weapons and firearms.

1155 28. Chapter 794, relating to sexual battery, but only if
 1156 such crime was committed with the intent to benefit, promote, or
 1157 further the interests of a criminal gang, or for the purpose of
 1158 increasing a criminal gang member's own standing or position
 1159 within a criminal gang.

1160 29. Former section 796.03, former s. 796.035, s. 796.04,
 1161 s. 796.05, or s. 796.07, relating to prostitution.

1162 30. Chapter 806, relating to arson and criminal mischief.

1163 31. Chapter 810, relating to burglary and trespass.

1164 32. Chapter 812, relating to theft, robbery, and related
 1165 crimes.

1166 33. Chapter 815, relating to computer-related crimes.

1167 34. Chapter 817, relating to fraudulent practices, false
 1168 pretenses, fraud generally, and credit card crimes.

1169 35. Chapter 825, relating to abuse, neglect, or
 1170 exploitation of an elderly person or disabled adult.

- 1171 36. Former s. Section 827.071, relating to commercial
 1172 sexual exploitation of children.
- 1173 37. Section 828.122, relating to fighting or baiting
 1174 animals.
- 1175 38. Chapter 831, relating to forgery and counterfeiting.
- 1176 39. Chapter 832, relating to issuance of worthless checks
 1177 and drafts.
- 1178 40. Section 836.05, relating to extortion.
- 1179 41. Chapter 837, relating to perjury.
- 1180 42. Chapter 838, relating to bribery and misuse of public
 1181 office.
- 1182 43. Chapter 843, relating to obstruction of justice.
- 1183 44. Section 847.003, relating to sexual performance by a
 1184 child.
- 1185 ~~45.44.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
 1186 or s. 847.07, relating to obscene literature and profanity.
- 1187 ~~46.45.~~ Chapter 849, relating to gambling, lottery,
 1188 gambling or gaming devices, slot machines, or any of the
 1189 provisions within that chapter.
- 1190 ~~47.46.~~ Chapter 874, relating to criminal gangs.
- 1191 ~~48.47.~~ Chapter 893, relating to drug abuse prevention and
 1192 control.
- 1193 ~~49.48.~~ Chapter 896, relating to offenses related to
 1194 financial transactions.
- 1195 ~~50.49.~~ Sections 914.22 and 914.23, relating to tampering
 1196 with or harassing a witness, victim, or informant, and

1197 retaliation against a witness, victim, or informant.

1198 ~~51.50.~~ Sections 918.12 and 918.13, relating to tampering
1199 with jurors and evidence.

1200 Section 35. Subsection (8) of section 905.34, Florida
1201 Statutes, is amended to read:

1202 905.34 Powers and duties; law applicable.—The jurisdiction
1203 of a statewide grand jury impaneled under this chapter shall
1204 extend throughout the state. The subject matter jurisdiction of
1205 the statewide grand jury shall be limited to the offenses of:

1206 (8) Any violation of s. 847.003, s. 847.0135, s. 847.0137,
1207 or s. 847.0138 relating to computer pornography and child
1208 exploitation prevention, or any offense related to a violation
1209 of s. 847.003, s. 847.0135, s. 847.0137, or s. 847.0138 or any
1210 violation of former s. 827.071 ~~chapter 827~~ where the crime is
1211 facilitated by or connected to the use of the Internet or any
1212 device capable of electronic data storage or transmission;

1213
1214 or any attempt, solicitation, or conspiracy to commit any
1215 violation of the crimes specifically enumerated above, when any
1216 such offense is occurring, or has occurred, in two or more
1217 judicial circuits as part of a related transaction or when any
1218 such offense is connected with an organized criminal conspiracy
1219 affecting two or more judicial circuits. The statewide grand
1220 jury may return indictments and presentments irrespective of the
1221 county or judicial circuit where the offense is committed or
1222 triable. If an indictment is returned, it shall be certified and

1223 transferred for trial to the county where the offense was
 1224 committed. The powers and duties of, and law applicable to,
 1225 county grand juries shall apply to a statewide grand jury except
 1226 when such powers, duties, and law are inconsistent with the
 1227 provisions of ss. 905.31-905.40.

1228 Section 36. Paragraph (a) of subsection (1) of section
 1229 934.07, Florida Statutes, is amended to read:

1230 934.07 Authorization for interception of wire, oral, or
 1231 electronic communications.—

1232 (1) The Governor, the Attorney General, the statewide
 1233 prosecutor, or any state attorney may authorize an application
 1234 to a judge of competent jurisdiction for, and such judge may
 1235 grant in conformity with ss. 934.03-934.09 an order authorizing
 1236 or approving the interception of, wire, oral, or electronic
 1237 communications by:

1238 (a) The Department of Law Enforcement or any law
 1239 enforcement agency as defined in s. 934.02 having responsibility
 1240 for the investigation of the offense as to which the application
 1241 is made when such interception may provide or has provided
 1242 evidence of the commission of the offense of murder, kidnapping,
 1243 aircraft piracy, arson, gambling, robbery, burglary, theft,
 1244 dealing in stolen property, criminal usury, bribery, or
 1245 extortion; any felony violation of ss. 790.161-790.166,
 1246 inclusive; any violation of s. 787.06; any violation of chapter
 1247 893; any violation of the provisions of the Florida Anti-Fencing
 1248 Act; any violation of chapter 895; any violation of chapter 896;

1249 any violation of chapter 815; any violation of chapter 847; any
 1250 violation of former s. 827.071; any violation of s. 944.40; or
 1251 any conspiracy or solicitation to commit any violation of the
 1252 laws of this state relating to the crimes specifically
 1253 enumerated in this paragraph.

1254 Section 37. Section 938.085, Florida Statutes, is amended
 1255 to read:

1256 938.085 Additional cost to fund rape crisis centers.—In
 1257 addition to any sanction imposed when a person pleads guilty or
 1258 nolo contendere to, or is found guilty of, regardless of
 1259 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
 1260 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
 1261 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 1262 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 1263 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
 1264 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
 1265 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
 1266 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; former
 1267 s. 827.071; s. 836.10; s. 847.003; s. 847.0133; s. 847.0135(2);
 1268 s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
 1269 (13), and (14)(c); or s. 985.701(1), the court shall impose a
 1270 surcharge of \$151. Payment of the surcharge shall be a condition
 1271 of probation, community control, or any other court-ordered
 1272 supervision. The sum of \$150 of the surcharge shall be deposited
 1273 into the Rape Crisis Program Trust Fund established within the
 1274 Department of Health by chapter 2003-140, Laws of Florida. The

1275 clerk of the court shall retain \$1 of each surcharge that the
 1276 clerk of the court collects as a service charge of the clerk's
 1277 office.

1278 Section 38. Subsection (1) of section 938.10, Florida
 1279 Statutes, is amended to read:

1280 938.10 Additional court cost imposed in cases of certain
 1281 crimes.—

1282 (1) If a person pleads guilty or nolo contendere to, or is
 1283 found guilty of, regardless of adjudication, any offense against
 1284 a minor in violation of s. 784.085, chapter 787, chapter 794,
 1285 former s. 796.03, former s. 796.035, s. 800.04, chapter 827,
 1286 former s. 827.071, s. 847.003, s. 847.012, s. 847.0133, s.
 1287 847.0135(5), s. 847.0137, s. 847.0138, s. 847.0145, s.
 1288 893.147(3), or s. 985.701, or any offense in violation of s.
 1289 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the
 1290 court shall impose a court cost of \$151 against the offender in
 1291 addition to any other cost or penalty required by law.

1292 Section 39. Paragraph (a) of subsection (1) of section
 1293 943.0435, Florida Statutes, is amended to read:

1294 943.0435 Sexual offenders required to register with the
 1295 department; penalty.—

1296 (1) As used in this section, the term:

1297 (a)1. "Sexual offender" means a person who meets the
 1298 criteria in sub-subparagraph a., sub-subparagraph b., sub-
 1299 subparagraph c., or sub-subparagraph d., as follows:

1300 a.(I) Has been convicted of committing, or attempting,

1301 soliciting, or conspiring to commit, any of the criminal
1302 offenses proscribed in the following statutes in this state or
1303 similar offenses in another jurisdiction: s. 393.135(2); s.
1304 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
1305 the victim is a minor and the defendant is not the victim's
1306 parent or guardian; s. 787.06(3)(b), (d), (f), or (g); former s.
1307 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05;
1308 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
1309 s. 825.1025; former s. 827.071; s. 847.003; s. 847.0133; s.
1310 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
1311 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar
1312 offense committed in this state which has been redesignated from
1313 a former statute number to one of those listed in this sub-sub-
1314 subparagraph; and

1315 (II) Has been released on or after October 1, 1997, from
1316 the sanction imposed for any conviction of an offense described
1317 in sub-sub-subparagraph (I). For purposes of sub-sub-
1318 subparagraph (I), a sanction imposed in this state or in any
1319 other jurisdiction includes, but is not limited to, a fine,
1320 probation, community control, parole, conditional release,
1321 control release, or incarceration in a state prison, federal
1322 prison, private correctional facility, or local detention
1323 facility;

1324 b. Establishes or maintains a residence in this state and
1325 who has not been designated as a sexual predator by a court of
1326 this state but who has been designated as a sexual predator, as

1327 a sexually violent predator, or by another sexual offender
 1328 designation in another state or jurisdiction and was, as a
 1329 result of such designation, subjected to registration or
 1330 community or public notification, or both, or would be if the
 1331 person were a resident of that state or jurisdiction, without
 1332 regard to whether the person otherwise meets the criteria for
 1333 registration as a sexual offender;

1334 c. Establishes or maintains a residence in this state who
 1335 is in the custody or control of, or under the supervision of,
 1336 any other state or jurisdiction as a result of a conviction for
 1337 committing, or attempting, soliciting, or conspiring to commit,
 1338 any of the criminal offenses proscribed in the following
 1339 statutes or similar offense in another jurisdiction: s.
 1340 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 1341 787.025(2)(c), where the victim is a minor and the defendant is
 1342 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
 1343 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
 1344 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
 1345 800.04; s. 810.145(8); s. 825.1025; former s. 827.071; s.
 1346 847.003; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 1347 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
 1348 985.701(1); or any similar offense committed in this state which
 1349 has been redesignated from a former statute number to one of
 1350 those listed in this sub-subparagraph; or

1351 d. On or after July 1, 2007, has been adjudicated
 1352 delinquent for committing, or attempting, soliciting, or

1353 | conspiring to commit, any of the criminal offenses proscribed in
 1354 | the following statutes in this state or similar offenses in
 1355 | another jurisdiction when the juvenile was 14 years of age or
 1356 | older at the time of the offense:

1357 | (I) Section 794.011, excluding s. 794.011(10);

1358 | (II) Section 800.04(4)(a)2. where the victim is under 12
 1359 | years of age or where the court finds sexual activity by the use
 1360 | of force or coercion;

1361 | (III) Section 800.04(5)(c)1. where the court finds
 1362 | molestation involving unclothed genitals; or

1363 | (IV) Section 800.04(5)(d) where the court finds the use of
 1364 | force or coercion and unclothed genitals.

1365 | 2. For all qualifying offenses listed in sub-subparagraph
 1366 | (1)(a)1.d., the court shall make a written finding of the age of
 1367 | the offender at the time of the offense.

1368 |
 1369 | For each violation of a qualifying offense listed in this
 1370 | subsection, except for a violation of s. 794.011, the court
 1371 | shall make a written finding of the age of the victim at the
 1372 | time of the offense. For a violation of s. 800.04(4), the court
 1373 | shall also make a written finding indicating whether the offense
 1374 | involved sexual activity and indicating whether the offense
 1375 | involved force or coercion. For a violation of s. 800.04(5), the
 1376 | court shall also make a written finding that the offense did or
 1377 | did not involve unclothed genitals or genital area and that the
 1378 | offense did or did not involve the use of force or coercion.

1379 Section 40. Paragraph (a) of subsection (1) and subsection
 1380 (3) of section 943.04354, Florida Statutes, are amended to read:

1381 943.04354 Removal of the requirement to register as a
 1382 sexual offender or sexual predator in special circumstances.—

1383 (1) For purposes of this section, a person shall be
 1384 considered for removal of the requirement to register as a
 1385 sexual offender or sexual predator only if the person:

1386 (a) Was convicted, regardless of adjudication, or
 1387 adjudicated delinquent of a violation of s. 794.011, s. 800.04,
 1388 former s. 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s. 847.0137
 1389 or of a similar offense in another jurisdiction and if the
 1390 person does not have any other conviction, regardless of
 1391 adjudication, or adjudication of delinquency for a violation of
 1392 s. 794.011, s. 800.04, former s. 827.071, s. 847.003, ~~or~~ s.
 1393 847.0135(5), or s. 847.0137 or for a similar offense in another
 1394 jurisdiction;

1395 (3) If a person provides to the Department of Law
 1396 Enforcement a certified copy of the court's order removing the
 1397 requirement that the person register as a sexual offender or
 1398 sexual predator for the violation of s. 794.011, s. 800.04,
 1399 former s. 827.071, s. 847.003, ~~or~~ s. 847.0135(5), or s. 847.0137
 1400 or a similar offense in another jurisdiction, the registration
 1401 requirement will not apply to the person and the department
 1402 shall remove all information about the person from the public
 1403 registry of sexual offenders and sexual predators maintained by
 1404 the department. However, the removal of this information from

1405 the public registry does not mean that the public is denied
 1406 access to information about the person's criminal history or
 1407 record that is otherwise available as a public record.

1408 Section 41. Section 943.0585, Florida Statutes, is amended
 1409 to read:

1410 943.0585 Court-ordered expunction of criminal history
 1411 records.—The courts of this state have jurisdiction over their
 1412 own procedures, including the maintenance, expunction, and
 1413 correction of judicial records containing criminal history
 1414 information to the extent such procedures are not inconsistent
 1415 with the conditions, responsibilities, and duties established by
 1416 this section. Any court of competent jurisdiction may order a
 1417 criminal justice agency to expunge the criminal history record
 1418 of a minor or an adult who complies with the requirements of
 1419 this section. The court shall not order a criminal justice
 1420 agency to expunge a criminal history record until the person
 1421 seeking to expunge a criminal history record has applied for and
 1422 received a certificate of eligibility for expunction pursuant to
 1423 subsection (2) or subsection (5). A criminal history record that
 1424 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
 1425 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
 1426 s. 825.1025, former s. 827.071, chapter 839, s. 847.003, s.
 1427 847.0133, s. 847.0135, s. 847.0137, s. 847.0145, s. 893.135, s.
 1428 916.1075, a violation enumerated in s. 907.041, or any violation
 1429 specified as a predicate offense for registration as a sexual
 1430 predator pursuant to s. 775.21, without regard to whether that

1431 offense alone is sufficient to require such registration, or for
1432 registration as a sexual offender pursuant to s. 943.0435, may
1433 not be expunged, without regard to whether adjudication was
1434 withheld, if the defendant was found guilty of or pled guilty or
1435 nolo contendere to the offense, or if the defendant, as a minor,
1436 was found to have committed, or pled guilty or nolo contendere
1437 to committing, the offense as a delinquent act. The court may
1438 only order expunction of a criminal history record pertaining to
1439 one arrest or one incident of alleged criminal activity, except
1440 as provided in this section. The court may, at its sole
1441 discretion, order the expunction of a criminal history record
1442 pertaining to more than one arrest if the additional arrests
1443 directly relate to the original arrest. If the court intends to
1444 order the expunction of records pertaining to such additional
1445 arrests, such intent must be specified in the order. A criminal
1446 justice agency may not expunge any record pertaining to such
1447 additional arrests if the order to expunge does not articulate
1448 the intention of the court to expunge a record pertaining to
1449 more than one arrest. This section does not prevent the court
1450 from ordering the expunction of only a portion of a criminal
1451 history record pertaining to one arrest or one incident of
1452 alleged criminal activity. Notwithstanding any law to the
1453 contrary, a criminal justice agency may comply with laws, court
1454 orders, and official requests of other jurisdictions relating to
1455 expunction, correction, or confidential handling of criminal
1456 history records or information derived therefrom. This section

1457 does not confer any right to the expunction of any criminal
 1458 history record, and any request for expunction of a criminal
 1459 history record may be denied at the sole discretion of the
 1460 court.

1461 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each
 1462 petition to a court to expunge a criminal history record is
 1463 complete only when accompanied by:

1464 (a) A valid certificate of eligibility for expunction
 1465 issued by the department pursuant to subsection (2).

1466 (b) The petitioner's sworn statement attesting that the
 1467 petitioner:

1468 1. Has never, prior to the date on which the petition is
 1469 filed, been adjudicated guilty of a criminal offense or
 1470 comparable ordinance violation, or been adjudicated delinquent
 1471 for committing any felony or a misdemeanor specified in s.
 1472 943.051(3)(b).

1473 2. Has not been adjudicated guilty of, or adjudicated
 1474 delinquent for committing, any of the acts stemming from the
 1475 arrest or alleged criminal activity to which the petition
 1476 pertains.

1477 3. Has never secured a prior sealing or expunction of a
 1478 criminal history record under this section, s. 943.059, former
 1479 s. 893.14, former s. 901.33, or former s. 943.058, unless
 1480 expunction is sought of a criminal history record previously
 1481 sealed for 10 years pursuant to paragraph (2)(h) and the record
 1482 is otherwise eligible for expunction.

1483 4. Is eligible for such an expunction to the best of his
1484 or her knowledge or belief and does not have any other petition
1485 to expunge or any petition to seal pending before any court.
1486

1487 Any person who knowingly provides false information on such
1488 sworn statement to the court commits a felony of the third
1489 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1490 775.084.

1491 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
1492 petitioning the court to expunge a criminal history record, a
1493 person seeking to expunge a criminal history record shall apply
1494 to the department for a certificate of eligibility for
1495 expunction. The department shall, by rule adopted pursuant to
1496 chapter 120, establish procedures pertaining to the application
1497 for and issuance of certificates of eligibility for expunction.
1498 A certificate of eligibility for expunction is valid for 12
1499 months after the date stamped on the certificate when issued by
1500 the department. After that time, the petitioner must reapply to
1501 the department for a new certificate of eligibility. Eligibility
1502 for a renewed certification of eligibility must be based on the
1503 status of the applicant and the law in effect at the time of the
1504 renewal application. The department shall issue a certificate of
1505 eligibility for expunction to a person who is the subject of a
1506 criminal history record if that person:

1507 (a) Has obtained, and submitted to the department, a
1508 written, certified statement from the appropriate state attorney

1509 or statewide prosecutor which indicates:

1510 1. That an indictment, information, or other charging
1511 document was not filed or issued in the case.

1512 2. That an indictment, information, or other charging
1513 document, if filed or issued in the case, was dismissed or nolle
1514 prosequi by the state attorney or statewide prosecutor, or was
1515 dismissed by a court of competent jurisdiction, and that none of
1516 the charges related to the arrest or alleged criminal activity
1517 to which the petition to expunge pertains resulted in a trial,
1518 without regard to whether the outcome of the trial was other
1519 than an adjudication of guilt.

1520 3. That the criminal history record does not relate to a
1521 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
1522 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
1523 former s. 827.071, chapter 839, s. 847.003, s. 847.0133, s.
1524 847.0135, s. 847.0137, s. 847.0145, s. 893.135, s. 916.1075, a
1525 violation enumerated in s. 907.041, or any violation specified
1526 as a predicate offense for registration as a sexual predator
1527 pursuant to s. 775.21, without regard to whether that offense
1528 alone is sufficient to require such registration, or for
1529 registration as a sexual offender pursuant to s. 943.0435, where
1530 the defendant was found guilty of, or pled guilty or nolo
1531 contendere to any such offense, or that the defendant, as a
1532 minor, was found to have committed, or pled guilty or nolo
1533 contendere to committing, such an offense as a delinquent act,
1534 without regard to whether adjudication was withheld.

1535 (b) Remits a \$75 processing fee to the department for
 1536 placement in the Department of Law Enforcement Operating Trust
 1537 Fund, unless such fee is waived by the executive director.

1538 (c) Has submitted to the department a certified copy of
 1539 the disposition of the charge to which the petition to expunge
 1540 pertains.

1541 (d) Has never, prior to the date on which the application
 1542 for a certificate of eligibility is filed, been adjudicated
 1543 guilty of a criminal offense or comparable ordinance violation,
 1544 or been adjudicated delinquent for committing any felony or a
 1545 misdemeanor specified in s. 943.051(3)(b).

1546 (e) Has not been adjudicated guilty of, or adjudicated
 1547 delinquent for committing, any of the acts stemming from the
 1548 arrest or alleged criminal activity to which the petition to
 1549 expunge pertains.

1550 (f) Has never secured a prior sealing or expunction of a
 1551 criminal history record under this section, s. 943.059, former
 1552 s. 893.14, former s. 901.33, or former s. 943.058, unless
 1553 expunction is sought of a criminal history record previously
 1554 sealed for 10 years pursuant to paragraph (h) and the record is
 1555 otherwise eligible for expunction.

1556 (g) Is no longer under court supervision applicable to the
 1557 disposition of the arrest or alleged criminal activity to which
 1558 the petition to expunge pertains.

1559 (h) Has previously obtained a court order sealing the
 1560 record under this section, former s. 893.14, former s. 901.33,

1561 or former s. 943.058 for a minimum of 10 years because
1562 adjudication was withheld or because all charges related to the
1563 arrest or alleged criminal activity to which the petition to
1564 expunge pertains were not dismissed prior to trial, without
1565 regard to whether the outcome of the trial was other than an
1566 adjudication of guilt. The requirement for the record to have
1567 previously been sealed for a minimum of 10 years does not apply
1568 when a plea was not entered or all charges related to the arrest
1569 or alleged criminal activity to which the petition to expunge
1570 pertains were dismissed prior to trial.

1571 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

1572 (a) In judicial proceedings under this section, a copy of
1573 the completed petition to expunge shall be served upon the
1574 appropriate state attorney or the statewide prosecutor and upon
1575 the arresting agency; however, it is not necessary to make any
1576 agency other than the state a party. The appropriate state
1577 attorney or the statewide prosecutor and the arresting agency
1578 may respond to the court regarding the completed petition to
1579 expunge.

1580 (b) If relief is granted by the court, the clerk of the
1581 court shall certify copies of the order to the appropriate state
1582 attorney or the statewide prosecutor and the arresting agency.
1583 The arresting agency is responsible for forwarding the order to
1584 any other agency to which the arresting agency disseminated the
1585 criminal history record information to which the order pertains.
1586 The department shall forward the order to expunge to the Federal

1587 Bureau of Investigation. The clerk of the court shall certify a
1588 copy of the order to any other agency which the records of the
1589 court reflect has received the criminal history record from the
1590 court.

1591 (c) For an order to expunge entered by a court prior to
1592 July 1, 1992, the department shall notify the appropriate state
1593 attorney or statewide prosecutor of an order to expunge which is
1594 contrary to law because the person who is the subject of the
1595 record has previously been convicted of a crime or comparable
1596 ordinance violation or has had a prior criminal history record
1597 sealed or expunged. Upon receipt of such notice, the appropriate
1598 state attorney or statewide prosecutor shall take action, within
1599 60 days, to correct the record and petition the court to void
1600 the order to expunge. The department shall seal the record until
1601 such time as the order is voided by the court.

1602 (d) On or after July 1, 1992, the department or any other
1603 criminal justice agency is not required to act on an order to
1604 expunge entered by a court when such order does not comply with
1605 the requirements of this section. Upon receipt of such an order,
1606 the department must notify the issuing court, the appropriate
1607 state attorney or statewide prosecutor, the petitioner or the
1608 petitioner's attorney, and the arresting agency of the reason
1609 for noncompliance. The appropriate state attorney or statewide
1610 prosecutor shall take action within 60 days to correct the
1611 record and petition the court to void the order. No cause of
1612 action, including contempt of court, shall arise against any

1613 criminal justice agency for failure to comply with an order to
1614 expunge when the petitioner for such order failed to obtain the
1615 certificate of eligibility as required by this section or such
1616 order does not otherwise comply with the requirements of this
1617 section.

1618 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
1619 criminal history record of a minor or an adult which is ordered
1620 expunged by a court of competent jurisdiction pursuant to this
1621 section must be physically destroyed or obliterated by any
1622 criminal justice agency having custody of such record; except
1623 that any criminal history record in the custody of the
1624 department must be retained in all cases. A criminal history
1625 record ordered expunged that is retained by the department is
1626 confidential and exempt from the provisions of s. 119.07(1) and
1627 s. 24(a), Art. I of the State Constitution and not available to
1628 any person or entity except upon order of a court of competent
1629 jurisdiction. A criminal justice agency may retain a notation
1630 indicating compliance with an order to expunge.

1631 (a) The person who is the subject of a criminal history
1632 record that is expunged under this section or under other
1633 provisions of law, including former s. 893.14, former s. 901.33,
1634 and former s. 943.058, may lawfully deny or fail to acknowledge
1635 the arrests covered by the expunged record, except when the
1636 subject of the record:

1637 1. Is a candidate for employment with a criminal justice
1638 agency;

- 1639 2. Is a defendant in a criminal prosecution;
- 1640 3. Concurrently or subsequently petitions for relief under
1641 this section, s. 943.0583, or s. 943.059;
- 1642 4. Is a candidate for admission to The Florida Bar;
- 1643 5. Is seeking to be employed or licensed by or to contract
1644 with the Department of Children and Families, the Division of
1645 Vocational Rehabilitation within the Department of Education,
1646 the Agency for Health Care Administration, the Agency for
1647 Persons with Disabilities, the Department of Health, the
1648 Department of Elderly Affairs, or the Department of Juvenile
1649 Justice or to be employed or used by such contractor or licensee
1650 in a sensitive position having direct contact with children, the
1651 disabled, or the elderly;
- 1652 6. Is seeking to be employed or licensed by the Department
1653 of Education, any district school board, any university
1654 laboratory school, any charter school, any private or parochial
1655 school, or any local governmental entity that licenses child
1656 care facilities;
- 1657 7. Is seeking to be licensed by the Division of Insurance
1658 Agent and Agency Services within the Department of Financial
1659 Services; or
- 1660 8. Is seeking to be appointed as a guardian pursuant to s.
1661 744.3125.
- 1662 (b) Subject to the exceptions in paragraph (a), a person
1663 who has been granted an expunction under this section, former s.
1664 893.14, former s. 901.33, or former s. 943.058 may not be held

1665 under any provision of law of this state to commit perjury or to
1666 be otherwise liable for giving a false statement by reason of
1667 such person's failure to recite or acknowledge an expunged
1668 criminal history record.

1669 (c) Information relating to the existence of an expunged
1670 criminal history record which is provided in accordance with
1671 paragraph (a) is confidential and exempt from the provisions of
1672 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1673 except that the department shall disclose the existence of a
1674 criminal history record ordered expunged to the entities set
1675 forth in subparagraphs (a)1., 4., 5., 6., 7., and 8. for their
1676 respective licensing, access authorization, and employment
1677 purposes, and to criminal justice agencies for their respective
1678 criminal justice purposes. It is unlawful for any employee of an
1679 entity set forth in subparagraph (a)1., subparagraph (a)4.,
1680 subparagraph (a)5., subparagraph (a)6., subparagraph (a)7., or
1681 subparagraph (a)8. to disclose information relating to the
1682 existence of an expunged criminal history record of a person
1683 seeking employment, access authorization, or licensure with such
1684 entity or contractor, except to the person to whom the criminal
1685 history record relates or to persons having direct
1686 responsibility for employment, access authorization, or
1687 licensure decisions. Any person who violates this paragraph
1688 commits a misdemeanor of the first degree, punishable as
1689 provided in s. 775.082 or s. 775.083.

1690 (5) EXCEPTION FOR LAWFUL SELF-DEFENSE.—Notwithstanding the

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1691 eligibility requirements prescribed in paragraph (1)(b) and
1692 subsection (2), the department shall issue a certificate of
1693 eligibility for expunction under this subsection to a person who
1694 is the subject of a criminal history record if that person:

1695 (a) Has obtained, and submitted to the department, on a
1696 form provided by the department, a written, certified statement
1697 from the appropriate state attorney or statewide prosecutor
1698 which states whether an information, indictment, or other
1699 charging document was not filed or was dismissed by the state
1700 attorney, or dismissed by the court, because it was found that
1701 the person acted in lawful self-defense pursuant to the
1702 provisions related to justifiable use of force in chapter 776.

1703 (b) Each petition to a court to expunge a criminal history
1704 record pursuant to this subsection is complete only when
1705 accompanied by:

1706 1. A valid certificate of eligibility for expunction
1707 issued by the department pursuant to this subsection.

1708 2. The petitioner's sworn statement attesting that the
1709 petitioner is eligible for such an expunction to the best of his
1710 or her knowledge or belief.

1711
1712 Any person who knowingly provides false information on such
1713 sworn statement to the court commits a felony of the third
1714 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1715 775.084.

1716 (c) This subsection does not confer any right to the

1717 expunction of a criminal history record, and any request for
 1718 expunction of a criminal history record may be denied at the
 1719 discretion of the court.

1720 (d) Subsections (3) and (4) shall apply to expunction
 1721 ordered under this subsection.

1722 (e) The department shall, by rule adopted pursuant to
 1723 chapter 120, establish procedures pertaining to the application
 1724 for and issuance of certificates of eligibility for expunction
 1725 under this subsection.

1726 (6) STATUTORY REFERENCES.—Any reference to any other
 1727 chapter, section, or subdivision of the Florida Statutes in this
 1728 section constitutes a general reference under the doctrine of
 1729 incorporation by reference.

1730 Section 42. Section 943.059, Florida Statutes, is amended
 1731 to read:

1732 943.059 Court-ordered sealing of criminal history
 1733 records.—The courts of this state shall continue to have
 1734 jurisdiction over their own procedures, including the
 1735 maintenance, sealing, and correction of judicial records
 1736 containing criminal history information to the extent such
 1737 procedures are not inconsistent with the conditions,
 1738 responsibilities, and duties established by this section. Any
 1739 court of competent jurisdiction may order a criminal justice
 1740 agency to seal the criminal history record of a minor or an
 1741 adult who complies with the requirements of this section. The
 1742 court shall not order a criminal justice agency to seal a

1743 criminal history record until the person seeking to seal a
1744 criminal history record has applied for and received a
1745 certificate of eligibility for sealing pursuant to subsection
1746 (2). A criminal history record that relates to a violation of s.
1747 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
1748 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, former s.
1749 827.071, chapter 839, s. 847.003, s. 847.0133, s. 847.0135, s.
1750 847.0137, s. 847.0145, s. 893.135, s. 916.1075, a violation
1751 enumerated in s. 907.041, or any violation specified as a
1752 predicate offense for registration as a sexual predator pursuant
1753 to s. 775.21, without regard to whether that offense alone is
1754 sufficient to require such registration, or for registration as
1755 a sexual offender pursuant to s. 943.0435, may not be sealed,
1756 without regard to whether adjudication was withheld, if the
1757 defendant was found guilty of or pled guilty or nolo contendere
1758 to the offense, or if the defendant, as a minor, was found to
1759 have committed or pled guilty or nolo contendere to committing
1760 the offense as a delinquent act. The court may only order
1761 sealing of a criminal history record pertaining to one arrest or
1762 one incident of alleged criminal activity, except as provided in
1763 this section. The court may, at its sole discretion, order the
1764 sealing of a criminal history record pertaining to more than one
1765 arrest if the additional arrests directly relate to the original
1766 arrest. If the court intends to order the sealing of records
1767 pertaining to such additional arrests, such intent must be
1768 specified in the order. A criminal justice agency may not seal

1769 any record pertaining to such additional arrests if the order to
 1770 seal does not articulate the intention of the court to seal
 1771 records pertaining to more than one arrest. This section does
 1772 not prevent the court from ordering the sealing of only a
 1773 portion of a criminal history record pertaining to one arrest or
 1774 one incident of alleged criminal activity. Notwithstanding any
 1775 law to the contrary, a criminal justice agency may comply with
 1776 laws, court orders, and official requests of other jurisdictions
 1777 relating to sealing, correction, or confidential handling of
 1778 criminal history records or information derived therefrom. This
 1779 section does not confer any right to the sealing of any criminal
 1780 history record, and any request for sealing a criminal history
 1781 record may be denied at the sole discretion of the court.

1782 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each
 1783 petition to a court to seal a criminal history record is
 1784 complete only when accompanied by:

1785 (a) A valid certificate of eligibility for sealing issued
 1786 by the department pursuant to subsection (2).

1787 (b) The petitioner's sworn statement attesting that the
 1788 petitioner:

1789 1. Has never, prior to the date on which the petition is
 1790 filed, been adjudicated guilty of a criminal offense or
 1791 comparable ordinance violation, or been adjudicated delinquent
 1792 for committing any felony or a misdemeanor specified in s.
 1793 943.051 (3) (b) .

1794 2. Has not been adjudicated guilty of or adjudicated

1795 delinquent for committing any of the acts stemming from the
 1796 arrest or alleged criminal activity to which the petition to
 1797 seal pertains.

1798 3. Has never secured a prior sealing or expunction of a
 1799 criminal history record under this section, s. 943.0585, former
 1800 s. 893.14, former s. 901.33, or former s. 943.058.

1801 4. Is eligible for such a sealing to the best of his or
 1802 her knowledge or belief and does not have any other petition to
 1803 seal or any petition to expunge pending before any court.

1804
 1805 Any person who knowingly provides false information on such
 1806 sworn statement to the court commits a felony of the third
 1807 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1808 775.084.

1809 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
 1810 petitioning the court to seal a criminal history record, a
 1811 person seeking to seal a criminal history record shall apply to
 1812 the department for a certificate of eligibility for sealing. The
 1813 department shall, by rule adopted pursuant to chapter 120,
 1814 establish procedures pertaining to the application for and
 1815 issuance of certificates of eligibility for sealing. A
 1816 certificate of eligibility for sealing is valid for 12 months
 1817 after the date stamped on the certificate when issued by the
 1818 department. After that time, the petitioner must reapply to the
 1819 department for a new certificate of eligibility. Eligibility for
 1820 a renewed certification of eligibility must be based on the

1821 status of the applicant and the law in effect at the time of the
 1822 renewal application. The department shall issue a certificate of
 1823 eligibility for sealing to a person who is the subject of a
 1824 criminal history record provided that such person:

1825 (a) Has submitted to the department a certified copy of
 1826 the disposition of the charge to which the petition to seal
 1827 pertains.

1828 (b) Remits a \$75 processing fee to the department for
 1829 placement in the Department of Law Enforcement Operating Trust
 1830 Fund, unless such fee is waived by the executive director.

1831 (c) Has never, prior to the date on which the application
 1832 for a certificate of eligibility is filed, been adjudicated
 1833 guilty of a criminal offense or comparable ordinance violation,
 1834 or been adjudicated delinquent for committing any felony or a
 1835 misdemeanor specified in s. 943.051(3)(b).

1836 (d) Has not been adjudicated guilty of or adjudicated
 1837 delinquent for committing any of the acts stemming from the
 1838 arrest or alleged criminal activity to which the petition to
 1839 seal pertains.

1840 (e) Has never secured a prior sealing or expunction of a
 1841 criminal history record under this section, s. 943.0585, former
 1842 s. 893.14, former s. 901.33, or former s. 943.058.

1843 (f) Is no longer under court supervision applicable to the
 1844 disposition of the arrest or alleged criminal activity to which
 1845 the petition to seal pertains.

1846 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

1847 (a) In judicial proceedings under this section, a copy of
 1848 the completed petition to seal shall be served upon the
 1849 appropriate state attorney or the statewide prosecutor and upon
 1850 the arresting agency; however, it is not necessary to make any
 1851 agency other than the state a party. The appropriate state
 1852 attorney or the statewide prosecutor and the arresting agency
 1853 may respond to the court regarding the completed petition to
 1854 seal.

1855 (b) If relief is granted by the court, the clerk of the
 1856 court shall certify copies of the order to the appropriate state
 1857 attorney or the statewide prosecutor and to the arresting
 1858 agency. The arresting agency is responsible for forwarding the
 1859 order to any other agency to which the arresting agency
 1860 disseminated the criminal history record information to which
 1861 the order pertains. The department shall forward the order to
 1862 seal to the Federal Bureau of Investigation. The clerk of the
 1863 court shall certify a copy of the order to any other agency
 1864 which the records of the court reflect has received the criminal
 1865 history record from the court.

1866 (c) For an order to seal entered by a court prior to July
 1867 1, 1992, the department shall notify the appropriate state
 1868 attorney or statewide prosecutor of any order to seal which is
 1869 contrary to law because the person who is the subject of the
 1870 record has previously been convicted of a crime or comparable
 1871 ordinance violation or has had a prior criminal history record
 1872 sealed or expunged. Upon receipt of such notice, the appropriate

1873 state attorney or statewide prosecutor shall take action, within
1874 60 days, to correct the record and petition the court to void
1875 the order to seal. The department shall seal the record until
1876 such time as the order is voided by the court.

1877 (d) On or after July 1, 1992, the department or any other
1878 criminal justice agency is not required to act on an order to
1879 seal entered by a court when such order does not comply with the
1880 requirements of this section. Upon receipt of such an order, the
1881 department must notify the issuing court, the appropriate state
1882 attorney or statewide prosecutor, the petitioner or the
1883 petitioner's attorney, and the arresting agency of the reason
1884 for noncompliance. The appropriate state attorney or statewide
1885 prosecutor shall take action within 60 days to correct the
1886 record and petition the court to void the order. No cause of
1887 action, including contempt of court, shall arise against any
1888 criminal justice agency for failure to comply with an order to
1889 seal when the petitioner for such order failed to obtain the
1890 certificate of eligibility as required by this section or when
1891 such order does not comply with the requirements of this
1892 section.

1893 (e) An order sealing a criminal history record pursuant to
1894 this section does not require that such record be surrendered to
1895 the court, and such record shall continue to be maintained by
1896 the department and other criminal justice agencies.

1897 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
1898 history record of a minor or an adult which is ordered sealed by

1899 a court pursuant to this section is confidential and exempt from
1900 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
1901 Constitution and is available only to the person who is the
1902 subject of the record, to the subject's attorney, to criminal
1903 justice agencies for their respective criminal justice purposes,
1904 which include conducting a criminal history background check for
1905 approval of firearms purchases or transfers as authorized by
1906 state or federal law, to judges in the state courts system for
1907 the purpose of assisting them in their case-related
1908 decisionmaking responsibilities, as set forth in s. 943.053(5),
1909 or to those entities set forth in subparagraphs (a)1., 4., 5.,
1910 6., 8., 9., and 10. for their respective licensing, access
1911 authorization, and employment purposes.

1912 (a) The subject of a criminal history record sealed under
1913 this section or under other provisions of law, including former
1914 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
1915 deny or fail to acknowledge the arrests covered by the sealed
1916 record, except when the subject of the record:

- 1917 1. Is a candidate for employment with a criminal justice
1918 agency;
- 1919 2. Is a defendant in a criminal prosecution;
- 1920 3. Concurrently or subsequently petitions for relief under
1921 this section, s. 943.0583, or s. 943.0585;
- 1922 4. Is a candidate for admission to The Florida Bar;
- 1923 5. Is seeking to be employed or licensed by or to contract
1924 with the Department of Children and Families, the Division of

1925 Vocational Rehabilitation within the Department of Education,
 1926 the Agency for Health Care Administration, the Agency for
 1927 Persons with Disabilities, the Department of Health, the
 1928 Department of Elderly Affairs, or the Department of Juvenile
 1929 Justice or to be employed or used by such contractor or licensee
 1930 in a sensitive position having direct contact with children, the
 1931 disabled, or the elderly;

1932 6. Is seeking to be employed or licensed by the Department
 1933 of Education, a district school board, a university laboratory
 1934 school, a charter school, a private or parochial school, or a
 1935 local governmental entity that licenses child care facilities;

1936 7. Is attempting to purchase a firearm from a licensed
 1937 importer, licensed manufacturer, or licensed dealer and is
 1938 subject to a criminal history check under state or federal law;

1939 8. Is seeking to be licensed by the Division of Insurance
 1940 Agent and Agency Services within the Department of Financial
 1941 Services;

1942 9. Is seeking to be appointed as a guardian pursuant to s.
 1943 744.3125; or

1944 10. Is seeking to be licensed by the Bureau of License
 1945 Issuance of the Division of Licensing within the Department of
 1946 Agriculture and Consumer Services to carry a concealed weapon or
 1947 concealed firearm. This subparagraph applies only in the
 1948 determination of an applicant's eligibility under s. 790.06.

1949 (b) Subject to the exceptions in paragraph (a), a person
 1950 who has been granted a sealing under this section, former s.

1951 893.14, former s. 901.33, or former s. 943.058 may not be held
1952 under any provision of law of this state to commit perjury or to
1953 be otherwise liable for giving a false statement by reason of
1954 such person's failure to recite or acknowledge a sealed criminal
1955 history record.

1956 (c) Information relating to the existence of a sealed
1957 criminal record provided in accordance with the provisions of
1958 paragraph (a) is confidential and exempt from the provisions of
1959 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1960 except that the department shall disclose the sealed criminal
1961 history record to the entities set forth in subparagraphs (a)1.,
1962 4., 5., 6., 8., 9., and 10. for their respective licensing,
1963 access authorization, and employment purposes. An employee of an
1964 entity set forth in subparagraph (a)1., subparagraph (a)4.,
1965 subparagraph (a)5., subparagraph (a)6., subparagraph (a)8.,
1966 subparagraph (a)9., or subparagraph (a)10. may not disclose
1967 information relating to the existence of a sealed criminal
1968 history record of a person seeking employment, access
1969 authorization, or licensure with such entity or contractor,
1970 except to the person to whom the criminal history record relates
1971 or to persons having direct responsibility for employment,
1972 access authorization, or licensure decisions. A person who
1973 violates the provisions of this paragraph commits a misdemeanor
1974 of the first degree, punishable as provided in s. 775.082 or s.
1975 775.083.

1976 (5) STATUTORY REFERENCES.—Any reference to any other

1977 chapter, section, or subdivision of the Florida Statutes in this
 1978 section constitutes a general reference under the doctrine of
 1979 incorporation by reference.

1980 Section 43. Paragraph (b) of subsection (1) of section
 1981 944.606, Florida Statutes, is amended to read:

1982 944.606 Sexual offenders; notification upon release.—

1983 (1) As used in this section:

1984 (b) "Sexual offender" means a person who has been
 1985 convicted of committing, or attempting, soliciting, or
 1986 conspiring to commit, any of the criminal offenses proscribed in
 1987 the following statutes in this state or similar offenses in
 1988 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
 1989 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 1990 the defendant is not the victim's parent or guardian; s.
 1991 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
 1992 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
 1993 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; former
 1994 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s.
 1995 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.
 1996 916.1075(2); or s. 985.701(1); or any similar offense committed
 1997 in this state which has been redesignated from a former statute
 1998 number to one of those listed in this subsection, when the
 1999 department has received verified information regarding such
 2000 conviction; an offender's computerized criminal history record
 2001 is not, in and of itself, verified information.

2002 Section 44. Paragraph (a) of subsection (1) of section

2003 944.607, Florida Statutes, is amended to read:

2004 944.607 Notification to Department of Law Enforcement of

2005 information on sexual offenders.—

2006 (1) As used in this section, the term:

2007 (a) "Sexual offender" means a person who is in the custody

2008 or control of, or under the supervision of, the department or is

2009 in the custody of a private correctional facility:

2010 1. On or after October 1, 1997, as a result of a

2011 conviction for committing, or attempting, soliciting, or

2012 conspiring to commit, any of the criminal offenses proscribed in

2013 the following statutes in this state or similar offenses in

2014 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,

2015 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and

2016 the defendant is not the victim's parent or guardian; s.

2017 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.

2018 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;

2019 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; former

2020 s. 827.071; s. 847.003; s. 847.0133; s. 847.0135, excluding s.

2021 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.

2022 916.1075(2); or s. 985.701(1); or any similar offense committed

2023 in this state which has been redesignated from a former statute

2024 number to one of those listed in this paragraph; or

2025 2. Who establishes or maintains a residence in this state

2026 and who has not been designated as a sexual predator by a court

2027 of this state but who has been designated as a sexual predator,

2028 as a sexually violent predator, or by another sexual offender

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2029 designation in another state or jurisdiction and was, as a
2030 result of such designation, subjected to registration or
2031 community or public notification, or both, or would be if the
2032 person were a resident of that state or jurisdiction, without
2033 regard as to whether the person otherwise meets the criteria for
2034 registration as a sexual offender.

2035 Section 45. Subsections (7), (10), and (14) of section
2036 947.1405, Florida Statutes, are amended, and subsection (15) is
2037 added to that section, to read:

2038 947.1405 Conditional release program.—

2039 (7) (a) Any inmate who is convicted of a crime committed on
2040 or after October 1, 1995, or who has been previously convicted
2041 of a crime committed on or after October 1, 1995, in violation
2042 of chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or
2043 s. 847.0145, and is subject to conditional release supervision,
2044 shall have, in addition to any other conditions imposed, the
2045 following special conditions imposed by the commission:

2046 1. A mandatory curfew from 10 p.m. to 6 a.m. The
2047 commission may designate another 8-hour period if the offender's
2048 employment precludes the above specified time, and such
2049 alternative is recommended by the Department of Corrections. If
2050 the commission determines that imposing a curfew would endanger
2051 the victim, the commission may consider alternative sanctions.

2052 2. If the victim was under the age of 18, a prohibition on
2053 living within 1,000 feet of a school, child care facility, park,
2054 playground, designated public school bus stop, or other place

2055 | where children regularly congregate. A releasee who is subject
2056 | to this subparagraph may not relocate to a residence that is
2057 | within 1,000 feet of a public school bus stop. Beginning October
2058 | 1, 2004, the commission or the department may not approve a
2059 | residence that is located within 1,000 feet of a school, child
2060 | care facility, park, playground, designated school bus stop, or
2061 | other place where children regularly congregate for any releasee
2062 | who is subject to this subparagraph. On October 1, 2004, the
2063 | department shall notify each affected school district of the
2064 | location of the residence of a releasee 30 days prior to release
2065 | and thereafter, if the releasee relocates to a new residence,
2066 | shall notify any affected school district of the residence of
2067 | the releasee within 30 days after relocation. If, on October 1,
2068 | 2004, any public school bus stop is located within 1,000 feet of
2069 | the existing residence of such releasee, the district school
2070 | board shall relocate that school bus stop. Beginning October 1,
2071 | 2004, a district school board may not establish or relocate a
2072 | public school bus stop within 1,000 feet of the residence of a
2073 | releasee who is subject to this subparagraph. The failure of the
2074 | district school board to comply with this subparagraph shall not
2075 | result in a violation of conditional release supervision. A
2076 | releasee who is subject to this subparagraph may not be forced
2077 | to relocate and does not violate his or her conditional release
2078 | supervision if he or she is living in a residence that meets the
2079 | requirements of this subparagraph and a school, child care
2080 | facility, park, playground, designated public school bus stop,

2081 or other place where children regularly congregate is
2082 subsequently established within 1,000 feet of his or her
2083 residence.

2084 3. Active participation in and successful completion of a
2085 sex offender treatment program with qualified practitioners
2086 specifically trained to treat sex offenders, at the releasee's
2087 own expense. If a qualified practitioner is not available within
2088 a 50-mile radius of the releasee's residence, the offender shall
2089 participate in other appropriate therapy.

2090 4. A prohibition on any contact with the victim, directly
2091 or indirectly, including through a third person, unless approved
2092 by the victim, a qualified practitioner in the sexual offender
2093 treatment program, and the sentencing court.

2094 5. If the victim was under the age of 18, a prohibition
2095 against contact with children under the age of 18 without review
2096 and approval by the commission. The commission may approve
2097 supervised contact with a child under the age of 18 if the
2098 approval is based upon a recommendation for contact issued by a
2099 qualified practitioner who is basing the recommendation on a
2100 risk assessment. Further, the sex offender must be currently
2101 enrolled in or have successfully completed a sex offender
2102 therapy program. The commission may not grant supervised contact
2103 with a child if the contact is not recommended by a qualified
2104 practitioner and may deny supervised contact with a child at any
2105 time. When considering whether to approve supervised contact
2106 with a child, the commission must review and consider the

2107 following:

2108 a. A risk assessment completed by a qualified
 2109 practitioner. The qualified practitioner must prepare a written
 2110 report that must include the findings of the assessment and
 2111 address each of the following components:

2112 (I) The sex offender's current legal status;

2113 (II) The sex offender's history of adult charges with
 2114 apparent sexual motivation;

2115 (III) The sex offender's history of adult charges without
 2116 apparent sexual motivation;

2117 (IV) The sex offender's history of juvenile charges,
 2118 whenever available;

2119 (V) The sex offender's offender treatment history,
 2120 including a consultation from the sex offender's treating, or
 2121 most recent treating, therapist;

2122 (VI) The sex offender's current mental status;

2123 (VII) The sex offender's mental health and substance abuse
 2124 history as provided by the Department of Corrections;

2125 (VIII) The sex offender's personal, social, educational,
 2126 and work history;

2127 (IX) The results of current psychological testing of the
 2128 sex offender if determined necessary by the qualified
 2129 practitioner;

2130 (X) A description of the proposed contact, including the
 2131 location, frequency, duration, and supervisory arrangement;

2132 (XI) The child's preference and relative comfort level

2133 with the proposed contact, when age-appropriate;

2134 (XII) The parent's or legal guardian's preference
2135 regarding the proposed contact; and

2136 (XIII) The qualified practitioner's opinion, along with
2137 the basis for that opinion, as to whether the proposed contact
2138 would likely pose significant risk of emotional or physical harm
2139 to the child.

2140

2141 The written report of the assessment must be given to the
2142 commission.

2143 b. A recommendation made as a part of the risk-assessment
2144 report as to whether supervised contact with the child should be
2145 approved;

2146 c. A written consent signed by the child's parent or legal
2147 guardian, if the parent or legal guardian is not the sex
2148 offender, agreeing to the sex offender having supervised contact
2149 with the child after receiving full disclosure of the sex
2150 offender's present legal status, past criminal history, and the
2151 results of the risk assessment. The commission may not approve
2152 contact with the child if the parent or legal guardian refuses
2153 to give written consent for supervised contact;

2154 d. A safety plan prepared by the qualified practitioner,
2155 who provides treatment to the offender, in collaboration with
2156 the sex offender, the child's parent or legal guardian, and the
2157 child, when age appropriate, which details the acceptable
2158 conditions of contact between the sex offender and the child.

2159 The safety plan must be reviewed and approved by the Department
2160 of Corrections before being submitted to the commission; and

2161 e. Evidence that the child's parent or legal guardian, if
2162 the parent or legal guardian is not the sex offender,
2163 understands the need for and agrees to the safety plan and has
2164 agreed to provide, or to designate another adult to provide,
2165 constant supervision any time the child is in contact with the
2166 offender.

2167
2168 The commission may not appoint a person to conduct a risk
2169 assessment and may not accept a risk assessment from a person
2170 who has not demonstrated to the commission that he or she has
2171 met the requirements of a qualified practitioner as defined in
2172 this section.

2173 6. If the victim was under age 18, a prohibition on
2174 working for pay or as a volunteer at any school, child care
2175 facility, park, playground, or other place where children
2176 regularly congregate, as prescribed by the commission.

2177 7. Unless otherwise indicated in the treatment plan
2178 provided by a qualified practitioner in the sexual offender
2179 treatment program, a prohibition on viewing, owning, or
2180 possessing any obscene, pornographic, or sexually stimulating
2181 visual or auditory material, including telephone, electronic
2182 media, computer programs, or computer services that are relevant
2183 to the offender's deviant behavior pattern.

2184 8. Effective for a releasee whose crime is committed on or

2185 after July 1, 2005, a prohibition on accessing the Internet or
2186 other computer services until a qualified practitioner in the
2187 offender's sex offender treatment program, after a risk
2188 assessment is completed, approves and implements a safety plan
2189 for the offender's accessing or using the Internet or other
2190 computer services.

2191 9. A requirement that the releasee must submit two
2192 specimens of blood to the Department of Law Enforcement to be
2193 registered with the DNA database.

2194 10. A requirement that the releasee make restitution to
2195 the victim, as determined by the sentencing court or the
2196 commission, for all necessary medical and related professional
2197 services relating to physical, psychiatric, and psychological
2198 care.

2199 11. Submission to a warrantless search by the community
2200 control or probation officer of the probationer's or community
2201 controllee's person, residence, or vehicle.

2202 (b) For a releasee whose crime was committed on or after
2203 October 1, 1997, in violation of chapter 794, s. 800.04, former
2204 s. 827.071, s. 847.0135(5), or s. 847.0145, and who is subject
2205 to conditional release supervision, in addition to any other
2206 provision of this subsection, the commission shall impose the
2207 following additional conditions of conditional release
2208 supervision:

2209 1. As part of a treatment program, participation in a
2210 minimum of one annual polygraph examination to obtain

2211 information necessary for risk management and treatment and to
2212 reduce the sex offender's denial mechanisms. The polygraph
2213 examination must be conducted by a polygrapher who is a member
2214 of a national or state polygraph association and who is
2215 certified as a postconviction sex offender polygrapher, where
2216 available, and at the expense of the releasee. The results of
2217 the examination shall be provided to the releasee's probation
2218 officer and qualified practitioner and may not be used as
2219 evidence in a hearing to prove that a violation of supervision
2220 has occurred.

2221 2. Maintenance of a driving log and a prohibition against
2222 driving a motor vehicle alone without the prior approval of the
2223 supervising officer.

2224 3. A prohibition against obtaining or using a post office
2225 box without the prior approval of the supervising officer.

2226 4. If there was sexual contact, a submission to, at the
2227 releasee's expense, an HIV test with the results to be released
2228 to the victim or the victim's parent or guardian.

2229 5. Electronic monitoring of any form when ordered by the
2230 commission. Any person who has been placed under supervision and
2231 is electronically monitored by the department must pay the
2232 department for the cost of the electronic monitoring service at
2233 a rate that may not exceed the full cost of the monitoring
2234 service. Funds collected under this subparagraph shall be
2235 deposited into the General Revenue Fund. The department may
2236 exempt a person from the payment of all or any part of the

2237 | electronic monitoring service cost if the department finds that
 2238 | any of the factors listed in s. 948.09(3) exist.

2239 | (10) Effective for a releasee whose crime was committed on
 2240 | or after September 1, 2005, in violation of chapter 794, s.
 2241 | 800.04(4), (5), or (6), former s. 827.071, or s. 847.0145, and
 2242 | the unlawful activity involved a victim who was 15 years of age
 2243 | or younger and the offender is 18 years of age or older or for a
 2244 | releasee who is designated as a sexual predator pursuant to s.
 2245 | 775.21, in addition to any other provision of this section, the
 2246 | commission must order electronic monitoring for the duration of
 2247 | the releasee's supervision.

2248 | (14) Effective for a releasee whose crime was committed on
 2249 | or after October 1, 2014, in violation of chapter 794, s.
 2250 | 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, in
 2251 | addition to any other provision of this section, the commission
 2252 | must impose a condition prohibiting the releasee from viewing,
 2253 | accessing, owning, or possessing any obscene, pornographic, or
 2254 | sexually stimulating visual or auditory material unless
 2255 | otherwise indicated in the treatment plan provided by a
 2256 | qualified practitioner in the sexual offender treatment program.
 2257 | Visual or auditory material includes, but is not limited to,
 2258 | telephone, electronic media, computer programs, and computer
 2259 | services.

2260 | (15) (a) Effective for a releasee whose crime was committed
 2261 | on or after October 1, 2015, in violation of s. 847.003 or s.
 2262 | 847.0135(4), in addition to any other provision of this section,

2263 the commission must impose the conditions specified in
2264 subsections (7), (10), (12), and (14).

2265 (b) Effective for a releasee whose crime was committed on
2266 or after October 1, 2015, in violation of s. 847.0137, in
2267 addition to any other provision of this section, the commission
2268 must impose the conditions specified in subsections (7) and
2269 (14).

2270 Section 46. Subsection (2) of section 948.013, Florida
2271 Statutes, is amended, and subsection (3) is added to that
2272 section, to read:

2273 948.013 Administrative probation.—

2274 (2) Effective for an offense committed on or after July 1,
2275 1998, a person is ineligible for placement on administrative
2276 probation if the person is sentenced to or is serving a term of
2277 probation or community control, regardless of the conviction or
2278 adjudication, for committing, or attempting, conspiring, or
2279 soliciting to commit, any of the felony offenses described in s.
2280 787.01 or s. 787.02, where the victim is a minor and the
2281 defendant is not the victim's parent; s. 787.025; s.
2282 787.06(3)(g); chapter 794; former s. 796.03; s. 800.04; s.
2283 825.1025(2)(b); former s. 827.071; s. 847.0133; s. 847.0135; or
2284 s. 847.0145.

2285 (3) Effective for an offense committed on or after October
2286 1, 2015, a person is ineligible for placement on administrative
2287 probation if the person is sentenced to or is serving a term of
2288 probation or community control, regardless of the conviction or

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2289 adjudication, for committing, or attempting, conspiring, or
2290 soliciting to commit, any of the felony offenses described in s.
2291 847.003 or s. 847.0137.

2292 Section 47. Subsection (2) of section 948.03, Florida
2293 Statutes, is amended to read:

2294 948.03 Terms and conditions of probation.—

2295 (2) The enumeration of specific kinds of terms and
2296 conditions shall not prevent the court from adding thereto such
2297 other or others as it considers proper. However, the sentencing
2298 court may only impose a condition of supervision allowing an
2299 offender convicted of s. 794.011, s. 800.04, former s. 827.071,
2300 s. 847.003, s. 847.0135(5), or s. 847.0145, to reside in another
2301 state, if the order stipulates that it is contingent upon the
2302 approval of the receiving state interstate compact authority.
2303 The court may rescind or modify at any time the terms and
2304 conditions theretofore imposed by it upon the probationer.
2305 However, if the court withholds adjudication of guilt or imposes
2306 a period of incarceration as a condition of probation, the
2307 period shall not exceed 364 days, and incarceration shall be
2308 restricted to either a county facility, a probation and
2309 restitution center under the jurisdiction of the Department of
2310 Corrections, a probation program drug punishment phase I secure
2311 residential treatment institution, or a community residential
2312 facility owned or operated by any entity providing such
2313 services.

2314 Section 48. Subsection (1) of section 948.04, Florida

2315 Statutes, is amended to read:

2316 948.04 Period of probation; duty of probationer; early
2317 termination.—

2318 (1) Defendants found guilty of felonies who are placed on
2319 probation shall be under supervision not to exceed 2 years
2320 unless otherwise specified by the court. No defendant placed on
2321 probation pursuant to s. 948.012(1) is subject to the probation
2322 limitations of this subsection. A defendant who is placed on
2323 probation or community control for a violation of chapter 794,
2324 ~~or~~ chapter 827, or s. 847.003 is subject to the maximum level of
2325 supervision provided by the supervising agency, and that
2326 supervision shall continue through the full term of the court-
2327 imposed probation or community control.

2328 Section 49. Subsection (4) and paragraph (c) of subsection
2329 (8) of section 948.06, Florida Statutes, are amended to read:

2330 948.06 Violation of probation or community control;
2331 revocation; modification; continuance; failure to pay
2332 restitution or cost of supervision.—

2333 (4) Notwithstanding any other provision of this section, a
2334 felony probationer or an offender in community control who is
2335 arrested for violating his or her probation or community control
2336 in a material respect may be taken before the court in the
2337 county or circuit in which the probationer or offender was
2338 arrested. That court shall advise him or her of the charge of a
2339 violation and, if such charge is admitted, shall cause him or
2340 her to be brought before the court that granted the probation or

2341 community control. If the violation is not admitted by the
2342 probationer or offender, the court may commit him or her or
2343 release him or her with or without bail to await further
2344 hearing. However, if the probationer or offender is under
2345 supervision for any criminal offense proscribed in chapter 794,
2346 s. 800.04(4), (5), (6), former s. 827.071, or s. 847.0145, or is
2347 a registered sexual predator or a registered sexual offender, or
2348 is under supervision for a criminal offense for which he or she
2349 would meet the registration criteria in s. 775.21, s. 943.0435,
2350 or s. 944.607 but for the effective date of those sections, the
2351 court must make a finding that the probationer or offender is
2352 not a danger to the public prior to release with or without
2353 bail. In determining the danger posed by the offender's or
2354 probationer's release, the court may consider the nature and
2355 circumstances of the violation and any new offenses charged; the
2356 offender's or probationer's past and present conduct, including
2357 convictions of crimes; any record of arrests without conviction
2358 for crimes involving violence or sexual crimes; any other
2359 evidence of allegations of unlawful sexual conduct or the use of
2360 violence by the offender or probationer; the offender's or
2361 probationer's family ties, length of residence in the community,
2362 employment history, and mental condition; his or her history and
2363 conduct during the probation or community control supervision
2364 from which the violation arises and any other previous
2365 supervisions, including disciplinary records of previous
2366 incarcerations; the likelihood that the offender or probationer

2367 will engage again in a criminal course of conduct; the weight of
2368 the evidence against the offender or probationer; and any other
2369 facts the court considers relevant. The court, as soon as is
2370 practicable, shall give the probationer or offender an
2371 opportunity to be fully heard on his or her behalf in person or
2372 by counsel. After the hearing, the court shall make findings of
2373 fact and forward the findings to the court that granted the
2374 probation or community control and to the probationer or
2375 offender or his or her attorney. The findings of fact by the
2376 hearing court are binding on the court that granted the
2377 probation or community control. Upon the probationer or offender
2378 being brought before it, the court that granted the probation or
2379 community control may revoke, modify, or continue the probation
2380 or community control or may place the probationer into community
2381 control as provided in this section. However, the probationer or
2382 offender shall not be released and shall not be admitted to
2383 bail, but shall be brought before the court that granted the
2384 probation or community control if any violation of felony
2385 probation or community control other than a failure to pay costs
2386 or fines or make restitution payments is alleged to have been
2387 committed by:

2388 (a) A violent felony offender of special concern, as
2389 defined in this section;

2390 (b) A person who is on felony probation or community
2391 control for any offense committed on or after the effective date
2392 of this act and who is arrested for a qualifying offense as

2393 defined in this section; or

2394 (c) A person who is on felony probation or community
 2395 control and has previously been found by a court to be a
 2396 habitual violent felony offender as defined in s. 775.084(1)(b),
 2397 a three-time violent felony offender as defined in s.
 2398 775.084(1)(c), or a sexual predator under s. 775.21, and who is
 2399 arrested for committing a qualifying offense as defined in this
 2400 section on or after the effective date of this act.

2401 (8)

2402 (c) For purposes of this section, the term "qualifying
 2403 offense" means any of the following:

2404 1. Kidnapping or attempted kidnapping under s. 787.01,
 2405 false imprisonment of a child under the age of 13 under s.
 2406 787.02(3), or luring or enticing a child under s. 787.025(2)(b)
 2407 or (c).

2408 2. Murder or attempted murder under s. 782.04, attempted
 2409 felony murder under s. 782.051, or manslaughter under s. 782.07.

2410 3. Aggravated battery or attempted aggravated battery
 2411 under s. 784.045.

2412 4. Sexual battery or attempted sexual battery under s.
 2413 794.011(2), (3), (4), or (8)(b) or (c).

2414 5. Lewd or lascivious battery or attempted lewd or
 2415 lascivious battery under s. 800.04(4), lewd or lascivious
 2416 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious
 2417 conduct under s. 800.04(6)(b), lewd or lascivious exhibition
 2418 under s. 800.04(7)(b), or lewd or lascivious exhibition on

- 2419 computer under s. 847.0135(5) (b) .
- 2420 6. Robbery or attempted robbery under s. 812.13,
- 2421 carjacking or attempted carjacking under s. 812.133, or home
- 2422 invasion robbery or attempted home invasion robbery under s.
- 2423 812.135.
- 2424 7. Lewd or lascivious offense upon or in the presence of
- 2425 an elderly or disabled person or attempted lewd or lascivious
- 2426 offense upon or in the presence of an elderly or disabled person
- 2427 under s. 825.1025.
- 2428 8. Sexual performance by a child or attempted sexual
- 2429 performance by a child under former s. 827.071 or s. 847.003.
- 2430 9. Computer pornography under s. 847.0135(2) or (3),
- 2431 ~~transmission of~~ child pornography under s. 847.0137, or selling
- 2432 or buying of minors under s. 847.0145.
- 2433 10. Poisoning food or water under s. 859.01.
- 2434 11. Abuse of a dead human body under s. 872.06.
- 2435 12. Any burglary offense or attempted burglary offense
- 2436 that is either a first degree felony or second degree felony
- 2437 under s. 810.02(2) or (3) .
- 2438 13. Arson or attempted arson under s. 806.01(1) .
- 2439 14. Aggravated assault under s. 784.021.
- 2440 15. Aggravated stalking under s. 784.048(3), (4), (5), or
- 2441 (7) .
- 2442 16. Aircraft piracy under s. 860.16.
- 2443 17. Unlawful throwing, placing, or discharging of a
- 2444 destructive device or bomb under s. 790.161(2), (3), or (4) .

2445 18. Treason under s. 876.32.

2446 19. Any offense committed in another jurisdiction which
 2447 would be an offense listed in this paragraph if that offense had
 2448 been committed in this state.

2449 Section 50. Paragraph (c) of subsection (1) of section
 2450 948.062, Florida Statutes, is amended to read:

2451 948.062 Reviewing and reporting serious offenses committed
 2452 by offenders placed on probation or community control.—

2453 (1) The department shall review the circumstances related
 2454 to an offender placed on probation or community control who has
 2455 been arrested while on supervision for the following offenses:

2456 (c) Any sexual performance by a child as provided in
 2457 former s. 827.071 or s. 847.003;

2458 Section 51. Subsection (2) of section 948.101, Florida
 2459 Statutes, is amended to read:

2460 948.101 Terms and conditions of community control.—

2461 (2) The enumeration of specific kinds of terms and
 2462 conditions does not prevent the court from adding any other
 2463 terms or conditions that the court considers proper. However,
 2464 the sentencing court may only impose a condition of supervision
 2465 allowing an offender convicted of s. 794.011, s. 800.04, former
 2466 s. 827.071, s. 847.003, s. 847.0135(5), or s. 847.0145 to reside
 2467 in another state if the order stipulates that it is contingent
 2468 upon the approval of the receiving state interstate compact
 2469 authority. The court may rescind or modify at any time the terms
 2470 and conditions theretofore imposed by it upon the offender in

2471 community control. However, if the court withholds adjudication
2472 of guilt or imposes a period of incarceration as a condition of
2473 community control, the period may not exceed 364 days, and
2474 incarceration shall be restricted to a county facility, a
2475 probation and restitution center under the jurisdiction of the
2476 Department of Corrections, a probation program drug punishment
2477 phase I secure residential treatment institution, or a community
2478 residential facility owned or operated by any entity providing
2479 such services.

2480 Section 52. Subsections (1) and (2), paragraphs (a) and
2481 (c) of subsection (3), and subsection (5) of section 948.30,
2482 Florida Statutes, are amended, and subsection (6) is added to
2483 that section, to read:

2484 948.30 Additional terms and conditions of probation or
2485 community control for certain sex offenses.—Conditions imposed
2486 pursuant to this section do not require oral pronouncement at
2487 the time of sentencing and shall be considered standard
2488 conditions of probation or community control for offenders
2489 specified in this section.

2490 (1) Effective for probationers or community controllees
2491 whose crime was committed on or after October 1, 1995, and who
2492 are placed under supervision for violation of chapter 794, s.
2493 800.04, former s. 827.071, s. 847.0135(5), or s. 847.0145, the
2494 court must impose the following conditions in addition to all
2495 other standard and special conditions imposed:

2496 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court

2497 may designate another 8-hour period if the offender's employment
2498 precludes the above specified time, and the alternative is
2499 recommended by the Department of Corrections. If the court
2500 determines that imposing a curfew would endanger the victim, the
2501 court may consider alternative sanctions.

2502 (b) If the victim was under the age of 18, a prohibition
2503 on living within 1,000 feet of a school, child care facility,
2504 park, playground, or other place where children regularly
2505 congregate, as prescribed by the court. The 1,000-foot distance
2506 shall be measured in a straight line from the offender's place
2507 of residence to the nearest boundary line of the school, child
2508 care facility, park, playground, or other place where children
2509 congregate. The distance may not be measured by a pedestrian
2510 route or automobile route. A probationer or community controllee
2511 who is subject to this paragraph may not be forced to relocate
2512 and does not violate his or her probation or community control
2513 if he or she is living in a residence that meets the
2514 requirements of this paragraph and a school, child care
2515 facility, park, playground, or other place where children
2516 regularly congregate is subsequently established within 1,000
2517 feet of his or her residence.

2518 (c) Active participation in and successful completion of a
2519 sex offender treatment program with qualified practitioners
2520 specifically trained to treat sex offenders, at the
2521 probationer's or community controllee's own expense. If a
2522 qualified practitioner is not available within a 50-mile radius

2523 of the probationer's or community controllee's residence, the
2524 offender shall participate in other appropriate therapy.

2525 (d) A prohibition on any contact with the victim, directly
2526 or indirectly, including through a third person, unless approved
2527 by the victim, a qualified practitioner in the sexual offender
2528 treatment program, and the sentencing court.

2529 (e) If the victim was under the age of 18, a prohibition
2530 on contact with a child under the age of 18 except as provided
2531 in this paragraph. The court may approve supervised contact with
2532 a child under the age of 18 if the approval is based upon a
2533 recommendation for contact issued by a qualified practitioner
2534 who is basing the recommendation on a risk assessment. Further,
2535 the sex offender must be currently enrolled in or have
2536 successfully completed a sex offender therapy program. The court
2537 may not grant supervised contact with a child if the contact is
2538 not recommended by a qualified practitioner and may deny
2539 supervised contact with a child at any time. When considering
2540 whether to approve supervised contact with a child, the court
2541 must review and consider the following:

2542 1. A risk assessment completed by a qualified
2543 practitioner. The qualified practitioner must prepare a written
2544 report that must include the findings of the assessment and
2545 address each of the following components:

- 2546 a. The sex offender's current legal status;
2547 b. The sex offender's history of adult charges with
2548 apparent sexual motivation;

2549 c. The sex offender's history of adult charges without
 2550 apparent sexual motivation;

2551 d. The sex offender's history of juvenile charges,
 2552 whenever available;

2553 e. The sex offender's offender treatment history,
 2554 including consultations with the sex offender's treating, or
 2555 most recent treating, therapist;

2556 f. The sex offender's current mental status;

2557 g. The sex offender's mental health and substance abuse
 2558 treatment history as provided by the Department of Corrections;

2559 h. The sex offender's personal, social, educational, and
 2560 work history;

2561 i. The results of current psychological testing of the sex
 2562 offender if determined necessary by the qualified practitioner;

2563 j. A description of the proposed contact, including the
 2564 location, frequency, duration, and supervisory arrangement;

2565 k. The child's preference and relative comfort level with
 2566 the proposed contact, when age appropriate;

2567 l. The parent's or legal guardian's preference regarding
 2568 the proposed contact; and

2569 m. The qualified practitioner's opinion, along with the
 2570 basis for that opinion, as to whether the proposed contact would
 2571 likely pose significant risk of emotional or physical harm to
 2572 the child.

2573

2574 The written report of the assessment must be given to the court;

2575 2. A recommendation made as a part of the risk assessment
 2576 report as to whether supervised contact with the child should be
 2577 approved;

2578 3. A written consent signed by the child's parent or legal
 2579 guardian, if the parent or legal guardian is not the sex
 2580 offender, agreeing to the sex offender having supervised contact
 2581 with the child after receiving full disclosure of the sex
 2582 offender's present legal status, past criminal history, and the
 2583 results of the risk assessment. The court may not approve
 2584 contact with the child if the parent or legal guardian refuses
 2585 to give written consent for supervised contact;

2586 4. A safety plan prepared by the qualified practitioner,
 2587 who provides treatment to the offender, in collaboration with
 2588 the sex offender, the child's parent or legal guardian, if the
 2589 parent or legal guardian is not the sex offender, and the child,
 2590 when age appropriate, which details the acceptable conditions of
 2591 contact between the sex offender and the child. The safety plan
 2592 must be reviewed and approved by the court; and

2593 5. Evidence that the child's parent or legal guardian
 2594 understands the need for and agrees to the safety plan and has
 2595 agreed to provide, or to designate another adult to provide,
 2596 constant supervision any time the child is in contact with the
 2597 offender.

2598
 2599 The court may not appoint a person to conduct a risk assessment
 2600 and may not accept a risk assessment from a person who has not

2601 demonstrated to the court that he or she has met the
2602 requirements of a qualified practitioner as defined in this
2603 section.

2604 (f) If the victim was under age 18, a prohibition on
2605 working for pay or as a volunteer at any place where children
2606 regularly congregate, including, but not limited to, schools,
2607 child care facilities, parks, playgrounds, pet stores,
2608 libraries, zoos, theme parks, and malls.

2609 (g) Unless otherwise indicated in the treatment plan
2610 provided by a qualified practitioner in the sexual offender
2611 treatment program, a prohibition on viewing, accessing, owning,
2612 or possessing any obscene, pornographic, or sexually stimulating
2613 visual or auditory material, including telephone, electronic
2614 media, computer programs, or computer services that are relevant
2615 to the offender's deviant behavior pattern.

2616 (h) Effective for probationers and community controllees
2617 whose crime is committed on or after July 1, 2005, a prohibition
2618 on accessing the Internet or other computer services until a
2619 qualified practitioner in the offender's sex offender treatment
2620 program, after a risk assessment is completed, approves and
2621 implements a safety plan for the offender's accessing or using
2622 the Internet or other computer services.

2623 (i) A requirement that the probationer or community
2624 controllee must submit a specimen of blood or other approved
2625 biological specimen to the Department of Law Enforcement to be
2626 registered with the DNA data bank.

2627 (j) A requirement that the probationer or community
 2628 controllee make restitution to the victim, as ordered by the
 2629 court under s. 775.089, for all necessary medical and related
 2630 professional services relating to physical, psychiatric, and
 2631 psychological care.

2632 (k) Submission to a warrantless search by the community
 2633 control or probation officer of the probationer's or community
 2634 controllee's person, residence, or vehicle.

2635 (2) Effective for a probationer or community controllee
 2636 whose crime was committed on or after October 1, 1997, and who
 2637 is placed on community control or sex offender probation for a
 2638 violation of chapter 794, s. 800.04, former s. 827.071, s.
 2639 847.0135(5), or s. 847.0145, in addition to any other provision
 2640 of this section, the court must impose the following conditions
 2641 of probation or community control:

2642 (a) As part of a treatment program, participation at least
 2643 annually in polygraph examinations to obtain information
 2644 necessary for risk management and treatment and to reduce the
 2645 sex offender's denial mechanisms. A polygraph examination must
 2646 be conducted by a polygrapher who is a member of a national or
 2647 state polygraph association and who is certified as a
 2648 postconviction sex offender polygrapher, where available, and
 2649 shall be paid for by the probationer or community controllee.
 2650 The results of the polygraph examination shall be provided to
 2651 the probationer's or community controllee's probation officer
 2652 and qualified practitioner and shall not be used as evidence in

2653 court to prove that a violation of community supervision has
 2654 occurred.

2655 (b) Maintenance of a driving log and a prohibition against
 2656 driving a motor vehicle alone without the prior approval of the
 2657 supervising officer.

2658 (c) A prohibition against obtaining or using a post office
 2659 box without the prior approval of the supervising officer.

2660 (d) If there was sexual contact, a submission to, at the
 2661 probationer's or community controllee's expense, an HIV test
 2662 with the results to be released to the victim or the victim's
 2663 parent or guardian.

2664 (e) Electronic monitoring when deemed necessary by the
 2665 community control or probation officer and his or her
 2666 supervisor, and ordered by the court at the recommendation of
 2667 the Department of Corrections.

2668 (3) Effective for a probationer or community controllee
 2669 whose crime was committed on or after September 1, 2005, and
 2670 who:

2671 (a) Is placed on probation or community control for a
 2672 violation of chapter 794, s. 800.04(4), (5), or (6), former s.
 2673 827.071, or s. 847.0145 and the unlawful sexual activity
 2674 involved a victim 15 years of age or younger and the offender is
 2675 18 years of age or older;

2676 (c) Has previously been convicted of a violation of
 2677 chapter 794, s. 800.04(4), (5), or (6), former s. 827.071, or s.
 2678 847.0145 and the unlawful sexual activity involved a victim 15

2679 | years of age or younger and the offender is 18 years of age or
2680 | older,

2681 |
2682 | the court must order, in addition to any other provision of this
2683 | section, mandatory electronic monitoring as a condition of the
2684 | probation or community control supervision.

2685 | (5) Effective for a probationer or community controllee
2686 | whose crime was committed on or after October 1, 2014, and who
2687 | is placed on probation or community control for a violation of
2688 | chapter 794, s. 800.04, former s. 827.071, s. 847.0135(5), or s.
2689 | 847.0145, in addition to all other conditions imposed, the court
2690 | must impose a condition prohibiting the probationer or community
2691 | controllee from viewing, accessing, owning, or possessing any
2692 | obscene, pornographic, or sexually stimulating visual or
2693 | auditory material unless otherwise indicated in the treatment
2694 | plan provided by a qualified practitioner in the sexual offender
2695 | treatment program. Visual or auditory material includes, but is
2696 | not limited to, telephone, electronic media, computer programs,
2697 | and computer services.

2698 | (6) Effective for a probationer or community controllee
2699 | whose crime was committed on or after October 1, 2015, and who
2700 | is placed under supervision for violation of s. 847.003, s.
2701 | 847.0135(4), or s. 847.0137, the court must impose the
2702 | conditions specified in subsections (1)-(5) in addition to all
2703 | other standard and special conditions imposed.

2704 | Section 53. Subsection (1) of section 948.32, Florida

2705 Statutes, is amended to read:

2706 948.32 Requirements of law enforcement agency upon arrest
2707 of persons for certain sex offenses.—

2708 (1) When any state or local law enforcement agency
2709 investigates or arrests a person for committing, or attempting,
2710 soliciting, or conspiring to commit, a violation of s.
2711 787.025(2)(c), s. 787.06(3)(g), chapter 794, former s. 796.03,
2712 s. 800.04, former s. 827.071, s. 847.003, s. 847.0133, s.
2713 847.0135, or s. 847.0145, the law enforcement agency shall
2714 contact the Department of Corrections to verify whether the
2715 person under investigation or under arrest is on probation,
2716 community control, parole, conditional release, or control
2717 release.

2718 Section 54. Paragraph (d) of subsection (3) and subsection
2719 (10) of section 960.03, Florida Statutes, are amended to read:

2720 960.03 Definitions; ss. 960.01-960.28.—As used in ss.
2721 960.01-960.28, unless the context otherwise requires, the term:

2722 (3) "Crime" means:

2723 (d) A violation of former s. 827.071, s. 847.003, s.
2724 847.0135, s. 847.0137, or s. 847.0138, related to online sexual
2725 exploitation and child pornography.

2726 (10) "Identified victim of child pornography" means any
2727 person who, while under the age of 18, is depicted in any visual
2728 depiction ~~image or movie~~ of child pornography, as defined in s.
2729 847.0137, and who is identified through a report generated by a
2730 law enforcement agency and provided to the National Center for

2731 Missing and Exploited Children's Child Victim Identification
 2732 Program.

2733 Section 55. Section 960.197, Florida Statutes, is amended
 2734 to read:

2735 960.197 Assistance to victims of online sexual
 2736 exploitation and child pornography.—

2737 (1) Notwithstanding the criteria set forth in s. 960.13
 2738 for crime victim compensation awards, the department may award
 2739 compensation for counseling and other mental health services to
 2740 treat psychological injury or trauma to:

2741 (a) A child younger than 18 years of age who suffers
 2742 psychiatric or psychological injury as a direct result of online
 2743 sexual exploitation under former ~~any provision of~~ s. 827.071, s.
 2744 847.003, s. 847.0135, s. 847.0137, or s. 847.0138~~7~~ and who does
 2745 not otherwise sustain a personal injury or death; or

2746 (b) Any person who, while younger than age 18, was
 2747 depicted in any visual depiction ~~image or movie, regardless of~~
 2748 ~~length~~~~7~~, of child pornography as defined in s. 847.0137 ~~847.001~~,
 2749 who has been identified by a law enforcement agency or the
 2750 National Center for Missing and Exploited Children as an
 2751 identified victim of child pornography, who suffers psychiatric
 2752 or psychological injury as a direct result of the crime, and who
 2753 does not otherwise sustain a personal injury or death.

2754 (2) Compensation under this section is not contingent upon
 2755 pursuit of a criminal investigation or prosecution.

2756 Section 56. Paragraph (d) of subsection (4) of section

2757 985.04, Florida Statutes, is amended to read:

2758 985.04 Oaths; records; confidential information.—

2759 (4)

2760 (d) The department shall disclose to the school
 2761 superintendent the presence of any child in the care and custody
 2762 or under the jurisdiction or supervision of the department who
 2763 has a known history of criminal sexual behavior with other
 2764 juveniles; is alleged to have committed juvenile sexual abuse as
 2765 defined in s. 39.01; or has pled guilty or nolo contendere to,
 2766 or has been found to have committed, a violation of chapter 794,
 2767 chapter 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s.
 2768 847.0133, or s. 847.0137, regardless of adjudication. Any
 2769 employee of a district school board who knowingly and willfully
 2770 discloses such information to an unauthorized person commits a
 2771 misdemeanor of the second degree, punishable as provided in s.
 2772 775.082 or s. 775.083.

2773 Section 57. Paragraph (a) of subsection (1) of section
 2774 985.475, Florida Statutes, is amended to read:

2775 985.475 Juvenile sexual offenders.—

2776 (1) CRITERIA.—A "juvenile sexual offender" means:

2777 (a) A juvenile who has been found by the court under s.
 2778 985.35 to have committed a violation of chapter 794, chapter
 2779 796, chapter 800, former s. 827.071, s. 847.003, ~~or~~ s. 847.0133,
 2780 or s. 847.0137;

2781 Section 58. Paragraph (mm) of subsection (1) of section
 2782 1012.315, Florida Statutes, is amended to read:

2783 1012.315 Disqualification from employment.—A person is
 2784 ineligible for educator certification, and instructional
 2785 personnel and school administrators, as defined in s. 1012.01,
 2786 are ineligible for employment in any position that requires
 2787 direct contact with students in a district school system,
 2788 charter school, or private school that accepts scholarship
 2789 students under s. 1002.39 or s. 1002.395, if the person,
 2790 instructional personnel, or school administrator has been
 2791 convicted of:

2792 (1) Any felony offense prohibited under any of the
 2793 following statutes:

2794 (mm) Former s. Section 827.071, relating to sexual
 2795 performance by a child.

2796 Section 59. Paragraphs (e), (f), and (h) of subsection (3)
 2797 of section 921.0022, Florida Statutes, are amended to read:

2798 921.0022 Criminal Punishment Code; offense severity
 2799 ranking chart.—

2800 (3) OFFENSE SEVERITY RANKING CHART

2801 (e) LEVEL 5

2802

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop;

2803

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2804			leaving scene.
2805	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
2806	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
2807	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
2808	379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
2809	379.3671 (2) (c) 3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
2810	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
	440.10 (1) (g)	2nd	Failure to obtain workers'

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2811			compensation coverage.
	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
2812			
	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
2813			
	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
2814			
	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
2815			
	790.01 (2)	3rd	Carrying a concealed firearm.
2816			
	790.162	2nd	Threat to throw or discharge destructive device.
2817			
	790.163 (1)	2nd	False report of deadly

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			explosive or weapon of mass destruction.
2818	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
2819	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
2820	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
2821	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
2822	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
2823	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
2824			

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2825	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
2826	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
2827	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
2828	812.131(2)(b)	3rd	Robbery by sudden snatching.
2829	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
2830	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
2831	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or

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2832 false statements regarding
property values relating to the
solvency of an insuring entity.

817.568 (2) (b) 2nd Fraudulent use of personal
identification information;
value of benefit, services
received, payment avoided, or
amount of injury or fraud,
\$5,000 or more or use of
personal identification
information of 10 or more
individuals.

2833 817.625 (2) (b) 2nd Second or subsequent fraudulent
use of scanning device or
reencoder.

2834 825.1025 (4) 3rd Lewd or lascivious exhibition
in the presence of an elderly
person or disabled adult.

2835 ~~827.071 (4)~~ 2nd ~~Possess with intent to promote
any photographic material,
motion picture, etc., which
includes sexual conduct by a~~

2836			child.
	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
2837			
	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
2838			
	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
2839			
	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
2840			
	<u>847.0137(2)(a)</u>	<u>2nd</u>	<u>Possess child pornography with intent to promote.</u>
2841			
	<u>847.0137(2)(b)</u>	<u>3rd</u>	<u>Possess, control, or</u>

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2842	<u>847.0137(3)</u>	3rd	<p><u>intentionally view child</u> <u>pornography.</u></p> <p>Transmission of <u>child</u> pornography by electronic device or equipment.</p>
2843	<p>847.0137 (2) & (3)</p> <p>847.0138 (2) & (3)</p>	3rd	<p>Transmission of material harmful to minors to a minor by electronic device or equipment.</p>
2844	874.05 (1) (b)	2nd	<p>Encouraging or recruiting another to join a criminal gang; second or subsequent offense.</p>
2845	874.05 (2) (a)	2nd	<p>Encouraging or recruiting person under 13 years of age to join a criminal gang.</p>
2846	893.13 (1) (a) 1.	2nd	<p>Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).</p>
2847			

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893.13(1)(c)2. 2nd Sell, manufacture, or deliver
cannabis (or other s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

2848

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

2849

893.13(1)(e)2. 2nd Sell, manufacture, or deliver
cannabis or other drug
prohibited under s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,

2850			(2) (c) 9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
2851	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.
2852	893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
2853	893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
2854	(f) LEVEL 6		
2855			

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	Statute	Degree	
2856	316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
2857	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
2858	499.0051 (3)	2nd	Knowing forgery of pedigree papers.
2859	499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
2860	499.0051 (5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
2861	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
2862	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
2863			

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2864	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
2865	784.041	3rd	Felony battery; domestic battery by strangulation.
2866	784.048 (3)	3rd	Aggravated stalking; credible threat.
2867	784.048 (5)	3rd	Aggravated stalking of person under 16.
2868	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
2869	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
2870	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
2871	784.081 (2)	2nd	Aggravated assault on specified official or employee.
	784.082 (2)	2nd	Aggravated assault by detained

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			person on visitor or other detainee.
2872	784.083 (2)	2nd	Aggravated assault on code inspector.
2873	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
2874	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
2875	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
2876	790.164 (1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
2877	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.

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2878	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
2879	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
2880	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
2881	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
2882	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
2883	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
2884	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent

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2885			offense.
	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
2886			
	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
2887			
	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
2888			
	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
2889			
	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
2890			
	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
2891			
	825.102 (1)	3rd	Abuse of an elderly person or

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2892			disabled adult.
	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
2893			
	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
2894			
	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
2895			
	827.03 (2) (c)	3rd	Abuse of a child.
2896			
	827.03 (2) (d)	3rd	Neglect of a child.
2897			
	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
2898			
	836.05	2nd	Threats; extortion.
2899			
	836.10	2nd	Written threats to kill or do bodily injury.
2900			

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2901	843.12	3rd	Aids or assists person to escape.
2902	<u>847.003</u>	<u>2nd</u>	<u>Use or induce a child in a sexual performance, or promote or direct such performance.</u>
2903	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
2904	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
2905	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
2906	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or

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2907			inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
2908	944.40	2nd	Escapes.
2909	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
2910	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
2911	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
2912	(h) LEVEL 8		
2913	Florida Statute	Felony Degree	Description
2914	316.193	2nd	DUI manslaughter.
2915	(3)(c)3.a.		

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2916	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
2917	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
2918	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
2919	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
2920	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
2921	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
	655.50 (10) (b) 2.	2nd	Failure to report financial

			transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
2922	777.03(2)(a)	1st	Accessory after the fact, capital felony.
2923	782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
2924	782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
2925	782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.

2926	782.072 (2)	1st	Committing vessel homicide and failing to render aid or give information.
2927	787.06 (3) (a) 1.	1st	Human trafficking for labor and services of a child.
2928	787.06 (3) (b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
2929	787.06 (3) (c) 2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
2930	787.06 (3) (e) 1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
2931	787.06 (3) (f) 2.	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from

2932	790.161 (3)	1st	outside Florida to within the state.
2933	794.011 (5) (a)	1st	Discharging a destructive device which results in bodily harm or property damage.
2934	794.011 (5) (b)	2nd	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
2935	794.011 (5) (c)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
2936			Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.

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2937	794.011 (5) (d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
2938	794.08 (3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
2939	800.04 (4) (b)	2nd	Lewd or lascivious battery.
2940	800.04 (4) (c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
2941	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
2942	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.

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2943	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
2944	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
2945	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
2946	812.13 (2) (b)	1st	Robbery with a weapon.
2947	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
2948	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.

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2949	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
2950	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
2951	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
2952	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
2953	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
2954	825.103 (3) (a)	1st	Exploiting an elderly person or disabled adult and property is

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2955			valued at \$50,000 or more.
	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
2956			
	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
2957			
	<u>847.0135 (3)</u>	<u>2nd</u>	<u>Solicitation of a child, via a computer service, to commit an unlawful sex act while misrepresenting one's age.</u>
2958			
	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
2959			
	860.16	1st	Aircraft piracy.
2960			
	893.13 (1) (b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1) (a) or

2961			(b) .
	893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b) .
2962			
	893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b) .
2963			
	893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
2964			
	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
2965			
	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
2966			
	893.135 (1) (c) 2.c.	1st	Trafficking in hydrocodone, 50 grams or more, less than 200 grams.
2967			

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2968	893.135 (1) (c) 3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
2969	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
2970	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
2971	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
2972	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
2973	893.135 (1) (h) 1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
	893.135	1st	Trafficking in 1,4-Butanediol,

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2974	(1) (j) 1.b.		5 kilograms or more, less than 10 kilograms.
2975	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
2976	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
2977	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
2978	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
2979	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
	896.101 (5) (b)	2nd	Money laundering, financial

transactions totaling or
 exceeding \$20,000, but less
 than \$100,000.

2980

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

2981

2982 Section 60. For the purpose of incorporating the amendment
 2983 made by this act to section 847.001, Florida Statutes, in a
 2984 reference thereto, subsection (2) of section 944.11, Florida
 2985 Statutes, is reenacted to read:

2986 944.11 Department to regulate admission of books.—

2987 (2) The department shall have the authority to prohibit
 2988 admission of reading materials or publications with content
 2989 which depicts sexual conduct as defined by s. 847.001 or
 2990 presents nudity in such a way as to create the appearance that
 2991 sexual conduct is imminent. The department shall have the
 2992 authority to prohibit admission of such materials at a
 2993 particular state correctional facility upon a determination by
 2994 the department that such material or publications would be
 2995 detrimental to the safety, security, order or rehabilitative
 2996 interests of a particular state correctional facility or would

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2997 | create a risk of disorder at a particular state correctional
 2998 | facility.

2999 | Section 61. The Division of Law Revision and Information
 3000 | is directed to rename chapter 847, Florida Statutes, as
 3001 | "Obscenity; Child Pornography."

3002 | Section 62. This act shall take effect October 1, 2015.