



Justice Appropriations Subcommittee

Meeting Packet

**February 8, 2016
3:00 p.m. – 5:00 p.m.
Reed Hall**



The Florida House of Representatives
APPROPRIATION COMMITTEE

Justice Appropriations Subcommittee

Steve Crisafulli
Speaker

Larry Metz
Chair

MEETING AGENDA

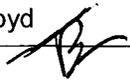
Reed Hall

February 8, 2016

- I.** Meeting Called To Order
- II.** Opening Remarks by Chair
- III.** Consideration of the following bill(s):
 - HB 73 - Controlled Substances by Reps. Jacobs, Harrell
 - HB 1089 - Criminal History Information by Rep. Rooney
 - CS/HB 1149 - Alternative Sanctioning by Criminal Justice Subcommittee and Rep. Spano
 - HB 1333 - Sexual Offenders by Rep. Baxley
 - HB 7075 - Victim and Witness Protection by Criminal Justice Subcommittee and Rep. Trujillo
 - HB 7085 - Juvenile Civil Citation and Similar Diversion Programs by Criminal Justice Subcommittee and Rep. Trujillo
- IV.** Closing Remarks
- V.** Meeting Adjourned

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 73 Controlled Substances
SPONSOR(S): Jacobs; Harrell and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Cox	White
2) Justice Appropriations Subcommittee		McAuliffe 	Lloyd 
3) Judiciary Committee			

SUMMARY ANALYSIS

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules. These schedules are used to regulate the manufacture, distribution, preparation, and dispensing of the substances listed therein. The distinguishing factors between the different drug schedules are the "potential for abuse" of the substance listed therein and whether there is a currently accepted medical use for the substance. Schedule I substances have a high potential for abuse and have no currently accepted medical use in the United States. Cannabis and heroin are examples of Schedule I drugs.

Chapter 893, F.S., also contains a variety of provisions criminalizing behavior related to controlled substances.

Mitragyna speciosa korth, also known as "Kratom," is a botanical derived from a tropical tree indigenous to Thailand, Malaysia, Myanmar, and other areas of Southeast Asia. The Drug Enforcement Administration (DEA) states that there is no legitimate medical use for Kratom in the United States, but anecdotal reports claim that it provides general pain relief, alleviates the symptoms of PMS and depression, lowers blood pressure, decreases anxiety, provides diarrhea relief, and increases mental acuity. Kratom abuse is not currently monitored by any national drug abuse surveys and it is not scheduled under the Controlled Substances Act. However, the DEA has listed Kratom as a Drug and Chemical of Concern.

The bill amends s. 893.03(1)(c), F.S., adding mitragyna speciosa, the substance known as Kratom, to Schedule I of Florida's controlled substances schedules. This classification includes any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, of Kratom.

The bill also provides that the schedule classification does not apply to any drug product approved by the United States Food and Drug Administration which contains Kratom.

The bill amends s. 893.13, F.S., creating a new misdemeanor offense for possessing, purchasing, selling, delivering, manufacturing, or bringing into this state, the scheduled substance known as Kratom.

On October 28, 2015, the Criminal Justice Impact Conference determined that the bill will have no impact on prison beds. The bill creates a new misdemeanor offense for possessing, purchasing, selling, delivering, manufacturing, or bringing into this state the substance known as Kratom.

To the extent that persons become subject to such criminal penalties, the bill may result in an indeterminate positive jail bed impact on local governments.

The bill is effective on October 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

EFFECT OF PROPOSED CHANGES:

Chapter 893, F.S.

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act (Controlled Substance Act) and classifies controlled substances into five categories, known as schedules. These schedules are used to regulate the manufacture, distribution, preparation, and dispensing of the substances listed therein. The distinguishing factors between the different drug schedules are the “potential for abuse”¹ of the substance listed therein and whether there is a currently accepted medical use for the substance.² Schedule I substances have a high potential for abuse and have no currently accepted medical use in the United States.³ Cannabis and heroin are examples of Schedule I drugs.⁴

Chapter 893, F.S., contains a variety of provisions criminalizing behavior related to controlled substances. Most of these provisions are found in s. 893.13, F.S., which criminalizes the possession, sale, purchase, manufacture, and delivery of controlled substances. The penalty for violating these provisions depends largely on the schedule in which the substance is listed.⁵ Other factors, such as the quantity of controlled substance involved in a crime, can also affect the penalties for violating the criminal provisions of ch. 893, F.S.

Kratom

In recent years, synthetic drugs have emerged in Florida. Synthetic drugs are used as recreational drugs and have been marketed as a legal alternative to illegal methods of getting “high.”⁶ They can be purchased on the Internet, in smoke shops, and convenience stores.⁷ One of the newest substances that has emerged in Florida is a botanical substance known as “Kratom.” Kratom, while not a synthetic drug, has been marketed and distributed in very similar manner as synthetic drugs.

Kratom, also known as *mitragyna speciosa* korth or 7-Hydroxymitragynine (an active ingredient of Kratom), is a botanical derived from a tropical tree indigenous to Thailand, Malaysia, Myanmar, and other areas of Southeast Asia.⁸ Kratom is primarily used orally as a tea or by chewing the leaves,⁹ and has been used as an herbal drug in Southeast Asia for decades, most notably as a stimulant or a substitute for opium.¹⁰ It has also been used to manage opioid withdrawal symptoms by chronic opioid users.¹¹ It has recently become very prevalent in the United States.

¹ Section 893.035(3)(a), F.S., defines “potential for abuse” as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: used in amounts that create a hazard to the user’s health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user’s own initiative rather than on the basis of professional medical advice.

² See, s. 893.03, F.S.

³ *Id.*

⁴ *Id.*

⁵ See, e.g., s. 893.13(1)(a) and (c), F.S.

⁶ U.S. DRUG ENFORCEMENT ADMINISTRATION, *Chemicals Used in “Spice” and K2” Type Products Now under Federal Control and Regulation*, <http://www.dea.gov/pubs/pressrel/pr030111.html> (last visited Jan. 29, 2016).

⁷ Fla. Fusion Ctr., *Synthetic Substances Ban, Brief# 12-150*, FLA. DEPT. OF LAW ENFORCEMENT (March 23, 2012), www.tspd.us/Substances_Ban.pdf (last visited Jan. 27, 2016).

⁸ *Kratom*, Drug Enforcement Administration, Office of Divison Control, Drug and Chemical Evaluation section, p. 1 (on file with the Criminal Justice Subcommittee)(hereinafter cited as “DEA Report”).

⁹ DEA Report, p. 1 and *What is Kratom and is it Dangerous?*, <http://www.promises.com/articles/abused-drugs/what-is-kratom-and-is-it-dangerous/> (last visited January 26, 2016).

¹⁰ *Id.*

¹¹ *Id.*

The United States Food and Drug Administration (FDA) provides Kratom is a botanical that qualifies as a dietary ingredient.¹² Further, FDA reports that there does not appear to be a history of use or other evidence of safety establishing that Kratom will reasonably be expected to be safe as a dietary ingredient.¹³ Additionally, the Drug Enforcement Administration (DEA) states that there is no legitimate medical use for Kratom in the United States.¹⁴ However, anecdotal reports claim that it provides general pain relief, alleviates the symptoms of PMS and depression, lowers blood pressure, decreases anxiety, provides diarrhea relief, and increases mental acuity.¹⁵

Kratom has been described to have both sedative and stimulant effects.¹⁶ At low doses, it is reported to increase alertness, physical energy, talkativeness, and social behavior.¹⁷ At high doses, opiate, sedative, and euphoric effects, such as pain relief and relaxation, are produced.¹⁸ The effects occur within five to ten minutes after ingestion and last for two to five hours.¹⁹ The DEA states that acute side effects include nausea, itching, sweating, dry mouth, constipation, increased urination, and loss of appetite.²⁰

Kratom has been linked to seizures and respiratory depression, but deaths related to it appear rare.²¹ There are some reports of deaths associated with Kratom, but often the victims also had other psychiatric drugs in their system or the person was taking a mixture of the drug with a known opioid compound.²²

Kratom abuse is not currently monitored by any national drug abuse surveys and is not scheduled under the Controlled Substances Act.²³ This means that all parts of the plant and its extracts are legal to cultivate, buy, possess, and distribute without a license or prescription.²⁴

Recent Efforts to Ban Kratom

Several Florida counties have attempted to ban Kratom, including Broward, Palm Beach, and Sarasota counties. Sarasota County does currently regulate the distribution of Kratom.²⁵ Both Palm Beach County and Broward County failed to pass ordinances banning the substance during recent county commission meetings.²⁶ Many of the commissioners in both counties stated that there was a need for more research before moving forward on a ban of Kratom.²⁷

¹² United States Food and Drug Administration, *Import Alert 54-15*, January 22, 2016 (on file with the Criminal Justice Subcommittee).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Kratom under attack in Florida legislature and Palm Beach County*, <http://www.examiner.com/article/kratom-under-attack-florida-legislature-and-palm-beach-county> (last visited January 26, 2016).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Alan Schwarz, *Kratom, an Addict's Alternative, Is Found to Be Addictive Itself*, *The New York Times*, January 2, 2016, http://mobile.nytimes.com/2016/01/03/us/kratom-an-addicts-alternative-is-found-to-be-addictive-itself.html?_r=1&referer=https://www.google.com/ (last visited January 26, 2016) (hereinafter cited as "NEW YORK TIMES ARTICLE").

²² *What is kratom and is it dangerous?*, <http://www.promises.com/articles/abused-drugs/what-is-kratom-and-is-it-dangerous/> (last visited January 26, 2016).

²³ DEA Report, p. 1.

²⁴ *Kratom – Mitragnyna speciosa, The Impact to Florida*, Florida Department of Law Enforcement, Office of Statewide Intelligence, Drug Report, December 2015, at p. 4-5 (on file with the Criminal Justice Subcommittee) (hereinafter cited as "FDLE Report").

²⁵ *Sarasota County bans sale of synthetic marijuana*, <http://www.heraldtribune.com/article/20140212/ARTICLE/140219895/0/search> (last visited January 26, 2016). The Sarasota County ordinance regulates the marketing and packaging of the substance.

²⁶ *Broward opts not to ban kratom – for now*, <http://www.sun-sentinel.com/local/broward/fl-kratom-ban-broward-20141028-story.html> (last visited January 26, 2016).

²⁷ *Id.*

Kratom has been banned by the U.S. Army and Navy and recently listed as a Drug and Chemical of Concern by DEA.²⁸ Indiana, Tennessee, Vermont, and Wisconsin have banned the substance.²⁹

Florida Department of Law Enforcement (FDLE) Drug Report on Kratom

In December 2015, FDLE published a drug report which examined the extent to which Kratom is impacting public safety in the state of Florida.³⁰ The report provides background on the plant, the current legal status in Florida and other states, and makes conclusions about its effect on Florida. To arrive at its conclusions, FDLE evaluated the number of cases reported in Florida and other states which cite to the use or abuse of Kratom and the facts surrounding these cases linked to Kratom.³¹ Information evaluated by FDLE included, but was not limited to, the frequency of Kratom-linked reports, any negative effects of Kratom use or abuse, and anecdotal reports regarding such use or abuse.³² FDLE also conducted investigations in the Pensacola area to determine the ease of accessing Kratom in local stores and online.³³

The report also mentioned that academic studies, including research by the University of Mississippi, School of Pharmacy, are ongoing.³⁴

Based on its research, FDLE concluded that Kratom does not currently constitute a significant risk to the safety and welfare of Florida residents.³⁵ Additionally, the report cites that the Florida Department of Health has found that there are no pervasive health issues can be attributed to the ingestion of Kratom products in Florida.³⁶ FDLE concluded that diagnostic tests to reveal the presence of Kratom are not routinely conducted during emergency room visits and that there is an intelligence gap in reporting related to the ingestion and exposure of Kratom.³⁷

Effect of the Bill

The bill amends s. 893.03(1)(c), F.S., adding the substance known as Kratom, to Schedule I, category (c) of Florida's controlled substances schedules, which by definition is a substance or chemical with no currently accepted medical use and high potential for abuse. The bill describes the substance Kratom to include:

Mitragynine or 7-Hydroxymitragynine, except for any drug product approved by the United States Food and Drug Administration which contains Mitragynine or 7-Hydroxymitragynine, including any of their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.

The bill further provides that the Schedule 1 classification does not apply to any drug product approved by the United States Food and Drug Administration which contains Mitragynine or 7-Hydroxymitragynine.

²⁸ *Drugs of Abuse 2015 Edition: A DEA Resource Guide*; U.S. Department of Justice, Drug Enforcement Administration, at pg 84 <http://www.dea.gov/druginfo/factsheets.shtml> (last visited January 26, 2016). See also Paul Brennan, *Banning kratom: Wisconsin treats a safe herbal supplement like a dangerous drug*, November 25, 2015, <http://watchdog.org/249079/wi-kratom-ban/> (last visited February 3, 2016).

²⁹ NEW YORK TIMES ARTICLE

³⁰ FDLE Report, at p. 4.

³¹ FDLE Report, p. 7-13.

³² *Id.*

³³ FDLE Report, p. 7

³⁴ FDLE Report, p. 4.

³⁵ FDLE Report, p. 13.

³⁶ *Id.*

³⁷ *Id.*

Additionally, the bill amends s. 893.13, F.S., related to prohibited acts, creating a new first degree misdemeanor for a person possessing, purchasing, selling, delivering, manufacturing, or bringing into this state a controlled substance described in s. 893.03(1)(c)181. (Kratom).³⁸

As noted above, the bill classifies Kratom as a Schedule 1 controlled substance. The bill also reenacts a number of criminal offenses involving Schedule 1 controlled substances, including, in part, driving or boating under the influence, murder, and open house parties. Thus, a person may be subject to the criminal penalties under any of the reenacted offenses based on Kratom.

B. SECTION DIRECTORY:

Section 1. Amends s. 893.03, F.S., relating to standards and schedules.

Section 2. Amends s. 893.13, F.S., relating to prohibited acts; penalties.

Section 3. Reenacts s. 39.01, F.S., relating to definitions.

Section 4. Reenacts s. 316.193, F.S., relating to driving under the influence; penalties.

Section 5. Reenacts s. 322.2616, F.S., relating to suspension of license; persons under 21 years of age; right to review.

Section 6. Reenacts s. 327.35, F.S., relating to boating under the influence; penalties; "designated drivers."

Section 7. Reenacts s. 440.102, F.S., relating to drug-free workplace program requirements.

Section 8. Reenacts s. 458.3265, F.S., relating to pain-management clinics.

Section 9. Reenacts s. 459.0137, F.S., relating to pain-management clinics.

Section 10. Reenacts s. 782.04, F.S., relating to murder.

Section 11. Reenacts s. 787.06, F.S., relating to human trafficking.

Section 12. Reenacts s. 817.563, F.S., relating to controlled substance named or described in s. 893.03; sale of substance in lieu thereof.

Section 13. Reenacts s. 831.31, F.S., relating to counterfeit controlled substance; sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver.

Section 14. Reenacts s. 856.015, F.S., relating to open house parties.

Section 15. Reenacts s. 893.02, F.S., relating to definitions.

Section 16. Reenacts s. 893.035, F.S., relating to control of new substances; findings of fact; delegation of authority to Attorney General to control substances by rule.

Section 17. Reenacts s. 893.0356, F.S., relating to control of new substances; findings of fact; "controlled substance analog" defined.

Section 18. Reenacts s. 893.05, F.S., relating to practitioners and persons administering controlled substances in their absence.

³⁸ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. ss. 775.082 and 775.083, F.S.
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Section 19. Reenacts s. 893.12, F.S., relating to contraband; seizure, forfeiture, sale.

Section 20. Reenacts s. 893.13, F.S., relating to prohibited acts; penalties.

Section 21. Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 22. Provides an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

On October 28, 2015, the Criminal Justice Impact Conference determined that the bill will have no impact on prison beds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

The bill creates a new first degree misdemeanor for possessing, purchasing, selling, delivering, manufacturing, or bringing into this state the substance known as Kratom. To the extent that persons possessing, purchasing, selling, delivering, manufacturing, or bringing into this state the substance Kratom are subject to the criminal penalties of this new offense, the bill may result in an indeterminate jail bed impact on local governments (i.e., increase the need for jail beds).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None

27 controlled substance, s. 856.015(1)(c), F.S., relating
 28 to open house parties, s. 893.02(4), F.S., relating to
 29 definitions, ss. 893.035(2), (7)(a), and (8)(a) and
 30 893.0356(2)(a) and (5), F.S., relating to control of
 31 new substances, s. 893.05(1), F.S., relating to
 32 practitioners and persons administering controlled
 33 substances in their absence, s. 893.12(2)(b), (c), and
 34 (d), F.S., relating to contraband, seizure,
 35 forfeiture, and sale, s. 893.13(1)(a), (c), (d), (e),
 36 (f), and (h), (2)(a), (4)(b), (5)(b), and (7)(a),
 37 F.S., relating to prohibited acts and penalties, and
 38 921.0022(3)(b), (c), and (e), F.S., relating to the
 39 offense severity ranking chart of the Criminal
 40 Punishment Code, to incorporate the amendment made by
 41 the act to s. 893.03, F.S., in references thereto;
 42 providing an effective date.

43

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

45

46 Section 1. Paragraph (c) of subsection (1) of section
 47 893.03, Florida Statutes, is amended to read:

48 893.03 Standards and schedules.—The substances enumerated
 49 in this section are controlled by this chapter. The controlled
 50 substances listed or to be listed in Schedules I, II, III, IV,
 51 and V are included by whatever official, common, usual,
 52 chemical, or trade name designated. The provisions of this

53 section shall not be construed to include within any of the
 54 schedules contained in this section any excluded drugs listed
 55 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 56 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
 57 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 58 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
 59 Anabolic Steroid Products."

60 (1) SCHEDULE I.—A substance in Schedule I has a high
 61 potential for abuse and has no currently accepted medical use in
 62 treatment in the United States and in its use under medical
 63 supervision does not meet accepted safety standards. The
 64 following substances are controlled in Schedule I:

65 (c) Unless specifically excepted or unless listed in
 66 another schedule, any material, compound, mixture, or
 67 preparation that contains any quantity of the following
 68 hallucinogenic substances or that contains any of their salts,
 69 isomers, including optical, positional, or geometric isomers,
 70 and salts of isomers, if the existence of such salts, isomers,
 71 and salts of isomers is possible within the specific chemical
 72 designation:

- 73 1. Alpha-ethyltryptamine.
- 74 2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-
 75 methylaminorex).
- 76 3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
- 77 4. 4-Bromo-2,5-dimethoxyamphetamine.
- 78 5. 4-Bromo-2,5-dimethoxyphenethylamine.

- 79 | 6. Bufotenine.
- 80 | 7. Cannabis.
- 81 | 8. Cathinone.
- 82 | 9. Diethyltryptamine.
- 83 | 10. 2,5-Dimethoxyamphetamine.
- 84 | 11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
- 85 | 12. Dimethyltryptamine.
- 86 | 13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine
- 87 | analog of phencyclidine).
- 88 | 14. N-Ethyl-3-piperidyl benzilate.
- 89 | 15. N-ethylamphetamine.
- 90 | 16. Fenethylamine.
- 91 | 17. N-Hydroxy-3,4-methylenedioxyamphetamine.
- 92 | 18. Ibogaine.
- 93 | 19. Lysergic acid diethylamide (LSD).
- 94 | 20. Mescaline.
- 95 | 21. Methcathinone.
- 96 | 22. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 97 | 23. 4-methoxyamphetamine.
- 98 | 24. 4-methoxymethamphetamine.
- 99 | 25. 4-Methyl-2,5-dimethoxyamphetamine.
- 100 | 26. 3,4-Methylenedioxy-N-ethylamphetamine.
- 101 | 27. 3,4-Methylenedioxyamphetamine.
- 102 | 28. N-Methyl-3-piperidyl benzilate.
- 103 | 29. N,N-dimethylamphetamine.
- 104 | 30. Parahexyl.

- 105 31. Peyote.
- 106 32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine
107 analog of phencyclidine).
- 108 33. Psilocybin.
- 109 34. Psilocyn.
- 110 35. Salvia divinorum, except for any drug product approved
111 by the United States Food and Drug Administration which contains
112 Salvia divinorum or its isomers, esters, ethers, salts, and
113 salts of isomers, esters, and ethers, if the existence of such
114 isomers, esters, ethers, and salts is possible within the
115 specific chemical designation.
- 116 36. Salvinorin A, except for any drug product approved by
117 the United States Food and Drug Administration which contains
118 Salvinorin A or its isomers, esters, ethers, salts, and salts of
119 isomers, esters, and ethers, if the existence of such isomers,
120 esters, ethers, and salts is possible within the specific
121 chemical designation.
- 122 37. Tetrahydrocannabinols.
- 123 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)
124 (Thiophene analog of phencyclidine).
- 125 39. 3,4,5-Trimethoxyamphetamine.
- 126 40. 3,4-Methylenedioxymethcathinone.
- 127 41. 3,4-Methylenedioxypyrovalerone (MDPV).
- 128 42. Methylmethcathinone.
- 129 43. Methoxymethcathinone.
- 130 44. Fluoromethcathinone.

- 131 45. Methylethcathinone.
- 132 46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
- 133 yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8)
- 134 homologue.
- 135 47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
- 136 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol,
- 137 also known as HU-210.
- 138 48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.
- 139 49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.
- 140 50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole,
- 141 also known as JWH-200.
- 142 51. BZP (Benzylpiperazine).
- 143 52. Fluorophenylpiperazine.
- 144 53. Methylphenylpiperazine.
- 145 54. Chlorophenylpiperazine.
- 146 55. Methoxyphenylpiperazine.
- 147 56. DBZP (1,4-dibenzylpiperazine).
- 148 57. TFMPP (3-Trifluoromethylphenylpiperazine).
- 149 58. MBDB (Methylbenzodioxolylbutanamine).
- 150 59. 5-Hydroxy-alpha-methyltryptamine.
- 151 60. 5-Hydroxy-N-methyltryptamine.
- 152 61. 5-Methoxy-N-methyl-N-isopropyltryptamine.
- 153 62. 5-Methoxy-alpha-methyltryptamine.
- 154 63. Methyltryptamine.
- 155 64. 5-Methoxy-N,N-dimethyltryptamine.
- 156 65. 5-Methyl-N,N-dimethyltryptamine.

- 157 | 66. Tyramine (4-Hydroxyphenethylamine).
- 158 | 67. 5-Methoxy-N,N-Diisopropyltryptamine.
- 159 | 68. DiPT (N,N-Diisopropyltryptamine).
- 160 | 69. DPT (N,N-Dipropyltryptamine).
- 161 | 70. 4-Hydroxy-N,N-diisopropyltryptamine.
- 162 | 71. N,N-Diallyl-5-Methoxytryptamine.
- 163 | 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
- 164 | 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 165 | 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
- 166 | 75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
- 167 | 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
- 168 | 77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).
- 169 | 78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
- 170 | 79. 2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine).
- 171 | 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
- 172 | 81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).
- 173 | 82. Ethcathinone.
- 174 | 83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).
- 175 | 84. Naphyrone (naphthylpyrovalerone).
- 176 | 85. N-N-Dimethyl-3,4-methylenedioxycathinone.
- 177 | 86. N-N-Diethyl-3,4-methylenedioxycathinone.
- 178 | 87. 3,4-methylenedioxy-propiofenone.
- 179 | 88. 2-Bromo-3,4-Methylenedioxypropiofenone.
- 180 | 89. 3,4-methylenedioxy-propiofenone-2-oxime.
- 181 | 90. N-Acetyl-3,4-methylenedioxycathinone.
- 182 | 91. N-Acetyl-N-Methyl-3,4-Methylenedioxycathinone.

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- 183 | 92. N-Acetyl-N-Ethyl-3,4-Methylenedioxcathinone.
- 184 | 93. Bromomethcathinone.
- 185 | 94. Buphedrone (alpha-methylamino-butyrophenone).
- 186 | 95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
- 187 | 96. Dimethylcathinone.
- 188 | 97. Dimethylmethcathinone.
- 189 | 98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
- 190 | 99. (MDPPP) 3,4-Methylenedioxy-alpha-
- 191 | pyrrolidinopropiophenone.
- 192 | 100. (MDPBP) 3,4-Methylenedioxy-alpha-
- 193 | pyrrolidinobutiophenone.
- 194 | 101. Methoxy-alpha-pyrrolidinopropiophenone (MOPPP).
- 195 | 102. Methyl-alpha-pyrrolidinohexiophenone (MPHP).
- 196 | 103. Benocyclidine (BCP) or
- 197 | benzothiophenylcyclohexylpiperidine (BTCP).
- 198 | 104. Fluoromethylaminobutyrophenone (F-MABP).
- 199 | 105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
- 200 | 106. Ethyl-pyrrolidinobutyrophenone (Et-PBP).
- 201 | 107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
- 202 | 108. Methylethylaminobutyrophenone (Me-EABP).
- 203 | 109. Methylamino-butyrophenone (MABP).
- 204 | 110. Pyrrolidinopropiophenone (PPP).
- 205 | 111. Pyrrolidinobutiophenone (PBP).
- 206 | 112. Pyrrolidinovalerophenone (PVP).
- 207 | 113. Methyl-alpha-pyrrolidinopropiophenone (MPPP).
- 208 | 114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).

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- 209 | 115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-
 210 | naphthalenylmethanone).
- 211 | 116. JWH-019 (Naphthalen-1-yl-(1-hexylindol-3-
 212 | yl)methanone).
- 213 | 117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
- 214 | 118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-
 215 | yl)methanone).
- 216 | 119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-
 217 | yl)methanone).
- 218 | 120. JWH-122 (1-pentyl-3-(4-methyl-1-naphthoyl)indole).
- 219 | 121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-
 220 | 6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
- 221 | 122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-
 222 | indole).
- 223 | 123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
- 224 | 124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-
 225 | yl)ethanone).
- 226 | 125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-
 227 | yl)methanone).
- 228 | 126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-
 229 | yl)ethanone).
- 230 | 127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-
 231 | yl)ethanone).
- 232 | 128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
- 233 | 129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
- 234 | 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-

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235 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
 236 ol).

237 131. HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-
 238 methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-
 239 enyl] methanol).

240 132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-
 241 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-
 242 1,4-dione).

243 133. CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-
 244 yl)methanone).

245 134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-
 246 undecanamide).

247 135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-
 248 undecanamide).

249 136. CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-
 250 hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).

251 137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-2-
 252 iodophenyl)methanone).

253 138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-
 254 (naphthalen-1-yl)methanone).

255 139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-
 256 yl)methanone).

257 140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-
 258 methoxyphenylethanone).

259 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-
 260 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-

- 261 naphthalenylmethanone).
- 262 142. WIN55,212-3 ([(3S)-2,3-Dihydro-5-methyl-3-(4-
- 263 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
- 264 naphthalenylmethanone).
- 265 143. Pentedrone (2-(methylamino)-1-phenyl-1-pentanone).
- 266 144. Fluoroamphetamine.
- 267 145. Fluoromethamphetamine.
- 268 146. Methoxetamine.
- 269 147. Methiopropamine.
- 270 148. 4-Methylbuphedrone (2-Methylamino-1-(4-
- 271 methylphenyl)butan-1-one).
- 272 149. APB ((2-aminopropyl)benzofuran).
- 273 150. APDB ((2-aminopropyl)-2,3-dihydrobenzofuran).
- 274 151. UR-144 ((1-pentyl-1H-indol-3-yl)(2,2,3,3-
- 275 tetramethylcyclopropyl)methanone).
- 276 152. XLR11 ((1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-
- 277 tetramethylcyclopropyl)methanone).
- 278 153. (1-(5-chloropentyl)-1H-indol-3-yl)(2,2,3,3-
- 279 tetramethylcyclopropyl)methanone.
- 280 154. AKB48 (1-pentyl-N-tricyclo[3.3.1.1^{3,7}]dec-1-yl-1H-
- 281 indazole-3-carboxamide).
- 282 155. AM-2233((2-iodophenyl)[1-[(1-methyl-2-
- 283 piperidinyl)methyl]-1H-indol-3-yl]-methanone).
- 284 156. STS-135 (1-(5-fluoropentyl)-N-
- 285 tricyclo[3.3.1.1^{3,7}]dec-1-yl-1H-indole-3-carboxamide).
- 286 157. URB-597 ((3'-(aminocarbonyl)[1,1'-biphenyl]-3-yl)-

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- 287 cyclohexylcarbamate).
- 288 158. URB-602 ([1,1'-biphenyl]-3-yl-carbamic acid,
289 cyclohexyl ester).
- 290 159. URB-754 (6-methyl-2-[(4-methylphenyl)amino]-1-
291 benzoxazin-4-one).
- 292 160. 2C-D (2-(2,5-Dimethoxy-4-methylphenyl)ethanamine).
- 293 161. 2C-H (2-(2,5-Dimethoxyphenyl)ethanamine).
- 294 162. 2C-N (2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine).
- 295 163. 2C-P (2-(2,5-Dimethoxy-4-(n)-
296 propylphenyl)ethanamine).
- 297 164. 25I-NBOMe (4-iodo-2,5-dimethoxy-N-[(2-
298 methoxyphenyl)methyl]-benzeneethanamine).
- 299 165. 3,4-Methylenedioxymethamphetamine (MDMA).
- 300 166. PB-22 (1-pentyl-8-quinolinyl ester-1H-indole-3-
301 carboxylic acid).
- 302 167. 5-Fluoro PB-22 (8-quinolinyl ester-1-(5-
303 fluoropentyl)-1H-indole-3-carboxylic acid).
- 304 168. BB-22 (1-(cyclohexylmethyl)-8-quinolinyl ester-1H-
305 indole-3-carboxylic acid).
- 306 169. 5-Fluoro AKB48 (N-((3s,5s,7s)-adamantan-1-yl)-1-(5-
307 fluoropentyl)-1H-indazole-3-carboxamide).
- 308 170. AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
309 pentyl-1H-indazole-3-carboxamide).
- 310 171. AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
311 (4-fluorobenzyl)-1H-indazole-3-carboxamide).
- 312 172. ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-

313 1-pentyl-1H-indazole-3-carboxamide).

314 173. Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-
315 yl)-1-(fluoropentyl)-1H-indole-3-carboxamide).

316 174. 25B-NBOMe (4-bromo-2,5-dimethoxy-N-[(2-
317 methoxyphenyl)methyl]-benzeneethanamine).

318 175. 2C-C-NBOMe (4-chloro-2,5-dimethoxy-N-[(2-
319 methoxyphenyl)methyl]-benzeneethanamine).

320 176. AB-CHMINACA: N-[1-(aminocarbonyl)-2-methylpropyl]-1-
321 (cyclohexylmethyl)-1H-indazole-3-carboxamide.

322 177. FUB-PB-22: Quinolin-8-yl-1-(4-fluorobenzyl)-1H-
323 indole-3-carboxylate.

324 178. Fluoro-NNEI: 1-(Fluoropentyl)-N-(naphthalen-1-yl)-1H-
325 indole-3-carboxamide.

326 179. Fluoro-AMB: Methyl 2-(1-(fluoropentyl)-1H-indazole-3-
327 carboxamido)-3-methylbutanoate.

328 180. THJ-2201: [1-(5-Fluoropentyl)-1H-indazol-3-
329 yl](naphthalen-1-yl)methanone.

330 181. Mitragynine or 7-Hydroxymitragynine, except for any
331 drug product approved by the United States Food and Drug
332 Administration which contains Mitragynine or 7-
333 Hydroxymitragynine, including any of their isomers, esters,
334 ethers, salts, and salts of isomers, esters, and ethers, if the
335 existence of such isomers, esters, ethers, and salts is possible
336 within the specific chemical designation.

337 Section 2. Subsection (11) is added to section 893.13,
338 Florida Statutes, to read:

339 893.13 Prohibited acts; penalties.—
 340 (11) Notwithstanding any other provision of this section,
 341 a person who possesses, purchases, sells, delivers,
 342 manufactures, or brings into this state a controlled substance
 343 described in s. 893.03(1)(c)181., commits a misdemeanor of the
 344 first degree, punishable as provided in s. 775.082 or s.
 345 775.083.

346 Section 3. For the purpose of incorporating the amendment
 347 made by this act to section 893.03, Florida Statutes, in a
 348 reference thereto, paragraphs (a) and (g) of subsection (30) of
 349 section 39.01, Florida Statutes, are reenacted to read:

350 39.01 Definitions.—When used in this chapter, unless the
 351 context otherwise requires:

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

354 (a) Inflicts or allows to be inflicted upon the child
 355 physical, mental, or emotional injury. In determining whether
 356 harm has occurred, the following factors must be considered in
 357 evaluating any physical, mental, or emotional injury to a child:
 358 the age of the child; any prior history of injuries to the
 359 child; the location of the injury on the body of the child; the
 360 multiplicity of the injury; and the type of trauma inflicted.

361 Such injury includes, but is not limited to:

362 1. Willful acts that produce the following specific
 363 injuries:

364 a. Sprains, dislocations, or cartilage damage.

- 365 b. Bone or skull fractures.
- 366 c. Brain or spinal cord damage.
- 367 d. Intracranial hemorrhage or injury to other internal
- 368 organs.
- 369 e. Asphyxiation, suffocation, or drowning.
- 370 f. Injury resulting from the use of a deadly weapon.
- 371 g. Burns or scalding.
- 372 h. Cuts, lacerations, punctures, or bites.
- 373 i. Permanent or temporary disfigurement.
- 374 j. Permanent or temporary loss or impairment of a body
- 375 part or function.

376

377 As used in this subparagraph, the term "willful" refers to the

378 intent to perform an action, not to the intent to achieve a

379 result or to cause an injury.

380 2. Purposely giving a child poison, alcohol, drugs, or

381 other substances that substantially affect the child's behavior,

382 motor coordination, or judgment or that result in sickness or

383 internal injury. For the purposes of this subparagraph, the term

384 "drugs" means prescription drugs not prescribed for the child or

385 not administered as prescribed, and controlled substances as

386 outlined in Schedule I or Schedule II of s. 893.03.

387 3. Leaving a child without adult supervision or

388 arrangement appropriate for the child's age or mental or

389 physical condition, so that the child is unable to care for the

390 child's own needs or another's basic needs or is unable to

391 exercise good judgment in responding to any kind of physical or
 392 emotional crisis.

393 4. Inappropriate or excessively harsh disciplinary action
 394 that is likely to result in physical injury, mental injury as
 395 defined in this section, or emotional injury. The significance
 396 of any injury must be evaluated in light of the following
 397 factors: the age of the child; any prior history of injuries to
 398 the child; the location of the injury on the body of the child;
 399 the multiplicity of the injury; and the type of trauma
 400 inflicted. Corporal discipline may be considered excessive or
 401 abusive when it results in any of the following or other similar
 402 injuries:

- 403 a. Sprains, dislocations, or cartilage damage.
- 404 b. Bone or skull fractures.
- 405 c. Brain or spinal cord damage.
- 406 d. Intracranial hemorrhage or injury to other internal
 407 organs.
- 408 e. Asphyxiation, suffocation, or drowning.
- 409 f. Injury resulting from the use of a deadly weapon.
- 410 g. Burns or scalding.
- 411 h. Cuts, lacerations, punctures, or bites.
- 412 i. Permanent or temporary disfigurement.
- 413 j. Permanent or temporary loss or impairment of a body
 414 part or function.
- 415 k. Significant bruises or welts.
- 416 (g) Exposes a child to a controlled substance or alcohol.

417 Exposure to a controlled substance or alcohol is established by:

418 1. A test, administered at birth, which indicated that the
 419 child's blood, urine, or meconium contained any amount of
 420 alcohol or a controlled substance or metabolites of such
 421 substances, the presence of which was not the result of medical
 422 treatment administered to the mother or the newborn infant; or

423 2. Evidence of extensive, abusive, and chronic use of a
 424 controlled substance or alcohol by a parent when the child is
 425 demonstrably adversely affected by such usage.

426

427 As used in this paragraph, the term "controlled substance" means
 428 prescription drugs not prescribed for the parent or not
 429 administered as prescribed and controlled substances as outlined
 430 in Schedule I or Schedule II of s. 893.03.

431 Section 4. For the purpose of incorporating the amendment
 432 made by this act to section 893.03, Florida Statutes, in a
 433 reference thereto, subsection (5) of section 316.193, Florida
 434 Statutes, is reenacted to read:

435 316.193 Driving under the influence; penalties.—

436 (5) The court shall place all offenders convicted of
 437 violating this section on monthly reporting probation and shall
 438 require completion of a substance abuse course conducted by a
 439 DUI program licensed by the department under s. 322.292, which
 440 must include a psychosocial evaluation of the offender. If the
 441 DUI program refers the offender to an authorized substance abuse
 442 treatment provider for substance abuse treatment, in addition to

443 any sentence or fine imposed under this section, completion of
 444 all such education, evaluation, and treatment is a condition of
 445 reporting probation. The offender shall assume reasonable costs
 446 for such education, evaluation, and treatment. The referral to
 447 treatment resulting from a psychosocial evaluation shall not be
 448 waived without a supporting independent psychosocial evaluation
 449 conducted by an authorized substance abuse treatment provider
 450 appointed by the court, which shall have access to the DUI
 451 program's psychosocial evaluation before the independent
 452 psychosocial evaluation is conducted. The court shall review the
 453 results and recommendations of both evaluations before
 454 determining the request for waiver. The offender shall bear the
 455 full cost of this procedure. The term "substance abuse" means
 456 the abuse of alcohol or any substance named or described in
 457 Schedules I through V of s. 893.03. If an offender referred to
 458 treatment under this subsection fails to report for or complete
 459 such treatment or fails to complete the DUI program substance
 460 abuse education course and evaluation, the DUI program shall
 461 notify the court and the department of the failure. Upon receipt
 462 of the notice, the department shall cancel the offender's
 463 driving privilege, notwithstanding the terms of the court order
 464 or any suspension or revocation of the driving privilege. The
 465 department may temporarily reinstate the driving privilege on a
 466 restricted basis upon verification from the DUI program that the
 467 offender is currently participating in treatment and the DUI
 468 education course and evaluation requirement has been completed.

469 If the DUI program notifies the department of the second failure
 470 to complete treatment, the department shall reinstate the
 471 driving privilege only after notice of completion of treatment
 472 from the DUI program. The organization that conducts the
 473 substance abuse education and evaluation may not provide
 474 required substance abuse treatment unless a waiver has been
 475 granted to that organization by the department. A waiver may be
 476 granted only if the department determines, in accordance with
 477 its rules, that the service provider that conducts the substance
 478 abuse education and evaluation is the most appropriate service
 479 provider and is licensed under chapter 397 or is exempt from
 480 such licensure. A statistical referral report shall be submitted
 481 quarterly to the department by each organization authorized to
 482 provide services under this section.

483 Section 5. For the purpose of incorporating the amendment
 484 made by this act to section 893.03, Florida Statutes, in a
 485 reference thereto, paragraph (c) of subsection (2) of section
 486 322.2616, Florida Statutes, is reenacted to read:

487 322.2616 Suspension of license; persons under 21 years of
 488 age; right to review.—

489 (2)

490 (c) When a driver subject to this section has a blood-
 491 alcohol or breath-alcohol level of 0.05 or higher, the
 492 suspension shall remain in effect until such time as the driver
 493 has completed a substance abuse course offered by a DUI program
 494 licensed by the department. The driver shall assume the

495 reasonable costs for the substance abuse course. As part of the
 496 substance abuse course, the program shall conduct a substance
 497 abuse evaluation of the driver, and notify the parents or legal
 498 guardians of drivers under the age of 19 years of the results of
 499 the evaluation. The term "substance abuse" means the abuse of
 500 alcohol or any substance named or described in Schedules I
 501 through V of s. 893.03. If a driver fails to complete the
 502 substance abuse education course and evaluation, the driver
 503 license shall not be reinstated by the department.

504 Section 6. For the purpose of incorporating the amendment
 505 made by this act to section 893.03, Florida Statutes, in a
 506 reference thereto, subsection (5) of section 327.35, Florida
 507 Statutes, is reenacted to read:

508 327.35 Boating under the influence; penalties; "designated
 509 drivers."—

510 (5) In addition to any sentence or fine, the court shall
 511 place any offender convicted of violating this section on
 512 monthly reporting probation and shall require attendance at a
 513 substance abuse course specified by the court; and the agency
 514 conducting the course may refer the offender to an authorized
 515 service provider for substance abuse evaluation and treatment,
 516 in addition to any sentence or fine imposed under this section.
 517 The offender shall assume reasonable costs for such education,
 518 evaluation, and treatment, with completion of all such
 519 education, evaluation, and treatment being a condition of
 520 reporting probation. Treatment resulting from a psychosocial

521 evaluation may not be waived without a supporting psychosocial
 522 evaluation conducted by an agency appointed by the court and
 523 with access to the original evaluation. The offender shall bear
 524 the cost of this procedure. The term "substance abuse" means the
 525 abuse of alcohol or any substance named or described in
 526 Schedules I-V of s. 893.03.

527 Section 7. For the purpose of incorporating the amendment
 528 made by this act to section 893.03, Florida Statutes, in a
 529 reference thereto, paragraph (b) of subsection (11) of section
 530 440.102, Florida Statutes, is reenacted to read:

531 440.102 Drug-free workplace program requirements.—The
 532 following provisions apply to a drug-free workplace program
 533 implemented pursuant to law or to rules adopted by the Agency
 534 for Health Care Administration:

535 (11) PUBLIC EMPLOYEES IN MANDATORY-TESTING OR SPECIAL-RISK
 536 POSITIONS.—

537 (b) An employee who is employed by a public employer in a
 538 special-risk position may be discharged or disciplined by a
 539 public employer for the first positive confirmed test result if
 540 the drug confirmed is an illicit drug under s. 893.03. A
 541 special-risk employee who is participating in an employee
 542 assistance program or drug rehabilitation program may not be
 543 allowed to continue to work in any special-risk or mandatory-
 544 testing position of the public employer, but may be assigned to
 545 a position other than a mandatory-testing position or placed on
 546 leave while the employee is participating in the program.

547 | However, the employee shall be permitted to use any accumulated
 548 | annual leave credits before leave may be ordered without pay.

549 | Section 8. For the purpose of incorporating the amendment
 550 | made by this act to section 893.03, Florida Statutes, in a
 551 | reference thereto, paragraph (e) of subsection (1) of section
 552 | 458.3265, Florida Statutes, is reenacted to read:

553 | 458.3265 Pain-management clinics.—

554 | (1) REGISTRATION.—

555 | (e) The department shall deny registration to any pain-
 556 | management clinic owned by or with any contractual or employment
 557 | relationship with a physician:

558 | 1. Whose Drug Enforcement Administration number has ever
 559 | been revoked.

560 | 2. Whose application for a license to prescribe, dispense,
 561 | or administer a controlled substance has been denied by any
 562 | jurisdiction.

563 | 3. Who has been convicted of or pleaded guilty or nolo
 564 | contendere to, regardless of adjudication, an offense that
 565 | constitutes a felony for receipt of illicit and diverted drugs,
 566 | including a controlled substance listed in Schedule I, Schedule
 567 | II, Schedule III, Schedule IV, or Schedule V of s. 893.03, in
 568 | this state, any other state, or the United States.

569 | Section 9. For the purpose of incorporating the amendment
 570 | made by this act to section 893.03, Florida Statutes, in a
 571 | reference thereto, paragraph (e) of subsection (1) of section
 572 | 459.0137, Florida Statutes, is reenacted to read:

573 459.0137 Pain-management clinics.—

574 (1) REGISTRATION.—

575 (e) The department shall deny registration to any pain-
576 management clinic owned by or with any contractual or employment
577 relationship with a physician:

578 1. Whose Drug Enforcement Administration number has ever
579 been revoked.

580 2. Whose application for a license to prescribe, dispense,
581 or administer a controlled substance has been denied by any
582 jurisdiction.

583 3. Who has been convicted of or pleaded guilty or nolo
584 contendere to, regardless of adjudication, an offense that
585 constitutes a felony for receipt of illicit and diverted drugs,
586 including a controlled substance listed in Schedule I, Schedule
587 II, Schedule III, Schedule IV, or Schedule V of s. 893.03, in
588 this state, any other state, or the United States.

589 Section 10. For the purpose of incorporating the amendment
590 made by this act to section 893.03, Florida Statutes, in a
591 reference thereto, paragraph (a) of subsection (1) and
592 subsection (4) of section 782.04, Florida Statutes, are
593 reenacted to read:

594 782.04 Murder.—

595 (1)(a) The unlawful killing of a human being:

596 1. When perpetrated from a premeditated design to effect
597 the death of the person killed or any human being;

598 2. When committed by a person engaged in the perpetration

599 of, or in the attempt to perpetrate, any:

600 a. Trafficking offense prohibited by s. 893.135(1),

601 b. Arson,

602 c. Sexual battery,

603 d. Robbery,

604 e. Burglary,

605 f. Kidnapping,

606 g. Escape,

607 h. Aggravated child abuse,

608 i. Aggravated abuse of an elderly person or disabled

609 adult,

610 j. Aircraft piracy,

611 k. Unlawful throwing, placing, or discharging of a

612 destructive device or bomb,

613 l. Carjacking,

614 m. Home-invasion robbery,

615 n. Aggravated stalking,

616 o. Murder of another human being,

617 p. Resisting an officer with violence to his or her

618 person,

619 q. Aggravated fleeing or eluding with serious bodily

620 injury or death,

621 r. Felony that is an act of terrorism or is in furtherance

622 of an act of terrorism; or

623 3. Which resulted from the unlawful distribution of any

624 substance controlled under s. 893.03(1), cocaine as described in

625 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 626 compound, derivative, or preparation of opium, or methadone by a
 627 person 18 years of age or older, when such drug is proven to be
 628 the proximate cause of the death of the user,

629
 630 is murder in the first degree and constitutes a capital felony,
 631 punishable as provided in s. 775.082.

632 (4) The unlawful killing of a human being, when
 633 perpetrated without any design to effect death, by a person
 634 engaged in the perpetration of, or in the attempt to perpetrate,
 635 any felony other than any:

- 636 (a) Trafficking offense prohibited by s. 893.135(1),
- 637 (b) Arson,
- 638 (c) Sexual battery,
- 639 (d) Robbery,
- 640 (e) Burglary,
- 641 (f) Kidnapping,
- 642 (g) Escape,
- 643 (h) Aggravated child abuse,
- 644 (i) Aggravated abuse of an elderly person or disabled
 645 adult,
- 646 (j) Aircraft piracy,
- 647 (k) Unlawful throwing, placing, or discharging of a
 648 destructive device or bomb,
- 649 (l) Unlawful distribution of any substance controlled
 650 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,

651 or opium or any synthetic or natural salt, compound, derivative,
 652 or preparation of opium by a person 18 years of age or older,
 653 when such drug is proven to be the proximate cause of the death
 654 of the user,

655 (m) Carjacking,

656 (n) Home-invasion robbery,

657 (o) Aggravated stalking,

658 (p) Murder of another human being,

659 (q) Aggravated fleeing or eluding with serious bodily
 660 injury or death,

661 (r) Resisting an officer with violence to his or her
 662 person, or

663 (s) Felony that is an act of terrorism or is in
 664 furtherance of an act of terrorism,

665

666 is murder in the third degree and constitutes a felony of the
 667 second degree, punishable as provided in s. 775.082, s. 775.083,
 668 or s. 775.084.

669 Section 11. For the purpose of incorporating the amendment
 670 made by this act to section 893.03, Florida Statutes, in a
 671 reference thereto, paragraph (a) of subsection (2) of section
 672 787.06, Florida Statutes, is reenacted to read:

673 787.06 Human trafficking.—

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

675 (a) "Coercion" means:

676 1. Using or threatening to use physical force against any

677 person;

678 2. Restraining, isolating, or confining or threatening to
 679 restrain, isolate, or confine any person without lawful
 680 authority and against her or his will;

681 3. Using lending or other credit methods to establish a
 682 debt by any person when labor or services are pledged as a
 683 security for the debt, if the value of the labor or services as
 684 reasonably assessed is not applied toward the liquidation of the
 685 debt, the length and nature of the labor or services are not
 686 respectively limited and defined;

687 4. Destroying, concealing, removing, confiscating,
 688 withholding, or possessing any actual or purported passport,
 689 visa, or other immigration document, or any other actual or
 690 purported government identification document, of any person;

691 5. Causing or threatening to cause financial harm to any
 692 person;

693 6. Enticing or luring any person by fraud or deceit; or

694 7. Providing a controlled substance as outlined in
 695 Schedule I or Schedule II of s. 893.03 to any person for the
 696 purpose of exploitation of that person.

697 Section 12. For the purpose of incorporating the amendment
 698 made by this act to section 893.03, Florida Statutes, in a
 699 reference thereto, section 817.563, Florida Statutes, is
 700 reenacted to read:

701 817.563 Controlled substance named or described in s.
 702 893.03; sale of substance in lieu thereof.—It is unlawful for

703 any person to agree, consent, or in any manner offer to
 704 unlawfully sell to any person a controlled substance named or
 705 described in s. 893.03 and then sell to such person any other
 706 substance in lieu of such controlled substance. Any person who
 707 violates this section with respect to:

708 (1) A controlled substance named or described in s.
 709 893.03(1), (2), (3), or (4) is guilty of a felony of the third
 710 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 711 775.084.

712 (2) A controlled substance named or described in s.
 713 893.03(5) is guilty of a misdemeanor of the second degree,
 714 punishable as provided in s. 775.082 or s. 775.083.

715 Section 13. For the purpose of incorporating the amendment
 716 made by this act to section 893.03, Florida Statutes, in a
 717 reference thereto, paragraph (a) of subsection (1) and
 718 subsection (2) of section 831.31, Florida Statutes, are
 719 reenacted to read:

720 831.31 Counterfeit controlled substance; sale,
 721 manufacture, delivery, or possession with intent to sell,
 722 manufacture, or deliver.—

723 (1) It is unlawful for any person to sell, manufacture, or
 724 deliver, or to possess with intent to sell, manufacture, or
 725 deliver, a counterfeit controlled substance. Any person who
 726 violates this subsection with respect to:

727 (a) A controlled substance named or described in s.
 728 893.03(1), (2), (3), or (4) is guilty of a felony of the third

729 degree, punishable as provided in s. 775.082, s. 775.083, or s.
730 775.084.

731 (2) For purposes of this section, "counterfeit controlled
732 substance" means:

733 (a) A controlled substance named or described in s. 893.03
734 which, or the container or labeling of which, without
735 authorization bears the trademark, trade name, or other
736 identifying mark, imprint, or number, or any likeness thereof,
737 of a manufacturer other than the person who in fact manufactured
738 the controlled substance; or

739 (b) Any substance which is falsely identified as a
740 controlled substance named or described in s. 893.03.

741 Section 14. For the purpose of incorporating the amendment
742 made by this act to section 893.03, Florida Statutes, in a
743 reference thereto, paragraph (c) of subsection (1) of section
744 856.015, Florida Statutes, is reenacted to read:

745 856.015 Open house parties.—

746 (1) Definitions.—As used in this section:

747 (c) "Drug" means a controlled substance, as that term is
748 defined in ss. 893.02(4) and 893.03.

749 Section 15. For the purpose of incorporating the amendment
750 made by this act to section 893.03, Florida Statutes, in a
751 reference thereto, subsection (4) of section 893.02, Florida
752 Statutes, is reenacted to read:

753 893.02 Definitions.—The following words and phrases as
754 used in this chapter shall have the following meanings, unless

755 the context otherwise requires:

756 (4) "Controlled substance" means any substance named or
 757 described in Schedules I-V of s. 893.03. Laws controlling the
 758 manufacture, distribution, preparation, dispensing, or
 759 administration of such substances are drug abuse laws.

760 Section 16. For the purpose of incorporating the amendment
 761 made by this act to section 893.03, Florida Statutes, in a
 762 reference thereto, subsection (2), paragraph (a) of subsection
 763 (7), and paragraph (a) of subsection (8) of section 893.035,
 764 Florida Statutes, are reenacted to read:

765 893.035 Control of new substances; findings of fact;
 766 delegation of authority to Attorney General to control
 767 substances by rule.—

768 (2) The Attorney General shall apply the provisions of
 769 this section to any substance not currently controlled under the
 770 provisions of s. 893.03. The Attorney General may by rule:

771 (a) Add a substance to a schedule established by s.
 772 893.03, or transfer a substance between schedules, if he or she
 773 finds that it has a potential for abuse and he or she makes with
 774 respect to it the other findings appropriate for classification
 775 in the particular schedule under s. 893.03 in which it is to be
 776 placed.

777 (b) Remove a substance previously added to a schedule if
 778 he or she finds the substance does not meet the requirements for
 779 inclusion in that schedule.

780

781 Rules adopted under this section shall be made pursuant to the
 782 rulemaking procedures prescribed by chapter 120.

783 (7) (a) If the Attorney General finds that the scheduling
 784 of a substance in Schedule I of s. 893.03 on a temporary basis
 785 is necessary to avoid an imminent hazard to the public safety,
 786 he or she may by rule and without regard to the requirements of
 787 subsection (5) relating to the Department of Health and the
 788 Department of Law Enforcement schedule such substance in
 789 Schedule I if the substance is not listed in any other schedule
 790 of s. 893.03. The Attorney General shall be required to
 791 consider, with respect to his or her finding of imminent hazard
 792 to the public safety, only those factors set forth in paragraphs
 793 (3) (a) and (4) (d), (e), and (f), including actual abuse,
 794 diversion from legitimate channels, and clandestine importation,
 795 manufacture, or distribution.

796 (8) (a) Upon the effective date of a rule adopted pursuant
 797 to this section adding or transferring a substance to a schedule
 798 under s. 893.03, such substance shall be deemed included in that
 799 schedule, and all provisions of this chapter applicable to
 800 substances in that schedule shall be deemed applicable to such
 801 substance.

802 Section 17. For the purpose of incorporating the amendment
 803 made by this act to section 893.03, Florida Statutes, in a
 804 reference thereto, paragraph (a) of subsection (2) and
 805 subsection (5) of section 893.0356, Florida Statutes, are
 806 reenacted to read:

807 893.0356 Control of new substances; findings of fact;
 808 "controlled substance analog" defined.-

809 (2)(a) As used in this section, "controlled substance
 810 analog" means a substance which, due to its chemical structure
 811 and potential for abuse, meets the following criteria:

812 1. Is substantially similar to that of a controlled
 813 substance listed in Schedule I or Schedule II of s. 893.03; and

814 2. Has a stimulant, depressant, or hallucinogenic effect
 815 on the central nervous system or is represented or intended to
 816 have a stimulant, depressant, or hallucinogenic effect on the
 817 central nervous system substantially similar to or greater than
 818 that of a controlled substance listed in Schedule I or Schedule
 819 II of s. 893.03.

820 (5) A controlled substance analog shall, for purposes of
 821 drug abuse prevention and control, be treated as a controlled
 822 substance in Schedule I of s. 893.03.

823 Section 18. For the purpose of incorporating the amendment
 824 made by this act to section 893.03, Florida Statutes, in a
 825 reference thereto, subsection (1) of section 893.05, Florida
 826 Statutes, is reenacted to read:

827 893.05 Practitioners and persons administering controlled
 828 substances in their absence.-

829 (1) A practitioner, in good faith and in the course of his
 830 or her professional practice only, may prescribe, administer,
 831 dispense, mix, or otherwise prepare a controlled substance, or
 832 the practitioner may cause the same to be administered by a

833 licensed nurse or an intern practitioner under his or her
 834 direction and supervision only. A veterinarian may so prescribe,
 835 administer, dispense, mix, or prepare a controlled substance for
 836 use on animals only, and may cause it to be administered by an
 837 assistant or orderly under the veterinarian's direction and
 838 supervision only. A certified optometrist licensed under chapter
 839 463 may not administer or prescribe a controlled substance
 840 listed in Schedule I or Schedule II of s. 893.03.

841 Section 19. For the purpose of incorporating the amendment
 842 made by this act to section 893.03, Florida Statutes, in a
 843 reference thereto, paragraphs (b), (c), and (d) of subsection
 844 (2) of section 893.12, Florida Statutes, are reenacted to read:

845 893.12 Contraband; seizure, forfeiture, sale.—

846 (2)

847 (b) All real property, including any right, title,
 848 leasehold interest, and other interest in the whole of any lot
 849 or tract of land and any appurtenances or improvements, which
 850 real property is used, or intended to be used, in any manner or
 851 part, to commit or to facilitate the commission of, or which
 852 real property is acquired with proceeds obtained as a result of,
 853 a violation of any provision of this chapter related to a
 854 controlled substance described in s. 893.03(1) or (2) may be
 855 seized and forfeited as provided by the Florida Contraband
 856 Forfeiture Act except that no property shall be forfeited under
 857 this paragraph to the extent of an interest of an owner or
 858 lienholder by reason of any act or omission established by that

859 owner or lienholder to have been committed or omitted without
 860 the knowledge or consent of that owner or lienholder.

861 (c) All moneys, negotiable instruments, securities, and
 862 other things of value furnished or intended to be furnished by
 863 any person in exchange for a controlled substance described in
 864 s. 893.03(1) or (2) or a listed chemical in violation of any
 865 provision of this chapter, all proceeds traceable to such an
 866 exchange, and all moneys, negotiable instruments, and securities
 867 used or intended to be used to facilitate any violation of any
 868 provision of this chapter or which are acquired with proceeds
 869 obtained in violation of any provision of this chapter may be
 870 seized and forfeited as provided by the Florida Contraband
 871 Forfeiture Act, except that no property shall be forfeited under
 872 this paragraph to the extent of an interest of an owner or
 873 lienholder by reason of any act or omission established by that
 874 owner or lienholder to have been committed or omitted without
 875 the knowledge or consent of that owner or lienholder.

876 (d) All books, records, and research, including formulas,
 877 microfilm, tapes, and data which are used, or intended for use,
 878 or which are acquired with proceeds obtained, in violation of
 879 any provision of this chapter related to a controlled substance
 880 described in s. 893.03(1) or (2) or a listed chemical may be
 881 seized and forfeited as provided by the Florida Contraband
 882 Forfeiture Act.

883 Section 20. For the purpose of incorporating the amendment
 884 made by this act to section 893.03, Florida Statutes, in a

885 reference thereto, paragraphs (a), (c), (d), (e), (f), and (h)
 886 of subsection (1), paragraph (a) of subsection (2), paragraph
 887 (b) of subsection (4), paragraph (b) of subsection (5), and
 888 paragraph (a) of subsection (7) of section 893.13, Florida
 889 Statutes, are reenacted to read:

890 893.13 Prohibited acts; penalties.—

891 (1)(a) Except as authorized by this chapter and chapter
 892 499, a person may not sell, manufacture, or deliver, or possess
 893 with intent to sell, manufacture, or deliver, a controlled
 894 substance. A person who violates this provision with respect to:

895 1. A controlled substance named or described in s.
 896 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 897 commits a felony of the second degree, punishable as provided in
 898 s. 775.082, s. 775.083, or s. 775.084.

899 2. A controlled substance named or described in s.
 900 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 901 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 902 the third degree, punishable as provided in s. 775.082, s.
 903 775.083, or s. 775.084.

904 3. A controlled substance named or described in s.
 905 893.03(5) commits a misdemeanor of the first degree, punishable
 906 as provided in s. 775.082 or s. 775.083.

907 (c) Except as authorized by this chapter, a person may not
 908 sell, manufacture, or deliver, or possess with intent to sell,
 909 manufacture, or deliver, a controlled substance in, on, or
 910 within 1,000 feet of the real property comprising a child care

911 facility as defined in s. 402.302 or a public or private
 912 elementary, middle, or secondary school between the hours of 6
 913 a.m. and 12 midnight, or at any time in, on, or within 1,000
 914 feet of real property comprising a state, county, or municipal
 915 park, a community center, or a publicly owned recreational
 916 facility. As used in this paragraph, the term "community center"
 917 means a facility operated by a nonprofit community-based
 918 organization for the provision of recreational, social, or
 919 educational services to the public. A person who violates this
 920 paragraph with respect to:

921 1. A controlled substance named or described in s.
 922 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 923 commits a felony of the first degree, punishable as provided in
 924 s. 775.082, s. 775.083, or s. 775.084. The defendant must be
 925 sentenced to a minimum term of imprisonment of 3 calendar years
 926 unless the offense was committed within 1,000 feet of the real
 927 property comprising a child care facility as defined in s.
 928 402.302.

929 2. A controlled substance named or described in s.
 930 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 931 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 932 the second degree, punishable as provided in s. 775.082, s.
 933 775.083, or s. 775.084.

934 3. Any other controlled substance, except as lawfully
 935 sold, manufactured, or delivered, must be sentenced to pay a
 936 \$500 fine and to serve 100 hours of public service in addition

937 to any other penalty prescribed by law.

938

939 This paragraph does not apply to a child care facility unless
 940 the owner or operator of the facility posts a sign that is not
 941 less than 2 square feet in size with a word legend identifying
 942 the facility as a licensed child care facility and that is
 943 posted on the property of the child care facility in a
 944 conspicuous place where the sign is reasonably visible to the
 945 public.

946 (d) Except as authorized by this chapter, a person may not
 947 sell, manufacture, or deliver, or possess with intent to sell,
 948 manufacture, or deliver, a controlled substance in, on, or
 949 within 1,000 feet of the real property comprising a public or
 950 private college, university, or other postsecondary educational
 951 institution. A person who violates this paragraph with respect
 952 to:

953 1. A controlled substance named or described in s.
 954 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 955 commits a felony of the first degree, punishable as provided in
 956 s. 775.082, s. 775.083, or s. 775.084.

957 2. A controlled substance named or described in s.
 958 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 959 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 960 the second degree, punishable as provided in s. 775.082, s.
 961 775.083, or s. 775.084.

962 3. Any other controlled substance, except as lawfully

963 sold, manufactured, or delivered, must be sentenced to pay a
 964 \$500 fine and to serve 100 hours of public service in addition
 965 to any other penalty prescribed by law.

966 (e) Except as authorized by this chapter, a person may not
 967 sell, manufacture, or deliver, or possess with intent to sell,
 968 manufacture, or deliver, a controlled substance not authorized
 969 by law in, on, or within 1,000 feet of a physical place for
 970 worship at which a church or religious organization regularly
 971 conducts religious services or within 1,000 feet of a
 972 convenience business as defined in s. 812.171. A person who
 973 violates this paragraph with respect to:

974 1. A controlled substance named or described in s.
 975 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 976 commits a felony of the first degree, punishable as provided in
 977 s. 775.082, s. 775.083, or s. 775.084.

978 2. A controlled substance named or described in s.
 979 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 980 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 981 the second degree, punishable as provided in s. 775.082, s.
 982 775.083, or s. 775.084.

983 3. Any other controlled substance, except as lawfully
 984 sold, manufactured, or delivered, must be sentenced to pay a
 985 \$500 fine and to serve 100 hours of public service in addition
 986 to any other penalty prescribed by law.

987 (f) Except as authorized by this chapter, a person may not
 988 sell, manufacture, or deliver, or possess with intent to sell,

989 manufacture, or deliver, a controlled substance in, on, or
 990 within 1,000 feet of the real property comprising a public
 991 housing facility at any time. As used in this section, the term
 992 "real property comprising a public housing facility" means real
 993 property, as defined in s. 421.03(12), of a public corporation
 994 created as a housing authority pursuant to part I of chapter
 995 421. A person who violates this paragraph with respect to:

996 1. A controlled substance named or described in s.
 997 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 998 commits a felony of the first degree, punishable as provided in
 999 s. 775.082, s. 775.083, or s. 775.084.

1000 2. A controlled substance named or described in s.
 1001 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 1002 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 1003 the second degree, punishable as provided in s. 775.082, s.
 1004 775.083, or s. 775.084.

1005 3. Any other controlled substance, except as lawfully
 1006 sold, manufactured, or delivered, must be sentenced to pay a
 1007 \$500 fine and to serve 100 hours of public service in addition
 1008 to any other penalty prescribed by law.

1009 (h) Except as authorized by this chapter, a person may not
 1010 sell, manufacture, or deliver, or possess with intent to sell,
 1011 manufacture, or deliver, a controlled substance in, on, or
 1012 within 1,000 feet of the real property comprising an assisted
 1013 living facility, as that term is used in chapter 429. A person
 1014 who violates this paragraph with respect to:

1015 1. A controlled substance named or described in s.
 1016 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 1017 commits a felony of the first degree, punishable as provided in
 1018 s. 775.082, s. 775.083, or s. 775.084.

1019 2. A controlled substance named or described in s.
 1020 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 1021 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 1022 the second degree, punishable as provided in s. 775.082, s.
 1023 775.083, or s. 775.084.

1024 (2)(a) Except as authorized by this chapter and chapter
 1025 499, a person may not purchase, or possess with intent to
 1026 purchase, a controlled substance. A person who violates this
 1027 provision with respect to:

1028 1. A controlled substance named or described in s.
 1029 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 1030 commits a felony of the second degree, punishable as provided in
 1031 s. 775.082, s. 775.083, or s. 775.084.

1032 2. A controlled substance named or described in s.
 1033 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 1034 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 1035 the third degree, punishable as provided in s. 775.082, s.
 1036 775.083, or s. 775.084.

1037 3. A controlled substance named or described in s.
 1038 893.03(5) commits a misdemeanor of the first degree, punishable
 1039 as provided in s. 775.082 or s. 775.083.

1040 (4) Except as authorized by this chapter, a person 18

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1041 years of age or older may not deliver any controlled substance
 1042 to a person younger than 18 years of age, use or hire a person
 1043 younger than 18 years of age as an agent or employee in the sale
 1044 or delivery of such a substance, or use such person to assist in
 1045 avoiding detection or apprehension for a violation of this
 1046 chapter. A person who violates this provision with respect to:

1047 (b) A controlled substance named or described in s.
 1048 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 1049 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 1050 the second degree, punishable as provided in s. 775.082, s.
 1051 775.083, or s. 775.084.

1052
 1053 Imposition of sentence may not be suspended or deferred, and the
 1054 person so convicted may not be placed on probation.

1055 (5) A person may not bring into this state any controlled
 1056 substance unless the possession of such controlled substance is
 1057 authorized by this chapter or unless such person is licensed to
 1058 do so by the appropriate federal agency. A person who violates
 1059 this provision with respect to:

1060 (b) A controlled substance named or described in s.
 1061 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 1062 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 1063 the third degree, punishable as provided in s. 775.082, s.
 1064 775.083, or s. 775.084.

1065 (7)(a) A person may not:

1066 1. Distribute or dispense a controlled substance in

1067 violation of this chapter.

1068 2. Refuse or fail to make, keep, or furnish any record,
1069 notification, order form, statement, invoice, or information
1070 required under this chapter.

1071 3. Refuse entry into any premises for any inspection or
1072 refuse to allow any inspection authorized by this chapter.

1073 4. Distribute a controlled substance named or described in
1074 s. 893.03(1) or (2) except pursuant to an order form as required
1075 by s. 893.06.

1076 5. Keep or maintain any store, shop, warehouse, dwelling,
1077 building, vehicle, boat, aircraft, or other structure or place
1078 which is resorted to by persons using controlled substances in
1079 violation of this chapter for the purpose of using these
1080 substances, or which is used for keeping or selling them in
1081 violation of this chapter.

1082 6. Use to his or her own personal advantage, or reveal,
1083 any information obtained in enforcement of this chapter except
1084 in a prosecution or administrative hearing for a violation of
1085 this chapter.

1086 7. Possess a prescription form unless it has been signed
1087 by the practitioner whose name appears printed thereon and
1088 completed. This subparagraph does not apply if the person in
1089 possession of the form is the practitioner whose name appears
1090 printed thereon, an agent or employee of that practitioner, a
1091 pharmacist, or a supplier of prescription forms who is
1092 authorized by that practitioner to possess those forms.

1093 8. Withhold information from a practitioner from whom the
 1094 person seeks to obtain a controlled substance or a prescription
 1095 for a controlled substance that the person making the request
 1096 has received a controlled substance or a prescription for a
 1097 controlled substance of like therapeutic use from another
 1098 practitioner within the previous 30 days.

1099 9. Acquire or obtain, or attempt to acquire or obtain,
 1100 possession of a controlled substance by misrepresentation,
 1101 fraud, forgery, deception, or subterfuge.

1102 10. Affix any false or forged label to a package or
 1103 receptacle containing a controlled substance.

1104 11. Furnish false or fraudulent material information in,
 1105 or omit any material information from, any report or other
 1106 document required to be kept or filed under this chapter or any
 1107 record required to be kept by this chapter.

1108 12. Store anhydrous ammonia in a container that is not
 1109 approved by the United States Department of Transportation to
 1110 hold anhydrous ammonia or is not constructed in accordance with
 1111 sound engineering, agricultural, or commercial practices.

1112 13. With the intent to obtain a controlled substance or
 1113 combination of controlled substances that are not medically
 1114 necessary for the person or an amount of a controlled substance
 1115 or substances that is not medically necessary for the person,
 1116 obtain or attempt to obtain from a practitioner a controlled
 1117 substance or a prescription for a controlled substance by
 1118 misrepresentation, fraud, forgery, deception, subterfuge, or

1119 concealment of a material fact. For purposes of this
 1120 subparagraph, a material fact includes whether the person has an
 1121 existing prescription for a controlled substance issued for the
 1122 same period of time by another practitioner or as described in
 1123 subparagraph 8.

1124 Section 21. For the purpose of incorporating the amendment
 1125 made by this act to section 893.03, Florida Statutes, in a
 1126 reference thereto, paragraphs (b), (c), and (e) of subsection
 1127 (3) of section 921.0022, Florida Statutes, are reenacted to
 1128 read:

1129 921.0022 Criminal Punishment Code; offense severity
 1130 ranking chart.—

1131 (3) OFFENSE SEVERITY RANKING CHART

1132 (b) LEVEL 2

1133

Florida Statute	Felony Degree	Description
379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection

1134

1135

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

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			Act.
1136	403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
1137	517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
1138	590.28(1)	3rd	Intentional burning of lands.
1139	784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
1140	787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
1141	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.

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1142	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
1143	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
1144	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
1145	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
1146	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
1147	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
1148			

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1149	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
1150	817.52(3)	3rd	Failure to redeliver hired vehicle.
1151	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
1152	817.60(5)	3rd	Dealing in credit cards of another.
1153	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
1154	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
1155	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.

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1156	831.01	3rd	Forgery.
1157	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
1158	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
1159	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
1160	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
1161	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
1162	832.05 (3) (a)	3rd	Cashing or depositing item with intent to defraud.
1163	843.08	3rd	False personation.

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1164	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.
1165	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
1166	(c) LEVEL 3		
1167			
1168	Florida Statute	Felony Degree	Description
1169	119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
1170	316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
1171	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in

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1172			patrol vehicle with siren and lights activated.
	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
1173			
	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
1174			
	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
1175			
	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
1176			
	327.35(2)(b)	3rd	Felony BUI.
1177			
	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
1178			

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1179	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
1180	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
1181	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
1182	379.2431 (1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.

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1183	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
1184	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
1185	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
1186	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
1187	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
1188	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.

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1189	697.08	3rd	Equity skimming.
1190	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
1191	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
1192	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
1193	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
1194	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
1195	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.

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1196	815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
1197	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
1198	817.233	3rd	Burning to defraud insurer.
1199	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
1200	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
1201	817.236	3rd	Filing a false motor vehicle insurance application.
1202	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
1203			

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1204	817.413(2)	3rd	Sale of used goods as new.
1205	817.505(4)	3rd	Patient brokering.
1206	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
1207	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
1208	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
1209	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
1210	843.19	3rd	Injure, disable, or kill police dog or horse.
	860.15(3)	3rd	Overcharging for repairs and parts.

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1211

870.01(2) 3rd Riot; inciting or encouraging.

1212

893.13(1)(a)2. 3rd 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).

1213

893.13(1)(d)2. 2nd Sell, manufacture, or deliver
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
university.

1214

893.13(1)(f)2. 2nd Sell, manufacture, or deliver
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 public
housing facility.

1215

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1216	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
1217	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
1218	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
1219	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
1220	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a

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1221	893.13(8)(a)2.	3rd	<p>controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.</p>
1222	893.13(8)(a)3.	3rd	<p>Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.</p>
1223	893.13(8)(a)3.	3rd	<p>Knowingly write a prescription for a controlled substance for a fictitious person.</p>
1224	893.13(8)(a)4.	3rd	<p>Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.</p>
	918.13(1)(a)	3rd	<p>Alter, destroy, or conceal</p>

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1225			investigation evidence.
1226	944.47 (1) (a) 1. & 2.	3rd	Introduce contraband to correctional facility.
1227	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
1228			
1229	(e) LEVEL 5		
1230			
1231	Florida Statute	Felony Degree	Description
1232	316.027 (2) (a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
1233	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.

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1234	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
1235	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
1236	379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
1237	379.3671 (2) (c) 3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
1238	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
1239	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers'

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			compensation claims.
1240	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
1241	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
1242	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
1243	790.01 (2)	3rd	Carrying a concealed firearm.
1244	790.162	2nd	Threat to throw or discharge destructive device.
1245	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
1246	790.221 (1)	2nd	Possession of short-barreled

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1247			shotgun or machine gun.
	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
1248			
	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
1249			
	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
1250			
	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
1251			
	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
1252			
	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
1253			

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1254	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
1255	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
1256	812.131(2)(b)	3rd	Robbery by sudden snatching.
1257	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
1258	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
1259	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
1260	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

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1261	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 persons.
1262	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
1263	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
1264	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
	827.071(5)	3rd	Possess, control, or intentionally view any

			photographic material, motion picture, etc., which includes sexual conduct by a child.
1265	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.
1266	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
1267	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
1268	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
1269	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
1270	874.05(1)(b)	2nd	Encouraging or recruiting

1271	874.05(2)(a)	2nd	another to join a criminal gang; second or subsequent offense.
1272	893.13(1)(a)1.	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
1273	893.13(1)(c)2.	2nd	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). 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.

1274

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.

1275

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., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

1276

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.

1277

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1278 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).

1279 893.1351(1) 3rd Ownership, lease, or rental for
trafficking in or manufacturing
of controlled substance.

1280 Section 22. This act shall take effect October 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Justice Appropriations
 2 Subcommittee
 3 Representative Jacobs offered the following:

Amendment

6 Remove lines 340-344 and insert:

7 (11) Any prohibited act related to the controlled
 8 substance described in s. 893.03(1)(c)181., shall be exclusively
 9 governed by this subsection. A person who sells, delivers,
 10 manufactures, or brings into this state, or possesses with
 11 intent to sell, deliver, manufacture, or bring into this state
 12 the controlled substance described in s. 893.03(1)(c)181.,
 13 commits a misdemeanor of the first degree, punishable as
 14 provided in s. 775.082 or s.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1089 Criminal History Information

SPONSOR(S): Rooney, Jr.

TIED BILLS: None **IDEN./SIM. BILLS:** SB 628

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	8 Y, 0 N	Clark	White
2) Justice Appropriations Subcommittee		McAuliffe	Lloyd
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 943.053(3)(b), F.S., in relevant part, provides that the fee per record for criminal history information provided by the Florida Department of Law Enforcement (FDLE) is \$24.00 per name submitted, except that the fee for the vendors of the Department of Children and Families, the Department of Juvenile Justice, and the Department of Elder Affairs is \$8.00 for each name submitted.

The bill adds the Agency for Persons with Disabilities (APD) to the list of other state agencies; thereby, authorizing APD's vendors to pay \$8.00 per background screening.

FDLE estimates a future loss of revenue of \$115,200 annually due to the bill's authorization for APD to pay \$8.00, rather than \$24.00 per record. FDLE began receiving such revenue from APD at the end of May 2015. In Fiscal Year 2014-2015, FDLE's Operating Trust Fund revenues were \$98.9 million and the trust funds expenditures were \$91.7 million. Therefore, the trust fund balance is sufficient to absorb this loss of revenue.

The bill is effective July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 943.053, F.S., in relevant part, provides that the fee per record for criminal history information provided by the Florida Department of Law Enforcement (FDLE) is \$24.00 per name submitted, except that the fee for the guardian ad litem program and vendors of the Department of Children and Families (DCF), the Department of Juvenile Justice, and the Department of Elder Affairs is \$8.00 for each name submitted.¹

Until May 25, 2015, the DCF performed background screening services for the Agency for Persons with Disabilities (APD). As such, the screening fee for state criminal history records checks for APD's providers, vendors, employers, Consumer Directed Care Plus (CDC+) participants, and representatives (collectively hereinafter referred to as "vendors") was \$8.00.

On May 25, 2015, however, the APD began participating in the state Provider Background Screening Clearinghouse, which required APD's background screenings to be processed separately from the DCF's screenings. Due to this separation, APD's vendors are now required to pay \$24.00 per screening.

Effect of the Bill

The bill amends s. 943.053(3)(b), F.S., to include APD in the list of other state agencies; thereby, authorizing APD's vendors to pay \$8.00 per background screening.

B. SECTION DIRECTORY:

Section 1. Amends s. 943.053, F.S., relating to dissemination of criminal justice information; fees.

Section 2. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FDLE estimates a future loss of revenue of \$115,200 annually due to the bill's authorization for APD to pay \$8.00, rather than \$24.00 per record. FDLE began receiving such revenue from APD at the end of May 2015. In Fiscal Year 2014-2015, FDLE's Operating Trust Fund revenues were \$98.9 million and the trust funds expenditures were \$91.7 million. Therefore, the trust fund balance is sufficient to absorb this loss of revenue.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

¹ s. 943.053(3)(b), F.S.
STORAGE NAME: h1089b.JUAS.DOCX
DATE: 1/29/2016

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces the amount that the APD's vendors will have to pay for background screening fees from \$24.00 to \$8.00.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to criminal history information;
 3 amending s. 943.053, F.S.; providing a reduced fee for
 4 criminal history information provided to the Agency
 5 for Persons with Disabilities under specified
 6 provisions; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (b) of subsection (3) of section
 11 943.053, Florida Statutes, is amended to read:

12 943.053 Dissemination of criminal justice information;
 13 fees.—

14 (3)

15 (b) The fee per record for criminal history information
 16 provided pursuant to this subsection and s. 943.0542 is \$24 per
 17 name submitted, except that the fee for the guardian ad litem
 18 program and vendors of the Department of Children and Families,
 19 the Department of Juvenile Justice, the Agency for Persons with
 20 Disabilities, and the Department of Elderly Affairs shall be \$8
 21 for each name submitted; the fee for a state criminal history
 22 provided for application processing as required by law to be
 23 performed by the Department of Agriculture and Consumer Services
 24 shall be \$15 for each name submitted; and the fee for requests
 25 under s. 943.0542, which implements the National Child
 26 Protection Act, shall be \$18 for each volunteer name submitted.

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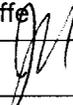
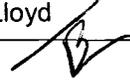
2016

27 | The state offices of the Public Defender shall not be assessed a
28 | fee for Florida criminal history information or wanted person
29 | information.

30 | Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1149 Alternative Sanctioning
SPONSOR(S): Criminal Justice Subcommittee; Spano
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1256

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N, As CS	Aziz	White
2) Justice Appropriations Subcommittee		McAuliffe 	Lloyd 
3) Judiciary Committee			

SUMMARY ANALYSIS

Any person who is found guilty by a jury or the court sitting without a jury, or who enters a plea of guilty or nolo contendere may be placed on probation regardless of whether adjudication is withheld. Section 948.06, F.S., provides procedures regarding a violation of the terms and conditions imposed on a person who is on probation. Upon violation, the probationer is arrested and brought before the sentencing court. At the first hearing on the violation, the probationer is advised of the charge. If the probationer admits the charge, the court may immediately revoke, modify, or continue the probation or place the probationer into a community control program.

The bill creates an alternative sanctioning program ("program") for technical violations of probation. The bill defines "technical violation" as any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense. The bill allows the chief judge of each judicial circuit, in consultation with the state attorney, public defender, and Department of Corrections, to establish an alternative sanctioning program and determine which technical violations will be eligible for alternative sanctioning.

An eligible probationer who commits a technical violation may choose to participate in the program and admit to the violation, comply with a probation officer's recommended sanctions, and waive his or her right to a hearing on the violation. A probation officer's recommended alternative sanction must be reviewed by the court, which may approve the sanction or remove the probationer from the program.

The Criminal Justice Impact Conference met on January 29, 2016 and found the bill will have an indeterminate impact on prison beds, but since the bill offers alternatives to returning someone under community supervision to prison for a technical violation it will likely decrease the need for prison beds.

The bill is effective July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Probation

Section 948.01, F.S., provides the circumstances under which the trial court can place a person on probation¹ or community control² (collectively, hereinafter referred to as “probation”). Any person who is found guilty by a jury or the court sitting without a jury or who enters a plea of guilty or nolo contendere may be placed on probation regardless of whether adjudication is withheld.³

The Department of Corrections (“Department”) supervises all probationers sentenced in circuit court.⁴ Section 948.03, F.S., provides a list of standard conditions of probation. In addition to the standard conditions of probation, the court may add additional conditions of probation that it deems proper.⁵

Section 948.06, F.S., provides procedures regarding a violation of the terms and conditions required of a person on probation. Upon violation, the probationer is arrested and brought before the sentencing court. At the first hearing on the violation, the probationer is advised of the charge. If the probationer admits the charge, the court may immediately revoke, modify, or continue the probation or place the probationer into a community control program.⁶

If the probationer denies having violated the terms of the probation, the court may commit him or her to jail or release him or her with or without bail to await further hearing, or it may dismiss the charge of probation violation.⁷ Unless dismissed, the court must conduct a hearing and determine whether the probationer has violated the terms of his or her probation.⁸ If the court finds that the probationer has violated, the court may immediately revoke, modify, or continue the probation or place the probationer into a community control program.⁹

If probation is revoked, the court must adjudicate the probationer guilty of the offense charged and proven or admitted, unless he or she has previously been adjudicated guilty. The court may then impose any sentence that it might have originally imposed for the offense for which the probationer was placed on probation or into community control.

Technical Violations

Section 948.06(1)(g), F.S., describes technical violations as a violation of probation that is not a new felony or misdemeanor.¹⁰ During Fiscal Year 2014-15, approximately 94,000 violation reports were submitted due to probation violations. Of this number, 61,777 (or 66%) were technical violations.¹¹ Because of overcrowded court dockets, it often takes weeks and multiple hearings for a probationer to

¹ Section 948.001(5), F.S., defines “probation” as a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03, F.S.

² Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or noninstitutional residential placement and specific sanctions are imposed and enforced.

³ s. 948.01(1), F.S.

⁴ *Id.*

⁵ s. 948.03(2), F.S.

⁶ s. 948.06(2)(a), F.S.

⁷ s. 948.06(2)(c), F.S.

⁸ s. 948.06(2)(d), F.S.

⁹ s. 948.06(2)(e), F.S.

¹⁰ Section 948.06(1)(g), F.S., allows the chief judge of each judicial circuit to direct the Department to use a notification letter for technical violations in lieu of a violation report, affidavit, and warrant.

¹¹ Department of Corrections, Agency Analysis 2016 House Bill 1149 p. 2 (Jan. 20, 2016).

be sentenced as the result of a violation of probation. If the probationer is charged with a technical violation, these hearings often result in the court reinstating or modifying the probation with additional sanctions imposed. If the probationer is held in jail pending a violation hearing, he or she may lose employment and be unable to pay victim restitution, attend treatment, or comply with supervision requirements.

In an effort to improve the violation of probation process, the Department's Office of Community Corrections developed the Alternative Sanctions Program to reduce recidivism for supervised probationers by utilizing collaborative efforts between courts, probation, and law enforcement. The program, created through administrative order in each circuit, allows a technical violation to be addressed immediately with the probationer through an administrative process.¹² Circuit court judges in 12 counties within six judicial circuits have agreed to implement the Alternative Sanctions Program via administrative order, including Alachua, Brevard, Desoto, Flagler, Manatee, Palm Beach, Pinellas, Putnam, Sarasota, Seminole, St. Johns, and Volusia.¹³

Effect of the Bill

The bill creates an alternative sanctioning program ("program") for technical violations of probation. The bill defines technical violations as any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense. The bill allows the chief judge of each judicial circuit, in consultation with the state attorney, public defender, and the Department, to establish an alternative sanctioning program and determine which technical violations will be eligible for alternative sanctioning.

If an eligible offender on probation is alleged to have committed a technical violation, the offender may either waive participation in the program or elect to participate. By participating in the program, the offender admits to the violation, agrees to the probation officer's recommended sanction, and waives the right to:

- Be represented by legal counsel;
- Require the state to prove his or her guilt before a neutral and detached hearing body;
- Subpoena witnesses and present to a judge evidence in his or her defense;
- Confront and cross-examine adverse witnesses; and
- Receive a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed.

Before imposing the sanction, the probation officer must submit the recommended sanction and documentation of the offender's admission of violation and agreement with the sanction to the court. The court has the discretion to impose the recommended sanction or to direct the Department to submit a violation report, affidavit, and warrant like a normal case not in the program. Any participation by the offender in the program is solely voluntary and the offender may elect to discontinue participation in the program as long as it is before the issuance of the court order imposing the recommended sanction. When an offender quits the program, the probation officer may submit a violation report, affidavit and warrant to the court concerning the violation. Any prior admission by the offender may not be used as evidence in subsequent proceedings.

The chief judge, in order to establish the program, must issue an administrative order specifying eligibility, which technical violations will be eligible for program, which sanctions may be recommended by a probation officer, and the process for reporting violations of the program.

B. SECTION DIRECTORY:

Section 1. Amends s. 948.06, F.S., relating to violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.

¹² *Id.*

¹³ *Id.*

Section 2. Providing an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The Criminal Justice Impact Conference met on January 29, 2016 and found the bill will have an indeterminate impact on prison beds, but since the bill offers alternatives to returning someone under community supervision to prison for a technical violation it will likely decrease the need for prison beds.

The Office of State Court Administration reports that the fiscal impact cannot be accurately determined due to the unavailability of data needed to quantifiably establish the bill's effects on judicial time and workload.¹⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

The Department reports that the bill may decrease expenditures by reducing law enforcement arrests, jail incarceration of offenders pending technical violation hearings, probation officer time spent at these violation hearings, and court personnel involved in the violation hearing process.¹⁵

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

¹⁴ Office of State Court Administrator, Agency Analysis of 2016 House Bill 1149, p. 2 (Jan. 16, 2016).

¹⁵ Department of Corrections, Agency Analysis 2016 House Bill 1149 p. 4 (Jan. 20, 2016).

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2016, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment modified the definition of "technical violation" in the bill so that it only applies to that paragraph and not the entire section. This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

1 A bill to be entitled
2 An act relating to alternative sanctioning; amending
3 s. 948.06, F.S.; authorizing the chief judge of each
4 judicial circuit, in consultation with specified
5 entities, to establish an alternative sanctioning
6 program; defining the term "technical violation";
7 requiring the chief judge to issue an administrative
8 order when creating an alternative sanctioning
9 program; specifying requirements for the order;
10 authorizing an offender who allegedly committed a
11 technical violation of supervision to waive
12 participation in or elect to participate in the
13 program, admit to the violation, agree to comply with
14 the recommended sanction, and agree to waive certain
15 rights; requiring the probation officer to submit the
16 recommended sanction and certain documentation to the
17 court if the offender admits to committing the
18 violation; authorizing the court to impose the
19 recommended sanction or direct the Department of
20 Corrections to submit a violation report, affidavit,
21 and warrant to the court; specifying that an
22 offender's participation in an alternative sanctioning
23 program is voluntary; authorizing a probation officer
24 to submit a violation report, affidavit, and warrant
25 to the court in certain circumstances; providing an
26 effective date.

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

Section 1. Paragraph (h) of subsection (1) of section 948.06, Florida Statutes, is redesignated as paragraph (i), and a new paragraph (h) is added to that subsection, to read:

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

(1)

(h)1. The chief judge of each judicial circuit, in consultation with the state attorney, the public defender, and the department, may establish an alternative sanctioning program in which the department, after receiving court approval, may enforce specified sanctions for certain technical violations of supervision. For purposes of this paragraph, the term "technical violation" means any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.

2. To establish an alternative sanctioning program, the chief judge must issue an administrative order specifying:

a. Eligibility criteria.

b. The technical violations that are eligible for the program.

c. The sanctions that may be recommended by a probation officer for each technical violation.

53 d. The process for reporting technical violations through
 54 the alternative sanctioning program, including approved forms.

55 3. If an offender is alleged to have committed a technical
 56 violation of supervision that is eligible for the program, the
 57 offender may:

58 a. Waive participation in the alternative sanctioning
 59 program, in which case the probation officer may submit a
 60 violation report, affidavit, and warrant to the court in
 61 accordance with this section; or

62 b. Elect to participate in the alternative sanctioning
 63 program after receiving written notice of an alleged technical
 64 violation and a disclosure of the evidence against the offender,
 65 admit to the technical violation, agree to comply with the
 66 probation officer's recommended sanction if subsequently ordered
 67 by the court, and agree to waive the right to:

68 (I) Be represented by legal counsel.

69 (II) Require the state to prove his or her guilt before a
 70 neutral and detached hearing body.

71 (III) Subpoena witnesses and present to a judge evidence
 72 in his or her defense.

73 (IV) Confront and cross-examine adverse witnesses.

74 (V) Receive a written statement from a factfinder as to
 75 the evidence relied on and the reasons for the sanction imposed.

76 4. If the offender admits to committing the technical
 77 violation and agrees with the probation officer's recommended
 78 sanction, the probation officer must, before imposing the

79 sanction, submit the recommended sanction to the court as well
 80 as documentation reflecting the offender's admission to the
 81 technical violation and agreement with the recommended sanction.

82 5. The court may impose the recommended sanction or may
 83 direct the department to submit a violation report, affidavit,
 84 and warrant to the court in accordance with this section.

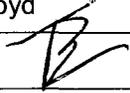
85 6. An offender's participation in an alternative
 86 sanctioning program is voluntary. The offender may elect to
 87 waive or discontinue participation in an alternative sanctioning
 88 program at any time before the issuance of a court order
 89 imposing the recommended sanction.

90 7. If an offender waives or discontinues participation in
 91 an alternative sanctioning program, the probation officer may
 92 submit a violation report, affidavit, and warrant to the court
 93 in accordance with this section. The offender's prior admission
 94 to the technical violation may not be used as evidence in
 95 subsequent proceedings.

96 Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1333 Sexual Offenders
SPONSOR(S): Baxley
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1662

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N	Cox	White
2) Justice Appropriations Subcommittee		Smith 	Lloyd 
3) Judiciary Committee			

SUMMARY ANALYSIS

The bill amends a variety of statutes related to sexual predators and offenders to bring them further in line with the federal Adam Walsh Act.

Specifically, the bill removes language that currently prevents a parent or guardian convicted of specified offenses of kidnapping, false imprisonment, or luring or enticing a child against his or her minor child from being designated as a sexual predator or sexual offender. Under the bill, such a parent or guardian may be designated a sexual predator or offender if he or she commits one of the above-mentioned specified offenses and the offense had a sexual component.

The bill also:

- Amends various definitions and provides consistency among relevant statutes;
- Expands the types of information that can be registered or updated through FDLE's online system;
- Clarifies the appropriate entity to which a sexual predator or offender must report;
- Modifies reporting requirements for international travel;
- Requires offenders taking online courses to report such information and for institutions of higher education to be notified of such attendance;
- Clarifies obligations to obtain a driver license or identification card;
- Removes inoperable language that was inadvertently left in s. 943.0435, F.S.;
- Clarifies to which court an offender must petition for removal from registration requirements; and
- Clarifies that the "Romeo and Juliet" exception that allows removal from registration requirements applies only to consensual acts.

Additionally, the bill requires offenders designated as a sexual offender for convictions of lewd or lascivious battery upon an elderly person to report quarterly and for life and prohibit such offenders from being eligible for removal from registration requirements.

The bill will likely have an indeterminate prison bed impact to DOC.

The bill will have an indeterminate fiscal impact to expenditures in local governments.

The bill is effective on October 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sexual Predator and Sexual Offender Qualifying Offenses

Sexual Predator Qualifying Offenses

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

1. A capital, life, or first degree felony violation, or any attempt thereof, of any of the criminal offenses prescribed in the following statutes in this state or a similar offense in another jurisdiction:
 - Sections 787.01 (kidnapping) or 787.02, F.S. (false imprisonment), where the victim is a minor and the defendant is not the victim's parent or guardian;¹
 - Section 794.011, F.S. (sexual battery);
 - Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age);
 - Section 847.0145, F.S. (selling or buying of minors); or
2. Any felony violation, or attempt thereof, of:
 - Section 393.135(2), F.S. (sexual misconduct with an individual with a developmental disability);
 - Section 394.4593(2), F.S. (sexual misconduct with a patient);
 - Sections 787.01 (kidnapping), 787.02 (false imprisonment), or 787.025(2)(c), F.S. (luring or enticing a child), where the victim is a minor and the defendant is not the victim's parent or guardian;²
 - Section 787.06(3)(b),(d),(f),(g), or former (h), F.S. (relating to human trafficking);
 - Section 794.011, F.S. (sexual battery) excluding s. 794.011(10), F.S.;³
 - Section 794.05, F.S. (unlawful activity with certain minors);
 - Former s. 796.03, F.S. (procuring a person under the age of 18 for prostitution);
 - Former s. 796.035, F.S. (selling or buying of minors into sex trafficking or prostitution);
 - Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age);
 - Section 810.145(8)(b), F.S. (relating to video voyeurism);
 - Section 825.1025, F.S. (lewd or lascivious battery upon or in the presence of an elderly person or disabled person);
 - Section 827.071, F.S. (sexual performance by a child);
 - Section 847.0135, F.S., excluding s. 847.0135(6), F.S. (computer pornography);
 - Section 847.0145, F.S. (selling or buying of minors);
 - Section 916.1075(2), F.S. (sexual misconduct with a forensic client); or
 - Section 985.701(1), F.S. (sexual misconduct with a juvenile offender); and

¹ These convictions can only be used as a qualifying offense for designation as a sexual predator if there is a finding that the conviction has a sexual component. The Fourth District Court of Appeal has held that the sexual offender designation that resulted from a false imprisonment conviction that had no sexual motivation failed the "rationally related" test. The Court held the state has an interest in protecting the public from sexual offenders and the designation of a person as a sexual offender is rationally related to that goal. However, if it is clear that the qualifying crime is totally devoid of a sexual component, such rational basis is lost. *Raines v. State*, 805 So. 2d 999, 1003 (Fla. 4th DCA 2001); see also *Robinson v. State*, 804 So. 2d 451 (Fla. 4th DCA 2001).

² *Id.*

³ Section 794.011(10), F.S., relates to falsely accusing specified persons of sexual battery.

- The offender has previously been convicted of any of the statutes enumerated above, including s. 847.0133, F.S. (protection of minors / obscenity).

Sexual Offender Qualifying Offenses

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

1. Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction:
 - Section 393.135(2), F.S. (sexual misconduct with an individual with a developmental disability);
 - Section 394.4593(2), F.S. (sexual misconduct with a patient);
 - Sections 787.01, (kidnapping), 787.02, (false imprisonment), or 787.025(2)(c), F.S. (luring or enticing a child), where the victim is a minor and the defendant is not the victim's parent or guardian;
 - Section 787.06(3)(b),(d),(f),(g), or former (h), F.S. (relating to human trafficking);
 - Section 794.011, F.S. (sexual battery) excluding s. 794.011(10), F.S.;
 - Section 794.05, F.S. (unlawful activity with certain minors);
 - Former s. 796.03, F.S. (procuring a person under the age of 18 for prostitution);
 - Former s. 796.035, F.S. (selling or buying of minors into sex trafficking or prostitution);
 - Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age);
 - Section 810.145(8), F.S. (relating to video voyeurism);
 - Section 825.1025, F.S. (lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person);
 - Section 827.071, F.S. (sexual performance by a child);
 - Section 847.0133, F.S. (prohibition of certain acts in connection with obscenity);
 - Section 847.0135, F.S. (computer pornography and traveling to meet a minor) excluding s. 847.0135(6), F.S.;
 - Section 847.0137, F.S. (transmission of pornography by electronic device or equipment);
 - Section 847.0138, F.S. (transmission of material harmful to minors to a minor by electronic device or equipment);
 - Section 847.0145, F.S. (selling or buying of minors);
 - Section 916.1075(2), F.S. (sexual misconduct with a forensic client); or
 - Section 985.701(1), F.S. (sexual misconduct with a juvenile offender); and

2. Has been released on or after October 1, 1997, from the sanction⁴ imposed for any conviction of an offense described above.

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

Specified Qualifying Offenses Involving a Minor Child and Parent or Guardian

Sexual Predator and Sexual Offender Qualifying Offenses

There are specified offenses included in the enumerated list of qualifying offenses that cannot be used as a basis for a designation as a sexual predator or offender if the defendant is the parent or guardian or the minor victim, including:

- Capital, life, or first degree felony violations of ss. 787.01 (kidnapping) or 787.02, F.S. (false imprisonment); or

⁴ A sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility. s. 943.0435(1)(a), F.S.

- Felony violations of ss. 787.01, (kidnapping), 787.02, (false imprisonment), or 787.025(2)(c), F.S. (luring or enticing a child).⁵

As noted above, a conviction for one of the above-mentioned offenses will not result in a person being designated as a sexual predator or sexual offender if the conviction is found to lack a sexual component, regardless of whether that person is the victim's parent or guardian.⁶ Florida Department of Law Enforcement (FDLE) reports that they currently review all convictions of kidnapping, false imprisonment, and luring or enticing a child, where the victim is a minor and the defendant is not the parent or guardian, to ensure that there is a sexual intent or motivation to the conviction prior to using such conviction as a basis for a sexual predator or sexual offender designation.⁷

Loitering and Prowling by a Person Convicted of a Sexual Offense

Section 856.022, F.S., prohibits a person convicted of specified sexual offenses⁸ from being within 300 feet of a place where children are congregating. A person commits the offense of loitering or prowling⁹ by a person convicted of a sexual offense, which is a first degree misdemeanor,¹⁰ if he or she:

- Knowingly contacts, etc. a child under 18 years of age in any public park with the intent to engage in conduct of a sexual nature or to make a communication of any type with any content of a sexual nature;¹¹ or
- Knowingly is present in any child care facility or school containing any students or on real property comprising any child care facility or school containing any students when the child care facility or school is in operation and he or she:¹²
 - Fails to notify the child care facility owner or the school principal's office when he or she arrives and departs the child care facility or school; or
 - Fails to remain under direct supervision of a school official¹³ or designated chaperone when present in the vicinity of children.

This section does not apply to a person who has been removed from the requirement to register.¹⁴

⁵ ss. 775.21(4) and 943.0435(1), F.S.

⁶ See *supra* note 1.

⁷ Email from Ron Draa, Legislative Affairs Director, Florida Department of Law Enforcement (FDLE), HB 1333, January 20, 2016.

⁸ s. 856.022(1), F.S.

⁹ Section 856.021, F.S., provides it is a second degree misdemeanor for a person to loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. The section further provides that circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern. A second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. ss. 775.082 and 775.083, F.S.

¹⁰ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. ss. 775.082 and 775.083, F.S.

¹¹ Section 856.022(4)(a), F.S., further provides that this provision applies only to a person who has committed an offense enumerated in the statute whose offense was committed on or after May 26, 2010. "Contacting" for this statute includes approaching or communicating with a child. "Public park" includes buildings or playgrounds in a public park, or on real property comprising of any public park.

¹² ss. 856.022(4)(b)1., F.S. This provision provides a student includes children in prekindergarten through grade 12. A person cannot be convicted of the offense of this specified offense of loitering a prowling if the person had previously provided written notification of his or her intent to be present to the school board, superintendent, principal, or child care facility owner.

¹³ Section 856.022(4)(b), F.S., defines the term "school official" to mean a principal, a school resource officer, a teacher or any other employee of the school, the superintendent of schools, a member of the school board, a child care facility owner, or a child care provider.

Sexual offenses specified in this section, in part include, convictions of ss. 787.01, (kidnapping), 787.02, (false imprisonment), or 787.025(2)(c), F.S. (luring or enticing a child), where the victim is a minor and the defendant is not the victim's parent or guardian.

Effect of the Bill

The bill amends ss. 775.21, 856.022, 943.0435, 944.606, and 944.607, F.S., to remove language associated with the above-mentioned specified offenses that prevents a parent or guardian who committed such a specified qualifying offense against his or her minor child for a sexual purpose from being designating as a sexual predator or offender. Therefore, if a parent or guardian is convicted for kidnapping, false imprisonment, or luring or enticing a child against his or her minor child and such offense had a sexual component, this will result in the parent or guardian being designated as a sexual predator or sexual offender.

Additionally, the bill removes this language from any references to the applicable qualifying offenses found within the above-mentioned statutes to conform references to the new definition of the qualifying offenses.

The removal of this language expands the instances that can result in a person being designated a sexual predator or sexual offender and, thus, subject to registration requirements.

FDLE reports it they will be expanding its review process of these specified convictions to include cases where the defendant is the parent or guardian of the minor victim ensuring that each conviction used for a sexual predator or offender designation includes a sexual component.¹⁵

The bill also amends s. 856.022, F.S., relating to loitering or prowling by a person convicted of a sexual offense, to remove the above-mentioned language from the enumerated list of offenses.

Juvenile Sexual Offenders

Section 943.0435, F.S., provides, in part, that a juvenile, 14 years old or older, who is adjudicated delinquent for specified enumerated offenses, on or after July 1, 2007, is designated as a "sexual offender."¹⁶ A juvenile designated as a sexual offender under this provision is required to register in the same manner as an adult designated as a sexual offender. The offenses that qualify a juvenile as a sexual offender include:

- Section 794.011, F.S. (sexual battery), excluding s. 794.011(10), F.S.;
- Section 800.04(4)(a)2., F.S. (lewd or lascivious battery by specified sexual activity)¹⁷ where the:
 - Victim is under 12 years of age; or
 - Court finds sexual activity by the use of force or coercion;
- Section 800.04(5)(c)1., F.S. (specified act of lewd or lascivious molestation)¹⁸ where the:
 - Defendant is less than 18 years of age;
 - Victim less than 12 years of age; and
 - Court finds molestation involved unclothed genitals; or
- Section 800.04(5)(d), F.S. (specified act of lewd or lascivious molestation) where the:
 - Defendant is less than 18 years of age;

¹⁴ s. 856.022, F.S.

¹⁵ *Id.*

¹⁶ ss. 943.0435(1)(a)1.d., F.S. Additionally, this section requires the court to make a written finding of the age of a juvenile at the time of the offense.

¹⁷ Section 800.04(4)(a)2., F.S., prohibits a person from committing a lewd or lascivious battery by encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity

¹⁸ Section 800.04(5)(a), F.S., defines a lewd and lascivious molestation to mean a person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator.

- o Victim is 12 years of age or older but less than 16 years; and
- o Court finds the use of force or coercion and unclothed genitals.

Effect of the Bill

The bill clarifies that a juvenile offender has committed a qualifying offense requiring a designation as a sexual offender if he or she is adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, an offense in Florida which is similar to one of the above-mentioned statutes and which was redesignated from a former statute number.

The bill amends s. 943.0515, F.S., to conform the section to these changes made by the act.

Sexual Predator and Sexual Offender Registration - Generally

In very general terms, the distinction between a sexual predator and a sexual offender depends on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense, and the date the offense occurred.¹⁹ A sexual predator or sexual offender must comply with a number of statutory registration requirements.²⁰ Failure to comply with these requirements is generally a third degree felony.²¹

Sexual predators and offenders must register at the sheriff's office within 48 hours of establishing or maintaining a residence.²² During initial registration, a sexual predator or sexual offender is required to provide certain information, including, in part, his or her name, address, e-mail address, home and cellular telephone number, and internet identifier, to the sheriff's department, which then provides the information to the FDLE for inclusion in the statewide database.²³ A sexual predator or sexual offender is also required to re-register at specified intervals and to immediately report any changes to his or her registration information.²⁴

Online System for Registration and Re-Registration

Sections 775.21 and 943.0435, F.S., require FDLE to establish an online system through which sexual predators and offenders may securely access and update all electronic mail addresses (e-mail) and Internet identifier information.

Effect of the Bill

The bill amends ss. 775.21 and 943.0435, F.S., to expand the information that can be registered or updated due to changes through FDLE's online system, including changes:

- To home telephone numbers and cellular telephone numbers, including added and deleted numbers;
- To employment information; or
- In status related to enrollment, volunteering, or employment at institutions of higher education.

Additionally, the bill provides that sexual predators or offenders may continue to register such changes in person. If a sexual predator or offender chooses to register information changes in person, he or she must ensure that the changes are registered with the appropriate entity.²⁵ The bill further provides that changes in information registered in person or through the online system must be done within 48 hours of the change.

¹⁹ See generally, ss. 775.21, 943.0435, and 944.607, F.S.

²⁰ *Id.*

²¹ ss. 775.21(10) and 943.0435(14), F.S. A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082 and 775.083, F.S.

²² See ss. 775.21 and 943.0435, F.S. Sexual predators or sexual offenders who are in the custody of or under the supervision of DOC or a local jail are required to register with DOC and the jail, respectively.

²³ See generally, ss. 775.21, 943.0435, 944.607, and 985.4815, F.S.

²⁴ *Id.*

²⁵ Applicable entities include the sheriff's office; in person at the Department of Corrections (DOC) if in the custody or control, or under the supervision of DOC; or in person at the Department of Juvenile Justice (DJJ) if in the custody or control, or under the supervision of DJJ.

The bill also amends ss. 775.21 and 943.0435, F.S., to provide that FDLEs online system must permit sexual predators or offenders to securely access, submit, and update all home telephone numbers and cellular telephone numbers, employment information, and institution of higher education information.

Registration - Reporting Frequency

As noted above, sexual predators and offenders have to re-register at varying intervals dependent upon the type of designation and the qualifying offense that was the basis for the designation as a sexual predator or offender. Sexual predators and specified sexual offenders must report in person each year during the month of the sexual predator's or offender's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to re-register.²⁶ The specified sexual offenders who must register quarterly include those whose qualifying offense was one of the following:

- Section 787.01 or s. 787.02, F.S., where the victim is a minor and the offender is not the victim's parent or guardian;
- Section 794.011, F.S., excluding s. 794.011(10), F.S.;
- Section 800.04(4)(a)2., F.S., where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
- Section 800.04(5)(b), F.S.;
- Section 800.04(5)(c)1., F.S., where the court finds molestation involving unclothed genitals or genital area;
- Section 800.04(5)(c)2., F.S., where the court finds molestation involving the use of force or coercion and unclothed genitals or genital area;
- Section 800.04(5)(d), F.S., where the court finds the use of force or coercion and unclothed genitals or genital area;
- Any attempt or conspiracy to commit such offense;
- A violation of a similar law of another jurisdiction; or
- A violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph.²⁷

Sexual offenders whose designation is the result of a non-enumerated qualifying offense must report each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month.²⁸ Reporting must be done in person to the sheriff's office in the county in which he or she resides or is otherwise located.²⁹

Effect of the Bill

The bill amends ss. 943.0435 and 944.607, F.S., to provide that a sexual offender who is required to register as a result of a conviction for s. 825.1025(2)(a), F.S., must re-register quarterly, for life. This change will bring the statute in line with the federal Adam Walsh Act.

Registration – Electronic Mail Addresses and Internet Identifiers

Sexual predators and offenders are required to register all electronic mail (e-mail) address³⁰ or internet identifiers³¹ with FDLE before such addresses or identifiers can be used.³² Registration must be made either in person or through FDLE's online system.³³

²⁶ ss. 775.21(8)(a), 943.0435(14)(b), 944.607(13)(b), and 985.4815(13)(a), F.S.

²⁷ ss. 943.0435(14)(b) and 944.607(13)(b), F.S.

²⁸ s. 943.0435(14)(a) and 944.607(13)(a), F.S.

²⁹ *Id.*

³⁰ Sections 775.21(1)(g) and 943.0435(1)(f), F.S., define "electronic mail address" as having the same meaning as provided in s. 668.602, F.S., which defines the term "electronic mail address" to mean a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

³¹ Section 775.21(2)(i), F.S., defines "internet identifier" to mean all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN). Voluntary disclosure by a sexual predator of his or her

Effect of the Bill

The bill amends s. 775.21, F.S., to modify the term "Internet identifier" to mean that it:

"includes, but is not limited to, all website uniform resource locators (URLs) and application software, whether mobile or nonmobile, used for Internet communication, including anonymous communication, through electronic mail, chat, instant messages, social networking, social gaming, or other similar programs and all corresponding usernames, logins, screen names, and screen identifiers associated with each URL or application software. Internet identifier does not include a date of birth, Social Security number, or personal identification number (PIN), URL, or application software used for utility, banking, retail, or medical purposes. Voluntary disclosure by a sexual predator or sexual offender of his or her date of birth, Social Security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information."

This new language expands the definition of Internet identifier to include the corresponding website URLs or application software that is associated with the identifier, rather than limiting the information that must be registered to the names used for Internet communication. The bill amends the definition of "Internet identifier" found in ss. 943.0435, 944.606, 944.607, and 985.4815, F.S., to have the same meaning as in s. 775.21, F.S.

The bill adds the term "electronic mail address" to ss. 985.481 and 985.4815, F.S., and provides that the term has the same meaning as in s. 668.602, F.S.

For the above-mentioned information related to email addresses and Internet identifiers that are required to be registered prior to use, the bill amends ss. 775.21 and 943.0435, F.S., to provide that a sexual predator or offender may register such information through FDLE's online system or in person at the sheriff's office. Additionally, the bill amends these sections to provide that sexual predators or offenders who are in the custody or control, or under the supervision, of the Department of Corrections (DOC) or Department of Juvenile Justice (DJJ) must report all email addresses and Internet identifiers to the applicable agency prior to using such email addresses or Internet identifiers.

Registration – Location of Residence or Travel

Sexual predators and offenders are required to register their permanent,³⁴ temporary,³⁵ or transient³⁶ residences both within the state and outside the state in the above-mentioned manner.³⁷ A sexual predator or offender who intends to establish a permanent, temporary, or transient residence in another

date of birth, social security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.

³² ss. 775.21(6)(a)1., (6)(e)2., and (6)(g)5. and 943.0435(2)(a), (2)(b), and (4)(e), F.S.

³³ ss. 775.21(6)(g)5. and 943.0435(4)(e), F.S.

³⁴ Section 775.21(1)(k), F.S., defines "permanent residence" to mean a place where the person abides, lodges, or resides for 5 or more consecutive days. Section 943.0435(1)(c), F.S., defines the term to mean the same as in s. 775.21, F.S.

³⁵ Section 775.21(1)(l), F.S., defines "temporary residence" to mean a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state. Section 943.0435(1)(c), F.S., defines the term to mean the same as in s. 775.21, F.S.

³⁶ Section 775.21(1)(m), F.S., defines "transient residence" to mean a county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address. Section 943.0435(1)(c), F.S., defines the term to mean the same as in s. 775.21, F.S.

³⁷ ss. 775.21(6)(i) and 943.0435(7), F.S.

state or jurisdiction other than Florida must report in person to the sheriff of the county of current residence within:

- 48 hours before the date he or she intends to leave Florida to establish residence in another state or jurisdiction; or
- 21 days before his or her planned departure date for stays outside the country lasting longer than five days.³⁸

The notification provided to the sheriff must include the address, municipality, county, state, and country of intended residence.³⁹ The sheriff must promptly provide FDLE the information received from the sexual predator or offender and FDLE must notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual predator's or offender's intended residence.⁴⁰

Effect of the Bill

The bill amends ss. 775.21 and 943.0435, F.S., to clarify that the sexual predator or offender must report to the sheriff of the county of current residence at least 21 days before the date of intended travel for international travel, rather than within 21 days of the planned departure date. Additionally, the bill requires a sexual predator or offender to provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel for international travel plans.

Additionally, the bill amends the definition sections found in ss. 944.606, 985.481, and 985.4815, F.S., to include definitions for the terms permanent, temporary, and transient residence. The bill provides these terms have the same meaning as provided in s. 775.21, F.S.

Registration – Institution of Higher Education

Sexual predators and offenders that are enrolled, employed, volunteering, or carrying on a vocation at an institution of high education are required to provide the:

- Name, address, and county of each institution, including each campus attended; and
- Enrollment, volunteer, or employment status.⁴¹

Additionally, a change in such enrollment, volunteer, or employment status must be reported in person to the appropriate entity within 48 hours.⁴² The appropriate entity is required to promptly notify each institution of the sexual predator's or offender's presence and any change in enrollment, volunteer, or employment status.⁴³

The term "institution of higher education" is included in ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., and is defined to mean a "career center, community college, college, state university, or independent postsecondary institution."⁴⁴

The term "change in enrollment or employment status" is included in ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., and is defined to mean the "commencement or termination of enrollment or employment or a change in location of enrollment or employment."⁴⁵

Effect of the Bill

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ ss. 775.21(6)(b), 943.0435(2)(b)2., 944.607(4)(b), and 985.4815(4)(b), F.S.

⁴² Section 775.21(6)(b), F.S., provides that the sheriff or DOC are the appropriate reporting entities. Section 943.0435(2)(b)2., F.S., provides the sheriff is the appropriate reporting entity. Section 944.607(4)(b), provides DOC is the appropriate reporting agency. Section 985.4815(4)(b), F.S., provides that DJJ is the appropriate reporting agency.

⁴³ *Id.*

⁴⁴ ss. 775.21(1)(j), 943.0435(1)(d), 944.607(1)(d), and 985.4815(1)(c), F.S.

⁴⁵ ss. 775.21(1)(a), 943.0435(1)(e), 944.607(1)(e), and 985.4815(1)(a), F.S.

The bill amends s. 775.21, F.S., to rename the term “change in enrollment or employment status” to “change in status at an institution of higher education,” and to amend the definition to mean:

the commencement or termination of enrollment, including, but not limited to, traditional classroom setting or online courses, or employment, whether for compensation or as a volunteer, at an institution of higher education or a change in location of enrollment or employment, whether for compensation or as a volunteer, at an institution of higher education.

The bill amends the name of the term in ss. 943.0435, 944.607, and 985.4815, F.S., in the same manner and provides the term has the same meaning as provided in s. 775.21, F.S.

Therefore, sexual predators or sexual offenders who are enrolled in online classes at institutions that meet the above-mentioned definition will now be required to register such information and re-register changes to such status. Additionally, appropriate reporting entities will be required to notify institutions of sexual predators or offenders that are enrolled in online classes through their institution.

The bill retains the reporting agencies included in ss. 944.607 and 985.4815, F.S., but amends ss. 775.21 and 943.0435, F.S., to provide that the sheriff, DOC, or DJJ shall promptly notify each institution of higher education of a sexual predator’s or offender’s presence or change in status.

The bill amends ss. 775.21, 943.0435, 944.607, and 985.4815, to specifically include information regarding changes in enrollment status to the types of information that a sexual predator or offender must register and re-register.

Registration – Professional Licenses and Employment Information

Sexual predators and offenders are required to provide information about employment and any professional licenses he or she may possess.⁴⁶ Currently, the law is silent as to the definition of a “professional license.”

Effect of the Bill

The bill amends s. 775.21, F.S., defining the term “professional license” to mean the “document of authorization or certification issued by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, to a person to engage in an occupation or to carry out a trade or business.”

The bill amends ss. 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S., to include the term “professional license” and defines the term to have the same meaning as in s. 775.21, F.S.

Therefore, any sexual predator or offender, including a juvenile sexual predator, who has been or is issued a license that meets the above criteria will be required to provide information about such license at the time of registration.

The bill amends ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., to specifically include employment information and changes in employment information to the types of information that a sexual predator or offender must register and re-register.

Registration – Driver License or Identification Card

Sexual predators and sexual offenders who are not incarcerated are required to register in person at a driver license office within 48 hours to obtain a driver license or identification card.⁴⁷ Additionally, a

⁴⁶ ss. 775.21(6)(a)1. and (8), 943.0435(2)(b) and (14)(c), 944.606(3)(a), 944.607(4)(a) and (14)(c), 985.481(3)(a)1., 985.4815(4)(a) and (13)(b)1., F.S.

⁴⁷ ss. 775.21(6)(f) and (g) and 943.0435(4)(a), F.S. Section 944.607, F.S., covers this requirement for sexual offenders who are not incarcerated, but are under the supervision of DOC.

sexual predator or offender is required to report specified information to Department of Highway Safety and Motor Vehicles (DHSMV), maintain an accurate driver license or identification card, and report to a driver license office within 48 hours any time the sexual predator's or offender's:

- Driver license or identification card is subject to renewal;
- Residence has changed; or
- Name has changed by reason of marriage or other legal process.⁴⁸

DHSMV must forward to FDLE and DOC all photographs and information provided by sexual predators or offenders.⁴⁹

A sexual predator who is unable to secure or update a driver license or identification card with DHSMV as provided as provided above must also report any change of the predator's residence or change in the predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to DHSMV.

Effect of the Bill

The bill amends s. 775.21, F.S., to clarify that a sexual predator who has previously obtained a driver license or identification card as a requirement under s. 944.607, F.S., is not required to obtain a driver license or identification card again.

This bill also amends ss. 775.21 and 943.0435, F.S., to clarify that a sexual predator's or offender's requirement to report specified information to DHSMV does not negate the requirement to obtain a Florida driver license or identification card.

Penalties for Failure to Register

Section 775.21(10), F.S., and ss. 943.0435(14), 944.607(4), and 985.4815(13), F.S., in part, provide that a sexual predator or offender that fails to register, or who fails after registration to update or maintain specified information, commits a third degree felony.

Effect of the Bill

As noted above, the bill expands various current registration and re-registration requirements or adds new registration requirements above what is currently imposed on a sexual predator or sexual offender. If a sexual predator or offender fails to provide initially or update as necessary any of the above-mentioned types of information, he or she will be subject to the criminal penalties for failure to comply with registration requirements.

Removal of the Requirement to Register as a Sexual Offender

Generally, sexual offenders must maintain registration with FDLE for the duration of the offender's life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation or that met the criteria for classifying the person as a sexual offender for purposes of registration.⁵⁰ However, there are ways in which the registration requirement can be removed.

Section 943.0435(11), F.S.

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

- A violation of ss. 787.01 or 787.02, F.S.;

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ ss. 775.21(6) and 943.0435(11), F.S.

- A violation of s. 794.011, F.S., excluding s. 794.011(10), F.S.;
- A violation of s. 800.04(4)(a)2., F.S., where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
- A violation of s. 800.04(5)(b), F.S.;
- A violation of s. 800.04(5)(c)2., F.S., where the court finds the offense involved the use of force or coercion and unclothed genitals or genital area;
- Any attempt or conspiracy to commit any such offense; or
- A violation of similar law of another jurisdiction.⁵¹

A sexual offender may petition the criminal division of the circuit court of the circuit where the conviction or adjudication occurred.

Effect of the Bill

The bill amends s. 943.0435, F.S., to include a violation of s. 825.1025(2)(a), F.S. (lewd or lascivious battery upon an elderly or disabled person) as an offense that, if committed as an adult, will prohibit a sexual offender from petitioning the court for removal from registration. This will result in such an offender being required register for the offender's lifetime. This change will bring the statute in line with the federal Adam Walsh Act.

The bill also amends s. 943.0435, F.S., to clarify that an eligible sexual offender may, for the purpose of removing the requirement for registration as a sexual offender, petition the criminal division of the circuit court of the circuit where the:

- Conviction or adjudication occurred, for a conviction in this state;
- Sexual offender resides, for a conviction of a violation of similar law of another jurisdiction; or
- Sexual offender last resided, for a sexual offender with a conviction of a violation of similar law of another jurisdiction who no longer resides in this state.

Section 943.04354, F.S.

Section 943.04354(1), F.S., provides that a person may be considered for removal from the requirement to register as a sexual predator or offender if the person:

1. Was convicted⁵² or adjudicated delinquent of a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., or of a similar offense in another jurisdiction, and the person does not have any other conviction or adjudication of delinquency for a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., or for a similar offense in another jurisdiction;
2. Is required to register as a sexual offender or predator solely on the basis of this violation; or
3. No longer meets the criteria for registration as a sexual offender or sexual predator under the laws of the jurisdiction in which the similar offense occurred; and
4. Is not more than 4 years older than the victim of this violation who was 13 years of age or older, but younger than 18 years of age at the time the person committed this violation.

Subsection (2) of the statute provides that if a person meets the above criteria the person may move the criminal division of the circuit court of the circuit where the conviction or adjudication for the qualifying offense occurred to remove the requirement that the person register as a sexual offender or sexual predator. The person must:

⁵¹ The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief. s. 943.0435(11)(a), F.S.

⁵² This conviction is regardless of whether the person was adjudicated guilty for the offense.

- Allege in the motion that he or she meets the criteria in subsection (1) and that removal of the registration requirement will not conflict with federal law; and
- Provide the court with written confirmation that he or she is not required to register in the jurisdiction in which the conviction or adjudication occurred if the offense occurred in a jurisdiction other than Florida.⁵³

Effect of the Bill

The bill amends s. 943.04354(1), F.S., to remove s. 794.011, F.S. (sexual battery), from the list of eligible offenses that permits a sexual predator or offender to seek for removal from registration requirements under this provision.

The bill clarifies that a person seeking to have his or her registration requirements removed under this section, must file a motion in the criminal division of the circuit court where the:

- Conviction or adjudication for the qualifying offense occurred if registration is required for a conviction that occurred in this state;
- Sexual offender or sexual predator resides if registration is required for a violation of similar law of another jurisdiction; or
- Sexual offender or sexual predator last resided for a sexual offender or predator with a conviction of a violation of a similar law of another jurisdiction who no longer resides in this state.

Lastly, the bill clarifies that for a person to be eligible for removal under this provision, the sexual act must have been consensual, notwithstanding the age of the victim. This clarification ensures that this section is in compliance with the federal Adam Walsh Act.

Miscellaneous

The bill amends s. 943.0435(11), F.S., to remove inoperable language that addresses “registration periods.” FDLE reports this language was associated with a proposed amendment that was not adopted by the Legislature and that a portion of the amendment was inadvertently left in the statute.⁵⁴

The bill amends ss. 92.55, 775.0862, 947.1405, 948.30, 948.31, 1012.315, and 1012.467, F.S., to conform the sections to changes made by the act.

Finally, the bill reenacts sections of law to incorporate amendments by the bill to statutes that are cross-referenced in the reenacted sections.

B. SECTION DIRECTORY:

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

Section 2. Amends s. 856.022, F.S., relating to loitering and prowling by certain offenders in close proximity to children; penalty.

Section 3. Amends s. 943.0435, F.S., relating to sexual offenders required to register with the department; penalty.

⁵³ The state attorney and FDLE must be given notice of the motion at least 21 days before the date of sentencing, disposition of the violation, or hearing on the motion and may present evidence in opposition to the requested relief or may otherwise demonstrate why the motion should be denied. If the court determines the person meets the criteria in subsection (1) and the removal of the registration requirement will not conflict with federal law, it may grant the motion and order the removal of the registration requirement. If the motion is granted, the person must provide FDLE a certified copy of the order granting relief. If motion is denied, the person is not authorized under this section to file another motion for removal of the registration requirement. s. 943.04354(2), F.S.

⁵⁴ Florida Department of Law Enforcement, Agency Analysis 2016 HB 1333, p. 2 (January 14, 2016).

Section 4. Amends s. 943.04354, F.S., relating to removal of the requirement to register as a sexual offender or sexual predator in special circumstances.

Section 5. Amends s. 944.606, F.S., relating to sexual offenders; notification upon release.

Section 6. Amends s. 944.607, F.S., relating to notification to Department of Law Enforcement of information on sexual offenders.

Section 7. Amends s. 985.481, F.S., relating to sexual offenders adjudicated delinquent; notification upon release.

Section 8. Amends s. 985.4815, F.S., relating to notification to Department of Law Enforcement of information on juvenile sexual offenders.

Section 9. Amends s. 92.55, F.S., relating to judicial or other proceedings involving victim or witness under the age of 16, a person who has an intellectual disability, or a sexual offense victim or witness; special protections; use of registered service or therapy animals.

Section 10. Amends s. 775.082, F.S., relating to sexual offenses against students by authority figures; reclassification.

Section 11. Amends s. 943.0515, F.S., relating to retention of criminal history records of minors.

Section 12. Amends s. 947.1405, F.S., relating to conditional release program.

Section 13. Amends s. 948.30, F.S., relating to additional terms and conditions of probation or community control for certain sex offenses.

Section 14. Amends s. 948.31, F.S., relating to evaluation and treatment of sexual predators and offenders on probation or community control.

Section 15. Amends s. 1012.315, F.S., relating to disqualification from employment.

Section 16. Amends s. 1012.467, F.S., relating to noninstructional contractors who are permitted access to school grounds when students are present; background screening requirements.

Section 17. Reenacts s. 938.085, F.S., relating to additional cost to fund rape crisis centers.

Section 18. Reenacts s. 794.056, F.S., relating to Rape Crisis Program Trust Fund.

Section 19. Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 20. Reenacts s. 985.04, F.S., relating to oaths; records; confidential information.

Section 21. Reenacts s. 322.141, F.S., relating to color or markings of certain licenses or identification cards.

Section 22. Reenacts s. 948.06, F.S., relating to violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.

Section 23. Reenacts s. 948.063, F.S., relating to violations of probation or community control by designated sexual offenders and sexual predators.

Section 24. Reenacts s. 944.607, F.S., relating to notification to Department of Law Enforcement of information on sexual offenders.

Section 25. Reenacts s. 397.4872, F.S., relating to exemption from disqualification; publication.

Section 26. Reenacts s. 435.07, F.S., relating to exemptions from disqualification.

Section 27. Reenacts s. 775.25, F.S., relating to prosecutions for acts or omissions.

Section 28. Reenacts s. 775.24, F.S., relating to duty of the court to uphold laws governing sexual predators and sexual offenders.

Section 29. Reenacts s. 944.608, F.S., relating to notification to Department of Law Enforcement of information on career offenders.

Section 30. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

This bill has an indeterminate impact on prison beds.⁵⁵ This bill could potentially result in an increase in the prison population; however, available data is insufficient to determine the extent of such an impact.

Per DOC, in FY 14-15, 1 offender was sentenced for s. 825.1025(2)(a), F.S., and that offender received prison (sentence length=48.0 m). There were 558 offenders sentenced under s. 787.01, F.S., s. 787.02, F.S., or s. 787.025(2)(c), F.S., and 265 of these offenders were sentenced to prison (mean sentence length=109.2 m, incarceration rate: 47.5%) It is unknown how many of these offenders were parents and how many offenses had a sexual component.⁵⁶

Per DOC, in FY 14-15, there were 1,145 offenders sentenced for offenses related to sexual offenders and sexual predators, with 620 of these offenders sentenced to prison (mean sentence length=43.4 m, incarceration rate: 54.2%) It is unknown how many additional offenders might be added due to changes made in this bill.⁵⁷

IT Infrastructure

Implementation would require programming changes to both mSystems and eSystems databases as well as create need for user testing between FDC and FDLE. Offense code changes to the database/table would need to be completed. All changes would need to be added to the current Public Safety Information Act (PSIA), file transfer system currently in place for sex offender information exchange from FDC and FDLE. The cost of implementation is estimated to be \$34,000.⁵⁸

The expenses could be absorbed by existing resources.

⁵⁵ Criminal Justice Impact Conference, *HB 1333*, January 29, 2016)

⁵⁶ *Id*

⁵⁷ *Id*

⁵⁸ Department of Corrections, *HB 1333 Legislative Bill Analysis*, January 26, 2016, (On file with the Justice Appropriation Subcommittee).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

As noted above, the bill expands the reporting requirements of sexual predators or offenders who report in person to sheriff's offices or in specific instances, to the jail. To the extent the expanded reporting requirements results in an increased workload to sheriff or jail employees, the bill may result in increased expenditures to local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

27 appropriate venue for a defendant to move the circuit
 28 court to remove the requirement to register as a
 29 sexual offender or sexual predator; amending s.
 30 944.606, F.S.; revising definitions; revising the
 31 information that the Department of Law Enforcement is
 32 required to provide about a sexual offender upon his
 33 or her release from incarceration; conforming
 34 provisions to changes made by the act; amending s.
 35 944.607, F.S.; revising definitions; conforming
 36 provisions to changes made by the act; amending s.
 37 985.481, F.S.; revising definitions; conforming
 38 provisions to changes made by the act; amending s.
 39 985.4815, F.S.; revising definitions; revising the
 40 reporting and registering requirements imposed upon a
 41 sexual offender to conform provisions to changes made
 42 by the act; amending ss. 92.55, 775.0862, 943.0515,
 43 947.1405, 948.30, 948.31, 1012.315, and 1012.467,
 44 F.S.; conforming cross-references; reenacting s.
 45 938.085, F.S., relating to additional costs to fund
 46 rape crisis centers, to incorporate the amendment made
 47 to s. 775.21, F.S., in a reference thereto; reenacting
 48 s. 794.056(1), F.S., relating to the Rape Crisis
 49 Program Trust Fund, to incorporate the amendments made
 50 to ss. 775.21 and 943.0435, F.S., in references
 51 thereto; reenacting s. 921.0022(3)(g), F.S., relating
 52 to level 7 of the offense severity ranking chart of

53 the Criminal Punishment Code, to incorporate the
 54 amendments made to ss. 775.21, 943.0435, 944.607, and
 55 985.4815, F.S., in references thereto; reenacting s.
 56 985.04(6)(b), F.S., relating to confidential
 57 information, to incorporate the amendments made to ss.
 58 775.21, 943.0435, 944.606, 944.607, 985.481, and
 59 985.4815, F.S., in references thereto; reenacting ss.
 60 322.141(3) and (4), 948.06(4), and 948.063, F.S.,
 61 relating to color or markings of certain licenses or
 62 identification cards, probation or community control,
 63 and violations of probation or community control by
 64 designated sexual offenders and sexual predators,
 65 respectively, to incorporate the amendments made to
 66 ss. 775.21, 943.0435, and 944.607, F.S., in references
 67 thereto; reenacting s. 944.607(10)(c), F.S., relating
 68 to notification to the Department of Law Enforcement
 69 of information on sexual offenders, to incorporate the
 70 amendment made to s. 943.0435, F.S., in a reference
 71 thereto; reenacting ss. 397.4872(2) and 435.07(4)(b),
 72 F.S., relating to exemptions from disqualification, to
 73 incorporate the amendment made to s. 943.04354, F.S.,
 74 in references thereto; reenacting s. 775.25, F.S.,
 75 relating to prosecutions for acts or omissions, to
 76 incorporate the amendments made to ss. 944.606 and
 77 944.607, F.S., in references thereto; reenacting ss.
 78 775.24(2) and 944.608(7), F.S., relating to duty of

79 the court to uphold laws governing sexual predators
 80 and sexual offenders and notification to the
 81 Department of Law Enforcement of information on career
 82 offenders, respectively, to incorporate the amendment
 83 made to s. 944.607, F.S., in references thereto;
 84 providing an effective date.

85

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

87

88 Section 1. Subsection (2), paragraph (a) of subsection
 89 (4), paragraphs (a), (e), (f), (g), and (i) of subsection (6),
 90 paragraph (a) of subsection (8), and paragraphs (a) and (b) of
 91 subsection (10) of section 775.21, Florida Statutes, are
 92 amended, and paragraphs (c) and (d) of subsection (4),
 93 paragraphs (a) and (b) of subsection (5), and paragraphs (c) and
 94 (e) of subsection (10) of that section are republished, to read:

95 775.21 The Florida Sexual Predators Act.—

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

97 (a) "Change in ~~enrollment or employment~~ status at an
 98 institution of higher education" means the commencement or
 99 termination of enrollment, including, but not limited to,
 100 traditional classroom setting or online courses, or employment,
 101 whether for compensation or as a volunteer, at an institution of
 102 higher education or a change in location of enrollment or
 103 employment, whether for compensation or as a volunteer, at an
 104 institution of higher education.

105 (b) "Chief of police" means the chief law enforcement
 106 officer of a municipality.

107 (c) "Child care facility" has the same meaning as provided
 108 in s. 402.302.

109 (d) "Community" means any county where the sexual predator
 110 lives or otherwise establishes or maintains a permanent,
 111 temporary, or transient ~~permanent~~ residence.

112 (e) "Conviction" means a determination of guilt which is
 113 the result of a trial or the entry of a plea of guilty or nolo
 114 contendere, regardless of whether adjudication is withheld. A
 115 conviction for a similar offense includes, but is not limited
 116 to, a conviction by a federal or military tribunal, including
 117 courts-martial conducted by the Armed Forces of the United
 118 States, and includes a conviction or entry of a plea of guilty
 119 or nolo contendere resulting in a sanction in any state of the
 120 United States or other jurisdiction. A sanction includes, but is
 121 not limited to, a fine, probation, community control, parole,
 122 conditional release, control release, or incarceration in a
 123 state prison, federal prison, private correctional facility, or
 124 local detention facility.

125 (f) "Department" means the Department of Law Enforcement.

126 (g) "Electronic mail address" has the same meaning as
 127 provided in s. 668.602.

128 (h) "Entering the county" includes being discharged from a
 129 correctional facility or jail or secure treatment facility
 130 within the county or being under supervision within the county

131 for the commission of a violation enumerated in subsection (4).

132 (i) "Institution of higher education" means a career
 133 center, a community college, a college, a state university, or
 134 an independent postsecondary institution.

135 (j)(i) "Internet identifier" includes, but is not limited
 136 to, all website uniform resource locators (URLs) and application
 137 software, whether mobile or nonmobile, used for Internet
 138 communication, including anonymous communication, through ~~means~~
 139 ~~all~~ electronic mail, chat, instant messages ~~messenger~~, social
 140 networking, social gaming, or other similar programs and all
 141 corresponding usernames, logins, screen names, and screen
 142 identifiers associated with each URL or application software.
 143 Internet identifier application software, or similar names used
 144 for Internet communication, but does not include a date of
 145 birth, Social Security number, ~~or~~ personal identification number
 146 (PIN), URL, or application software used for utility, banking,
 147 retail, or medical purposes. Voluntary disclosure by a sexual
 148 predator or sexual offender of his or her date of birth, Social
 149 Security number, or PIN as an Internet identifier waives the
 150 disclosure exemption in this paragraph for such personal
 151 information.

152 ~~(j) "Institution of higher education" means a career~~
 153 ~~center, community college, college, state university, or~~
 154 ~~independent postsecondary institution.~~

155 (k) "Permanent residence" means a place where the person
 156 abides, lodges, or resides for 5 or more consecutive days.

157 (l) "Professional license" means the document of
 158 authorization or certification issued by an agency of this state
 159 for a regulatory purpose, or by any similar agency in another
 160 jurisdiction for a regulatory purpose, to a person to engage in
 161 an occupation or to carry out a trade or business.

162 (m)~~(l)~~ "Temporary residence" means a place where the
 163 person abides, lodges, or resides, including, but not limited
 164 to, vacation, business, or personal travel destinations in or
 165 out of this state, for a period of 5 or more days in the
 166 aggregate during any calendar year and which is not the person's
 167 permanent address or, for a person whose permanent residence is
 168 not in this state, a place where the person is employed,
 169 practices a vocation, or is enrolled as a student for any period
 170 of time in this state.

171 (n)~~(m)~~ "Transient residence" means a county where a person
 172 lives, remains, or is located for a period of 5 or more days in
 173 the aggregate during a calendar year and which is not the
 174 person's permanent or temporary address. The term includes, but
 175 is not limited to, a place where the person sleeps or seeks
 176 shelter and a location that has no specific street address.

177 (o)~~(n)~~ "Vehicles owned" means any motor vehicle as defined
 178 in s. 320.01, which is registered, coregistered, leased, titled,
 179 or rented by a sexual predator or sexual offender; a rented
 180 vehicle that a sexual predator or sexual offender is authorized
 181 to drive; or a vehicle for which a sexual predator or sexual
 182 offender is insured as a driver. The term also includes any

183 motor vehicle as defined in s. 320.01, which is registered,
 184 coregistered, leased, titled, or rented by a person or persons
 185 residing at a sexual predator's or sexual offender's permanent
 186 residence for 5 or more consecutive days.

187 (4) SEXUAL PREDATOR CRITERIA.—

188 (a) For a current offense committed on or after October 1,
 189 1993, upon conviction, an offender shall be designated as a
 190 "sexual predator" under subsection (5), and subject to
 191 registration under subsection (6) and community and public
 192 notification under subsection (7) if:

193 1. The felony is:

194 a. A capital, life, or first degree felony violation, or
 195 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
 196 is a minor ~~and the defendant is not the victim's parent or~~
 197 ~~guardian~~, or s. 794.011, s. 800.04, or s. 847.0145, or a
 198 violation of a similar law of another jurisdiction; or

199 b. Any felony violation, or any attempt thereof, of s.
 200 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 201 787.025(2)(c), where the victim is a minor ~~and the defendant is~~
 202 ~~not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f),
 203 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
 204 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
 205 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135,
 206 excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2); or s.
 207 985.701(1); or a violation of a similar law of another
 208 jurisdiction, and the offender has previously been convicted of

209 or found to have committed, or has pled nolo contendere or
 210 guilty to, regardless of adjudication, any violation of s.
 211 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 212 787.025(2)(c), where the victim is a minor ~~and the defendant is~~
 213 ~~not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f),
 214 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
 215 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
 216 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 217 excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2); or s.
 218 985.701(1); or a violation of a similar law of another
 219 jurisdiction;

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

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

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

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

232 2. The offender was administratively registered as a
 233 sexual predator because the Department of Corrections, the
 234 department, or any other law enforcement agency obtained

859 in sub-sub-subparagraph (I). For purposes of sub-sub-
 860 subparagraph (I), a sanction imposed in this state or in any
 861 other jurisdiction includes, but is not limited to, a fine,
 862 probation, community control, parole, conditional release,
 863 control release, or incarceration in a state prison, federal
 864 prison, private correctional facility, or local detention
 865 facility;

866 b. Establishes or maintains a residence in this state and
 867 who has not been designated as a sexual predator by a court of
 868 this state but who has been designated as a sexual predator, as
 869 a sexually violent predator, or by another sexual offender
 870 designation in another state or jurisdiction and was, as a
 871 result of such designation, subjected to registration or
 872 community or public notification, or both, or would be if the
 873 person were a resident of that state or jurisdiction, without
 874 regard to whether the person otherwise meets the criteria for
 875 registration as a sexual offender;

876 c. Establishes or maintains a residence in this state who
 877 is in the custody or control of, or under the supervision of,
 878 any other state or jurisdiction as a result of a conviction for
 879 committing, or attempting, soliciting, or conspiring to commit,
 880 any of the criminal offenses proscribed in the following
 881 statutes or similar offense in another jurisdiction: s.
 882 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 883 787.025(2)(c), where the victim is a minor ~~and the defendant is~~
 884 ~~not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f),

261 chapter 394 shall be designated as a "sexual predator" under
 262 subsection (5) and subject to registration under subsection (6)
 263 and community and public notification under subsection (7).

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

266 (a)1. An offender who meets the sexual predator criteria
 267 described in paragraph (4) (d) is a sexual predator, and the
 268 court shall make a written finding at the time such offender is
 269 determined to be a sexually violent predator under chapter 394
 270 that such person meets the criteria for designation as a sexual
 271 predator for purposes of this section. The clerk shall transmit
 272 a copy of the order containing the written finding to the
 273 department within 48 hours after the entry of the order;

274 2. An offender who meets the sexual predator criteria
 275 described in paragraph (4) (a) who is before the court for
 276 sentencing for a current offense committed on or after October
 277 1, 1993, is a sexual predator, and the sentencing court must
 278 make a written finding at the time of sentencing that the
 279 offender is a sexual predator, and the clerk of the court shall
 280 transmit a copy of the order containing the written finding to
 281 the department within 48 hours after the entry of the order; or

282 3. If the Department of Corrections, the department, or
 283 any other law enforcement agency obtains information which
 284 indicates that an offender who establishes or maintains a
 285 permanent, temporary, or transient residence in this state meets
 286 the sexual predator criteria described in paragraph (4) (a) or

287 paragraph (4)(d) because the offender was civilly committed or
 288 committed a similar violation in another jurisdiction on or
 289 after October 1, 1993, the Department of Corrections, the
 290 department, or the law enforcement agency shall notify the state
 291 attorney of the county where the offender establishes or
 292 maintains a permanent, temporary, or transient residence of the
 293 offender's presence in the community. The state attorney shall
 294 file a petition with the criminal division of the circuit court
 295 for the purpose of holding a hearing to determine if the
 296 offender's criminal record or record of civil commitment from
 297 another jurisdiction meets the sexual predator criteria. If the
 298 court finds that the offender meets the sexual predator criteria
 299 because the offender has violated a similar law or similar laws
 300 in another jurisdiction, the court shall make a written finding
 301 that the offender is a sexual predator.

302

303 When the court makes a written finding that an offender is a
 304 sexual predator, the court shall inform the sexual predator of
 305 the registration and community and public notification
 306 requirements described in this section. Within 48 hours after
 307 the court designating an offender as a sexual predator, the
 308 clerk of the circuit court shall transmit a copy of the court's
 309 written sexual predator finding to the department. If the
 310 offender is sentenced to a term of imprisonment or supervision,
 311 a copy of the court's written sexual predator finding must be
 312 submitted to the Department of Corrections.

313 (b) If a sexual predator is not sentenced to a term of
 314 imprisonment, the clerk of the court shall ensure that the
 315 sexual predator's fingerprints are taken and forwarded to the
 316 department within 48 hours after the court renders its written
 317 sexual predator finding. The fingerprints shall be clearly
 318 marked, "Sexual Predator Registration." The clerk of the court
 319 that convicts and sentences the sexual predator for the offense
 320 or offenses described in subsection (4) shall forward to the
 321 department and to the Department of Corrections a certified copy
 322 of any order entered by the court imposing any special condition
 323 or restriction on the sexual predator that restricts or
 324 prohibits access to the victim, if the victim is a minor, or to
 325 other minors.

326 (6) REGISTRATION.—

327 (a) A sexual predator shall register with the department
 328 through the sheriff's office by providing the following
 329 information to the department:

- 330 1. Name; social security number; age; race; sex; date of
 331 birth; height; weight; tattoos or other identifying marks; hair
 332 and eye color; photograph; address of legal residence and
 333 address of any current temporary residence, within the state or
 334 out of state, including a rural route address and a post office
 335 box; if no permanent or temporary address, any transient
 336 residence within the state; address, location or description,
 337 and dates of any current or known future temporary residence
 338 within the state or out of state; all electronic mail addresses

339 and all Internet identifiers required to be provided pursuant to
 340 subparagraph (g)5.; all home telephone numbers and cellular
 341 telephone numbers required to be provided pursuant to
 342 subparagraph (g)5.; ~~date and place of any~~ employment information
 343 required to be provided pursuant to subparagraph (g)5.; the
 344 make, model, color, vehicle identification number (VIN), and
 345 license tag number of all vehicles owned; date and place of each
 346 conviction; fingerprints; palm prints; and a brief description
 347 of the crime or crimes committed by the offender. A post office
 348 box may not be provided in lieu of a physical residential
 349 address. The sexual predator shall produce his or her passport,
 350 if he or she has a passport, and, if he or she is an alien,
 351 shall produce or provide information about documents
 352 establishing his or her immigration status. The sexual predator
 353 shall also provide information about any professional licenses
 354 he or she has.

355 a. If the sexual predator's place of residence is a motor
 356 vehicle, trailer, mobile home, or manufactured home, as defined
 357 in chapter 320, the sexual predator shall also provide to the
 358 department written notice of the vehicle identification number;
 359 the license tag number; the registration number; and a
 360 description, including color scheme, of the motor vehicle,
 361 trailer, mobile home, or manufactured home. If a sexual
 362 predator's place of residence is a vessel, live-aboard vessel,
 363 or houseboat, as defined in chapter 327, the sexual predator
 364 shall also provide to the department written notice of the hull

365 identification number; the manufacturer's serial number; the
 366 name of the vessel, live-aboard vessel, or houseboat; the
 367 registration number; and a description, including color scheme,
 368 of the vessel, live-aboard vessel, or houseboat.

369 b. If the sexual predator is enrolled or employed,
 370 whether for compensation or as a volunteer ~~volunteering, or~~
 371 ~~carrying on a vocation~~ at an institution of higher education in
 372 this state, the sexual predator shall also provide to the
 373 department pursuant to subparagraph (g)5. the name, address, and
 374 county of each institution, including each campus attended, and
 375 the sexual predator's enrollment, volunteer, or employment
 376 status. ~~Each change in enrollment, volunteer, or employment~~
 377 ~~status must be reported in person at the sheriff's office, or~~
 378 ~~the Department of Corrections if the sexual predator is in the~~
 379 ~~custody or control of or under the supervision of the Department~~
 380 ~~of Corrections, within 48 hours after any change in status. The~~
 381 ~~sheriff, or the Department of Corrections,~~ or the Department of
 382 Juvenile Justice shall promptly notify each institution of
 383 higher education of the sexual predator's presence and any
 384 change in the sexual predator's enrollment, volunteer, or
 385 employment status.

386 c. A sexual predator shall report in person to the
 387 sheriff's office within 48 hours after any change in vehicles
 388 owned to report those vehicle information changes.

389 2. Any other information determined necessary by the
 390 department, including criminal and corrections records;

391 nonprivileged personnel and treatment records; and evidentiary
 392 genetic markers when available.

393 (e)1. If the sexual predator is not in the custody or
 394 control of, or under the supervision of, the Department of
 395 Corrections or is not in the custody of a private correctional
 396 facility, the sexual predator shall register in person:

397 a. At the sheriff's office in the county where he or she
 398 establishes or maintains a residence within 48 hours after
 399 establishing or maintaining a residence in this state; and

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

403 2. Any change in the sexual predator's permanent, ~~or~~
 404 temporary, or transient residence; name; vehicles owned;
 405 electronic mail addresses; ~~or~~ Internet identifiers; home
 406 telephone numbers and cellular telephone numbers; and employment
 407 information and any change in status at an institution of higher
 408 education, required to be provided pursuant to subparagraph
 409 (g)5., after the sexual predator registers in person at the
 410 sheriff's office as provided in subparagraph 1. must be
 411 accomplished in the manner provided in paragraphs (g), (i), and
 412 (j). When a sexual predator registers with the sheriff's office,
 413 the sheriff shall take a photograph, a set of fingerprints, and
 414 palm prints of the predator and forward the photographs, palm
 415 prints, and fingerprints to the department, along with the
 416 information that the predator is required to provide pursuant to

417 | this section.

418 | (f) Within 48 hours after the registration required under
 419 | paragraph (a) or paragraph (e), a sexual predator who is not
 420 | incarcerated and who resides in the community, including a
 421 | sexual predator under the supervision of the Department of
 422 | Corrections, shall register in person at a driver license office
 423 | of the Department of Highway Safety and Motor Vehicles and shall
 424 | present proof of registration unless a driver license or an
 425 | identification card that complies with the requirements of s.
 426 | 322.141(3) was previously secured or updated under s. 944.607.

427 | At the driver license office the sexual predator shall:

428 | 1. If otherwise qualified, secure a Florida driver
 429 | license, renew a Florida driver license, or secure an
 430 | identification card. The sexual predator shall identify himself
 431 | or herself as a sexual predator who is required to comply with
 432 | this section, provide his or her place of permanent, temporary,
 433 | or transient residence, including a rural route address and a
 434 | post office box, and submit to the taking of a photograph for
 435 | use in issuing a driver license, a renewed license, or an
 436 | identification card, and for use by the department in
 437 | maintaining current records of sexual predators. A post office
 438 | box may not be provided in lieu of a physical residential
 439 | address. If the sexual predator's place of residence is a motor
 440 | vehicle, trailer, mobile home, or manufactured home, as defined
 441 | in chapter 320, the sexual predator shall also provide to the
 442 | Department of Highway Safety and Motor Vehicles the vehicle

443 identification number; the license tag number; the registration
 444 number; and a description, including color scheme, of the motor
 445 vehicle, trailer, mobile home, or manufactured home. If a sexual
 446 predator's place of residence is a vessel, live-aboard vessel,
 447 or houseboat, as defined in chapter 327, the sexual predator
 448 shall also provide to the Department of Highway Safety and Motor
 449 Vehicles the hull identification number; the manufacturer's
 450 serial number; the name of the vessel, live-aboard vessel, or
 451 houseboat; the registration number; and a description, including
 452 color scheme, of the vessel, live-aboard vessel, or houseboat.

453 2. Pay the costs assessed by the Department of Highway
 454 Safety and Motor Vehicles for issuing or renewing a driver
 455 license or an identification card as required by this section.
 456 The driver license or identification card issued to the sexual
 457 predator must comply with s. 322.141(3).

458 3. Provide, upon request, any additional information
 459 necessary to confirm the identity of the sexual predator,
 460 including a set of fingerprints.

461 (g)1. Each time a sexual predator's driver license or
 462 identification card is subject to renewal, and, without regard
 463 to the status of the predator's driver license or identification
 464 card, within 48 hours after any change of the predator's
 465 residence or change in the predator's name by reason of marriage
 466 or other legal process, the predator shall report in person to a
 467 driver license office and is subject to the requirements
 468 specified in paragraph (f). The Department of Highway Safety and

469 Motor Vehicles shall forward to the department and to the
 470 Department of Corrections all photographs and information
 471 provided by sexual predators. Notwithstanding the restrictions
 472 set forth in s. 322.142, the Department of Highway Safety and
 473 Motor Vehicles may release a reproduction of a color-photograph
 474 or digital-image license to the Department of Law Enforcement
 475 for purposes of public notification of sexual predators as
 476 provided in this section. A sexual predator who is unable to
 477 secure or update a driver license or an identification card with
 478 the Department of Highway Safety and Motor Vehicles as provided
 479 in paragraph (f) and this paragraph shall also report any change
 480 of the predator's residence or change in the predator's name by
 481 reason of marriage or other legal process within 48 hours after
 482 the change to the sheriff's office in the county where the
 483 predator resides or is located and provide confirmation that he
 484 or she reported such information to the Department of Highway
 485 Safety and Motor Vehicles. The reporting requirements under this
 486 subparagraph do not negate the requirement for a sexual predator
 487 to obtain a Florida driver license or identification card as
 488 required by this section.

489 2.a. A sexual predator who vacates a permanent, temporary,
 490 or transient residence and fails to establish or maintain
 491 another permanent, temporary, or transient residence shall,
 492 within 48 hours after vacating the permanent, temporary, or
 493 transient residence, report in person to the sheriff's office of
 494 the county in which he or she is located. The sexual predator

495 shall specify the date upon which he or she intends to or did
 496 vacate such residence. The sexual predator shall provide or
 497 update all of the registration information required under
 498 paragraph (a). The sexual predator shall provide an address for
 499 the residence or other place that he or she is or will be
 500 located during the time in which he or she fails to establish or
 501 maintain a permanent or temporary residence.

502 b. A sexual predator shall report in person at the
 503 sheriff's office in the county in which he or she is located
 504 within 48 hours after establishing a transient residence and
 505 thereafter must report in person every 30 days to the sheriff's
 506 office in the county in which he or she is located while
 507 maintaining a transient residence. The sexual predator must
 508 provide the addresses and locations where he or she maintains a
 509 transient residence. Each sheriff's office shall establish
 510 procedures for reporting transient residence information and
 511 provide notice to transient registrants to report transient
 512 residence information as required in this sub-subparagraph.
 513 Reporting to the sheriff's office as required by this sub-
 514 subparagraph does not exempt registrants from any reregistration
 515 requirement. The sheriff may coordinate and enter into
 516 agreements with police departments and other governmental
 517 entities to facilitate additional reporting sites for transient
 518 residence registration required in this sub-subparagraph. The
 519 sheriff's office shall, within 2 business days, electronically
 520 submit and update all information provided by the sexual

521 predator to the department.

522 3. A sexual predator who remains at a permanent,
 523 temporary, or transient residence after reporting his or her
 524 intent to vacate such residence shall, within 48 hours after the
 525 date upon which the predator indicated he or she would or did
 526 vacate such residence, report in person to the sheriff's office
 527 to which he or she reported pursuant to subparagraph 2. for the
 528 purpose of reporting his or her address at such residence. When
 529 the sheriff receives the report, the sheriff shall promptly
 530 convey the information to the department. An offender who makes
 531 a report as required under subparagraph 2. but fails to make a
 532 report as required under this subparagraph commits a felony of
 533 the second degree, punishable as provided in s. 775.082, s.
 534 775.083, or s. 775.084.

535 4. The failure of a sexual predator who maintains a
 536 transient residence to report in person to the sheriff's office
 537 every 30 days as required by sub-subparagraph 2.b. is punishable
 538 as provided in subsection (10).

539 5.a. A sexual predator shall register all electronic mail
 540 addresses and Internet identifiers with the department through
 541 the department's online system or in person at the sheriff's
 542 office before using such electronic mail addresses and Internet
 543 identifiers. If the sexual predator is in the custody or
 544 control, or under the supervision, of the Department of
 545 Corrections, he or she must report all electronic mail addresses
 546 and Internet identifiers to the Department of Corrections before

547 using such electronic mail addresses or Internet identifiers. If
 548 the sexual predator is in the custody or control, or under the
 549 supervision, of the Department of Juvenile Justice, he or she
 550 must report all electronic mail addresses and Internet
 551 identifiers to the Department of Juvenile Justice before using
 552 such electronic mail addresses or Internet identifiers.

553 b. A sexual predator shall register all changes to home
 554 telephone numbers and cellular telephone numbers, including
 555 added and deleted numbers, all changes to employment
 556 information, and all changes in status related to enrollment,
 557 volunteering, or employment at institutions of higher education,
 558 through the department's online system; in person at the
 559 sheriff's office; in person at the Department of Corrections if
 560 the sexual predator is in the custody or control, or under the
 561 supervision, of the Department of Corrections; or in person at
 562 the Department of Juvenile Justice if the sexual predator is in
 563 the custody or control, or under the supervision, of the
 564 Department of Juvenile Justice. All changes required to be
 565 reported in this sub-subparagraph shall be reported within 48
 566 hours after the change.

567 c. The department shall establish an online system through
 568 which sexual predators may securely access, submit, and update
 569 all electronic mail address and Internet identifier information,
 570 home telephone numbers and cellular telephone numbers,
 571 employment information, and institution of higher education
 572 information.

573 (i) A sexual predator who intends to establish a
 574 permanent, temporary, or transient residence in another state or
 575 jurisdiction other than the State of Florida shall report in
 576 person to the sheriff of the county of current residence within
 577 48 hours before the date he or she intends to leave this state
 578 to establish residence in another state or jurisdiction or at
 579 least within 21 days before the date he or she intends to travel
 580 ~~before his or her planned departure date~~ if the intended
 581 residence of 5 days or more is outside of the United States. Any
 582 travel that is not known by the sexual predator 21 days before
 583 the departure date must be reported to the sheriff's office as
 584 soon as possible before departure. The sexual predator shall
 585 provide to the sheriff the address, municipality, county, state,
 586 and country of intended residence. For international travel, the
 587 sexual predator shall also provide travel information,
 588 including, but not limited to, expected departure and return
 589 dates, flight number, airport of departure, cruise port of
 590 departure, or any other means of intended travel. The sheriff
 591 shall promptly provide to the department the information
 592 received from the sexual predator. The department shall notify
 593 the statewide law enforcement agency, or a comparable agency, in
 594 the intended state, jurisdiction, or country of residence of the
 595 sexual predator's intended residence. The failure of a sexual
 596 predator to provide his or her intended place of residence is
 597 punishable as provided in subsection (10).

598 (8) VERIFICATION.—The department and the Department of

599 Corrections shall implement a system for verifying the addresses
 600 of sexual predators. The system must be consistent with ~~the~~
 601 ~~provisions of~~ the federal Adam Walsh Child Protection and Safety
 602 Act of 2006 and any other federal standards applicable to such
 603 verification or required to be met as a condition for the
 604 receipt of federal funds by the state. The Department of
 605 Corrections shall verify the addresses of sexual predators who
 606 are not incarcerated but who reside in the community under the
 607 supervision of the Department of Corrections and shall report to
 608 the department any failure by a sexual predator to comply with
 609 registration requirements. County and local law enforcement
 610 agencies, in conjunction with the department, shall verify the
 611 addresses of sexual predators who are not under the care,
 612 custody, control, or supervision of the Department of
 613 Corrections, and may verify the addresses of sexual predators
 614 who are under the care, custody, control, or supervision of the
 615 Department of Corrections. Local law enforcement agencies shall
 616 report to the department any failure by a sexual predator to
 617 comply with registration requirements.

618 (a) A sexual predator shall report in person each year
 619 during the month of the sexual predator's birthday and during
 620 every third month thereafter to the sheriff's office in the
 621 county in which he or she resides or is otherwise located to
 622 reregister. The sheriff's office may determine the appropriate
 623 times and days for reporting by the sexual predator, which must
 624 be consistent with the reporting requirements of this paragraph.

625 Reregistration must include any changes to the following
 626 information:

627 1. Name; social security number; age; race; sex; date of
 628 birth; height; weight; tattoos or other identifying marks; hair
 629 and eye color; address of any permanent residence and address of
 630 any current temporary residence, within the state or out of
 631 state, including a rural route address and a post office box; if
 632 no permanent or temporary address, any transient residence
 633 within the state; address, location or description, and dates of
 634 any current or known future temporary residence within the state
 635 or out of state; all electronic mail addresses or Internet
 636 identifiers required to be provided pursuant to subparagraph
 637 (6)(g)5.; all home telephone numbers and cellular telephone
 638 numbers required to be provided pursuant to subparagraph
 639 (6)(g)5.; date and place of any employment required to be
 640 provided pursuant to subparagraph (6)(g)5.; the make, model,
 641 color, vehicle identification number (VIN), and license tag
 642 number of all vehicles owned; fingerprints; palm prints; and
 643 photograph. A post office box may not be provided in lieu of a
 644 physical residential address. The sexual predator shall also
 645 produce his or her passport, if he or she has a passport, and,
 646 if he or she is an alien, shall produce or provide information
 647 about documents establishing his or her immigration status. The
 648 sexual predator shall also provide information about any
 649 professional licenses he or she has.

650 2. If the sexual predator is enrolled or employed,

651 whether for compensation or as a volunteer ~~volunteering, or~~
 652 ~~carrying on a vocation~~ at an institution of higher education in
 653 this state, the sexual predator shall also provide to the
 654 department the name, address, and county of each institution,
 655 including each campus attended, and the sexual predator's
 656 enrollment, volunteer, or employment status.

657 3. If the sexual predator's place of residence is a motor
 658 vehicle, trailer, mobile home, or manufactured home, as defined
 659 in chapter 320, the sexual predator shall also provide the
 660 vehicle identification number; the license tag number; the
 661 registration number; and a description, including color scheme,
 662 of the motor vehicle, trailer, mobile home, or manufactured
 663 home. If the sexual predator's place of residence is a vessel,
 664 live-aboard vessel, or houseboat, as defined in chapter 327, the
 665 sexual predator shall also provide the hull identification
 666 number; the manufacturer's serial number; the name of the
 667 vessel, live-aboard vessel, or houseboat; the registration
 668 number; and a description, including color scheme, of the
 669 vessel, live-aboard vessel, or houseboat.

670 (10) PENALTIES.—

671 (a) Except as otherwise specifically provided, a sexual
 672 predator who fails to register; who fails, after registration,
 673 to maintain, acquire, or renew a driver license or an
 674 identification card; who fails to provide required location
 675 information, electronic mail address information before use,
 676 Internet identifier information before use, all home telephone

677 numbers and cellular telephone numbers, employment information,
 678 change in status at an institution of higher education, or
 679 change-of-name information; who fails to make a required report
 680 in connection with vacating a permanent residence; who fails to
 681 reregister as required; who fails to respond to any address
 682 verification correspondence from the department within 3 weeks
 683 of the date of the correspondence; who knowingly provides false
 684 registration information by act or omission; or who otherwise
 685 fails, by act or omission, to comply with the requirements of
 686 this section commits a felony of the third degree, punishable as
 687 provided in s. 775.082, s. 775.083, or s. 775.084.

688 (b) A sexual predator who has been convicted of or found
 689 to have committed, or has pled nolo contendere or guilty to,
 690 regardless of adjudication, any violation, or attempted
 691 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 692 the victim is a minor ~~and the defendant is not the victim's~~
 693 ~~parent or guardian;~~ s. 794.011, excluding s. 794.011(10); s.
 694 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
 695 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s.
 696 985.701(1); or a violation of a similar law of another
 697 jurisdiction when the victim of the offense was a minor, and who
 698 works, whether for compensation or as a volunteer, at any
 699 business, school, child care facility, park, playground, or
 700 other place where children regularly congregate, commits a
 701 felony of the third degree, punishable as provided in s.
 702 775.082, s. 775.083, or s. 775.084.

703 (c) Any person who misuses public records information
 704 relating to a sexual predator, as defined in this section, or a
 705 sexual offender, as defined in s. 943.0435 or s. 944.607, to
 706 secure a payment from such a predator or offender; who knowingly
 707 distributes or publishes false information relating to such a
 708 predator or offender which the person misrepresents as being
 709 public records information; or who materially alters public
 710 records information with the intent to misrepresent the
 711 information, including documents, summaries of public records
 712 information provided by law enforcement agencies, or public
 713 records information displayed by law enforcement agencies on
 714 websites or provided through other means of communication,
 715 commits a misdemeanor of the first degree, punishable as
 716 provided in s. 775.082 or s. 775.083.

717 (e) An arrest on charges of failure to register, the
 718 service of an information or a complaint for a violation of this
 719 section, or an arraignment on charges for a violation of this
 720 section constitutes actual notice of the duty to register when
 721 the predator has been provided and advised of his or her
 722 statutory obligation to register under subsection (6). A sexual
 723 predator's failure to immediately register as required by this
 724 section following such arrest, service, or arraignment
 725 constitutes grounds for a subsequent charge of failure to
 726 register. A sexual predator charged with the crime of failure to
 727 register who asserts, or intends to assert, a lack of notice of
 728 the duty to register as a defense to a charge of failure to

729 register shall immediately register as required by this section.
 730 A sexual predator who is charged with a subsequent failure to
 731 register may not assert the defense of a lack of notice of the
 732 duty to register.

733 Section 2. Subsection (1) of section 856.022, Florida
 734 Statutes, is amended, and subsections (2), (3), and (4) of that
 735 section are republished, to read:

736 856.022 Loitering or prowling by certain offenders in
 737 close proximity to children; penalty.—

738 (1) Except as provided in subsection (2), this section
 739 applies to a person convicted of committing, or attempting,
 740 soliciting, or conspiring to commit, any of the criminal
 741 offenses proscribed in the following statutes in this state or
 742 similar offenses in another jurisdiction against a victim who
 743 was under 18 years of age at the time of the offense: s. 787.01,
 744 s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and~~
 745 ~~the offender was not the victim's parent or guardian~~; s.
 746 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;
 747 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.
 748 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 749 847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any
 750 similar offense committed in this state which has been
 751 redesignated from a former statute number to one of those listed
 752 in this subsection, if the person has not received a pardon for
 753 any felony or similar law of another jurisdiction necessary for
 754 the operation of this subsection and a conviction of a felony or

755 similar law of another jurisdiction necessary for the operation
 756 of this subsection has not been set aside in any postconviction
 757 proceeding.

758 (2) This section does not apply to a person who has been
 759 removed from the requirement to register as a sexual offender or
 760 sexual predator pursuant to s. 943.04354.

761 (3) A person described in subsection (1) commits loitering
 762 and prowling by a person convicted of a sexual offense against a
 763 minor if, in committing loitering and prowling, he or she was
 764 within 300 feet of a place where children were congregating.

765 (4) It is unlawful for a person described in subsection
 766 (1) to:

767 (a) Knowingly approach, contact, or communicate with a
 768 child under 18 years of age in any public park building or on
 769 real property comprising any public park or playground with the
 770 intent to engage in conduct of a sexual nature or to make a
 771 communication of any type with any content of a sexual nature.
 772 This paragraph applies only to a person described in subsection
 773 (1) whose offense was committed on or after May 26, 2010.

774 (b)1. Knowingly be present in any child care facility or
 775 school containing any students in prekindergarten through grade
 776 12 or on real property comprising any child care facility or
 777 school containing any students in prekindergarten through grade
 778 12 when the child care facility or school is in operation unless
 779 the person had previously provided written notification of his
 780 or her intent to be present to the school board, superintendent,

781 principal, or child care facility owner;

782 2. Fail to notify the child care facility owner or the
783 school principal's office when he or she arrives and departs the
784 child care facility or school; or

785 3. Fail to remain under direct supervision of a school
786 official or designated chaperone when present in the vicinity of
787 children. As used in this paragraph, the term "school official"
788 means a principal, a school resource officer, a teacher or any
789 other employee of the school, the superintendent of schools, a
790 member of the school board, a child care facility owner, or a
791 child care provider.

792 (c) A person is not in violation of paragraph (b) if:

793 1. The child care facility or school is a voting location
794 and the person is present for the purpose of voting during the
795 hours designated for voting; or

796 2. The person is only dropping off or picking up his or
797 her own children or grandchildren at the child care facility or
798 school.

799 Section 3. Subsection (1) of section 943.0435, Florida
800 Statutes, is reordered and amended, and subsection (2),
801 paragraphs (a) and (e) of subsection (4), subsection (7),
802 subsection (11), and paragraphs (b) and (c) of subsection (14)
803 of that section are amended, to read:

804 943.0435 Sexual offenders required to register with the
805 department; penalty.—

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

807 (a)(e) "Change in ~~enrollment or employment~~ status at an
 808 institution of higher education" has the same meaning as
 809 provided in s. 775.21 ~~means the commencement or termination of~~
 810 ~~enrollment or employment or a change in location of enrollment~~
 811 ~~or employment.~~

812 (b) "Convicted" means that there has been a determination
 813 of guilt as a result of a trial or the entry of a plea of guilty
 814 or nolo contendere, regardless of whether adjudication is
 815 withheld, and includes an adjudication of delinquency of a
 816 juvenile as specified in this section. Conviction of a similar
 817 offense includes, but is not limited to, a conviction by a
 818 federal or military tribunal, including courts-martial conducted
 819 by the Armed Forces of the United States, and includes a
 820 conviction or entry of a plea of guilty or nolo contendere
 821 resulting in a sanction in any state of the United States or
 822 other jurisdiction. A sanction includes, but is not limited to,
 823 a fine, probation, community control, parole, conditional
 824 release, control release, or incarceration in a state prison,
 825 federal prison, private correctional facility, or local
 826 detention facility.

827 (c)(f) "Electronic mail address" has the same meaning as
 828 provided in s. 668.602.

829 (d) "Institution of higher education" has the same meaning
 830 as provided in s. 775.21 ~~means a career center, community~~
 831 ~~college, college, state university, or independent postsecondary~~
 832 ~~institution.~~

833 (e)~~(g)~~ "Internet identifier" has the same meaning as
 834 provided in s. 775.21.

835 (f)~~(e)~~ "Permanent residence," "temporary residence," and
 836 "transient residence" have the same meaning as provided ~~ascribed~~
 837 in s. 775.21.

838 (g) "Professional license" has the same meaning as
 839 provided in s. 775.21.

840 (h)~~(a)~~1. "Sexual offender" means a person who meets the
 841 criteria in sub-subparagraph a., sub-subparagraph b., sub-
 842 subparagraph c., or sub-subparagraph d., as follows:

843 a.(I) Has been convicted of committing, or attempting,
 844 soliciting, or conspiring to commit, any of the criminal
 845 offenses proscribed in the following statutes in this state or
 846 similar offenses in another jurisdiction: s. 393.135(2); s.
 847 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 848 the victim is a minor ~~and the defendant is not the victim's~~
 849 ~~parent or guardian~~; s. 787.06(3)(b), (d), (f), or (g); former s.
 850 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05;
 851 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
 852 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 853 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.

854 916.1075(2); or s. 985.701(1); or any similar offense committed
 855 in this state which has been redesignated from a former statute
 856 number to one of those listed in this sub-sub-subparagraph; and

857 (II) Has been released on or after October 1, 1997, from
 858 the sanction imposed for any conviction of an offense described

859 in sub-sub-subparagraph (I). For purposes of sub-sub-
 860 subparagraph (I), a sanction imposed in this state or in any
 861 other jurisdiction includes, but is not limited to, a fine,
 862 probation, community control, parole, conditional release,
 863 control release, or incarceration in a state prison, federal
 864 prison, private correctional facility, or local detention
 865 facility;

866 b. Establishes or maintains a residence in this state and
 867 who has not been designated as a sexual predator by a court of
 868 this state but who has been designated as a sexual predator, as
 869 a sexually violent predator, or by another sexual offender
 870 designation in another state or jurisdiction and was, as a
 871 result of such designation, subjected to registration or
 872 community or public notification, or both, or would be if the
 873 person were a resident of that state or jurisdiction, without
 874 regard to whether the person otherwise meets the criteria for
 875 registration as a sexual offender;

876 c. Establishes or maintains a residence in this state who
 877 is in the custody or control of, or under the supervision of,
 878 any other state or jurisdiction as a result of a conviction for
 879 committing, or attempting, soliciting, or conspiring to commit,
 880 any of the criminal offenses proscribed in the following
 881 statutes or similar offense in another jurisdiction: s.
 882 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 883 787.025(2)(c), where the victim is a minor ~~and the defendant is~~
 884 ~~not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f),

885 or (g); former s. 787.06(3)(h); s. 794.011, excluding s.
 886 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
 887 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s.
 888 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
 889 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar
 890 offense committed in this state which has been redesignated from
 891 a former statute number to one of those listed in this sub-
 892 subparagraph; or

893 d. On or after July 1, 2007, has been adjudicated
 894 delinquent for committing, or attempting, soliciting, or
 895 conspiring to commit, any of the criminal offenses proscribed in
 896 the following statutes in this state or similar offenses in
 897 another jurisdiction when the juvenile was 14 years of age or
 898 older at the time of the offense:

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

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

903 (III) Section 800.04(5)(c)1. where the court finds
 904 molestation involving unclothed genitals; ~~or~~

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

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

910 2. For all qualifying offenses listed in sub-subparagraph

911 1.d. ~~(1)(a)1.d.~~, the court shall make a written finding of the
 912 age of the offender at the time of the offense.

913

914 For each violation of a qualifying offense listed in this
 915 subsection, except for a violation of s. 794.011, the court
 916 shall make a written finding of the age of the victim at the
 917 time of the offense. For a violation of s. 800.04(4), the court
 918 shall also make a written finding indicating whether the offense
 919 involved sexual activity and indicating whether the offense
 920 involved force or coercion. For a violation of s. 800.04(5), the
 921 court shall also make a written finding that the offense did or
 922 did not involve unclothed genitals or genital area and that the
 923 offense did or did not involve the use of force or coercion.

924 (i) ~~(h)~~ "Vehicles owned" has the same meaning as provided
 925 in s. 775.21.

926 (2) A sexual offender shall:

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

928 1. In the county in which the offender establishes or
 929 maintains a permanent, temporary, or transient residence within
 930 48 hours after:

931 a. Establishing permanent, temporary, or transient
 932 residence in this state; or

933 b. Being released from the custody, control, or
 934 supervision of the Department of Corrections or from the custody
 935 of a private correctional facility; or

936 2. In the county where he or she was convicted within 48

937 | hours after being convicted for a qualifying offense for
 938 | registration under this section if the offender is not in the
 939 | custody or control of, or under the supervision of, the
 940 | Department of Corrections, or is not in the custody of a private
 941 | correctional facility.

942 |
 943 | Any change in the information required to be provided pursuant
 944 | to paragraph (b), including, but not limited to, any change in
 945 | the sexual offender's permanent, temporary, or transient
 946 | residence;; ~~name;~~ electronic mail addresses; ~~or~~ Internet
 947 | identifiers; home telephone numbers and cellular telephone
 948 | numbers; and employment information and any change in status at
 949 | an institution of higher education, required to be provided
 950 | pursuant to paragraph (4)(e), after the sexual offender reports
 951 | in person at the sheriff's office, must be accomplished in the
 952 | manner provided in subsections (4), (7), and (8).

953 | (b) Provide his or her name; date of birth; social
 954 | security number; race; sex; height; weight; hair and eye color;
 955 | tattoos or other identifying marks; fingerprints; palm prints;
 956 | photograph; ~~occupation and place of employment~~ information
 957 | required to be provided pursuant to paragraph (4)(e); address of
 958 | permanent or legal residence or address of any current temporary
 959 | residence, within the state or out of state, including a rural
 960 | route address and a post office box; if no permanent or
 961 | temporary address, any transient residence within the state,
 962 | address, location or description, and dates of any current or

963 known future temporary residence within the state or out of
 964 state; the make, model, color, vehicle identification number
 965 (VIN), and license tag number of all vehicles owned; all home
 966 telephone numbers and cellular telephone numbers required to be
 967 provided pursuant to paragraph (4)(e); all electronic mail
 968 addresses and all Internet identifiers required to be provided
 969 pursuant to paragraph (4)(e); date and place of each conviction;
 970 and a brief description of the crime or crimes committed by the
 971 offender. A post office box may not be provided in lieu of a
 972 physical residential address. The sexual offender shall also
 973 produce his or her passport, if he or she has a passport, and,
 974 if he or she is an alien, shall produce or provide information
 975 about documents establishing his or her immigration status. The
 976 sexual offender shall also provide information about any
 977 professional licenses he or she has.

978 1. If the sexual offender's place of residence is a motor
 979 vehicle, trailer, mobile home, or manufactured home, as defined
 980 in chapter 320, the sexual offender shall also provide to the
 981 department through the sheriff's office written notice of the
 982 vehicle identification number; the license tag number; the
 983 registration number; and a description, including color scheme,
 984 of the motor vehicle, trailer, mobile home, or manufactured
 985 home. If the sexual offender's place of residence is a vessel,
 986 live-aboard vessel, or houseboat, as defined in chapter 327, the
 987 sexual offender shall also provide to the department written
 988 notice of the hull identification number; the manufacturer's

989 serial number; the name of the vessel, live-aboard vessel, or
 990 houseboat; the registration number; and a description, including
 991 color scheme, of the vessel, live-aboard vessel, or houseboat.

992 2. If the sexual offender is enrolled or employed,
 993 whether for compensation or as a volunteer ~~volunteering, or~~
 994 ~~carrying on a vocation~~ at an institution of higher education in
 995 this state, the sexual offender shall also provide to the
 996 department pursuant to paragraph (4) (e) ~~through the sheriff's~~
 997 ~~office~~ the name, address, and county of each institution,
 998 including each campus attended, and the sexual offender's
 999 enrollment, volunteer, or employment status. ~~Each change in~~
 1000 ~~enrollment, volunteer, or employment status must be reported in~~
 1001 ~~person at the sheriff's office, within 48 hours after any change~~
 1002 ~~in status.~~ The sheriff, the Department of Corrections, or the
 1003 Department of Juvenile Justice shall promptly notify each
 1004 institution of higher education of the sexual offender's
 1005 presence and any change in the sexual offender's enrollment,
 1006 volunteer, or employment status.

1007 3. A sexual offender shall report in person to the
 1008 sheriff's office within 48 hours after any change in vehicles
 1009 owned to report those vehicle information changes.

1010 (c) Provide any other information determined necessary by
 1011 the department, including criminal and corrections records;
 1012 nonprivileged personnel and treatment records; and evidentiary
 1013 genetic markers, when available.

1014

1015 | When a sexual offender reports at the sheriff's office, the
 1016 | sheriff shall take a photograph, a set of fingerprints, and palm
 1017 | prints of the offender and forward the photographs, palm prints,
 1018 | and fingerprints to the department, along with the information
 1019 | provided by the sexual offender. The sheriff shall promptly
 1020 | provide to the department the information received from the
 1021 | sexual offender.

1022 | (4) (a) Each time a sexual offender's driver license or
 1023 | identification card is subject to renewal, and, without regard
 1024 | to the status of the offender's driver license or identification
 1025 | card, within 48 hours after any change in the offender's
 1026 | permanent, temporary, or transient residence or change in the
 1027 | offender's name by reason of marriage or other legal process,
 1028 | the offender shall report in person to a driver license office,
 1029 | and is subject to the requirements specified in subsection (3).
 1030 | The Department of Highway Safety and Motor Vehicles shall
 1031 | forward to the department all photographs and information
 1032 | provided by sexual offenders. Notwithstanding the restrictions
 1033 | set forth in s. 322.142, the Department of Highway Safety and
 1034 | Motor Vehicles may release a reproduction of a color-photograph
 1035 | or digital-image license to the Department of Law Enforcement
 1036 | for purposes of public notification of sexual offenders as
 1037 | provided in this section and ss. 943.043 and 944.606. A sexual
 1038 | offender who is unable to secure or update a driver license or
 1039 | an identification card with the Department of Highway Safety and
 1040 | Motor Vehicles as provided in subsection (3) and this subsection

1041 shall also report any change in the sexual offender's permanent,
 1042 temporary, or transient residence or change in the offender's
 1043 name by reason of marriage or other legal process within 48
 1044 hours after the change to the sheriff's office in the county
 1045 where the offender resides or is located and provide
 1046 confirmation that he or she reported such information to the
 1047 Department of Highway Safety and Motor Vehicles. The reporting
 1048 requirements under this paragraph do not negate the requirement
 1049 for a sexual offender to obtain a Florida driver license or an
 1050 identification card as required in this section.

1051 (e)1. A sexual offender shall register all electronic mail
 1052 addresses and Internet identifiers with the department through
 1053 the department's online system or in person at the sheriff's
 1054 office before using such electronic mail addresses and Internet
 1055 identifiers. If the sexual offender is in the custody or
 1056 control, or under the supervision, of the Department of
 1057 Corrections, he or she must report all electronic mail addresses
 1058 and Internet identifiers to the Department of Corrections before
 1059 using such electronic mail addresses or Internet identifiers. If
 1060 the sexual offender is in the custody or control, or under the
 1061 supervision, of the Department of Juvenile Justice, he or she
 1062 must report all electronic mail addresses and Internet
 1063 identifiers to the Department of Juvenile Justice before using
 1064 such electronic mail addresses or Internet identifiers.

1065 2. A sexual offender shall register all changes to home
 1066 telephone numbers and cellular telephone numbers, including

1067 added and deleted numbers, all changes to employment
 1068 information, and all changes in status related to enrollment,
 1069 volunteering, or employment at institutions of higher education,
 1070 through the department's online system; in person at the
 1071 sheriff's office; in person at the Department of Corrections if
 1072 the sexual offender is in the custody or control, or under the
 1073 supervision, of the Department of Corrections; or in person at
 1074 the Department of Juvenile Justice if the sexual offender is in
 1075 the custody or control, or under the supervision, of the
 1076 Department of Juvenile Justice. All changes required to be
 1077 reported under this subparagraph must be reported within 48
 1078 hours after the change.

1079 3. The department shall establish an online system through
 1080 which sexual offenders may securely access, submit, and update
 1081 all changes in status to electronic mail address and Internet
 1082 identifier information, home telephone numbers and cellular
 1083 telephone numbers, employment information, and institution of
 1084 higher education information.

1085 (7) A sexual offender who intends to establish a
 1086 permanent, temporary, or transient residence in another state or
 1087 jurisdiction other than the State of Florida shall report in
 1088 person to the sheriff of the county of current residence within
 1089 48 hours before the date he or she intends to leave this state
 1090 to establish residence in another state or jurisdiction or at
 1091 least ~~within~~ 21 days before the date he or she intends to travel
 1092 before his or her planned departure date if the intended

1093 residence of 5 days or more is outside of the United States. Any
 1094 travel that is not known by the sexual offender 21 days before
 1095 the departure date must be reported in person to the sheriff's
 1096 office as soon as possible before departure. The sexual offender
 1097 shall provide to the sheriff ~~The notification must include~~ the
 1098 address, municipality, county, state, and country of intended
 1099 residence. For international travel, the sexual offender shall
 1100 also provide travel information, including, but not limited to,
 1101 expected departure and return dates, flight number, airport of
 1102 departure, cruise port of departure, or any other means of
 1103 intended travel. The sheriff shall promptly provide to the
 1104 department the information received from the sexual offender.
 1105 The department shall notify the statewide law enforcement
 1106 agency, or a comparable agency, in the intended state,
 1107 jurisdiction, or country of residence of the sexual offender's
 1108 intended residence. The failure of a sexual offender to provide
 1109 his or her intended place of residence is punishable as provided
 1110 in subsection (9).

1111 (11) Except as provided in s. 943.04354, a sexual offender
 1112 shall maintain registration with the department for the duration
 1113 of his or her life unless the sexual offender has received a
 1114 full pardon or has had a conviction set aside in a
 1115 postconviction proceeding for any offense that meets the
 1116 criteria for classifying the person as a sexual offender for
 1117 purposes of registration. However, a sexual offender shall be
 1118 considered for removal of the requirement to register as a

1119 sexual offender only if the person:
 1120 (a)1. ~~Who~~ Has been lawfully released from confinement,
 1121 supervision, or sanction, whichever is later, for at least 25
 1122 years and has not been arrested for any felony or misdemeanor
 1123 offense since release, provided that the sexual offender's
 1124 requirement to register was not based upon an adult conviction:
 1125 a. For a violation of s. 787.01 or s. 787.02;
 1126 b. For a violation of s. 794.011, excluding s.
 1127 794.011(10);
 1128 c. For a violation of s. 800.04(4)(a)2. where the court
 1129 finds the offense involved a victim under 12 years of age or
 1130 sexual activity by the use of force or coercion;
 1131 d. For a violation of s. 800.04(5)(b);
 1132 e. For a violation of s. 800.04(5)(c)2. where the court
 1133 finds the offense involved the use of force or coercion and
 1134 unclothed genitals or genital area;
 1135 f. For a violation of s. 825.1025(2)(a);
 1136 g.f. For any attempt or conspiracy to commit any such
 1137 offense;
 1138 h.g. For a violation of similar law of another
 1139 jurisdiction; or
 1140 i.h. For a violation of a similar offense committed in
 1141 this state which has been redesignated from a former statute
 1142 number to one of those listed in this subparagraph.7
 1143 2. If the sexual offender meets the criteria in
 1144 subparagraph 1., the sexual offender may, for the purpose of

1145 removing the requirement for registration as a sexual offender,
 1146 petition the criminal division of the circuit court of the
 1147 circuit:

1148 a. Where the conviction or adjudication occurred, for a
 1149 conviction in this state;

1150 b. Where the sexual offender resides, for a conviction of
 1151 a violation of similar law of another jurisdiction; or

1152 c. Where the sexual offender last resided, for a sexual
 1153 offender with a conviction of a violation of similar law of
 1154 another jurisdiction who no longer resides in this state for the
 1155 ~~purpose of removing the requirement for registration as a sexual~~
 1156 ~~offender.~~

1157 3.2. The court may grant or deny relief if the offender
 1158 demonstrates to the court that he or she has not been arrested
 1159 for any crime since release; the requested relief complies with
 1160 ~~the provisions of~~ the federal Adam Walsh Child Protection and
 1161 Safety Act of 2006 and any other federal standards applicable to
 1162 the removal of registration requirements for a sexual offender
 1163 or required to be met as a condition for the receipt of federal
 1164 funds by the state; and the court is otherwise satisfied that
 1165 the offender is not a current or potential threat to public
 1166 safety. The state attorney in the circuit in which the petition
 1167 is filed must be given notice of the petition at least 3 weeks
 1168 before the hearing on the matter. The state attorney may present
 1169 evidence in opposition to the requested relief or may otherwise
 1170 demonstrate the reasons why the petition should be denied. If

1171 the court denies the petition, the court may set a future date
 1172 at which the sexual offender may again petition the court for
 1173 relief, subject to the standards for relief provided in this
 1174 subsection.

1175 4.3. The department shall remove an offender from
 1176 classification as a sexual offender for purposes of registration
 1177 if the offender provides to the department a certified copy of
 1178 the court's written findings or order that indicates that the
 1179 offender is no longer required to comply with the requirements
 1180 for registration as a sexual offender.

1181 ~~4. For purposes of this paragraph:~~

1182 ~~a. The registration period of a sexual offender sentenced~~
 1183 ~~to a term of incarceration or committed to a residential program~~
 1184 ~~begins upon the offender's release from incarceration or~~
 1185 ~~commitment for the most recent conviction that required the~~
 1186 ~~offender to register.~~

1187 ~~b. A sexual offender's registration period is tolled~~
 1188 ~~during any period in which the offender is incarcerated, civilly~~
 1189 ~~committed, detained pursuant to chapter 985, or committed to a~~
 1190 ~~residential program.~~

1191 ~~e. Except as provided in sub-subparagraph e., if the~~
 1192 ~~sexual offender is only sentenced to a term of supervision for~~
 1193 ~~the most recent conviction that required the offender to~~
 1194 ~~register as a sexual offender or is only subject to a period of~~
 1195 ~~supervision for that conviction, the registration period begins~~
 1196 ~~when the term or period of supervision for that conviction~~

1197 ~~begins.~~

1198 ~~d. Except as provided in sub-subparagraph e., if the~~
 1199 ~~sexual offender is sentenced to a term of supervision that~~
 1200 ~~follows a term of incarceration for the most recent conviction~~
 1201 ~~that required the offender to register as a sexual offender or~~
 1202 ~~is subject to a period of supervision that follows commitment to~~
 1203 ~~a residential program for that conviction, the registration~~
 1204 ~~period begins when the term or period of supervision for that~~
 1205 ~~conviction begins.~~

1206 ~~e. If a sexual offender is sentenced to a term of more~~
 1207 ~~than 25 years' supervision for the most recent conviction that~~
 1208 ~~required the offender to register as a sexual offender, the~~
 1209 ~~sexual offender may not petition for removal of the requirement~~
 1210 ~~for registration as a sexual offender until the term of~~
 1211 ~~supervision for that conviction is completed.~~

1212 (b) As defined in sub-subparagraph (1)(h)1.b. ~~(1)(a)1.b.~~
 1213 must maintain registration with the department for the duration
 1214 of his or her life until the person provides the department with
 1215 an order issued by the court that designated the person as a
 1216 sexual predator, as a sexually violent predator, or by another
 1217 sexual offender designation in the state or jurisdiction in
 1218 which the order was issued which states that such designation
 1219 has been removed or demonstrates to the department that such
 1220 designation, if not imposed by a court, has been removed by
 1221 operation of law or court order in the state or jurisdiction in
 1222 which the designation was made, and provided such person no

1223 longer meets the criteria for registration as a sexual offender
 1224 under the laws of this state.

1225 (14)

1226 (b) However, a sexual offender who is required to register
 1227 as a result of a conviction for:

1228 1. Section 787.01 or s. 787.02 where the victim is a minor
 1229 ~~and the offender is not the victim's parent or guardian;~~

1230 2. Section 794.011, excluding s. 794.011(10);

1231 3. Section 800.04(4)(a)2. where the court finds the
 1232 offense involved a victim under 12 years of age or sexual
 1233 activity by the use of force or coercion;

1234 4. Section 800.04(5)(b);

1235 5. Section 800.04(5)(c)1. where the court finds
 1236 molestation involving unclothed genitals or genital area;

1237 6. Section 800.04(5)(c)2. where the court finds
 1238 molestation involving the use of force or coercion and unclothed
 1239 genitals or genital area;

1240 7. Section 800.04(5)(d) where the court finds the use of
 1241 force or coercion and unclothed genitals or genital area;

1242 8. Section 825.1025(2)(a);

1243 ~~9.8.~~ Any attempt or conspiracy to commit such offense;

1244 ~~10.9.~~ A violation of a similar law of another
 1245 jurisdiction; or

1246 ~~11.10.~~ A violation of a similar offense committed in this
 1247 state which has been redesignated from a former statute number
 1248 to one of those listed in this paragraph,

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must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

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

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses or Internet identifiers required to be provided pursuant to paragraph (4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to paragraph (4)(e); ~~date and place of any employment~~ information required to be provided pursuant to paragraph (4)(e); the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his

1275 or her passport, if he or she has a passport, and, if he or she
 1276 is an alien, shall produce or provide information about
 1277 documents establishing his or her immigration status. The sexual
 1278 offender shall also provide information about any professional
 1279 licenses he or she has.

1280 2. If the sexual offender is enrolled or, volunteering,
 1281 employed, whether for compensation or as a volunteer, or
 1282 ~~carrying on a vocation~~ at an institution of higher education in
 1283 this state, the sexual offender shall also provide to the
 1284 department the name, address, and county of each institution,
 1285 including each campus attended, and the sexual offender's
 1286 enrollment, volunteer, or employment status.

1287 3. If the sexual offender's place of residence is a motor
 1288 vehicle, trailer, mobile home, or manufactured home, as defined
 1289 in chapter 320, the sexual offender shall also provide the
 1290 vehicle identification number; the license tag number; the
 1291 registration number; and a description, including color scheme,
 1292 of the motor vehicle, trailer, mobile home, or manufactured
 1293 home. If the sexual offender's place of residence is a vessel,
 1294 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1295 sexual offender shall also provide the hull identification
 1296 number; the manufacturer's serial number; the name of the
 1297 vessel, live-aboard vessel, or houseboat; the registration
 1298 number; and a description, including color scheme, of the
 1299 vessel, live-aboard vessel or houseboat.

1300 4. Any sexual offender who fails to report in person as

1301 required at the sheriff's office, who fails to respond to any
 1302 address verification correspondence from the department within 3
 1303 weeks of the date of the correspondence, who fails to report all
 1304 electronic mail addresses and all Internet identifiers before
 1305 ~~prior to~~ use, or who knowingly provides false registration
 1306 information by act or omission commits a felony of the third
 1307 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1308 775.084.

1309 Section 4. Subsections (1) and (2) of section 943.04354,
 1310 Florida Statutes, are amended to read:

1311 943.04354 Removal of the requirement to register as a
 1312 sexual offender or sexual predator in special circumstances.—

1313 (1) For purposes of this section, a person shall be
 1314 considered for removal of the requirement to register as a
 1315 sexual offender or sexual predator only if the person:

1316 (a) Was convicted, regardless of adjudication, or
 1317 adjudicated delinquent of a violation of ~~s. 794.011~~, s. 800.04,
 1318 s. 827.071, or s. 847.0135(5) or of a similar offense in another
 1319 jurisdiction and if the person does not have any other
 1320 conviction, regardless of adjudication, or adjudication of
 1321 delinquency for a violation of s. 794.011, s. 800.04, s.
 1322 827.071, or s. 847.0135(5) or for a similar offense in another
 1323 jurisdiction;

1324 (b)1. Was convicted, regardless of adjudication, or
 1325 adjudicated delinquent of an offense listed in paragraph (a) and
 1326 is required to register as a sexual offender or sexual predator

1327 solely on the basis of this conviction or adjudication; or
 1328 2. Was convicted, regardless of adjudication, or
 1329 adjudicated delinquent of an offense in another jurisdiction
 1330 which is similar to an offense listed in paragraph (a) and no
 1331 longer meets the criteria for registration as a sexual offender
 1332 or sexual predator under the laws of the jurisdiction in which
 1333 the similar offense occurred; and

1334 (c) Is not more than 4 years older than the victim of this
 1335 violation who was 13 years of age or older but younger than 18
 1336 years of age at the time the person committed this violation.

1337 (2) (a) If a person meets the criteria in subsection (1),
 1338 the person may, for the purpose of removing the requirement that
 1339 he or she register as a sexual offender or sexual predator, move
 1340 the criminal division of the circuit court of the circuit:

1341 1. the person may move the criminal division of the
 1342 circuit court of the circuit Where the conviction or
 1343 adjudication for the qualifying offense occurred for a
 1344 conviction in this state;

1345 2. Where the sexual offender or sexual predator resides
 1346 for a conviction for a violation of similar law of another
 1347 jurisdiction; or

1348 3. Where the sexual offender or sexual predator last
 1349 resided for a sexual offender or sexual predator with a
 1350 conviction of a violation of a similar law of another
 1351 jurisdiction who no longer resides in this state ~~to remove the~~
 1352 ~~requirement that the person register as a sexual offender or~~

1353 ~~sexual predator.~~
 1354 **(b)** The person must allege in the motion that he or she
 1355 meets the criteria in subsection (1) and that removal of the
 1356 registration requirement will not conflict with federal law that
 1357 requires that the sexual act be consensual, notwithstanding the
 1358 age of the victim. A person convicted or adjudicated delinquent
 1359 of an offense in another jurisdiction which is similar to an
 1360 offense listed in paragraph (1)(a) must provide the court
 1361 written confirmation that he or she is not required to register
 1362 in the jurisdiction in which the conviction or adjudication
 1363 occurred. The state attorney and the department must be given
 1364 notice of the motion at least 21 days before the date of
 1365 sentencing, disposition of the violation, or hearing on the
 1366 motion and may present evidence in opposition to the requested
 1367 relief or may otherwise demonstrate why the motion should be
 1368 denied. At sentencing, disposition of the violation, or hearing
 1369 on the motion, the court shall rule on the motion, and, if the
 1370 court determines the person meets the criteria in subsection (1)
 1371 and the removal of the registration requirement will not
 1372 conflict with federal law that requires that the sexual act be
 1373 consensual, notwithstanding the age of the victim, it may grant
 1374 the motion and order the removal of the registration
 1375 requirement. The court shall instruct the person to provide the
 1376 department a certified copy of the order granting relief. If the
 1377 court denies the motion, the person is not authorized under this
 1378 section to file another motion for removal of the registration

1379 requirement.

1380 Section 5. Subsection (1) of section 944.606, Florida
 1381 Statutes, is reordered and amended, and paragraph (a) of
 1382 subsection (3) of that section is amended, to read:

1383 944.606 Sexual offenders; notification upon release.—

1384 (1) As used in this section, the term:

1385 (a) "Convicted" means there has been a determination of
 1386 guilt as a result of a trial or the entry of a plea of guilty or
 1387 nolo contendere, regardless of whether adjudication is withheld.
 1388 A conviction for a similar offense includes, but is not limited
 1389 to, a conviction by a federal or military tribunal, including
 1390 courts-martial conducted by the Armed Forces of the United
 1391 States, and includes a conviction or entry of a plea of guilty
 1392 or nolo contendere resulting in a sanction in any state of the
 1393 United States or other jurisdiction. A sanction includes, but is
 1394 not limited to, a fine; probation; community control; parole;
 1395 conditional release; control release; or incarceration in a
 1396 state prison, federal prison, private correctional facility, or
 1397 local detention facility.

1398 ~~(b)(e)~~ "Electronic mail address" has the same meaning as
 1399 provided in s. 668.602.

1400 ~~(c)(d)~~ "Internet identifier" has the same meaning as
 1401 provided in s. 775.21.

1402 (d) "Permanent residence," "temporary residence," and
 1403 "transient residence" have the same meaning as provided in s.
 1404 775.21.

1405 (e) "Professional license" has the same meaning as
 1406 provided in s. 775.21.

1407 (f)~~(b)~~ "Sexual offender" means a person who has been
 1408 convicted of committing, or attempting, soliciting, or
 1409 conspiring to commit, any of the criminal offenses proscribed in
 1410 the following statutes in this state or similar offenses in
 1411 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
 1412 s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and~~
 1413 ~~the defendant is not the victim's parent or guardian; s.~~
 1414 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
 1415 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
 1416 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
 1417 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 1418 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
 1419 985.701(1); or any similar offense committed in this state which
 1420 has been redesignated from a former statute number to one of
 1421 those listed in this subsection, when the department has
 1422 received verified information regarding such conviction; an
 1423 offender's computerized criminal history record is not, in and
 1424 of itself, verified information.

1425 (3)(a) The department shall provide information regarding
 1426 any sexual offender who is being released after serving a period
 1427 of incarceration for any offense, as follows:

1428 1. The department shall provide: the sexual offender's
 1429 name, any change in the offender's name by reason of marriage or
 1430 other legal process, and any alias, if known; the correctional

1431 facility from which the sexual offender is released; the sexual
 1432 offender's social security number, race, sex, date of birth,
 1433 height, weight, and hair and eye color; tattoos or other
 1434 identifying marks; address of any planned permanent residence or
 1435 temporary residence, within the state or out of state, including
 1436 a rural route address and a post office box; if no permanent or
 1437 temporary address, any transient residence within the state;
 1438 address, location or description, and dates of any known future
 1439 temporary residence within the state or out of state; date and
 1440 county of sentence and each crime for which the offender was
 1441 sentenced; a copy of the offender's fingerprints, palm prints,
 1442 and a digitized photograph taken within 60 days before release;
 1443 the date of release of the sexual offender; all electronic mail
 1444 addresses and all Internet identifiers required to be provided
 1445 pursuant to s. 943.0435(4)(e); employment information, if known,
 1446 provided pursuant to s. 943.0435(4)(e); all home telephone
 1447 numbers and cellular telephone numbers required to be provided
 1448 pursuant to s. 943.0435(4)(e); information about any
 1449 professional licenses the offender has, if known; and passport
 1450 information, if he or she has a passport, and, if he or she is
 1451 an alien, information about documents establishing his or her
 1452 immigration status. The department shall notify the Department
 1453 of Law Enforcement if the sexual offender escapes, absconds, or
 1454 dies. If the sexual offender is in the custody of a private
 1455 correctional facility, the facility shall take the digitized
 1456 photograph of the sexual offender within 60 days before the

1457 sexual offender's release and provide this photograph to the
 1458 Department of Corrections and also place it in the sexual
 1459 offender's file. If the sexual offender is in the custody of a
 1460 local jail, the custodian of the local jail shall register the
 1461 offender within 3 business days after intake of the offender for
 1462 any reason and upon release, and shall notify the Department of
 1463 Law Enforcement of the sexual offender's release and provide to
 1464 the Department of Law Enforcement the information specified in
 1465 this paragraph and any information specified in subparagraph 2.
 1466 that the Department of Law Enforcement requests.

1467 2. The department may provide any other information deemed
 1468 necessary, including criminal and corrections records,
 1469 nonprivileged personnel and treatment records, when available.

1470 Section 6. Subsection (1) of section 944.607, Florida
 1471 Statutes, is reordered and amended, and subsections (4) and (13)
 1472 of that section are amended, to read:

1473 944.607 Notification to Department of Law Enforcement of
 1474 information on sexual offenders.—

1475 (1) As used in this section, the term:

1476 ~~(a)(e)~~ "Change in enrollment or employment status at an
 1477 institution of higher education" has the same meaning as
 1478 provided in s. 775.21 ~~means the commencement or termination of~~
 1479 ~~enrollment or employment or a change in location of enrollment~~
 1480 ~~or employment.~~

1481 ~~(b)(e)~~ "Conviction" means a determination of guilt which
 1482 is the result of a trial or the entry of a plea of guilty or

1483 nolo contendere, regardless of whether adjudication is withheld.
 1484 Conviction of a similar offense includes, but is not limited to,
 1485 a conviction by a federal or military tribunal, including
 1486 courts-martial conducted by the Armed Forces of the United
 1487 States, and includes a conviction or entry of a plea of guilty
 1488 or nolo contendere resulting in a sanction in any state of the
 1489 United States or other jurisdiction. A sanction includes, but is
 1490 not limited to, a fine; probation; community control; parole;
 1491 conditional release; control release; or incarceration in a
 1492 state prison, federal prison, private correctional facility, or
 1493 local detention facility.

1494 ~~(c)(f)~~ "Electronic mail address" has the same meaning as
 1495 provided in s. 668.602.

1496 (d) "Institution of higher education" has the same meaning
 1497 as provided in s. 775.21 ~~means a career center, community~~
 1498 ~~college, college, state university, or independent postsecondary~~
 1499 ~~institution.~~

1500 ~~(e)(g)~~ "Internet identifier" has the same meaning as
 1501 provided in s. 775.21.

1502 ~~(f)(a)~~ "Sexual offender" means a person who is in the
 1503 custody or control of, or under the supervision of, the
 1504 department or is in the custody of a private correctional
 1505 facility:

1506 1. On or after October 1, 1997, as a result of a
 1507 conviction for committing, or attempting, soliciting, or
 1508 conspiring to commit, any of the criminal offenses proscribed in

1509 the following statutes in this state or similar offenses in
 1510 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
 1511 s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and~~
 1512 ~~the defendant is not the victim's parent or guardian; s.~~
 1513 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
 1514 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
 1515 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
 1516 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 1517 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
 1518 985.701(1); or any similar offense committed in this state which
 1519 has been redesignated from a former statute number to one of
 1520 those listed in this paragraph; or

1521 2. Who establishes or maintains a residence in this state
 1522 and who has not been designated as a sexual predator by a court
 1523 of this state but who has been designated as a sexual predator,
 1524 as a sexually violent predator, or by another sexual offender
 1525 designation in another state or jurisdiction and was, as a
 1526 result of such designation, subjected to registration or
 1527 community or public notification, or both, or would be if the
 1528 person were a resident of that state or jurisdiction, without
 1529 regard as to whether the person otherwise meets the criteria for
 1530 registration as a sexual offender.

1531 (g) ~~(b)~~ "Vehicles owned" has the same meaning as provided
 1532 in s. 775.21.

1533 (4) A sexual offender, as described in this section, who
 1534 is under the supervision of the Department of Corrections but is

1535 not incarcerated shall register with the Department of
 1536 Corrections within 3 business days after sentencing for a
 1537 registrable offense and otherwise provide information as
 1538 required by this subsection.

1539 (a) The sexual offender shall provide his or her name;
 1540 date of birth; social security number; race; sex; height;
 1541 weight; hair and eye color; tattoos or other identifying marks;
 1542 all electronic mail addresses and Internet identifiers required
 1543 to be provided pursuant to s. 943.0435(4)(e); employment
 1544 information required to be provided pursuant to s.
 1545 943.0435(4)(e); all home telephone numbers and cellular
 1546 telephone numbers required to be provided pursuant to s.
 1547 943.0435(4)(e); the make, model, color, vehicle identification
 1548 number (VIN), and license tag number of all vehicles owned;
 1549 permanent or legal residence and address of temporary residence
 1550 within the state or out of state while the sexual offender is
 1551 under supervision in this state, including any rural route
 1552 address or post office box; if no permanent or temporary
 1553 address, any transient residence within the state; and address,
 1554 location or description, and dates of any current or known
 1555 future temporary residence within the state or out of state. The
 1556 sexual offender shall also produce his or her passport, if he or
 1557 she has a passport, and, if he or she is an alien, shall produce
 1558 or provide information about documents establishing his or her
 1559 immigration status. The sexual offender shall also provide
 1560 information about any professional licenses he or she has. The

1561 Department of Corrections shall verify the address of each
 1562 sexual offender in the manner described in ss. 775.21 and
 1563 943.0435. The department shall report to the Department of Law
 1564 Enforcement any failure by a sexual predator or sexual offender
 1565 to comply with registration requirements.

1566 (b) If the sexual offender is enrolled ~~or~~ employed,
 1567 whether for compensation or as a volunteer ~~volunteering, or~~
 1568 ~~carrying on a vocation~~ at an institution of higher education in
 1569 this state, the sexual offender shall provide the name, address,
 1570 and county of each institution, including each campus attended,
 1571 and the sexual offender's enrollment, volunteer, or employment
 1572 status required to be provided pursuant to s. 943.0435(4)(e).
 1573 Each change in ~~enrollment, volunteer, or employment~~ status at an
 1574 institution of higher education must be reported to the
 1575 department within 48 hours after the change in status at an
 1576 institution of higher education as provided pursuant to s.
 1577 943.0435(4)(e). The Department of Corrections shall promptly
 1578 notify each institution of the sexual offender's presence and
 1579 any change in the sexual offender's enrollment, volunteer, or
 1580 employment status.

1581 (c) A sexual offender shall report in person to the
 1582 sheriff's office within 48 hours after any change in vehicles
 1583 owned to report those vehicle information changes.

1584 (13)(a) A sexual offender must report in person each year
 1585 during the month of the sexual offender's birthday and during
 1586 the sixth month following the sexual offender's birth month to

1587 the sheriff's office in the county in which he or she resides or
 1588 is otherwise located to reregister.

1589 (b) However, a sexual offender who is required to register
 1590 as a result of a conviction for:

1591 1. Section 787.01 or s. 787.02 where the victim is a minor
 1592 ~~and the offender is not the victim's parent or guardian;~~

1593 2. Section 794.011, excluding s. 794.011(10);

1594 3. Section 800.04(4)(a)2. where the victim is under 12
 1595 years of age or where the court finds sexual activity by the use
 1596 of force or coercion;

1597 4. Section 800.04(5)(b);

1598 5. Section 800.04(5)(c)1. where the court finds
 1599 molestation involving unclothed genitals or genital area;

1600 6. Section 800.04(5)(c)2. where the court finds
 1601 molestation involving use of force or coercion and unclothed
 1602 genitals or genital area;

1603 7. Section 800.04(5)(d) where the court finds the use of
 1604 force or coercion and unclothed genitals or genital area;

1605 8. Section 825.1025(2)(a);

1606 ~~9.8.~~ Any attempt or conspiracy to commit such offense;

1607 ~~10.9.~~ A violation of a similar law of another
 1608 jurisdiction; or

1609 11.10. A violation of a similar offense committed in this
 1610 state which has been redesignated from a former statute number
 1611 to one of those listed in this paragraph,
 1612

1613 must reregister each year during the month of the sexual
 1614 offender's birthday and every third month thereafter.

1615 (c) The sheriff's office may determine the appropriate
 1616 times and days for reporting by the sexual offender, which must
 1617 be consistent with the reporting requirements of this
 1618 subsection. Reregistration must include any changes to the
 1619 following information:

1620 1. Name; social security number; age; race; sex; date of
 1621 birth; height; weight; tattoos or other identifying marks; hair
 1622 and eye color; address of any permanent residence and address of
 1623 any current temporary residence, within the state or out of
 1624 state, including a rural route address and a post office box; if
 1625 no permanent or temporary address, any transient residence;
 1626 address, location or description, and dates of any current or
 1627 known future temporary residence within the state or out of
 1628 state; all electronic mail addresses and Internet identifiers
 1629 required to be provided pursuant to s. 943.0435(4)(e); all home
 1630 telephone numbers and cellular telephone numbers required to be
 1631 provided pursuant to s. 943.0435(4)(e); ~~date and place of any~~
 1632 employment information required to be provided pursuant to s.
 1633 943.0435(4)(e); the make, model, color, vehicle identification
 1634 number (VIN), and license tag number of all vehicles owned;
 1635 fingerprints; palm prints; and photograph. A post office box may
 1636 not be provided in lieu of a physical residential address. The
 1637 sexual offender shall also produce his or her passport, if he or
 1638 she has a passport, and, if he or she is an alien, shall produce

1639 or provide information about documents establishing his or her
 1640 immigration status. The sexual offender shall also provide
 1641 information about any professional licenses he or she has.

1642 2. If the sexual offender is enrolled or, employed,
 1643 whether for compensation or as a volunteer ~~volunteering, or~~
 1644 ~~carrying on a vocation~~ at an institution of higher education in
 1645 this state, the sexual offender shall also provide to the
 1646 department the name, address, and county of each institution,
 1647 including each campus attended, and the sexual offender's
 1648 enrollment, volunteer, or employment status.

1649 3. If the sexual offender's place of residence is a motor
 1650 vehicle, trailer, mobile home, or manufactured home, as defined
 1651 in chapter 320, the sexual offender shall also provide the
 1652 vehicle identification number; the license tag number; the
 1653 registration number; and a description, including color scheme,
 1654 of the motor vehicle, trailer, mobile home, or manufactured
 1655 home. If the sexual offender's place of residence is a vessel,
 1656 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1657 sexual offender shall also provide the hull identification
 1658 number; the manufacturer's serial number; the name of the
 1659 vessel, live-aboard vessel, or houseboat; the registration
 1660 number; and a description, including color scheme, of the
 1661 vessel, live-aboard vessel or houseboat.

1662 4. Any sexual offender who fails to report in person as
 1663 required at the sheriff's office, who fails to respond to any
 1664 address verification correspondence from the department within 3

1665 weeks of the date of the correspondence, who fails to report all
 1666 electronic mail addresses or Internet identifiers before ~~prior~~
 1667 ~~to~~ use, or who knowingly provides false registration information
 1668 by act or omission commits a felony of the third degree,
 1669 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1670 (d) The sheriff's office shall, within 2 working days,
 1671 electronically submit and update all information provided by the
 1672 sexual offender to the Department of Law Enforcement in a manner
 1673 prescribed by that department.

1674 Section 7. Subsection (1) and paragraph (a) of subsection
 1675 (3) of section 985.481, Florida Statutes, are amended to read:

1676 985.481 Sexual offenders adjudicated delinquent;
 1677 notification upon release.—

1678 (1) As used in this section:

1679 (a) "Convicted" has the same meaning as provided in s.
 1680 943.0435.

1681 (b) "Electronic mail address" has the same meaning as
 1682 provided in s. 668.602.

1683 (c) ~~(b)~~ "Internet identifier" has the same meaning as
 1684 provided in s. 775.21.

1685 (d) "Permanent residence," "temporary residence," and
 1686 "transient residence" have the same meaning as provided in s.
 1687 775.21.

1688 (e) "Professional license" has the same meaning as
 1689 provided in s. 775.21.

1690 (f) ~~(e)~~ "Sexual offender" means a person who has been

1691 adjudicated delinquent as provided in s. 943.0435(1)(h)1.d. ~~s.~~
 1692 ~~943.0435(1)(a)1.d.~~

1693 (g)~~(d)~~ "Vehicles owned" has the same meaning as provided
 1694 in s. 775.21.

1695 (3)(a) The department shall provide information regarding
 1696 any sexual offender who is being released after serving a period
 1697 of residential commitment under the department for any offense,
 1698 as follows:

1699 1. The department shall provide the sexual offender's
 1700 name, any change in the offender's name by reason of marriage or
 1701 other legal process, and any alias, if known; the correctional
 1702 facility from which the sexual offender is released; the sexual
 1703 offender's social security number, race, sex, date of birth,
 1704 height, weight, and hair and eye color; tattoos or other
 1705 identifying marks; the make, model, color, vehicle
 1706 identification number (VIN), and license tag number of all
 1707 vehicles owned; address of any planned permanent residence or
 1708 temporary residence, within the state or out of state, including
 1709 a rural route address and a post office box; if no permanent or
 1710 temporary address, any transient residence within the state;
 1711 address, location or description, and dates of any known future
 1712 temporary residence within the state or out of state; date and
 1713 county of disposition and each crime for which there was a
 1714 disposition; a copy of the offender's fingerprints, palm prints,
 1715 and a digitized photograph taken within 60 days before release;
 1716 the date of release of the sexual offender; all home telephone

1717 numbers and cellular telephone numbers required to be provided
 1718 pursuant to s. 943.0435(4)(e); all electronic mail addresses and
 1719 Internet identifiers required to be provided pursuant to s.
 1720 943.0435(4)(e); information about any professional licenses the
 1721 offender has, if known; and passport information, if he or she
 1722 has a passport, and, if he or she is an alien, information about
 1723 documents establishing his or her immigration status. The
 1724 department shall notify the Department of Law Enforcement if the
 1725 sexual offender escapes, absconds, or dies. If the sexual
 1726 offender is in the custody of a private correctional facility,
 1727 the facility shall take the digitized photograph of the sexual
 1728 offender within 60 days before the sexual offender's release and
 1729 also place it in the sexual offender's file. If the sexual
 1730 offender is in the custody of a local jail, the custodian of the
 1731 local jail shall register the offender within 3 business days
 1732 after intake of the offender for any reason and upon release,
 1733 and shall notify the Department of Law Enforcement of the sexual
 1734 offender's release and provide to the Department of Law
 1735 Enforcement the information specified in this subparagraph and
 1736 any information specified in subparagraph 2. which the
 1737 Department of Law Enforcement requests.

1738 2. The department may provide any other information
 1739 considered necessary, including criminal and delinquency
 1740 records, when available.

1741 Section 8. Subsections (1), (4), and (13) of section
 1742 985.4815, Florida Statutes, are amended, and paragraph (c) of

1743 subsection (10) is republished, to read:

1744 985.4815 Notification to Department of Law Enforcement of
 1745 information on juvenile sexual offenders.—

1746 (1) As used in this section, the term:

1747 (a) "Change in enrollment or employment status at an
 1748 institution of higher education" has the same meaning as
 1749 provided in s. 775.21 ~~means the commencement or termination of~~
 1750 ~~enrollment or employment or a change in location of enrollment~~
 1751 ~~or employment.~~

1752 (b) "Conviction" has the same meaning as provided in s.
 1753 943.0435.

1754 (c) "Electronic mail address" has the same meaning as
 1755 provided in s. 668.602.

1756 (d)~~(e)~~ "Institution of higher education" has the same
 1757 meaning as provided in s. 775.21 ~~means a career center,~~
 1758 ~~community college, college, state university, or independent~~
 1759 ~~postsecondary institution.~~

1760 (e)~~(d)~~ "Internet identifier" has the same meaning as
 1761 provided in s. 775.21.

1762 (f) "Permanent residence," "temporary residence," and
 1763 "transient residence" have the same meaning as provided in s.
 1764 775.21.

1765 (g) "Professional license" has the same meaning as
 1766 provided in s. 775.21.

1767 (h)~~(e)~~ "Sexual offender" means a person who is in the care
 1768 or custody or under the jurisdiction or supervision of the

1769 department or is in the custody of a private correctional
 1770 facility and who:

1771 1. Has been adjudicated delinquent as provided in s.
 1772 943.0435(1)(h)1.d. s. ~~943.0435(1)(a)1.d.~~; or

1773 2. Establishes or maintains a residence in this state and
 1774 has not been designated as a sexual predator by a court of this
 1775 state but has been designated as a sexual predator, as a
 1776 sexually violent predator, or by another sexual offender
 1777 designation in another state or jurisdiction and was, as a
 1778 result of such designation, subjected to registration or
 1779 community or public notification, or both, or would be if the
 1780 person were a resident of that state or jurisdiction, without
 1781 regard to whether the person otherwise meets the criteria for
 1782 registration as a sexual offender.

1783 (i)~~(f)~~ "Vehicles owned" has the same meaning as provided
 1784 in s. 775.21.

1785 (4) A sexual offender, as described in this section, who
 1786 is under the supervision of the department but who is not
 1787 committed shall register with the department within 3 business
 1788 days after adjudication and disposition for a registrable
 1789 offense and otherwise provide information as required by this
 1790 subsection.

1791 (a) The sexual offender shall provide his or her name;
 1792 date of birth; social security number; race; sex; height;
 1793 weight; hair and eye color; tattoos or other identifying marks;
 1794 the make, model, color, vehicle identification number (VIN), and

1795 license tag number of all vehicles owned; permanent or legal
 1796 residence and address of temporary residence within the state or
 1797 out of state while the sexual offender is in the care or custody
 1798 or under the jurisdiction or supervision of the department in
 1799 this state, including any rural route address or post office
 1800 box; if no permanent or temporary address, any transient
 1801 residence; address, location or description, and dates of any
 1802 current or known future temporary residence within the state or
 1803 out of state; all home telephone numbers and cellular telephone
 1804 numbers required to be provided pursuant to s. 943.0435(4)(e);
 1805 all electronic mail addresses and Internet identifiers required
 1806 to be provided pursuant to s. 943.0435(4)(e); and the name and
 1807 address of each school attended. The sexual offender shall also
 1808 produce his or her passport, if he or she has a passport, and,
 1809 if he or she is an alien, shall produce or provide information
 1810 about documents establishing his or her immigration status. The
 1811 offender shall also provide information about any professional
 1812 licenses he or she has. The department shall verify the address
 1813 of each sexual offender and shall report to the Department of
 1814 Law Enforcement any failure by a sexual offender to comply with
 1815 registration requirements.

1816 (b) If the sexual offender is enrolled or employed,
 1817 whether for compensation or as a volunteer volunteering, or
 1818 ~~carrying on a vocation~~ at an institution of higher education in
 1819 this state, the sexual offender shall provide the name, address,
 1820 and county of each institution, including each campus attended,

1821 and the sexual offender's enrollment, volunteer, or employment
 1822 status. Each change in ~~enrollment, volunteer, or employment~~
 1823 status at an institution of higher education must be reported to
 1824 the department within 48 hours after the change in status at an
 1825 institution of higher education. The department shall promptly
 1826 notify each institution of the sexual offender's presence and
 1827 any change in the sexual offender's enrollment, volunteer, or
 1828 employment status.

1829 (c) A sexual offender shall report in person to the
 1830 sheriff's office within 48 hours after any change in vehicles
 1831 owned to report those vehicle information changes.

1832 (10)

1833 (c) An arrest on charges of failure to register when the
 1834 offender has been provided and advised of his or her statutory
 1835 obligations to register under s. 943.0435(2), the service of an
 1836 information or a complaint for a violation of this section, or
 1837 an arraignment on charges for a violation of this section
 1838 constitutes actual notice of the duty to register. A sexual
 1839 offender's failure to immediately register as required by this
 1840 section following such arrest, service, or arraignment
 1841 constitutes grounds for a subsequent charge of failure to
 1842 register. A sexual offender charged with the crime of failure to
 1843 register who asserts, or intends to assert, a lack of notice of
 1844 the duty to register as a defense to a charge of failure to
 1845 register shall immediately register as required by this section.
 1846 A sexual offender who is charged with a subsequent failure to

1847 register may not assert the defense of a lack of notice of the
 1848 duty to register.

1849 (13)(a) A sexual offender must report in person each year
 1850 during the month of the sexual offender's birthday and during
 1851 every third month thereafter to the sheriff's office in the
 1852 county in which he or she resides or is otherwise located to
 1853 reregister.

1854 (b) The sheriff's office may determine the appropriate
 1855 times and days for reporting by the sexual offender, which must
 1856 be consistent with the reporting requirements of this
 1857 subsection. Reregistration must include any changes to the
 1858 following information:

1859 1. Name; social security number; age; race; sex; date of
 1860 birth; height; weight; hair and eye color; tattoos or other
 1861 identifying marks; fingerprints; palm prints; address of any
 1862 permanent residence and address of any current temporary
 1863 residence, within the state or out of state, including a rural
 1864 route address and a post office box; if no permanent or
 1865 temporary address, any transient residence; address, location or
 1866 description, and dates of any current or known future temporary
 1867 residence within the state or out of state; passport
 1868 information, if he or she has a passport, and, if he or she is
 1869 an alien, information about documents establishing his or her
 1870 immigration status; all home telephone numbers and cellular
 1871 telephone numbers required to be provided pursuant to s.
 1872 943.0435(4)(e); all electronic mail addresses and Internet

1873 identifiers required to be provided pursuant to s.
 1874 943.0435(4)(e); name and address of each school attended; ~~date~~
 1875 and ~~place of any~~ employment information required to be provided
 1876 pursuant to s. 943.0435(4)(e); the make, model, color, vehicle
 1877 identification number (VIN), and license tag number of all
 1878 vehicles owned; and photograph. A post office box may not be
 1879 provided in lieu of a physical residential address. The offender
 1880 shall also provide information about any professional licenses
 1881 he or she has.

1882 2. If the sexual offender is enrolled or, employed,
 1883 whether for compensation or as a volunteer ~~volunteering, or~~
 1884 ~~carrying on a vocation~~ at an institution of higher education in
 1885 this state, the sexual offender shall also provide to the
 1886 department the name, address, and county of each institution,
 1887 including each campus attended, and the sexual offender's
 1888 enrollment, volunteer, or employment status.

1889 3. If the sexual offender's place of residence is a motor
 1890 vehicle, trailer, mobile home, or manufactured home, as defined
 1891 in chapter 320, the sexual offender shall also provide the
 1892 vehicle identification number; the license tag number; the
 1893 registration number; and a description, including color scheme,
 1894 of the motor vehicle, trailer, mobile home, or manufactured
 1895 home. If the sexual offender's place of residence is a vessel,
 1896 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1897 sexual offender shall also provide the hull identification
 1898 number; the manufacturer's serial number; the name of the

1899 vessel, live-aboard vessel, or houseboat; the registration
 1900 number; and a description, including color scheme, of the
 1901 vessel, live-aboard vessel, or houseboat.

1902 4. Any sexual offender who fails to report in person as
 1903 required at the sheriff's office, who fails to respond to any
 1904 address verification correspondence from the department within 3
 1905 weeks after the date of the correspondence, or who knowingly
 1906 provides false registration information by act or omission
 1907 commits a felony of the third degree, punishable as provided in
 1908 ss. 775.082, 775.083, and 775.084.

1909 (c) The sheriff's office shall, within 2 working days,
 1910 electronically submit and update all information provided by the
 1911 sexual offender to the Department of Law Enforcement in a manner
 1912 prescribed by that department.

1913 Section 9. Paragraph (b) of subsection (1) of section
 1914 92.55, Florida Statutes, is amended to read:

1915 92.55 Judicial or other proceedings involving victim or
 1916 witness under the age of 16, a person who has an intellectual
 1917 disability, or a sexual offense victim or witness; special
 1918 protections; use of registered service or therapy animals.-

1919 (1) For purposes of this section, the term:

1920 (b) "Sexual offense" means any offense specified in s.
 1921 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I) ~~s.~~
 1922 ~~943.0435(1)(a)1.a.(I)~~.

1923 Section 10. Subsection (2) of section 775.0862, Florida
 1924 Statutes, is amended to read:

1925 775.0862 Sexual offenses against students by authority
 1926 figures; reclassification.-

1927 (2) The felony degree of a violation of an offense listed
 1928 in s. 943.0435(1)(h)1.a. ~~s. 943.0435(1)(a)1.a.~~, unless the
 1929 offense is a violation of s. 794.011(4)(e)7. or s.
 1930 810.145(8)(a)2., shall be reclassified as provided in this
 1931 section if the offense is committed by an authority figure of a
 1932 school against a student of the school.

1933 Section 11. Subsection (3) of section 943.0515, Florida
 1934 Statutes, is amended to read:

1935 943.0515 Retention of criminal history records of minors.-

1936 (3) Notwithstanding any other provision of this section,
 1937 the Criminal Justice Information Program shall retain the
 1938 criminal history record of a minor adjudicated delinquent for a
 1939 violation committed on or after July 1, 2007, as provided in s.
 1940 943.0435(1)(h)1.d. ~~s. 943.0435(1)(a)1.d.~~ Such records may not be
 1941 destroyed and must be merged with the person's adult criminal
 1942 history record and retained as a part of the person's adult
 1943 record.

1944 Section 12. Subsection (12) of section 947.1405, Florida
 1945 Statutes, is amended to read:

1946 947.1405 Conditional release program.-

1947 (12) In addition to all other conditions imposed, for a
 1948 releasee who is subject to conditional release for a crime that
 1949 was committed on or after May 26, 2010, and who has been
 1950 convicted at any time of committing, or attempting, soliciting,

1951 or conspiring to commit, any of the criminal offenses listed in
 1952 s. 943.0435(1)(h)1.a.(I) ~~s. 943.0435(1)(a)1.a.(I)~~, or a similar
 1953 offense in another jurisdiction against a victim who was under
 1954 18 years of age at the time of the offense, if the releasee has
 1955 not received a pardon for any felony or similar law of another
 1956 jurisdiction necessary for the operation of this subsection, if
 1957 a conviction of a felony or similar law of another jurisdiction
 1958 necessary for the operation of this subsection has not been set
 1959 aside in any postconviction proceeding, or if the releasee has
 1960 not been removed from the requirement to register as a sexual
 1961 offender or sexual predator pursuant to s. 943.04354, the
 1962 commission must impose the following conditions:

1963 (a) A prohibition on visiting schools, child care
 1964 facilities, parks, and playgrounds without prior approval from
 1965 the releasee's supervising officer. The commission may also
 1966 designate additional prohibited locations to protect a victim.
 1967 The prohibition ordered under this paragraph does not prohibit
 1968 the releasee from visiting a school, child care facility, park,
 1969 or playground for the sole purpose of attending a religious
 1970 service as defined in s. 775.0861 or picking up or dropping off
 1971 the releasee's child or grandchild at a child care facility or
 1972 school.

1973 (b) A prohibition on distributing candy or other items to
 1974 children on Halloween; wearing a Santa Claus costume, or other
 1975 costume to appeal to children, on or preceding Christmas;
 1976 wearing an Easter Bunny costume, or other costume to appeal to

1977 children, on or preceding Easter; entertaining at children's
 1978 parties; or wearing a clown costume without prior approval from
 1979 the commission.

1980 Section 13. Subsection (4) of section 948.30, Florida
 1981 Statutes, is amended to read:

1982 948.30 Additional terms and conditions of probation or
 1983 community control for certain sex offenses.—Conditions imposed
 1984 pursuant to this section do not require oral pronouncement at
 1985 the time of sentencing and shall be considered standard
 1986 conditions of probation or community control for offenders
 1987 specified in this section.

1988 (4) In addition to all other conditions imposed, for a
 1989 probationer or community controllee who is subject to
 1990 supervision for a crime that was committed on or after May 26,
 1991 2010, and who has been convicted at any time of committing, or
 1992 attempting, soliciting, or conspiring to commit, any of the
 1993 criminal offenses listed in s. 943.0435(1)(h)1.a.(I) ~~s.~~
 1994 ~~943.0435(1)(a)1.a.(I)~~, or a similar offense in another
 1995 jurisdiction, against a victim who was under the age of 18 at
 1996 the time of the offense; if the offender has not received a
 1997 pardon for any felony or similar law of another jurisdiction
 1998 necessary for the operation of this subsection, if a conviction
 1999 of a felony or similar law of another jurisdiction necessary for
 2000 the operation of this subsection has not been set aside in any
 2001 postconviction proceeding, or if the offender has not been
 2002 removed from the requirement to register as a sexual offender or

2003 sexual predator pursuant to s. 943.04354, the court must impose
 2004 the following conditions:

2005 (a) A prohibition on visiting schools, child care
 2006 facilities, parks, and playgrounds, without prior approval from
 2007 the offender's supervising officer. The court may also designate
 2008 additional locations to protect a victim. The prohibition
 2009 ordered under this paragraph does not prohibit the offender from
 2010 visiting a school, child care facility, park, or playground for
 2011 the sole purpose of attending a religious service as defined in
 2012 s. 775.0861 or picking up or dropping off the offender's
 2013 children or grandchildren at a child care facility or school.

2014 (b) A prohibition on distributing candy or other items to
 2015 children on Halloween; wearing a Santa Claus costume, or other
 2016 costume to appeal to children, on or preceding Christmas;
 2017 wearing an Easter Bunny costume, or other costume to appeal to
 2018 children, on or preceding Easter; entertaining at children's
 2019 parties; or wearing a clown costume; without prior approval from
 2020 the court.

2021 Section 14. Section 948.31, Florida Statutes, is amended
 2022 to read:

2023 948.31 Evaluation and treatment of sexual predators and
 2024 offenders on probation or community control.—The court may
 2025 require any probationer or community controllee who is required
 2026 to register as a sexual predator under s. 775.21 or sexual
 2027 offender under s. 943.0435, s. 944.606, or s. 944.607 to undergo
 2028 an evaluation, at the probationer or community controllee's

2029 expense, by a qualified practitioner to determine whether such
 2030 probationer or community controllee needs sexual offender
 2031 treatment. If the qualified practitioner determines that sexual
 2032 offender treatment is needed and recommends treatment, the
 2033 probationer or community controllee must successfully complete
 2034 and pay for the treatment. Such treatment must be obtained from
 2035 a qualified practitioner as defined in s. 948.001. Treatment may
 2036 not be administered by a qualified practitioner who has been
 2037 convicted or adjudicated delinquent of committing, or
 2038 attempting, soliciting, or conspiring to commit, any offense
 2039 that is listed in s. 943.0435(1)(h)1.a.(I) ~~s.~~
 2040 ~~943.0435(1)(a)1.a.(I)~~.

2041 Section 15. Subsection (4) of section 1012.315, Florida
 2042 Statutes, is amended to read:

2043 1012.315 Disqualification from employment.—A person is
 2044 ineligible for educator certification, and instructional
 2045 personnel and school administrators, as defined in s. 1012.01,
 2046 are ineligible for employment in any position that requires
 2047 direct contact with students in a district school system,
 2048 charter school, or private school that accepts scholarship
 2049 students under s. 1002.39 or s. 1002.395, if the person,
 2050 instructional personnel, or school administrator has been
 2051 convicted of:

2052 (4) Any delinquent act committed in this state or any
 2053 delinquent or criminal act committed in another state or under
 2054 federal law which, if committed in this state, qualifies an

2055 individual for inclusion on the Registered Juvenile Sex Offender
 2056 List under s. 943.0435(1)(h)1.d. ~~s. 943.0435(1)(a)1.d.~~

2057 Section 16. Paragraph (g) of subsection (2) of section
 2058 1012.467, Florida Statutes, is amended to read:

2059 1012.467 Noninstructional contractors who are permitted
 2060 access to school grounds when students are present; background
 2061 screening requirements.—

2062 (2)

2063 (g) A noninstructional contractor for whom a criminal
 2064 history check is required under this section may not have been
 2065 convicted of any of the following offenses designated in the
 2066 Florida Statutes, any similar offense in another jurisdiction,
 2067 or any similar offense committed in this state which has been
 2068 redesignated from a former provision of the Florida Statutes to
 2069 one of the following offenses:

2070 1. Any offense listed in s. 943.0435(1)(h)1. ~~s.~~
 2071 ~~943.0435(1)(a)1.~~, relating to the registration of an individual
 2072 as a sexual offender.

2073 2. Section 393.135, relating to sexual misconduct with
 2074 certain developmentally disabled clients and the reporting of
 2075 such sexual misconduct.

2076 3. Section 394.4593, relating to sexual misconduct with
 2077 certain mental health patients and the reporting of such sexual
 2078 misconduct.

2079 4. Section 775.30, relating to terrorism.

2080 5. Section 782.04, relating to murder.

2081 6. Section 787.01, relating to kidnapping.
 2082 7. Any offense under chapter 800, relating to lewdness and
 2083 indecent exposure.
 2084 8. Section 826.04, relating to incest.
 2085 9. Section 827.03, relating to child abuse, aggravated
 2086 child abuse, or neglect of a child.
 2087 Section 17. For the purpose of incorporating the amendment
 2088 made by this act to section 775.21, Florida Statutes, in a
 2089 reference thereto, section 938.085, Florida Statutes, is
 2090 reenacted to read:
 2091 938.085 Additional cost to fund rape crisis centers.—In
 2092 addition to any sanction imposed when a person pleads guilty or
 2093 nolo contendere to, or is found guilty of, regardless of
 2094 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
 2095 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
 2096 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 2097 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 2098 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
 2099 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
 2100 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
 2101 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
 2102 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
 2103 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
 2104 (14)(c); or s. 985.701(1), the court shall impose a surcharge of
 2105 \$151. Payment of the surcharge shall be a condition of
 2106 probation, community control, or any other court-ordered

2107 supervision. The sum of \$150 of the surcharge shall be deposited
 2108 into the Rape Crisis Program Trust Fund established within the
 2109 Department of Health by chapter 2003-140, Laws of Florida. The
 2110 clerk of the court shall retain \$1 of each surcharge that the
 2111 clerk of the court collects as a service charge of the clerk's
 2112 office.

2113 Section 18. For the purpose of incorporating the
 2114 amendments made by this act to sections 775.21 and 943.0435,
 2115 Florida Statutes, in references thereto, subsection (1) of
 2116 section 794.056, Florida Statutes, is reenacted to read:

2117 794.056 Rape Crisis Program Trust Fund.—

2118 (1) The Rape Crisis Program Trust Fund is created within
 2119 the Department of Health for the purpose of providing funds for
 2120 rape crisis centers in this state. Trust fund moneys shall be
 2121 used exclusively for the purpose of providing services for
 2122 victims of sexual assault. Funds credited to the trust fund
 2123 consist of those funds collected as an additional court
 2124 assessment in each case in which a defendant pleads guilty or
 2125 nolo contendere to, or is found guilty of, regardless of
 2126 adjudication, an offense provided in s. 775.21(6) and (10)(a),
 2127 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 2128 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 2129 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 2130 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 2131 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
 2132 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.

2133 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 2134 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
 2135 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
 2136 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
 2137 fund also shall include revenues provided by law, moneys
 2138 appropriated by the Legislature, and grants from public or
 2139 private entities.

2140 Section 19. For the purpose of incorporating the
 2141 amendments made by this act to sections 775.21, 943.0435,
 2142 944.607, and 985.4815, Florida Statutes, in references thereto,
 2143 paragraph (g) of subsection (3) of section 921.0022, Florida
 2144 Statutes, is reenacted to read:

2145 921.0022 Criminal Punishment Code; offense severity
 2146 ranking chart.—

2147 (3) OFFENSE SEVERITY RANKING CHART

2148 (g) LEVEL 7

2149

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

2151

2152	316.1935(3)(b)	1st	<p style="text-align: center;">injury.</p> <p>Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.</p>
2153	327.35(3)(c)2.	3rd	<p>Vessel BUI resulting in serious bodily injury.</p>
2154	402.319(2)	2nd	<p>Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.</p>
2155	409.920 (2)(b)1.a.	3rd	<p>Medicaid provider fraud; \$10,000 or less.</p>

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2156	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
2157	456.065 (2)	3rd	Practicing a health care profession without a license.
2158	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
2159	458.327 (1)	3rd	Practicing medicine without a license.
2160	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
2161	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
2162	461.012 (1)	3rd	Practicing podiatric medicine without a

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without a license.

2171

483.901(9)

3rd

Practicing medical physics
without a license.

2172

484.013(1)(c)

3rd

Preparing or dispensing
optical devices without a
prescription.

2173

484.053

3rd

Dispensing hearing aids
without a license.

2174

494.0018(2)

1st

Conviction of any
violation of chapter 494
in which the total money
and property unlawfully
obtained exceeded \$50,000
and there were five or
more victims.

2175

560.123(8)(b)1.

3rd

Failure to report
currency or payment
instruments exceeding
\$300 but less than
\$20,000 by a money
services business.

2176	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
2177	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
2178	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
2179	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
2180	775.21(10)(g)	3rd	Failure to report or providing false information about a

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sexual predator; harbor
or conceal a sexual
predator.

2181

782.051(3)

2nd

Attempted felony murder of
a person by a person other
than the perpetrator or the
perpetrator of an attempted
felony.

2182

782.07(1)

2nd

Killing of a human being by the
act, procurement, or culpable
negligence of another
(manslaughter).

2183

782.071

2nd

Killing of a human being or
unborn child by the operation
of a motor vehicle in a
reckless manner (vehicular
homicide).

2184

782.072

2nd

Killing of a human being by
the operation of a vessel in
a reckless manner (vessel
homicide).

2185

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2186	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
2187	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
2188	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
2189	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
2190	784.048(7)	3rd	Aggravated stalking; violation of court order.
2191	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.

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2192	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
2193	784.081 (1)	1st	Aggravated battery on specified official or employee.
2194	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
2195	784.083 (1)	1st	Aggravated battery on code inspector.
2196	787.06 (3) (a) 2.	1st	Human trafficking using coercion for labor and services of an adult.
2197	787.06 (3) (e) 2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.

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2198	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
2199	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
2200	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
2201	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
2202	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
2203	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or

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2204	790.23	1st, PBL	attempting to commit a felony.
2205	794.08(4)	3rd	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
2206	796.05(1)	1st	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
2207	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
2208	800.04(5)(c)1.	2nd	Live on earnings of a prostitute; 3rd and subsequent offense. Lewd or lascivious molestation; victim younger than 12 years of age; offender younger

2209	800.04 (5) (c) 2.	2nd	than 18 years of age. Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
2210	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
2211	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
2212	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
2213	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no

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2214	810.02 (3) (d)	2nd	assault or battery. Burglary of occupied conveyance; unarmed; no assault or battery.
2215	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
2216	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
2217	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
2218	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical

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2219	812.014(2)(b)4.	2nd	equipment; 2nd degree grand theft. Property stolen, law enforcement equipment from authorized emergency vehicle.
2220	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
2221	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
2222	812.131(2)(a)	2nd	Robbery by sudden snatching.
2223	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
2224			

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2225	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
2226	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
2227	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
2228	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
2229	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.

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2230	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
2231	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
2232	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
2233	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
2234	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
	837.05 (2)	3rd	Giving false information about alleged capital felony

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2244	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
2245	872.06	2nd	Abuse of a dead human body.
2246	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
2247	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
2247	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care

facility, school, or
state, county, or
municipal park or publicly
owned recreational
facility or community
center.

2248

893.13(1)(e)1.

1st

Sell, manufacture, or
deliver cocaine or other
drug prohibited under s.
893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)4., within 1,000
feet of property used for
religious services or a
specified business site.

2249

893.13(4)(a)

1st

Deliver to minor cocaine (or
other s. 893.03(1)(a),
(1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4. drugs).

2250

893.135(1)(a)1.

1st

Trafficking in
cannabis, more than 25
lbs., less than 2,000
lbs.

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2251	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
2252	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
2253	893.135 (1) (c) 2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
2254	893.135 (1) (c) 2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
2255	893.135 (1) (c) 3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
2256	893.135 (1) (c) 3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
2257	893.135 (1) (d) 1.	1st	Trafficking in

2258	893.135(1)(e)1.	1st	phencyclidine, more than 28 grams, less than 200 grams.
2259	893.135(1)(f)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
2260	893.135 (1)(g)1.a.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
2261	893.135 (1)(h)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
2262	893.135 (1)(j)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
			Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

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2263	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
2264	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
2265	896.101(5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
2266	896.104(4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
2267	943.0435(4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with

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reporting requirements.

2268

943.0435(8)

2nd

Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

2269

943.0435(9) (a)

3rd

Sexual offender; failure to comply with reporting requirements.

2270

943.0435(13)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

2271

943.0435(14)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

2272

944.607(9)

3rd

Sexual offender; failure to

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comply with reporting requirements.

2273

944.607(10)(a)

3rd Sexual offender; failure to submit to the taking of a digitized photograph.

2274

944.607(12)

3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

2275

944.607(13)

3rd Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

2276

985.4815(10)

3rd Sexual offender; failure to submit to the taking of a digitized photograph.

2277

985.4815(12)

3rd Failure to report or

providing false information about a sexual offender; harbor or conceal a sexual offender.

2278

985.4815(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

2279

2280

Section 20. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815, Florida Statutes, in references thereto, paragraph (b) of subsection (6) of section 985.04, Florida Statutes, is reenacted to read:

2285

985.04 Oaths; records; confidential information.—

2286

(6)

2287

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

2291

Section 21. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and

2292

2293 944.607, Florida Statutes, in references thereto, subsections
 2294 (3) and (4) of section 322.141, Florida Statutes, are reenacted
 2295 to read:

2296 322.141 Color or markings of certain licenses or
 2297 identification cards.—

2298 (3) All licenses for the operation of motor vehicles or
 2299 identification cards originally issued or reissued by the
 2300 department to persons who are designated as sexual predators
 2301 under s. 775.21 or subject to registration as sexual offenders
 2302 under s. 943.0435 or s. 944.607, or who have a similar
 2303 designation or are subject to a similar registration under the
 2304 laws of another jurisdiction, shall have on the front of the
 2305 license or identification card the following:

2306 (a) For a person designated as a sexual predator under s.
 2307 775.21 or who has a similar designation under the laws of
 2308 another jurisdiction, the marking "SEXUAL PREDATOR."

2309 (b) For a person subject to registration as a sexual
 2310 offender under s. 943.0435 or s. 944.607, or subject to a
 2311 similar registration under the laws of another jurisdiction, the
 2312 marking "943.0435, F.S."

2313 (4) Unless previously secured or updated, each sexual
 2314 offender and sexual predator shall report to the department
 2315 during the month of his or her reregistration as required under
 2316 s. 775.21(8), s. 943.0435(14), or s. 944.607(13) in order to
 2317 obtain an updated or renewed driver license or identification
 2318 card as required by subsection (3).

2319 Section 22. For the purpose of incorporating the
 2320 amendments made by this act to sections 775.21, 943.0435, and
 2321 944.607, Florida Statutes, in references thereto, subsection (4)
 2322 of section 948.06, Florida Statutes, is reenacted to read:

2323 948.06 Violation of probation or community control;
 2324 revocation; modification; continuance; failure to pay
 2325 restitution or cost of supervision.—

2326 (4) Notwithstanding any other provision of this section, a
 2327 felony probationer or an offender in community control who is
 2328 arrested for violating his or her probation or community control
 2329 in a material respect may be taken before the court in the
 2330 county or circuit in which the probationer or offender was
 2331 arrested. That court shall advise him or her of the charge of a
 2332 violation and, if such charge is admitted, shall cause him or
 2333 her to be brought before the court that granted the probation or
 2334 community control. If the violation is not admitted by the
 2335 probationer or offender, the court may commit him or her or
 2336 release him or her with or without bail to await further
 2337 hearing. However, if the probationer or offender is under
 2338 supervision for any criminal offense proscribed in chapter 794,
 2339 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a
 2340 registered sexual predator or a registered sexual offender, or
 2341 is under supervision for a criminal offense for which he or she
 2342 would meet the registration criteria in s. 775.21, s. 943.0435,
 2343 or s. 944.607 but for the effective date of those sections, the
 2344 court must make a finding that the probationer or offender is

2345 | not a danger to the public prior to release with or without
 2346 | bail. In determining the danger posed by the offender's or
 2347 | probationer's release, the court may consider the nature and
 2348 | circumstances of the violation and any new offenses charged; the
 2349 | offender's or probationer's past and present conduct, including
 2350 | convictions of crimes; any record of arrests without conviction
 2351 | for crimes involving violence or sexual crimes; any other
 2352 | evidence of allegations of unlawful sexual conduct or the use of
 2353 | violence by the offender or probationer; the offender's or
 2354 | probationer's family ties, length of residence in the community,
 2355 | employment history, and mental condition; his or her history and
 2356 | conduct during the probation or community control supervision
 2357 | from which the violation arises and any other previous
 2358 | supervisions, including disciplinary records of previous
 2359 | incarcerations; the likelihood that the offender or probationer
 2360 | will engage again in a criminal course of conduct; the weight of
 2361 | the evidence against the offender or probationer; and any other
 2362 | facts the court considers relevant. The court, as soon as is
 2363 | practicable, shall give the probationer or offender an
 2364 | opportunity to be fully heard on his or her behalf in person or
 2365 | by counsel. After the hearing, the court shall make findings of
 2366 | fact and forward the findings to the court that granted the
 2367 | probation or community control and to the probationer or
 2368 | offender or his or her attorney. The findings of fact by the
 2369 | hearing court are binding on the court that granted the
 2370 | probation or community control. Upon the probationer or offender

2371 being brought before it, the court that granted the probation or
 2372 community control may revoke, modify, or continue the probation
 2373 or community control or may place the probationer into community
 2374 control as provided in this section. However, the probationer or
 2375 offender shall not be released and shall not be admitted to
 2376 bail, but shall be brought before the court that granted the
 2377 probation or community control if any violation of felony
 2378 probation or community control other than a failure to pay costs
 2379 or fines or make restitution payments is alleged to have been
 2380 committed by:

2381 (a) A violent felony offender of special concern, as
 2382 defined in this section;

2383 (b) A person who is on felony probation or community
 2384 control for any offense committed on or after the effective date
 2385 of this act and who is arrested for a qualifying offense as
 2386 defined in this section; or

2387 (c) A person who is on felony probation or community
 2388 control and has previously been found by a court to be a
 2389 habitual violent felony offender as defined in s. 775.084(1)(b),
 2390 a three-time violent felony offender as defined in s.
 2391 775.084(1)(c), or a sexual predator under s. 775.21, and who is
 2392 arrested for committing a qualifying offense as defined in this
 2393 section on or after the effective date of this act.

2394 Section 23. For the purpose of incorporating the
 2395 amendments made by this act to sections 775.21, 943.0435, and
 2396 944.607, Florida Statutes, in references thereto, section

2397 948.063, Florida Statutes, is reenacted to read:

2398 948.063 Violations of probation or community control by
 2399 designated sexual offenders and sexual predators.—

2400 (1) If probation or community control for any felony
 2401 offense is revoked by the court pursuant to s. 948.06(2)(e) and
 2402 the offender is designated as a sexual offender pursuant to s.
 2403 943.0435 or s. 944.607 or as a sexual predator pursuant to s.
 2404 775.21 for unlawful sexual activity involving a victim 15 years
 2405 of age or younger and the offender is 18 years of age or older,
 2406 and if the court imposes a subsequent term of supervision
 2407 following the revocation of probation or community control, the
 2408 court must order electronic monitoring as a condition of the
 2409 subsequent term of probation or community control.

2410 (2) If the probationer or offender is required to register
 2411 as a sexual predator under s. 775.21 or as a sexual offender
 2412 under s. 943.0435 or s. 944.607 for unlawful sexual activity
 2413 involving a victim 15 years of age or younger and the
 2414 probationer or offender is 18 years of age or older and has
 2415 violated the conditions of his or her probation or community
 2416 control, but the court does not revoke the probation or
 2417 community control, the court shall nevertheless modify the
 2418 probation or community control to include electronic monitoring
 2419 for any probationer or offender not then subject to electronic
 2420 monitoring.

2421 Section 24. For the purpose of incorporating the amendment
 2422 made by this act to section 943.0435, Florida Statutes, in a

2423 reference thereto, paragraph (c) of subsection (10) of section
 2424 944.607, Florida Statutes, is reenacted to read:

2425 944.607 Notification to Department of Law Enforcement of
 2426 information on sexual offenders.—

2427 (10)

2428 (c) An arrest on charges of failure to register when the
 2429 offender has been provided and advised of his or her statutory
 2430 obligations to register under s. 943.0435(2), the service of an
 2431 information or a complaint for a violation of this section, or
 2432 an arraignment on charges for a violation of this section
 2433 constitutes actual notice of the duty to register. A sexual
 2434 offender's failure to immediately register as required by this
 2435 section following such arrest, service, or arraignment
 2436 constitutes grounds for a subsequent charge of failure to
 2437 register. A sexual offender charged with the crime of failure to
 2438 register who asserts, or intends to assert, a lack of notice of
 2439 the duty to register as a defense to a charge of failure to
 2440 register shall immediately register as required by this section.
 2441 A sexual offender who is charged with a subsequent failure to
 2442 register may not assert the defense of a lack of notice of the
 2443 duty to register.

2444 Section 25. For the purpose of incorporating the amendment
 2445 made by this act to section 943.04354, Florida Statutes, in a
 2446 reference thereto, subsection (2) of section 397.4872, Florida
 2447 Statutes, is reenacted to read:

2448 397.4872 Exemption from disqualification; publication.—

2449 (2) The department may exempt a person from ss. 397.487(6)
 2450 and 397.4871(5) if it has been at least 3 years since the person
 2451 has completed or been lawfully released from confinement,
 2452 supervision, or sanction for the disqualifying offense. An
 2453 exemption from the disqualifying offenses may not be given under
 2454 any circumstances for any person who is a:

- 2455 (a) Sexual predator pursuant to s. 775.21;
- 2456 (b) Career offender pursuant to s. 775.261; or
- 2457 (c) Sexual offender pursuant to s. 943.0435, unless the
 2458 requirement to register as a sexual offender has been removed
 2459 pursuant to s. 943.04354.

2460 Section 26. For the purpose of incorporating the amendment
 2461 made by this act to section 943.04354, Florida Statutes, in a
 2462 reference thereto, paragraph (b) of subsection (4) of section
 2463 435.07, Florida Statutes, is reenacted to read:

2464 435.07 Exemptions from disqualification.—Unless otherwise
 2465 provided by law, the provisions of this section apply to
 2466 exemptions from disqualification for disqualifying offenses
 2467 revealed pursuant to background screenings required under this
 2468 chapter, regardless of whether those disqualifying offenses are
 2469 listed in this chapter or other laws.

- 2470 (4)
- 2471 (b) Disqualification from employment under this chapter
 2472 may not be removed from, nor may an exemption be granted to, any
 2473 person who is a:
 - 2474 1. Sexual predator as designated pursuant to s. 775.21;

- 2475 2. Career offender pursuant to s. 775.261; or
 2476 3. Sexual offender pursuant to s. 943.0435, unless the
 2477 requirement to register as a sexual offender has been removed
 2478 pursuant to s. 943.04354.

2479 Section 27. For the purpose of incorporating the
 2480 amendments made by this act to sections 944.606 and 944.607,
 2481 Florida Statutes, in references thereto, section 775.25, Florida
 2482 Statutes, is reenacted to read:

2483 775.25 Prosecutions for acts or omissions.—A sexual
 2484 predator or sexual offender who commits any act or omission in
 2485 violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.
 2486 944.607, or former s. 947.177 may be prosecuted for the act or
 2487 omission in the county in which the act or omission was
 2488 committed, in the county of the last registered address of the
 2489 sexual predator or sexual offender, in the county in which the
 2490 conviction occurred for the offense or offenses that meet the
 2491 criteria for designating a person as a sexual predator or sexual
 2492 offender, in the county where the sexual predator or sexual
 2493 offender was released from incarceration, or in the county of
 2494 the intended address of the sexual predator or sexual offender
 2495 as reported by the predator or offender prior to his or her
 2496 release from incarceration. In addition, a sexual predator may
 2497 be prosecuted for any such act or omission in the county in
 2498 which he or she was designated a sexual predator.

2499 Section 28. For the purpose of incorporating the amendment
 2500 made by this act to section 944.607, Florida Statutes, in a

2501 reference thereto, subsection (2) of section 775.24, Florida
 2502 Statutes, is reenacted to read:

2503 775.24 Duty of the court to uphold laws governing sexual
 2504 predators and sexual offenders.—

2505 (2) If a person meets the criteria in this chapter for
 2506 designation as a sexual predator or meets the criteria in s.
 2507 943.0435, s. 944.606, s. 944.607, or any other law for
 2508 classification as a sexual offender, the court may not enter an
 2509 order, for the purpose of approving a plea agreement or for any
 2510 other reason, which:

2511 (a) Exempts a person who meets the criteria for
 2512 designation as a sexual predator or classification as a sexual
 2513 offender from such designation or classification, or exempts
 2514 such person from the requirements for registration or community
 2515 and public notification imposed upon sexual predators and sexual
 2516 offenders;

2517 (b) Restricts the compiling, reporting, or release of
 2518 public records information that relates to sexual predators or
 2519 sexual offenders; or

2520 (c) Prevents any person or entity from performing its
 2521 duties or operating within its statutorily conferred authority
 2522 as such duty or authority relates to sexual predators or sexual
 2523 offenders.

2524 Section 29. For the purpose of incorporating the amendment
 2525 made by this act to section 944.607, Florida Statutes, in a
 2526 reference thereto, subsection (7) of section 944.608, Florida

2527 Statutes, is reenacted to read:

2528 944.608 Notification to Department of Law Enforcement of
 2529 information on career offenders.—

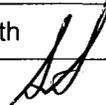
2530 (7) A career offender who is under the supervision of the
 2531 department but who is not incarcerated shall, in addition to the
 2532 registration requirements provided in subsection (3), register
 2533 in the manner provided in s. 775.261(4)(c), unless the career
 2534 offender is a sexual predator, in which case he or she shall
 2535 register as required under s. 775.21, or is a sexual offender,
 2536 in which case he or she shall register as required in s.

2537 944.607. A career offender who fails to comply with the
 2538 requirements of s. 775.261(4) is subject to the penalties
 2539 provided in s. 775.261(8).

2540 Section 30. This act shall take effect October 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7075 PCB CRJS 16-05 Victim and Witness Protection
SPONSOR(S): Criminal Justice Subcommittee, Trujillo
TIED BILLS: **IDEN./SIM. BILLS:** SB 1382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee	11 Y, 0 N	Keegan	White
1) Justice Appropriations Subcommittee		Smith 	Lloyd 
2) Judiciary Committee			

SUMMARY ANALYSIS

Florida law currently has a number of statutes providing for the fair treatment of victims and witnesses. Sections 92.53, 92.54, and 92.55, F.S., authorize the court to provide special protections to a victim or witness who is under 16 years of age or who has an intellectual disability or to a victim or witness of a sexual offense who is under 16 years of age. For example, protective orders may be entered by the court to allow protected persons to testify via closed circuit television or to limit the frequency or nature of depositions to which the protected person has to attend. Additionally, s. 794.022, F.S., Florida's Rape Shield law, prevents most evidence regarding a victim's prior sexual conduct from being admitted at trial in a prosecution for sexual battery under s. 794.011, F.S. Currently, the Rape Shield law does not apply in other sexual misconduct prosecutions.

The bill broadens the application of ss. 92.53, 92.54, and 92.55, F.S., by increasing the age range for protected persons from victims or witnesses under 16 years of age to victims or witnesses under 18 years of age. Additionally, the bill adds advocates appointed by the court under s. 914.17, F.S., to the list of persons authorized to make a motion for protection under s. 92.55, F.S.

The bill expands the application of the Florida's Rape Shield law to prosecutions under s. 787.06, F.S., relating to human trafficking, and s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of children under 16 years of age.

The bill has no fiscal impact on state or local government revenues or expenditures.

The bill is effective October 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Testimony by Victims and Witnesses

Florida law currently has several statutes providing for the fair treatment of victims and witnesses.¹ A number of these statutes authorize the court to provide special protections to a victim or witness who is under 16 years of age or who has an intellectual disability or to a victim or witness of a sexual offense who is under 16 years of age.

Sections 92.53 and 92.54, F.S., authorize a court to enter a protective order after a motion and hearing in camera² if the court finds that the protected individual is a victim or witness who is under the age of 16 or has an intellectual disability,³ and that:

- It is substantially likely the protected individual would suffer at least moderate emotional or mental harm due to the presence of the defendant if the protected individual were required to testify in open court; or
- The court determines that the protected individual is unavailable⁴ to testify.

When the above circumstances are met, the court has several options. The court may order the protected individual's testimony be videotaped and used in lieu of testimony in open court.⁵ In the event of such an order, the defendant and the defendant's counsel must be permitted to be present at any videotaping, but the court may order the defendant to view the testimony from outside the presence of the protected individual.⁶ Alternatively, the court may require that the protected individual's testimony be taken outside the courtroom and shown in the courtroom by means of closed circuit television.⁷ Only the specified parties⁸ may be permitted in the room when the testimony is recorded.⁹ The judge may require the defendant to view the testimony from the courtroom, but must permit the defendant to observe and hear the person's testimony.¹⁰

Section 92.55, F.S., authorizes the court to enter a wide variety of protective orders to protect victims and witnesses under 16 years of age, sexual offense¹¹ victims or witnesses under 16 years of age,¹²

¹ See, e.g., FLA. CONST. art. I, s. 16; ss. 92.53-55, F.S.; s. 914.25, F.S.; s. 914.27.

² A hearing "in camera" means the hearing is held in the judge's chambers or held in a courtroom where all spectators are excluded from being present. DUHAIME'S LAW DICTIONARY, *In Camera Definition*, <http://www.duhaime.org/LegalDictionary/I/InCamera.aspx> (last visited Jan. 14, 2016).

³ Under the procedure provided in s. 92.53, F.S., "intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. s. 393.063, F.S.

⁴ A witness or potential witness is considered unavailable to testify when he or she: 1) Is exempted from testifying by a ruling of a court due to a legal privilege; 2) Refuses to testify concerning the subject matter of his or her statement despite a court order to testify; 3) Has suffered a lack of memory of the subject matter of his or her statement; 4) Is unable to be present or to testify at the hearing because of death, illness or infirmity; or 5) Is absent from the hearing, and the proponent of a statement has been unable to procure the declarant's attendance by reasonable means. s. 90.804(1), F.S.

⁵ s. 92.53(1), F.S.

⁶ s. 92.53(4), F.S.

⁷ s. 92.54(1), F.S.

⁸ Only the judge, prosecutor, the defendant and his or her attorney, any video equipment operators, and interpreter, or any other person who is not going to be a witness in the case and, in the opinion of the court, benefits the well-being of the protected individual. s. 92.54(3), F.S.

⁹ s. 92.54(3), F.S.

¹⁰ s. 92.54(4), F.S.

¹¹ "Sexual offense" means any offense specified in s. 775.21(4)(a)1., or s. 943.0435(1)(a)1.a.(I).

¹² A "sexual offense victim or witness" means a person who was under 16 years old when he or she was the victim of or a witness to a sexual offense. s. 92.55(1)(a), F.S.

and persons with an intellectual disability.¹³ A motion for protection can be raised by any party to the case, a parent, a guardian, an attorney, a guardian ad litem, or the court.¹⁴ The court must find that such order is necessary to protect the person from severe emotional or mental harm due to the defendant's presence if the person is required to testify in open court.¹⁵ The court is required to consider a lengthy list of factors, including, but not limited to the age of the person, the nature of the offense, and the functional capacity of the person if he or she has an intellectual disability.¹⁶ The court may enter orders taking the following actions, in addition to any other relief available under the law:

- Limit the number of times that the person may be interviewed;
- Prohibit depositions of the person;
- Require the submission of questions prior to examination of the person;
- Set the place and conditions for interviewing the person or for other proceedings;
- Permit or prohibit the attendance of any person at a proceeding; and
- Permit the use of a service animal during the person's testimony in any sexual offense proceeding.¹⁷

Rape Shield

In many U.S. jurisdictions, laws exist to prevent specific instances of the victim's prior sexual conduct from being admitted at trial in a prosecution for sexual battery or other sexual misconduct charges.¹⁸ These laws are commonly referred to as "Rape Shield" laws.¹⁹ Section 794.022, F.S., is Florida's Rape Shield law, and it has long been considered a codification of the rule of relevancy that a victim's prior sexual conduct is generally irrelevant in determining the defendant's guilt.²⁰ It applies only to criminal prosecutions for sexual battery under s. 794.011, F.S.,²¹ and provides that:

- The victim's testimony doesn't have to be corroborated by other evidence;
- Specific instances of the victim's sexual history with people other than the offender are inadmissible unless:
 - The evidence is introduced to prove that the defendant wasn't the source of physical evidence, such as semen; or
 - When consent is at issue, the evidence proves a pattern of the victim's conduct or behavior that is so similar to the conduct or behavior in the case that it is relevant to the issue of consent.
- The victim's reputation for sexual behavior is inadmissible;
- Evidence presented to prove the victim's appearance prompted the sexual battery is inadmissible;
- When consent is a defense, evidence of the victim's mental incapacity or defect can be admitted to prove that consent was not given;
- An offender's use of a prophylactic device, or a victim's request that an offender use a prophylactic device, is not independently relevant.²²

The United States Code also has a Rape Shield statute. In contrast to Florida's Rape Shield law, the federal statute is not limited to sexual battery offenses; rather, the federal statute applies to *any* criminal

¹³ s. 92.55(1)(b), F.S.

¹⁴ s. 92.55(2), F.S.

¹⁵ *Id.*

¹⁶ s. 92.55(3), F.S.

¹⁷ s. 92.55(4) and (5), F.S.

¹⁸ Nat'l Dist. Attorney's Ass'n, *Rape Shield Statutes*, NAT'L DIST. ATTORNEY'S ASS'N (March 2011) (*available at* http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKewiMI-Xc06XKAhWFHD4KHVs-ByAQFggcMAA&url=http%3A%2F%2Fwww.ndaa.org%2Fpdf%2FNCPCA%2520Rape%2520Shield%25202011.pdf&usg=AFQjCNGB9ME_OADBm-qIDOCmtYCs3dYB7g) (last visited Jan. 12, 2016).

¹⁹ See *Lewis v. State*, 591 So. 2d 922, 924 (Fla. 1991); see also ENCYCLOPEDIA BRITANNICA, *Rape Shield Law*, <http://www.britannica.com/topic/rape-shield-law> (last visited Jan. 12, 2016).

²⁰ *Marr v. Florida*, 494 So. 2d 1139, 1142-43 (Fla. 1986).

²¹ Section 794.011, F.S., prohibits various forms of sexual battery.

²² s. 794.022, F.S.

or civil proceeding involving alleged sexual misconduct.²³ As such, federal courts have repeatedly held that a victim's prior history of sexual behavior, such as exotic dancing or prostitution, is irrelevant and inadmissible in prosecutions for crimes such as sex trafficking, forced labor, sex trafficking by force, fraud, or coercion, and sex trafficking of a child.²⁴ The Fourth Circuit illustrated this concept in *United States v. Saunders*, by holding that 28 U.S.C. 412(b)(1)(B) "manifests the policy that it is unreasonable for a defendant to base his belief of consent on the victim's past sexual experiences with third persons, since it is intolerable to suggest that because the victim is a prostitute, she automatically is assumed to have consented with anyone at any time."²⁵

Effect of the Bill

The bill broadens the application of ss. 92.53, 92.54, and 92.55, F.S., by increasing the age range for protected persons from victims or witnesses under 16 years of age to victims or witnesses under 18 years of age. Additionally, the bill adds advocates appointed by the court under s. 914.17, F.S.,²⁶ to the list of persons authorized to make a motion for protection under s. 92.55, F.S.

The bill expands the application of s. 794.022, F.S., Florida's Rape Shield law, to prosecutions under s. 787.06, F.S., relating to human trafficking, and s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of children under 16 years of age.

Finally, the bill reenacts s. 90.404, F.S., to incorporate amendments made by the bill to s. 794.022, F.S., that are cross-referenced in the reenacted section.

B. SECTION DIRECTORY:

Section 1. Amending s. 92.53, F.S., relating to videotaping the testimony of a victim or witness under age 16 or who has an intellectual disability.

Section 2. Amending s. 92.54, F.S., relating to use of closed circuit television in proceedings involving a victim or witness under the age 16 or who has an intellectual disability.

Section 3. Amending s. 92.55, F.S., relating to judicial and other proceedings involving victim or witness under the age of 16, a person who has an intellectual disability, or a sexual offense victim or witness; special protections; use of registered service or therapy animals.

Section 4. Amending s. 794.022, F.S., relating to rules of evidence.

Section 5. Reenacting s. 90.404, F.S., relating to character evidence; when admissible.

Section 6. Provides an effective date of October 1, 2016.

²³ 28 U.S.C. § 412.

²⁴ See *United States v. Rivera*, 799 F.3d 180, 185 (2d Cir. 2015) (holding that "[e]vidence of victims' prior acts of commercial sex is irrelevant to whether those victims were coerced into working as prostitutes."); *United States v. Roy*, 781 F.3d 416, 420 (8th Cir. 2015) (holding that the victim's participation in prostitution before or after the alleged incident is irrelevant to whether the defendant threatened her, beat her, or took her money); *United States v. Cephus*, 684 F.3d 703, 708 (7th Cir. 2012) (holding that the victim's prior history of prostitution was irrelevant to proving that she consented to having her wages withheld and be beaten).

²⁵ *United States v. Saunders*, 943 F.2d 388, 392 (4th Cir. 1991).

²⁶ Section 914.17, F.S., provides for a guardian ad litem or other advocate to be appointed by the court to represent the interests of a minor in a criminal proceeding where the minor is a victim of or a witness to child abuse or neglect, a victim of a sexual offense, or a witness to a sexual offense committed against another minor. "Advocate" is not defined in Chapter 914, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has no impact on state revenues.

2. Expenditures:

The bill has no impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill has no impact on local government revenues.

2. Expenditures:

The bill has no impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to victim and witness protection;
 3 amending ss. 92.53 and 92.54, F.S.; increasing the age
 4 limit for the use of videotaped testimony and closed
 5 circuit television in court proceedings by victims or
 6 witnesses; amending s. 92.55, F.S.; revising the
 7 definition of the term "sexual offense victim or
 8 witness"; increasing the age limit for victims and
 9 witnesses for whom the court may enter protective
 10 orders; authorizing certain advocates to file motions
 11 for such orders; amending s. 794.022, F.S.; revising
 12 the corroboration requirements for certain victim
 13 testimony and the admissibility of certain evidence in
 14 prosecutions for specified human trafficking and lewd
 15 or lascivious offenses; reenacting s. 90.404(1)(b),
 16 F.S., relating to character evidence, to incorporate
 17 the amendment made by the act to s. 794.022, F.S., in
 18 a reference thereto; providing an effective date.

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

21
 22 Section 1. Subsection (1) of section 92.53, Florida
 23 Statutes, is amended to read:

24 92.53 Videotaping the testimony of a victim or witness
 25 under age 18 ~~16~~ or who has an intellectual disability.—

26 (1) On motion and hearing in camera and a finding that

27 | there is a substantial likelihood that a victim or witness who
 28 | is under the age of 18 ~~16~~ or who has an intellectual disability
 29 | as defined in s. 393.063 would suffer at least moderate
 30 | emotional or mental harm due to the presence of the defendant if
 31 | such victim or witness is required to testify in open court, or
 32 | is unavailable as defined in s. 90.804(1), the trial court may
 33 | order the videotaping of the testimony of the victim or witness
 34 | in a case, whether civil or criminal in nature, in which
 35 | videotaped testimony is to be used at trial in lieu of trial
 36 | testimony in open court.

37 | Section 2. Subsection (1) of section 92.54, Florida
 38 | Statutes, is amended to read:

39 | 92.54 Use of closed circuit television in proceedings
 40 | involving a victim or witness under the age of 18 ~~16~~ or who has
 41 | an intellectual disability.-

42 | (1) Upon motion and hearing in camera and upon a finding
 43 | that there is a substantial likelihood that a victim or witness
 44 | under the age of 18 ~~16~~ or who has an intellectual disability
 45 | will suffer at least moderate emotional or mental harm due to
 46 | the presence of the defendant if such victim or witness is
 47 | required to testify in open court, or is unavailable as defined
 48 | in s. 90.804(1), the trial court may order that the testimony of
 49 | the victim or witness be taken outside of the courtroom and
 50 | shown by means of closed circuit television.

51 | Section 3. Paragraph (a) of subsection (1) and subsection
 52 | (2) of section 92.55, Florida Statutes, are amended to read:

53 92.55 Judicial or other proceedings involving victim or
 54 witness under the age of 18 ~~16~~, a person who has an intellectual
 55 disability, or a sexual offense victim or witness; special
 56 protections; use of registered service or therapy animals.—

57 (1) For purposes of this section, the term:

58 (a) "Sexual offense victim or witness" means a person who
 59 was under the age of 18 ~~16~~ when he or she was the victim of or a
 60 witness to a sexual offense.

61 (2) Upon motion of any party, upon motion of a parent,
 62 guardian, attorney, or guardian ad litem or other advocate
 63 appointed by the court under s. 914.17 for a victim or witness
 64 under the age of 18 ~~16~~, a person who has an intellectual
 65 disability, or a sexual offense victim or witness, or upon its
 66 own motion, the court may enter any order necessary to protect
 67 the victim or witness in any judicial proceeding or other
 68 official proceeding from severe emotional or mental harm due to
 69 the presence of the defendant if the victim or witness is
 70 required to testify in open court. Such orders must relate to
 71 the taking of testimony and include, but are not limited to:

72 (a) Interviewing or the taking of depositions as part of a
 73 civil or criminal proceeding.

74 (b) Examination and cross-examination for the purpose of
 75 qualifying as a witness or testifying in any proceeding.

76 (c) The use of testimony taken outside of the courtroom,
 77 including proceedings under ss. 92.53 and 92.54.

78 Section 4. Subsections (1) through (4) of section 794.022,

79 Florida Statutes, are amended to read:

80 794.022 Rules of evidence.—

81 (1) The testimony of the victim need not be corroborated
82 in a prosecution under s. 787.06, s. 794.011, or s. 800.04.

83 (2) Specific instances of prior consensual sexual activity
84 between the victim and any person other than the offender shall
85 not be admitted into evidence in a prosecution under s. 787.06,
86 s. 794.011, or s. 800.04. However, such evidence may be admitted
87 if it is first established to the court in a proceeding in
88 camera that such evidence may prove that the defendant was not
89 the source of the semen, pregnancy, injury, or disease; or, when
90 consent by the victim is at issue, such evidence may be admitted
91 if it is first established to the court in a proceeding in
92 camera that such evidence tends to establish a pattern of
93 conduct or behavior on the part of the victim which is so
94 similar to the conduct or behavior in the case that it is
95 relevant to the issue of consent.

96 (3) Notwithstanding any other provision of law, reputation
97 evidence relating to a victim's prior sexual conduct or evidence
98 presented for the purpose of showing that manner of dress of the
99 victim at the time of the offense incited the offense ~~sexual~~
100 ~~battery~~ shall not be admitted into evidence in a prosecution
101 under s. 787.06, s. 794.011, or s. 800.04.

102 (4) When consent of the victim is a defense to prosecution
103 under s. 787.06, s. 794.011, or s. 800.04, evidence of the
104 victim's mental incapacity or defect is admissible to prove that

105 | the consent was not intelligent, knowing, or voluntary; and the
 106 | court shall instruct the jury accordingly.

107 | Section 5. For the purpose of incorporating the amendment
 108 | made by this act to section 794.022, Florida Statutes, in a
 109 | reference thereto, paragraph (b) of subsection (1) of section
 110 | 90.404, Florida Statutes, is reenacted to read:

111 | 90.404 Character evidence; when admissible.—

112 | (1) CHARACTER EVIDENCE GENERALLY.—Evidence of a person's
 113 | character or a trait of character is inadmissible to prove
 114 | action in conformity with it on a particular occasion, except:

115 | (b) Character of victim.—

116 | 1. Except as provided in s. 794.022, evidence of a
 117 | pertinent trait of character of the victim of the crime offered
 118 | by an accused, or by the prosecution to rebut the trait; or

119 | 2. Evidence of a character trait of peacefulness of the
 120 | victim offered by the prosecution in a homicide case to rebut
 121 | evidence that the victim was the aggressor.

122 | Section 6. This act shall take effect October 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7085 PCB CRJS 16-06 Juvenile Civil Citation and Similar Diversion Programs
SPONSOR(S): Criminal Justice Subcommittee, Trujillo and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee	10 Y, 0 N	Cox	White
1) Justice Appropriations Subcommittee		Smith 	Lloyd 
2) Judiciary Committee			

SUMMARY ANALYSIS

Civil Citation Programs (CCPs) give law enforcement officers (LEO) an alternative to arresting youth who have committed non-serious delinquent acts. Under a CCP, a LEO has discretion to:

- Issue a warning or inform the juvenile's parent when a juvenile admits to having committed a misdemeanor;
- Issue a civil citation or require participation in a similar diversion program if he or she decides not to issue a warning or notify the juvenile's parents; or
- Arrest the juvenile, conditioned upon the LEO providing written documentation as to why an arrest was warranted.

The above-mentioned options are available to a LEO that comes into contact with a juvenile who admits to committing a first-, second-, or third-time misdemeanor.

If the LEO issues a civil citation to a juvenile, the juvenile is assessed not more than 50 community service hours, and must participate in intervention services appropriate to any identified needs of the juvenile.

Currently, law enforcement agencies are not required to issue civil citations and there is variation in current use of the program among agencies and counties.

As of January 2016, CCPs were operational in 61 of Florida's 67 counties.

The bill *requires* a law enforcement officer to issue a civil citation or similar diversion program to a juvenile that admits to having committed one or more specified first-time "eligible offenses" that are part of the same criminal episode. The bill permits a LEO to issue a CCP for first-time misdemeanor offenses that are not enumerated as an "eligible offense," and for any second- or third-time misdemeanors.

The bill defines "eligible offense," "episode," and "law enforcement officer."

The bill also provides that the existence of CCP does not modify the authority of a LEO to issue a warning or inform the juvenile's guardian or parent of the alleged offense.

This bill would have an indeterminate impact on state and local government expenditures.

The bill is effective July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Juvenile Justice Process

The juvenile justice process usually starts when a law enforcement officer (LEO) arrests a youth¹ for a criminal offense.² Depending on the seriousness of the offense and the LEO's view of what is needed to appropriately address the offense, the LEO may:

- Deliver the youth to a Juvenile Assessment Center (JAC) for intake screening to further assess the youth's risk to the community and to determine if some type of detention is necessary;
- Call an "on call screener" to assess the youth's risk and determine if detention is necessary (this is done in localities where a JAC is not available);
- Release the youth to a parent or guardian and forward the charges to the local clerk of court and Department of Juvenile Justice (DJJ) Probation office; or
- Release the youth to parent or guardian with a direct referral to a diversion program.³

In lieu of arresting a youth, LEOs have the option of issuing certain youth a civil citation.

Civil Citation Program

The Civil Citation Program (CCP), created by s. 985.12, F.S., gives law enforcement an alternative to taking juveniles who have committed non-serious delinquent acts into custody while ensuring swift and appropriate consequences.⁴ CCPs are open to juveniles with no offense history who admit to committing a qualifying misdemeanor.⁵ Misdemeanors involving sex or firearm offenses are currently exempt from civil citation under DJJ's guidelines.⁶ Law enforcement agencies are not required to issue civil citations and there is variation in current use of CCPs among agencies and counties.⁷

Under a CCP, a LEO has discretion to:

- Issue a warning or inform the juvenile's parent when a juvenile admits to having committed a misdemeanor;
- Issue a civil citation or require participation in a similar diversion program if he or she decides not to issue a warning or notify the juvenile's parents; or
- Arrest the juvenile, conditioned upon the LEO providing written documentation as to why an arrest was warranted.⁸

The above-mentioned options are available to a LEO that comes into contact with a juvenile who admits to committing a first-time, second-time, or third-time misdemeanor.⁹

If a civil citation is issued under a CCP, the LEO must assess not more than 50 community service hours and require participation in intervention services appropriate to identified needs of the juvenile.

¹ "Child" or "juvenile" or "youth" means any person under the age of 18 or any person who is alleged to have committed a violation of law occurring prior to the time that person reached the age of 18 years. s. 985.03(7), F.S.

² Florida Department of Juvenile Justice, Probation and Community Intervention, General. <http://www.djj.state.fl.us/faqs/probation-community-intervention> (last visited January 13, 2016).

³ *Id.*

⁴ s. 985.12(1), F.S.

⁵ Department of Juvenile Justice (DJJ), Agency Analysis of 2016 SB 408, p. 2 (November 5, 2015)(hereinafter cited as "DJJ Analysis").

⁶ DJJ, *Civil Citation Model Plan, A Guide to Implementation*, DJJ (October 2015) <http://www.djj.state.fl.us/docs/probation-policy-memos/civil-citation-model-plan.pdf?Status=Master&sfvrsn=4> (last visited January 12, 2016).

⁷ *Id.*

⁸ s. 985.12, F.S.

⁹ *Id.*

The statute requires the LEO issuing the civil citation¹⁰ to advise the juvenile of his or her option to refuse the citation and instead be arrested and referred to a DJJ intake office.¹¹

A juvenile that elects to participate in the CCP must report to a community service performance monitor within seven working days after the date of issuance of the civil citation, and must complete the work assignment at a rate of not less than five hours per week.¹² Upon completion of the program, the agency operating the CCP must report the outcome to DJJ.¹³

If the juvenile fails to report timely for a work assignment, complete a work assignment, comply with assigned intervention services within the prescribed time, or commits a subsequent misdemeanor, the LEO must issue a report alleging the juvenile has committed a delinquent act.¹⁴ A juvenile probation officer must then process the original delinquent act as a referral to DJJ and refer the report to the state attorney for review.¹⁵

Currently, s. 985.12, F.S., requires CCPs or another similar diversion program¹⁶ to be established at the local level with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency. The program may be operated by a law enforcement agency, DJJ, a JAC, a county or municipality, or an entity selected by a county or municipality.¹⁷

The civil citation program has been implemented in 61 counties in Florida.¹⁸ The following five counties in Florida have no established civil citation program: Bradford, Calhoun, Gulf, Hardee, and Washington.¹⁹ These counties utilize a diversion program without the civil citation overlay.²⁰

For Fiscal Year 2014-15, 20,833 juveniles were eligible for civil citation (first-time misdemeanants who were not accused firearm or sex-related offenses) and 8,961 eligible juveniles (43%) were issued civil citation.

Effect of the Bill

As mentioned above, there are no circumstances under CCPs where a LEO is required to issue a civil citation or similar diversion program. The bill *requires* a LEO²¹ to issue a civil citation or require the juvenile's participation in a similar diversion program for specified first-time misdemeanor "eligible offenses" arising out of the same episode.²² The bill defines an "eligible offense" as a misdemeanor violation of:

¹⁰ If the LEO issues a civil citation, a copy must be provided to the county sheriff, state attorney, the appropriate DJJ intake office or the community performance monitor designated by DJJ, the parents or guardian of the youth, and the victim. s. 985.12(1), F.S.

¹¹ The youth has the right to opt out of the CCP and be referred to a DJJ intake office at any time before completion of the work assignment. s. 985.12(6), F.S.

¹² s. 985.12(4), F.S.

¹³ s. 985.12(1), F.S.

¹⁴ s. 985.12(5), F.S.

¹⁵ *Id.*

¹⁶ Diversion programs are non-judicial alternatives used to keep youth who have committed a delinquent act from being handled through the traditional juvenile justice system. Diversion programs may be pre-arrest or post-arrest programs and are established by law enforcement agencies or school districts in cooperation with state attorneys. See s. 985.125, F.S., and *DJJ Youth and Families, Glossary*, <http://www.djj.state.fl.us/youth-families/glossary> (last visited January 12, 2016).

¹⁷ s. 985.12(1), F.S.

¹⁸ Email from Meredith Stanfield, Legislative Affairs Director, Re: Civil Citation Reminder, January 13, 2016 (on file with the Criminal Justice Subcommittee) and DJJ Analysis at p. 2.

¹⁹ *Id.*

²⁰ DJJ Analysis at p. 2.

²¹ The bill defines "law enforcement officer" to have the same meaning as in s. 943.10, F.S. Section 943.10, F.S., defines the term to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

²² The bill defines "episode" to mean the same act, criminal episode, or transaction.

- Possession of alcoholic beverages by a minor;²³
- Battery, provided the victim approves of the issuance of the civil citation or similar diversion program;²⁴
- Petit theft;²⁵
- Retail theft;²⁶
- Affrays and riots;²⁷
- Disorderly conduct;²⁸
- Possession of cannabis or other controlled substances;²⁹ and
- Possession, sale, manufacture, etc. of drug paraphernalia.³⁰

The bill *permits* the issuance of a civil citation or similar diversion program for:

- A first-time misdemeanor offense that does not meet the definition of an “eligible offense;” or
- Any second- or third-time misdemeanors, regardless of whether the offenses are considered “eligible offenses.”

Written documentation articulating why an arrest is warranted must be provided when a LEO arrests a juvenile in the above-referenced instances where CCP is permitted.

The bill retains current law regarding:

- The program requirements placed upon a juveniles participating in CCPs, including community service hours, intervention services, reporting to the community service performance monitor, and time frames to complete the program;
- The ability of juveniles to refuse participation in CCPs;
- Participation in CCPs not being considered a referral to DJJ;
- The requirement of DJJ and LEAs to forward civil citations to specified parties; and
- The requirement for CCPs to report the juveniles’ outcomes to DJJ.

The bill clarifies that each judicial circuit must establish one or more CCPs that must individually or collectively serve all juveniles who are alleged to have committed a misdemeanor offense. The bill also clarifies that CCPs do not apply to a:

- Juvenile who is currently alleged to have committed, or is currently charged with, and awaiting final disposition of an offense that would be a felony if committed by an adult.
- Juvenile who has entered a plea of nolo contendere or guilty to, or has been found to have committed, an offense that would be a felony if committed by an adult.
- Misdemeanor arising out of an episode in which the juvenile is also alleged to have committed an offense that would be a felony if committed by an adult.

The bill provides that s. 985.12, F.S., does not modify the authority of a LEO to issue only a simple warning to the juvenile or to notice the juvenile’s guardian or parent of the alleged offense.

Lastly, the bill makes conforming changes to ss. 943.051 and 985.11, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 985.12, F.S., relating to civil citation.

²³ s. 562.111, F.S.

²⁴ s. 784.03, F.S.

²⁵ s. 812.014(2)(e) and (3)(a), F.S.

²⁶ s. 812.015(2), F.S.

²⁷ s. 870.01, F.S.

²⁸ s. 877.03, F.S.

²⁹ s. 893.13(6)(b), F.S.

³⁰ s. 893.147, F.S.

Section 2. Amends s. 943.051, F.S., relating to criminal justice information; collection and storage; fingerprinting.

Section 3. Amends s. 985.11, F.S., relating to fingerprinting.

Section 4. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The bill would have an indeterminate impact on the State Courts.

In general, civil citation and similar diversion programs reduce court workload to the extent that they are utilized and are successful, because they divert participants in the programs who would otherwise enter the courts system.³¹ There were 31,852 juvenile misdemeanor arrests in FY 2014-15, with 536 resulting in commitment to a detention facility.³² However it is unknown the number of juvenile offenders who admit their offenses to law enforcement officers and would therefore be diverted.

The bill would have an indeterminate impact on the Department of Juvenile Justice.

The bill requires a law enforcement officer to issue civil citations to certain juvenile misdemeanor first offenders who admit to committing said offense. Juveniles diverted from detention facilities would reduce local and state expenditures. However, the number of juvenile misdemeanor first offenders which admitted their offense can not accurately be determined. Under current law, law enforcement officer has the discretion to issue a warning, issue a civil citation, or report the offense to the juvenile's parent or guardian rather than making an arrest.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill would have an indeterminate impact on Local Government expenditures because the number of juveniles who would be diverted from detention cannot be accurately determined.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

³¹ Email from Sarah Naf, Legislative Affairs Director, State Courts System, *Re: HB 7085*. (On file with the House Justice Appropriation Subcommittee.)

³² Department of Juvenile Justice, *"Delinquency Profile Report"*, 2015

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

1 A bill to be entitled
 2 An act relating to juvenile civil citation and similar
 3 diversion programs; amending s. 985.12, F.S.;
 4 requiring the establishment of civil citation or
 5 similar diversion programs for juveniles; providing
 6 definitions; specifying program eligibility,
 7 participation, and implementation requirements;
 8 providing exceptions; providing applicability;
 9 amending ss. 943.051 and 985.11, F.S.; conforming
 10 provisions to changes made by the act; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 985.12, Florida Statutes, is amended to
 16 read:

17 985.12 Civil citation and similar diversion programs.-

18 (1) (a) There is established a process for the use of
 19 juvenile civil citation and similar diversion programs to
 20 provide ~~process for the purpose of providing~~ an efficient and
 21 innovative alternative to custody by the department ~~of Juvenile~~
 22 ~~Justice~~ for juveniles ~~children~~ who commit nonserious delinquent
 23 acts and to ensure swift and appropriate consequences. The
 24 department shall encourage and assist in the implementation and
 25 improvement of civil citation and ~~programs or other~~ similar
 26 diversion programs in ~~around~~ the state.

27 (b) One or more ~~The~~ civil citation or similar diversion
 28 programs ~~program~~ shall be established in each judicial circuit
 29 which must individually or collectively serve all juveniles who
 30 are alleged to have committed a delinquent act which would be a
 31 misdemeanor if committed by an adult. Such programs must be
 32 established at the local level with the concurrence of the chief
 33 judge of the circuit, state attorney, public defender, and the
 34 head of each local law enforcement agency involved and. ~~The~~
 35 ~~program~~ may be operated by an entity such as a law enforcement
 36 agency, the department, a juvenile assessment center, the county
 37 or municipality, or another entity selected by the county or
 38 municipality. An entity operating such a ~~the civil citation or~~
 39 ~~similar diversion~~ program must do so in consultation and
 40 agreement with the state attorney and local law enforcement
 41 agencies.

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

43 (a) "Eligible offense" means a misdemeanor violation of:

44 1. Section 562.111, relating to possession of alcoholic
 45 beverages by persons under age 21;

46 2. Section 784.03(1), relating to battery, if the victim
 47 approves the juvenile's participation in a civil citation or
 48 similar diversion program.

49 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to
 50 theft;

51 4. Section 812.015(2), relating to retail and farm theft;

52 5. Section 870.01(1), relating to affrays and riots;

53 6. Section 877.03, relating to disorderly conduct;
 54 7. Section 893.13(6)(b), relating to possession of certain
 55 amounts of cannabis or controlled substances; or
 56 8. Section 893.147, relating to use, possession,
 57 manufacture, delivery, transportation, advertisement, or retail
 58 sale of drug paraphernalia.
 59 (b) "Episode" means the same act, criminal episode, or
 60 transaction.
 61 (c) "Law enforcement officer" has the same meaning as
 62 provided in s. 943.10.
 63 (3) Each ~~Under such~~ a juvenile civil citation or similar
 64 diversion program must:
 65 (a) ~~Require~~, a law enforcement officer, upon making
 66 contact with a juvenile who admits having committed ~~for the~~
 67 first time one or more eligible offenses arising out of one
 68 episode, to a misdemeanor, may choose to issue a simple warning
 69 or inform the child's guardian or parent of the child's
 70 infraction, or may issue a civil citation to the juvenile or
 71 require the juvenile's participation in a similar diversion
 72 program.
 73 (b) Authorize a law enforcement officer to implement
 74 paragraph (a) for a juvenile who admits having committed:
 75 1. For the first time, one or more misdemeanor offenses
 76 arising out of the same episode which are not enumerated in
 77 paragraph (2)(a).
 78 2. For the second or third time, one or more misdemeanor

79 offenses arising out of the same episode, regardless of whether
 80 such offenses are enumerated in paragraph (2) (a).

81
 82 If an arrest is made for a misdemeanor subject to this
 83 paragraph, a law enforcement officer must provide written
 84 documentation as to why the arrest was warranted.

85 (c) Require a law enforcement officer to advise a juvenile
 86 who is subject to paragraph (a) or paragraph (b) that the
 87 juvenile has the option to refuse the civil citation or other
 88 similar diversion program and be referred to the department.
 89 This option may be exercised at any time before completion of
 90 the community service assignment required under paragraph (e).
 91 Participation in a civil citation or similar diversion program
 92 is not considered a referral to the department.

93 (d) Require the law enforcement agency issuing the civil
 94 citation or documentation for a similar diversion program to
 95 send a copy of the citation or documentation to other law
 96 enforcement agencies within the judicial circuit; the state
 97 attorney; the department; the community service performance
 98 monitor designated by the department, if applicable; the parent
 99 or guardian of the juvenile; and the victim. The department
 100 shall enter such information into the juvenile offender
 101 information system.

102 (e) Require a juvenile to complete, and assess up to 50
 103 community service hours, and participate ~~require participation~~
 104 in intervention services as indicated by an assessment of the

105 needs of the juvenile, including family counseling, urinalysis
 106 monitoring, and substance abuse and mental health treatment
 107 services.

108 1. The juvenile shall report to the community service
 109 performance monitor within 7 business days after the date of
 110 issuance of the civil citation or documentation for a similar
 111 diversion program. The juvenile shall spend a minimum of 5 hours
 112 per week completing the community service assignment. The
 113 monitor shall immediately notify the intake office of the
 114 department that a juvenile has reported to the monitor and the
 115 expected date on which the juvenile will complete the community
 116 service assignment ~~A copy of each citation issued under this~~
 117 ~~section shall be provided to the department, and the department~~
 118 ~~shall enter appropriate information into the juvenile offender~~
 119 ~~information system. Use of the civil citation or similar~~
 120 ~~diversion program is not limited to first-time misdemeanors and~~
 121 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
 122 ~~is made, a law enforcement officer must provide written~~
 123 ~~documentation as to why an arrest was warranted.~~

124 2. At the conclusion of a juvenile's civil citation
 125 ~~program~~ or similar diversion program, the entity agency
 126 operating the program shall report the outcome of the program to
 127 the department.

128 3. If the juvenile fails to timely report for a community
 129 service assignment, complete such assignment, or comply with
 130 assigned intervention services within the prescribed time, or if

131 the juvenile commits a subsequent misdemeanor, the law
 132 enforcement officer shall issue a report alleging the juvenile
 133 has committed a delinquent act, at which time a juvenile
 134 probation officer shall process the original delinquent act as a
 135 referral to the department and refer the report to the state
 136 attorney for review ~~The issuance of a civil citation is not~~
 137 ~~considered a referral to the department.~~

138 (4)(2) The department shall develop guidelines for ~~the~~
 139 civil citation and similar diversion programs ~~program~~ which
 140 include intervention services that are based on ~~upon~~ proven
 141 civil citation or similar diversion programs in ~~within~~ the
 142 state.

143 (5) This section does not apply to:

144 (a) A juvenile who is currently alleged to have committed,
 145 or is currently charged with, and awaiting final disposition of
 146 an offense that would be a felony if committed by an adult.

147 (b) A juvenile who has entered a plea of nolo contendere
 148 or guilty to, or has been found to have committed, an offense
 149 that would be a felony if committed by an adult.

150 (c) A misdemeanor arising out of an episode in which the
 151 juvenile is also alleged to have committed an offense that would
 152 be a felony if committed by an adult.

153 (6) This section does not modify the authority of a law
 154 enforcement officer who comes into contact with a juvenile who
 155 is alleged to have committed a misdemeanor to issue only a
 156 simple warning to the juvenile or notice to a juvenile's parent

157 or guardian of the alleged offense.

158 ~~(3) Upon issuing such citation, the law enforcement~~
 159 ~~officer shall send a copy to the county sheriff, state attorney,~~
 160 ~~the appropriate intake office of the department, or the~~
 161 ~~community service performance monitor designated by the~~
 162 ~~department, the parent or guardian of the child, and the victim.~~

163 ~~(4) The child shall report to the community service~~
 164 ~~performance monitor within 7 working days after the date of~~
 165 ~~issuance of the citation. The work assignment shall be~~
 166 ~~accomplished at a rate of not less than 5 hours per week. The~~
 167 ~~monitor shall advise the intake office immediately upon~~
 168 ~~reporting by the child to the monitor, that the child has in~~
 169 ~~fact reported and the expected date upon which completion of the~~
 170 ~~work assignment will be accomplished.~~

171 ~~(5) If the child fails to report timely for a work~~
 172 ~~assignment, complete a work assignment, or comply with assigned~~
 173 ~~intervention services within the prescribed time, or if the~~
 174 ~~juvenile commits a subsequent misdemeanor, the law enforcement~~
 175 ~~officer shall issue a report alleging the child has committed a~~
 176 ~~delinquent act, at which point a juvenile probation officer~~
 177 ~~shall process the original delinquent act as a referral to the~~
 178 ~~department and refer the report to the state attorney for~~
 179 ~~review.~~

180 ~~(6) At the time of issuance of the citation by the law~~
 181 ~~enforcement officer, such officer shall advise the child that~~
 182 ~~the child has the option to refuse the citation and to be~~

183 ~~referred to the intake office of the department. That option may~~
 184 ~~be exercised at any time before completion of the work~~
 185 ~~assignment.~~

186 Section 2. Paragraph (b) of subsection (3) of section
 187 943.051, Florida Statutes, is amended to read:

188 943.051 Criminal justice information; collection and
 189 storage; fingerprinting.-

190 (3)

191 (b) A minor who is charged with or found to have committed
 192 the following offenses shall be fingerprinted and the
 193 fingerprints shall be submitted electronically to the
 194 department, unless the minor participates in ~~is issued~~ a civil
 195 citation or similar diversion program pursuant to s. 985.12:

- 196 1. Assault, as defined in s. 784.011.
- 197 2. Battery, as defined in s. 784.03.
- 198 3. Carrying a concealed weapon, as defined in s.
 199 790.01(1).
- 200 4. Unlawful use of destructive devices or bombs, as
 201 defined in s. 790.1615(1).
- 202 5. Neglect of a child, as defined in s. 827.03(1)(e).
- 203 6. Assault or battery on a law enforcement officer, a
 204 firefighter, or other specified officers, as defined in s.
 205 784.07(2)(a) and (b).
- 206 7. Open carrying of a weapon, as defined in s. 790.053.
- 207 8. Exposure of sexual organs, as defined in s. 800.03.
- 208 9. Unlawful possession of a firearm, as defined in s.

209 790.22(5).

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

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

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

213 13. Unlawful possession or discharge of a weapon or
 214 firearm at a school-sponsored event or on school property, as
 215 provided in s. 790.115.

216 Section 3. Paragraph (b) of subsection (1) of section
 217 985.11, Florida Statutes, is amended to read:

218 985.11 Fingerprinting and photographing.--

219 (1)

220 (b) Unless the child is participating in ~~is issued~~ a civil
 221 citation or ~~is participating in a~~ similar diversion program
 222 pursuant to s. 985.12, a child who is charged with or found to
 223 have committed one of the following offenses shall be
 224 fingerprinted, and the fingerprints shall be submitted to the
 225 Department of Law Enforcement as provided in s. 943.051(3)(b):

226 1. Assault, as defined in s. 784.011.

227 2. Battery, as defined in s. 784.03.

228 3. Carrying a concealed weapon, as defined in s.
 229 790.01(1).

230 4. Unlawful use of destructive devices or bombs, as
 231 defined in s. 790.1615(1).

232 5. Neglect of a child, as defined in s. 827.03(1)(e).

233 6. Assault on a law enforcement officer, a firefighter, or
 234 other specified officers, as defined in s. 784.07(2)(a).

235 7. Open carrying of a weapon, as defined in s. 790.053.

236 8. Exposure of sexual organs, as defined in s. 800.03.

237 9. Unlawful possession of a firearm, as defined in s.

238 790.22(5).

239 10. Petit theft, as defined in s. 812.014.

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

241 12. Arson, resulting in bodily harm to a firefighter, as

242 defined in s. 806.031(1).

243 13. Unlawful possession or discharge of a weapon or

244 firearm at a school-sponsored event or on school property as

245 defined in s. 790.115.

246

247 A law enforcement agency may fingerprint and photograph a child

248 taken into custody upon probable cause that such child has

249 committed any other violation of law, as the agency deems

250 appropriate. Such fingerprint records and photographs shall be

251 retained by the law enforcement agency in a separate file, and

252 these records and all copies thereof must be marked "Juvenile

253 Confidential." These records are not available for public

254 disclosure and inspection under s. 119.07(1) except as provided

255 in ss. 943.053 and 985.04(2), but shall be available to other

256 law enforcement agencies, criminal justice agencies, state

257 attorneys, the courts, the child, the parents or legal

258 custodians of the child, their attorneys, and any other person

259 authorized by the court to have access to such records. In

260 addition, such records may be submitted to the Department of Law

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261 Enforcement for inclusion in the state criminal history records
262 and used by criminal justice agencies for criminal justice
263 purposes. These records may, in the discretion of the court, be
264 open to inspection by anyone upon a showing of cause. The
265 fingerprint and photograph records shall be produced in the
266 court whenever directed by the court. Any photograph taken
267 pursuant to this section may be shown by a law enforcement
268 officer to any victim or witness of a crime for the purpose of
269 identifying the person who committed such crime.

270 Section 4. This act shall take effect July 1, 2016.

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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Justice Appropriations
2 Subcommittee

3 Representative Trujillo offered the following:

Amendment

6 Remove lines 28-153 and insert:

7 programs ~~program~~ shall be established in each county which must
8 individually or collectively serve all juveniles who are alleged
9 to have committed a violation of law which would be a
10 misdemeanor offense if committed by an adult. Such programs must
11 be established ~~at the local level~~ with the concurrence of the
12 chief judge of the circuit, state attorney, public defender, and
13 the head of each local law enforcement agency involved and. ~~The~~
14 ~~program~~ may be operated by an entity such as a law enforcement
15 agency, the department, a juvenile assessment center, the county
16 or municipality, or another entity selected by the county or
17 municipality. An entity operating such a ~~the civil citation or~~

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18 ~~similar diversion~~ program must do so in consultation and
19 agreement with the state attorney and local law enforcement
20 agencies.

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

22 (a) "Misdemeanor offense" means one or more misdemeanor
23 violations of law arising out of the same criminal episode, act,
24 or transaction.

25 (b) "Law enforcement officer" has the same meaning as
26 provided in s. 943.10.

27 (3) Under such a juvenile civil citation or similar
28 diversion program, a law enforcement officer that makes ~~upon~~
29 ~~making~~ contact with a juvenile who admits having committed a
30 first-time misdemeanor: ~~misdemeanor, may choose to issue a~~
31 ~~simple warning or inform the child's guardian or parent of the~~
32 ~~child's infraction, or may~~

33 (a) Shall issue a civil citation to the juvenile or
34 require the juvenile's participation in a similar diversion
35 program if each violation of law in the misdemeanor offense is
36 one of the following:

37 1. Section 562.111, relating to possession of alcoholic
38 beverages by persons under age 21;

39 2. Section 784.03(1), relating to battery, if the victim
40 approves the juvenile's participation in a civil citation or
41 similar diversion program.

42 3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to
43 theft;

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- 44 4. Section 812.015(2), relating to retail and farm theft;
45 5. Section 870.01(1), relating to affrays and riots;
46 6. Section 877.03, relating to disorderly conduct;
47 7. Section 893.13(6)(b), relating to possession of certain
48 amounts of cannabis or controlled substances; or
49 8. Section 893.147, relating to use, possession,
50 manufacture, delivery, transportation, advertisement, or retail
51 sale of drug paraphernalia; or
52 (b) May issue a civil citation to the juvenile or require
53 the juvenile's participation in a similar diversion program if
54 the violations of law in the misdemeanor offense are not
55 enumerated in subparagraph (a).
56 (4) Under such a juvenile civil citation or similar
57 diversion program, a law enforcement officer that makes contact
58 with a juvenile who admits having committed a second-time or
59 third-time misdemeanor offense may issue a civil citation to the
60 juvenile or require the juvenile's participation in a similar
61 diversion program, regardless of whether the violations of law
62 are enumerated in subparagraph (3)(a).
63 (5) If an arrest is made for a misdemeanor offense subject
64 to paragraph (3)(b) or subsection (4), a law enforcement officer
65 must provide written documentation as to why the arrest was
66 warranted.
67 (6) A law enforcement officer shall advise a juvenile who
68 is subject to subsection (3) or subsection (4) that the juvenile
69 has the option to refuse the civil citation or other similar

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70 diversion program and be referred to the department. This option
71 may be exercised at any time before completion of the community
72 service assignment required under subsection (8). Participation
73 in a civil citation or similar diversion program is not
74 considered a referral to the department.

75 (7) Upon issuance of the civil citation or documentation
76 requiring a similar diversion program, the law enforcement
77 officer shall send a copy to the county sheriff, state attorney,
78 the appropriate intake office of the department or the community
79 service performance monitor designated by the department, the
80 parent or guardian of the child, and the victim. The department
81 shall enter such information into the juvenile offender
82 information system.

83 (8) A juvenile that elects to participate in a civil
84 citation or similar diversion program shall complete, and assess
85 up to 50 community service hours, and participate require
86 participation in intervention services as indicated indicates by
87 an assessment of the needs of the juvenile, including family
88 counseling, urinalysis monitoring, and substance abuse and
89 mental health treatment services.

90 (a) The juvenile shall report to the community service
91 performance monitor within 7 business days after the date of
92 issuance of the civil citation or documentation for a similar
93 diversion program. The juvenile shall spend a minimum of 5 hours
94 per week completing the community service assignment. The
95 monitor shall immediately notify the intake office of the

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96 department that a juvenile has reported to the monitor and the
97 expected date on which the juvenile will complete the community
98 service assignment ~~A copy of each citation issued under this~~
99 ~~section shall be provided to the department, and the department~~
100 ~~shall enter appropriate information into the juvenile offender~~
101 ~~information system. Use of the civil citation or similar~~
102 ~~diversion program is not limited to first-time misdemeanors and~~
103 ~~may be used in up to two subsequent misdemeanors. If an arrest~~
104 ~~is made, a law enforcement officer must provide written~~
105 ~~documentation as to why an arrest was warranted.~~

106 (b) At the conclusion of a juvenile's civil citation
107 ~~program~~ or similar diversion program, the entity agency
108 operating the program shall report the outcome of the program to
109 the department.

110 (c) If the juvenile fails to timely report for a community
111 service assignment, complete such assignment, or comply with
112 assigned intervention services within the prescribed time, or if
113 the juvenile commits a subsequent misdemeanor, the law
114 enforcement officer shall issue a report alleging the juvenile
115 has committed a delinquent act, at which time a juvenile
116 probation officer shall process the original delinquent act as a
117 referral to the department and refer the report to the state
118 attorney for review ~~The issuance of a civil citation is not~~
119 ~~considered a referral to the department.~~

120 (9)(2) The department shall develop guidelines for the
121 civil citation and similar diversion programs ~~program~~ which

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122 include intervention services that are based on ~~upon~~ proven
123 civil citation or similar diversion programs in ~~within~~ the
124 state.

125 (10) This section does not apply to:

126 (a) A juvenile who is currently alleged to have committed,
127 or is currently charged with, and awaiting final disposition of
128 an offense that would be a felony if committed by an adult.

129 (b) A juvenile who has entered a plea of nolo contendere
130 or guilty to, or has been found to have committed, an offense
131 that would be a felony if committed by an adult.

132 (c) A misdemeanor arising out of an episode in which the
133 juvenile is also alleged to have committed an offense that would
134 be a felony if committed by an adult.

135 (11) This section does not modify the authority of a law

