

CHAPTER 98-81

Committee Substitute for Senate Bill No. 1992

An act relating to criminal justice; amending s. 415.5018, F.S.; requiring that the Department of Law Enforcement provide the Department of Children and Family Services with access to certain criminal justice information for purposes of child protective investigations and emergency child placement; amending s. 775.13, F.S., relating to the registration of convicted felons; providing a definition; providing an exemption from registration requirements for certain registered sexual offenders; amending s. 775.21, F.S.; revising the Florida Sexual Predators Act; defining terms; prescribing criteria and procedures for designation as a sexual predator; requiring that fingerprints be made if a sexual predator is not imprisoned; prescribing registration and notification requirements; providing registration requirements with respect to a sexual predator who is supervised by the Department of Corrections or by a federal agency or who is in the custody of a local jail; providing notification requirements for a sexual predator who intends to reside in another state or jurisdiction; providing for removal of designation as a sexual predator; providing penalties for failing to comply with duties imposed on persons so designated; requiring the Department of Law Enforcement and the Department of Corrections to verify the addresses of sexual predators; prohibiting misuse and misrepresentation of public records information and providing penalties; creating s. 775.24, F.S.; specifying that it is the duty of the court to uphold laws governing sexual predators and sexual offenders; providing certain requirements for the court if a person meets the criteria for designation as a sexual predator or for classification as a sexual offender; creating s. 775.25, F.S.; specifying jurisdictions in which a sexual predator or sexual offender may be prosecuted for an act or for failure to act; amending s. 943.043, F.S.; authorizing the Department of Law Enforcement to provide information on sexual offenders and sexual predators through the Internet; providing civil immunity for certain persons and entities who provide information regarding sexual offenders and sexual predators; amending s. 943.0435, F.S.; revising definitions; specifying sexual offenders who must report and identify themselves; revising reporting requirements; providing civil immunity for specified persons and entities that administer such reporting requirements; providing for certain persons to be relieved from such reporting requirements; requiring that the Department of Law Enforcement verify the addresses of certain sexual offenders; providing requirements for a sexual offender who intends to reside in another state or jurisdiction; requiring that a sexual offender maintain registration for life, except under specified circumstances; amending s. 943.325, F.S.; providing for drawing blood specimens from certain convicted persons committed to a county jail for purposes of DNA analysis; providing for obtaining blood specimens from a person who is not incarcerated following conviction; providing for a statewide protocol for securing such specimens; providing that

certain medical facilities and personnel and persons who assist a law enforcement officer in withdrawing blood specimens are not civilly or criminally liable for such actions; providing for an application to the court for an order authorizing that a person be taken into custody for the purpose of providing blood specimens; providing that failure to comply with certain requirements is not grounds for challenging the validity of a blood specimen or excluding evidence based on a blood specimen; amending ss. 944.605, 947.177, F.S.; prescribing penalties for inmates who refuse to submit to the taking of a digitized photograph; amending ss. 944.606, 944.607, F.S.; revising provisions governing notification concerning the release of sexual offenders; specifying persons with respect to whom such provisions apply; requiring that fingerprints be made if the sexual offender is not imprisoned; providing registration requirements with respect to a sexual offender who is in the custody of a local jail or who is supervised by the Department of Corrections or by a federal agency; providing civil immunity for specified persons and entities who release information concerning such offenders; amending s. 948.01, F.S.; providing that after a specified date, an offender who commits certain specified sexual offenses is ineligible for administrative probation; amending s. 948.03, F.S.; providing that conditions of probation and community control for specified offenders do not require oral pronouncement and shall be standard conditions of supervision; providing an effective date.

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

Section 1. Present subsections (4), (5), and (6) of section 415.5018, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, and a new subsection (4) is added to that section, to read:

415.5018 District authority and responsibilities.—

(4) Notwithstanding any other law, the Department of Law Enforcement shall provide the department with electronic access to criminal justice information that is lawfully available and not exempt from s. 119.07(1), only for the purposes of child protective investigations and emergency child placement. As a condition of access to such information, the department shall execute an appropriate user agreement with the Department of Law Enforcement which addresses access, use, dissemination, and destruction of such information and which complies with all applicable laws and rules of the Department of Law Enforcement.

Section 2. Section 775.13, Florida Statutes, is amended to read:

775.13 Registration of convicted felons, exemptions; penalties.—

(1) As used in this section, the term “convicted” means, with respect to a person’s felony offense, a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

~~(2)(1)~~ Any person who has been convicted of a felony in any court of this state shall, within 48 hours after entering any county in this state, register with the sheriff of said county, be fingerprinted and photographed, and list the crime for which convicted, place of conviction, sentence imposed, if any, name, aliases, if any, address, and occupation.

~~(3)(2)~~ Any person who has been convicted of a crime in any federal court or in any court of a state other than Florida, or of any foreign state or country, which crime if committed in Florida would be a felony, shall forthwith within 48 hours after entering any county in this state register with the sheriff of said county in the same manner as provided for in subsection ~~(2)(1)~~.

~~(4)(3)~~ Any person who is within any county of the state as of October 1, 1997, shall register with the sheriff of such county by December 1, 1997, if such person would be required to register under the terms of subsection ~~(2)(1)~~ or subsection ~~(3)(2)~~, if he or she were entering such county.

~~(5)(4)~~ In lieu of registering with the sheriff as required by this section, such registration may be made with the Department of Law Enforcement, and is subject to the same terms and conditions as required for registration with the sheriff.

~~(6)(5)~~ This section does not apply to an offender:

(a) Who has had his or her civil rights restored;

(b) Who has received a full pardon for the offense for which convicted;

(c) Who has been lawfully released from incarceration or other sentence or supervision for a felony conviction for more than 5 years prior to such time for registration, unless the offender is a fugitive from justice on a felony charge or has been convicted of any offense since release from such incarceration or other sentence or supervision;

(d) Who is a parolee or probationer under the supervision of the United States Parole Commission if the commission knows of and consents to the presence of the offender in Florida or is a probationer under the supervision of any federal probation officer in the state or who has been lawfully discharged from such parole or probation; or

(e) Who is a sexual predator and has registered as required under s. 775.21; or,

(f) Who is a sexual offender and has registered as required in s. 943.0435 or s. 944.607.

~~(7)(6)~~ Failure of any such convicted felon to comply with this section constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

~~(8)(7)~~ All laws and parts of laws in conflict herewith are hereby repealed, provided that nothing in this section shall be construed to affect any law of

this state relating to registration of criminals where the penalties are in excess of those imposed by this section.

Section 3. Section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act; definitions; legislative findings, purpose, and intent; criteria; designation; registration; community and public notification; immunity; penalties.—

(1) SHORT TITLE.—This section may be cited as “The Florida Sexual Predators Act.”

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

(a) “Chief of police” means the chief law enforcement officer of a municipality.

(b) “Community” means any county where the sexual predator lives or otherwise establishes or maintains a temporary or permanent residence.

(c) “Conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction in any state of the United States.

(d)(e) “Department” means the Department of Law Enforcement.

(e)(d) “Entering the county” includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(f) “Permanent residence” means a place where the person abides, lodges, or resides for 14 or more consecutive days.

(g)(e) “Temporary residence” means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person’s permanent address; 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; or a place where the person routinely abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person’s permanent residence a stay of 2 or more weeks.

(3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.—

(a) Repeat ~~sexual sex~~ offenders, ~~sexual sex~~ offenders who use physical violence, and ~~sexual sex~~ offenders who prey on children are sexual predators who present an extreme threat to the public safety. ~~Sexual Sex~~ offenders are extremely likely to use physical violence and to repeat their offenses, and

most sexual sex offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual sex offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.03(5). The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;

2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, and before October 1, 1995:

1. An offender who was found by the court under former s. 775.22 or former s. 775.23 to be a sexual predator is a “sexual predator” if the court made a written finding that the offender was a sexual predator at the time of sentencing, as required by former s. 775.23. Such sexual predator must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to community and public notification as provided in subsection (7). Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence temporarily or permanently resides shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police.

2. If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and:

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

b. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information which indicated that the offender met the sexual predator criteria based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department’s sexual predator list, and shall notify the state attorney who prosecuted the offense that triggered the administrative sexual predator designation for offenders described in sub-subparagraph a., or the state attorney of the county where the offender establishes or maintains a permanent or temporary residence permanently or temporarily resides on October 1, 1996, for offenders described in sub-subparagraph b. The state attorney may bring the matter to the court’s attention in order to establish that the offender meets the sexual predator criteria. If the court then makes a written finding that the offender is a sexual predator, the offender is designated as a sexual predator, and must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to community and public notification requirements as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender is not designated as a sexual predator with respect to that offense, is not required to register or be registered as a sexual predator with the department, and is not subject to the requirements for community and public notification as a sexual predator.

(b) For a current offense committed on or after October 1, 1995, and before October 1, 1996:

1. An offender who was found by the court under former s. 775.22 or former s. 775.23 to be a sexual predator is a "sexual predator" if the court made a written finding that the offender was a sexual predator at the time of sentencing, as required by former s. 775.23. Such sexual predator must register or be registered with the department as provided in subsection (6), and is subject to community and public notification as provided in subsection (7). Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence temporarily or permanently resides shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police.

2. If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and:

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

b. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information which indicated that the offender met the sexual predator criteria based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's sexual predator list, and shall notify the state attorney who prosecuted the offense that triggered the administrative sexual predator designation for offenders described in sub-subparagraph a., or the state attorney of the county where the offender establishes or maintains a permanent or temporary residence permanently or temporarily resides on October 1, 1996, for offenders described in sub-subparagraph b. The state attorney may bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the court makes a written finding that the offender is a sexual predator, the offender is designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7) ~~provisions under former s. 775.225~~. If the court does not make a written finding that the offender is a sexual predator, the offender is not designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

(c) For a current offense committed on or after October 1, 1996, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony meets the criteria of former ss. 775.22(2) and 775.23(2), specifically, the felony is:

a. A capital, life, or ~~first-degree~~ first-degree felony violation of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent, or of chapter 794 or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. An attempt to commit a capital, life, or first-degree felony violation of chapter 794, where the victim is a minor, or a violation of a similar law of another jurisdiction; or

~~c.~~ b. Any second-degree second-degree or greater felony violation of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent; chapter 794; s. 796.03; s. 800.04; s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.023; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; or s. 847.0145, or a violation of a similar law of another jurisdiction;

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

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

(d) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony. If the offender's prior enumerated felony was committed more than 10 years before the primary offense, it shall not be considered a prior felony under this subsection if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later.

(e) ~~“Conviction” means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld.~~

(5) SEXUAL PREDATOR DESIGNATION.—For a current offense committed on or after October 1, 1996, an offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(c) who is before the court for sentencing for a current offense committed on or after October 1, 1996, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the

offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

2. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent or temporary residence permanently or temporarily resides in this state meets the sexual predator criteria described in paragraph (4)(c) because the offender committed a similar violation in another jurisdiction on or after October 1, 1996, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent or temporary residence permanently or temporarily resides of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

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

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

~~(c)(b)~~ If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence temporarily or permanently resides upon first entering the state for offenders described in subparagraph (a)2. The state attorney shall bring the matter to the court's

attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator, ~~and the department and other law enforcement agencies are not authorized to inform the community and the public of the offender's presence. The offender must comply with the convicted felon registration requirements under s. 775.13.~~ The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, shall register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction in which the order was issued which states that such designation has been removed, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(6) REGISTRATION.—

(a) A sexual predator must register with the department by providing the following information to the department:

1. Name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence and, address of any current temporary residence, including a rural route address and a post office box, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Any other information determined necessary by the department, including criminal and corrections records;~~;~~ nonprivileged personnel, treatment, and abuse registry records;~~;~~ and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator must register with the Department of Corrections. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections' office that is responsible for supervising the sexual predator.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator and forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department.

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

(e)(b) If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility, and establishes or maintains a residence permanently or temporarily resides in the state, the sexual predator shall initially register in person at an office of the department, or at the sheriff's office in the county in which the predator establishes or maintains a residence permanently or temporarily resides, within 48 hours after establishing permanent or temporary residence in this state. If a sexual predator registers with the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the predator and forward the photographs and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f)(e) Within 48 hours after ~~Subsequent to~~ the initial registration required under paragraph (a) or paragraph (e)(b), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver's license office of the Department of Highway Safety and Motor Vehicles and shall present proof of initial registration within 48 hours after any change in the predator's permanent or temporary residence. At the driver's license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to

comply with this section, provide his or her place of permanent or temporary residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators. A post office box shall not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section.

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

(g)(d) Each time a sexual predator's driver's license or identification card is subject to renewal, and within 48 hours after any change of the predator's residence, the predator shall report in person to a driver's license office, ~~regardless of whether the predator's residence has changed~~, and shall be subject to the requirements specified in paragraph (f)(e). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section.

(h)(e) If the sexual predator initially registers at an office of the department, the department must notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence permanently or temporarily resides within 48 hours after the sexual predator registers with the department.

(i) A sexual predator who intends to establish residence in another state or jurisdiction shall notify the sheriff of the county of current residence or the department within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the

statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, notify the sheriff or the department, whichever agency is the agency to which the sexual predator reported the intended change of residence, of his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to reside in another state or jurisdiction, but who remains in this state without reporting to the sheriff or the department in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(k)~~^(f)1. The department is responsible for the on-line maintenance of current information regarding each registered sexual predator. The department must maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department is authorized to disseminate this public information by any means deemed appropriate, including operating a toll-free "900" telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel must advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

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

~~(l)~~^(g) A sexual predator must maintain registration with the department for the duration of his or her life, unless the sexual predator has had his or her civil rights restored, or has received a full pardon or has had a conviction set aside in a postconviction proceeding for any felony sex offense that met the criteria for the sexual predator designation. However, a sexual predator who was designated as a sexual predator by a court before October 1, 1998, and who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 10 years and has not been arrested for any felony or misdemeanor offense since release, may petition the criminal division of the circuit court in the circuit in which the sexual predator

resides for the purpose of removing the sexual predator designation. A sexual predator who was designated a sexual predator by a court on or after October 1, 1998, who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years, and who has not been arrested for any felony or misdemeanor offense since release may petition the criminal division of the circuit court in the circuit in which the sexual predator resides for the purpose of removing the sexual predator designation. The court may ~~has the discretion to~~ grant or deny such relief if the petitioner demonstrates to the court that he or she has not been arrested for any crime since release, the requested relief complies with federal standards applicable to the removal of the designation as a sexual predator, and the court is otherwise satisfied that the petitioner 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 predator may again petition the court for relief, subject to the standards for relief provided in this paragraph. Unless specified in the order, a sexual predator who is granted relief under this paragraph must comply with the requirements for registration as a sexual offender and other requirements provided under s. 943.0435 or s. 944.607. If a petitioner obtains an order from the court that imposed the order designating the petitioner as a sexual predator which removes such designation, the petitioner shall forward a certified copy of the written findings or order to the department in order to have the sexual predator designation removed from the sexual predator registry.

(7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence temporarily or permanently resides shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;
2. A description of the sexual predator, including a photograph;
3. The sexual predator's current address, including the name of the county or municipality if known;
4. The circumstances of the sexual predator's offense or offenses; and
5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

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

(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

(d) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators. ~~The department, in consultation and cooperation with the Department of Highway Safety and Motor Vehicles, shall determine the feasibility of requiring sexual predators to have a special designation on any drivers license, identification card, or license tag issued in this state.~~

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with federal requirements that apply to the laws of this state governing sexual predators. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections. The department shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections.

(9)(8) IMMUNITY.—When the court has made a written finding that an offender is a sexual predator, an elected or appointed official, public employee, school administrator or employee, or agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages resulting from the release of information under this section.

(10)(9) PENALTIES.—

(a) Except as otherwise specifically provided, a sexual predator who fails to register or who fails, after registration, to maintain, acquire, or renew a driver's license or identification card or provide required location information, or who otherwise fails, by act or omission, to comply with the requirements of this section, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 794.011(2), (3), (4), (5), or (8); s. 794.023; s. 800.04; s. 827.071; s. 847.0133; or s. 847.0145, or a violation of a similar law of another jurisdiction, when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly

congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on web sites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. Section 775.24, Florida Statutes, is created to read:

775.24 Duty of the court to uphold laws governing sexual predators and sexual offenders.—

(1) The Legislature finds that, for the purpose of approving a plea agreement or for other reasons, certain courts enter orders that effectively limit or nullify requirements imposed upon sexual predators and sexual offenders pursuant to the laws of this state and prevent persons or entities from carrying out the duties imposed, or exercising the authority conferred, by such laws. The laws relating to sexual predators and sexual offenders are substantive law. Furthermore, the Congress of the United States has expressly encouraged every state to enact such laws, and has provided that, to the extent that a state's laws do not meet certain federal requirements, the state will lose significant federal funding provided to the state for law enforcement and public safety programs. Unless a court that enters such an order determines that a person or entity is not operating in accordance with the laws governing sexual predators or sexual offenders, or that such laws or any part of such laws are unconstitutional or unconstitutionally applied, the court unlawfully encroaches on the Legislature's exclusive power to make laws and places at risk significant public interests of the state.

(2) If a person meets the criteria in this chapter for designation as a sexual predator or meets the criteria in s. 943.0435, s. 944.606, s. 944.607, or any other law for classification as a sexual offender, the court may not enter an order, for the purpose of approving a plea agreement or for any other reason, which:

(a) Exempts a person who meets the criteria for designation as a sexual predator or classification as a sexual offender from such designation or classification, or exempts such person from the requirements for registration or community and public notification imposed upon sexual predators and sexual offenders;

(b) Restricts the compiling, reporting, or release of public records information that relates to sexual predators or sexual offenders; or

(c) Prevents any person or entity from performing its duties or operating within its statutorily conferred authority as such duty or authority relates to sexual predators or sexual offenders.

(3) If the court enters an order that affects an agency's performance of a duty imposed under the laws governing sexual predators or sexual offenders, or that limits the agency's exercise of authority conferred under such laws, the Legislature strongly encourages the affected agency to file a motion in the court that entered such order. The affected agency may, within 60 days after the receipt of any such order, move to modify or set aside the order or, if such order is in the nature of an injunction, move to dissolve the injunction. Grounds for granting any such motion include, but need not be limited to:

(a) The affected agency was not properly noticed.

(b) The court is not authorized to enjoin the operation of a statute that has been duly adjudged constitutional and operative unless the statute is illegally applied or unless the statute or the challenged part of it is unconstitutional on adjudicated grounds.

(c) Jurisdiction may not be conferred by consent of the parties.

(d) To the extent that the order is based upon actions the agency might take, the court's order is premature and, if and when such actions are taken, these actions may be challenged in appropriate proceedings to determine their enforceability.

(e) The injunction affects the public interest and would cause injury to the public.

(f) The order creates an unenforceable, perpetual injunction.

(g) The order seeks to restrict the agency in the performance of its duties outside the court's territorial jurisdiction.

Section 5. Section 775.25, Florida Statutes, is created to read:

775.25 Prosecutions for acts or omissions.—A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual predator or sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

Section 6. Section 943.043, Florida Statutes, is amended to read:

943.043 Toll-free telephone number; sexual predator and sexual offender sex-offender information.—

(1) The department may notify the public through the Internet of any information regarding sexual predators and sexual offenders which is not confidential and exempt from public disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~(2)(4) The department shall provide, through a toll-free telephone number, public access to registration information regarding sexual predators and sexual sex offenders and may provide other information reported to the department which is not confidential or exempt from public disclosure and which is reported to the department by the Department of Corrections as provided in s. 944.607 or by a sex offender as provided in s. 943.0435.~~

~~(3)(2) The department shall provide to any person, upon request and at a reasonable cost determined by the department, a copy of the photograph of any sexual sex offender or sexual predator which the department maintains in its files and a printed summary of the information that is available to the public under this section.~~

~~(4)(3) The department, and its personnel, and any individual or entity acting at the request or upon the direction of the department are immune from civil liability for damages for good-faith good faith compliance with this section and will shall be presumed to have acted in good faith by reporting information. The presumption of good faith is not overcome if technical or clerical errors are made by the department, and its personnel, or any individual or entity acting at the request or upon the direction of the department in reporting the information, if the department and its personnel are unable to report information because the information has not been provided or reported by a person or agency required to provide or report the information to the department, or if the department, and its personnel, or any individual or entity acting at the request or upon the direction of the department reports report information that was falsely reported without the knowledge of the department, and its personnel, or such individual or entity.~~

Section 7. Section 943.0435, Florida Statutes, is amended to read:

943.0435 Sexual Sex offenders required to register with ~~report to~~ the department; penalty.—

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

(a) “Sexual Sex offender” means a person who has been:

1. 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 analogous offenses in another jurisdiction: s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent; s. 787.025;⁵ chapter 794;⁵ s. 796.03;⁵ s. 800.04; s. 825.1025;⁵ s. 827.071;⁵ s. 847.0133;⁵ s. 847.0135;⁵ s. 847.0145;⁵ or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.

2. Released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in subparagraph 1. For purposes of

subparagraph 1., 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.

(b) “Convicted” means that, regarding the person’s offense, there has been a determination of guilt the person has been determined guilty as a result of a plea or a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction in any state of the United States.

(c) “Permanent residence” and “temporary residence” have the same meaning ascribed in s. 775.21.

(2) A sexual sex offender shall initially report in person at an office of the department, or at the sheriff’s office in the county in which the offender establishes or maintains a permanent or temporary residence permanently or temporarily resides, within 48 hours after establishing permanent or temporary residence in this state. A sex offender permanently resides in this state if the offender abides, lodges, or resides in a place for more than 2 consecutive weeks. A sex offender temporarily resides in this state if the offender abides, lodges, or resides in a place for 2 consecutive weeks or less, excluding a stay of 2 consecutive weeks or less at a different residence due to a vacation or an emergency or special circumstance that requires the sex offender to leave his or her place of permanent or temporary residence for 2 weeks or less. The sexual sex offender shall provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence, or address of any current temporary residence, including a rural route address and a post office box, date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address. If the sexual offender’s place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender’s place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer’s serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat. If a sexual sex offender reports at the sheriff’s office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual sex offender.

(3) Within 48 hours after the Subsequent to the initial report required under subsection (2), a sexual sex offender shall report in person at a driver’s

license office of the Department of Highway Safety and Motor Vehicles ~~within 48 hours after any change in the offender's permanent or temporary residence.~~ At the driver's license office the sexual sex offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual sex offender shall identify himself or herself as a sexual sex offender who is required to comply with this section and shall provide proof that the sexual offender initially reported as required in subsection (2). The sexual sex offender shall provide any of the information specified in subsection (2), if requested. The sexual sex offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual sex offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section.

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual sex offender, including a set of fingerprints.

(4) Each time a sexual sex offender's driver's license or identification card is subject to renewal, and within 48 hours after any change in the offender's permanent or temporary residence, the offender shall report in person to a driver's license office, ~~regardless of whether the offender's residence has changed,~~ and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual sex offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in ss. 943.043, 943.0435, and 944.606.

(5) This section does not apply to a sexual sex offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) The department shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with federal requirements.

(7) A sexual offender who intends to establish residence in another state or jurisdiction shall notify the sheriff of the county of current residence or the department within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, notify the sheriff or department, whichever agency is the agency to which the sexual offender reported the intended change of residence, of his or her intent to remain in this state. If the sheriff is notified by the sexual offender that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff or the department in the manner required by this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(9)~~(6) A sexual sex offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(10)~~(7) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, and the personnel of those departments, and any individual or entity acting at the request or upon the direction of any of those departments are immune from civil liability for damages for good-faith good-faith compliance with the requirements of this section, and shall be presumed to have acted in good faith in compiling, recording, and reporting information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, or the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual sex offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(11) A sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has had his or her civil rights restored or has received a full pardon or has had a conviction set aside in a postconviction proceeding for any felony sex offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years and has not been arrested for any felony or misdemeanor offense since release may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender. The court may grant or deny such 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 federal standards applicable to the removal of registration requirements for a sexual offender, 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, subject to the standards for relief provided in this subsection. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

Section 8. Section 943.325, Florida Statutes, is amended to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person convicted, or who was previously convicted and is still incarcerated, in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who is within the confines of the legal state boundaries, shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

(b) For the purpose of this section, the term “any person” shall include both juveniles and adults committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice or committed to a county jail.

(2) The withdrawal of blood for purposes of this section shall be performed in a medically approved manner and only under the supervision of a physician, registered nurse, licensed practical nurse, or duly licensed medical personnel.

(3) Upon a conviction of any person for any offense under paragraph (1)(a) which results in the commitment of the offender to a county jail, correctional facility, or juvenile facility, the entity responsible for the facility shall assure that the blood specimens required by this section are promptly secured and transmitted to the Department of Law Enforcement. If the person is not incarcerated following such conviction, the person may not be released from the custody of the court or released pursuant to a bond or surety until the blood specimens required by this section have been taken. The chief judge of each circuit shall, in conjunction with the sheriff or other entity that maintains the county jail, assure implementation of a method to promptly collect required blood specimens and forward the specimens to the Department of Law Enforcement. The Department of Law Enforcement, in conjunction with the sheriff, the courts, the Department of Corrections, and the Department of Juvenile Justice, shall develop a statewide protocol for securing the blood specimens of any person required to provide specimens under this section. Personnel at the jail, correctional facility, or juvenile facility shall implement the protocol as part of the regular processing of offenders.

(4) If any blood specimens submitted to the Department of Law Enforcement under this section are found to be unacceptable for analysis and use or cannot be used by the department in the manner required by this section,

the Department of Law Enforcement may require that another set of blood specimens be taken as set forth in subsection (11).

~~(5)~~(3) The Department of Law Enforcement shall provide the specimen vials, mailing tubes, labels, and instructions for the collection of blood specimens. The specimens shall thereafter be forwarded to the designated testing facility for analysis to determine genetic markers and characteristics for the purpose of individual identification of the person submitting the sample.

~~(6)~~(4) The analysis, when completed, shall be entered into the automated database maintained by the Department of Law Enforcement for such purpose, and shall not be included in the state central criminal justice information repository.

~~(7)~~(5) The results of a DNA analysis and the comparison of analytic results shall be released only to criminal justice agencies as defined in s. 943.045(10), at the request of the agency. Otherwise, such information is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~(8)~~(6) The Department of Law Enforcement and the statewide criminal laboratory analysis system shall establish, implement, and maintain a statewide automated personal identification system capable of, but not limited to, classifying, matching, and storing analyses of DNA (deoxyribonucleic acid) and other biological molecules. The system shall be available to all criminal justice agencies.

~~(9)~~(7) The Department of Law Enforcement shall:

(a) Receive, process, and store blood samples and the data derived therefrom furnished pursuant to subsection (1) or pursuant to a requirement of supervision imposed by the court or the Parole Commission with respect to a person convicted of any offense specified in subsection (1).

(b) Collect, process, maintain, and disseminate information and records pursuant to this section.

(c) Strive to maintain or disseminate only accurate and complete records.

(d) Adopt rules prescribing the proper procedure for state and local law enforcement and correctional agencies to collect and submit blood samples pursuant to this section.

~~(10)~~(8)(a) The court shall include in the judgment of conviction for an offense specified in this section, or a finding that a person described in subsection (1) violated a condition of probation, community control, or any other court-ordered supervision, an order stating that blood specimens are required to be drawn by the appropriate agency in a manner consistent with this section and, unless the convicted person lacks the ability to pay, the person shall reimburse the appropriate agency for the cost of drawing and transmitting the blood specimens to the Florida Department of Law Enforcement. The reimbursement payment may be deducted from any existing balance in the inmates's bank account. If the account balance is insufficient

to cover the cost of drawing and transmitting the blood specimens to the Florida Department of Law Enforcement, 50 percent of each deposit to the account must be withheld until the total amount owed has been paid. If the judgment places the convicted person on probation, community control, or any other court-ordered supervision, the court shall order the convicted person to submit to the drawing of the blood specimens as a condition of the probation, community control, or other court-ordered supervision. For the purposes of a person who is on probation, community control, or any other court-ordered supervision, the collection requirement must be based upon a court order. If the judgment sentences the convicted person to time served, the court shall order the convicted person to submit to the drawing of the blood specimens as a condition of such sentence.

(b) The appropriate agency shall cause the specimens to be drawn as soon as practical after conviction but, in the case of any person ordered to serve a term of incarceration as part of the sentence, the specimen shall be drawn as soon as practical after the receipt of the convicted person by the custodial facility. For the purpose of this section, the appropriate agency shall be the Department of Corrections whenever the convicted person is committed to the legal and physical custody of the department. Conviction information contained in the offender information system of the Department of Corrections shall be sufficient to determine applicability under this section. The appropriate agency shall be the sheriff or officer in charge of the county correctional facility whenever the convicted person is placed on probation, community control, or any other court-ordered supervision or form of supervised release or is committed to the legal and physical custody of a county correctional facility.

(c) Any person previously convicted of an offense specified in this section, or a crime which, if committed in this state, would be an offense specified in this section, and who is also subject to the registration requirement imposed by s. 775.13, shall be subject to the collection requirement of this section when the appropriate agency described in this section verifies the identification information of the person. The collection requirement of this section does not apply to a person as described in s. 775.13(6) ~~s. 775.13(5)~~.

(d) For the purposes of this section, conviction shall include a finding of guilty, or entry of a plea of nolo contendere or guilty, regardless of adjudication or, in the case of a juvenile, the finding of delinquency.

(e) If necessary, the state or local law enforcement or correctional agency having authority over the person subject to the sampling under this section shall assist in the procedure. The law enforcement or correctional officer so assisting may use reasonable force if necessary to require such person to submit to the withdrawal of blood. The withdrawal shall be performed in a reasonable manner. A hospital, clinical laboratory, medical clinic, or similar medical institution; a physician, certified paramedic, registered nurse, licensed practical nurse, or other personnel authorized by a hospital to draw blood; a licensed clinical laboratory director, supervisor, technologist, or technician; or any other person who assists a law enforcement officer is not civilly or criminally liable as a result of withdrawing blood specimens according to accepted medical standards when requested to do so by a law

enforcement officer or any personnel of a jail, correctional facility, or juvenile detention facility, regardless of whether the convicted person resisted the drawing of blood specimens.

(11) If the Department of Law Enforcement determines that a convicted person who is required to submit blood specimens under this section has not provided the specimens, the department, a state attorney, or any law enforcement agency may apply to the circuit court for an order that authorizes taking the convicted person into custody for the purpose of securing the required specimens. The court shall issue the order upon a showing of probable cause. Following issuance of the order, the convicted person shall be transported to a location acceptable to the agency that has custody of the person, the blood specimens shall be withdrawn in a reasonable manner, and the person shall be released if there if no other reason to justify retaining the person in custody. The agency that takes the convicted person into custody may, but is not required to, transport the person back to the location where the person was taken into custody.

(12) Unless the convicted person has been declared indigent by the court, the convicted person shall pay the actual costs of collecting the blood specimens required under this section.

(13) If a court, a law enforcement agency, or the Department of Law Enforcement fails to strictly comply with this section or to abide by a state-wide protocol for collecting blood specimens, such failure is not grounds for challenging the validity of the collection or the use of a specimen, and evidence based upon or derived from the collected blood specimens may not be excluded by a court.

Section 9. Subsection (4) is added to section 944.605, Florida Statutes, to read:

944.605 Inmate release; notice by Department of Corrections, Control Release Authority, or Parole Commission.—

(4) An inmate who refuses to submit to the taking of a digitized photograph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Section 944.606, Florida Statutes, is amended to read:

944.606 Sexual offenders; notification upon release.—

(1) As used in this section:

(a) “Conviction” means a determination of guilt which that is the result of a ~~plea or a trial or the entry of a plea of guilty or nolo contendere,~~ regardless of whether adjudication is withheld. A conviction for a violation of a similar law of another jurisdiction includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction in any state of the United States.

(b) “Sexual offender” means a person who 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: s. 787.01 or s. 782.02, where the victim is a minor and the defendant is not the victim’s parent; s. 787.025; a felony violation of chapter 794; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; or s. 847.0145; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, or a violation of a similar law of another jurisdiction, when the department has received verified information regarding such conviction; an offender’s computerized criminal history record is not, in and of itself, verified information.

(2) The Legislature finds that sexual offenders, especially those who have committed their offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount governmental interest. Sexual offenders have a reduced expectation of privacy because of the public’s interest in public safety and in the effective operation of government. Releasing sexual offender information to law enforcement agencies and to persons who request such information, and releasing such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety.

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

1. The department must provide: the sexual offender’s name and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender’s social security number, race, sex, date of birth, height, weight, and hair and eye color; date and county of sentence and each crime for which the offender was sentenced; a copy of the offender’s fingerprints and a digitized photograph taken within 60 days before release; the date of release of the sexual offender; and the offender’s intended residence address, if known. If the sexual offender is in the custody of a private correctional facility, the facility shall take the digitized photograph of the sexual offender within 60 days before the sexual offender’s release and provide this photograph to the Department of Corrections and also place it in the sexual offender’s file. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall notify the Department of Law Enforcement of the sexual offender’s release and provide to the Department of Law Enforcement the information specified in paragraph (a) and any information specified in subparagraph 2. that the Department of Law Enforcement requests.

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

(b) The department must provide the information described in subparagraph (a)1. to:

1. The sheriff of the county from where the sexual offender was sentenced;
2. The sheriff of the county and, if applicable, the police chief of the municipality, where the sexual offender plans to reside;
3. The Florida Department of Law Enforcement; and
4. Any person who requests such information,

either within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if an offender is released earlier than anticipated. All such information provided to the Department of Law Enforcement must be available electronically as soon as the information is in the agency's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center.

(c) Upon request, the department must provide the information described in subparagraph (a)2. to:

1. The sheriff of the county from where the sexual offender was sentenced; and
2. The sheriff of the county and, if applicable, the police chief of the municipality, where the sexual offender plans to reside,

either within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if an offender is released earlier than anticipated.

(d) Upon receiving information regarding a sexual offender from the department, the Department of Law Enforcement, the sheriff or the chief of police shall provide the information described in subparagraph (a)1. to any individual who requests such information and may release the information to the public in any manner deemed appropriate, unless the information so received is confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(4) This section authorizes the department or any law enforcement agency to notify the community and the public of a sexual offender's presence in the community. However, with respect to a sexual offender who has been found to be a "sexual predator" under chapter 775, the Florida Department of Law Enforcement or any other law enforcement agency must inform the community and the public of the sexual predator's presence in the community, as provided in chapter 775. ~~Release of information pursuant to this section does not constitute unauthorized public disclosure of information that relates to sexual predators under chapter 775.~~

(5) An elected or appointed official, public employee, school administrator or employee, or agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency, is immune from civil liability for damages resulting from the release of information under this section.

Section 11. Section 944.607, Florida Statutes, is amended to read:

944.607 Notification to Department of Law Enforcement of information on sexual sex offenders.—

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

(a) “Sexual Sex offender” means a person who is in the custody or control of, or under the supervision of, the department or is in the custody of a private correctional facility on or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar analogous offenses in another jurisdiction: s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim’s parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph.

(b) “Conviction” means a determination of guilt which is the ~~as a result of a plea or trial or the entry of a plea of guilty or nolo contendere,~~ regardless of whether adjudication is withheld. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction in any state of the United States.

(2) The clerk of the court of that court which convicted and sentenced the sexual offender for the offense or offenses described in subsection (1) shall forward to the department and the Department of Law Enforcement a certified copy of any order entered by the court imposing any special condition or restriction on the sexual offender which restricts or prohibits access to the victim, if the victim is a minor, or to other minors. The Department of Law Enforcement may include on its Internet site such special conditions or restrictions.

(3) If a sexual offender is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual offender’s fingerprints are taken and forwarded to the department within 48 hours after the court sentences the offender. The fingerprint card shall be clearly marked “Sexual Offender Registration Card.”

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated must register with the Department of Corrections and provide the following information: name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; and permanent or legal residence and address of temporary residence, including any rural route address or post office box. The Department of Corrections shall verify the address of each sexual offender in the manner described in s. 775.21 and s. 943.0435.

(5)(2) In addition to notification and transmittal requirements imposed by any other provision of law, the department shall compile information on

any sexual sex offender and provide the information to the Department of Law Enforcement. The information shall be made available electronically to the Department of Law Enforcement as soon as this information is in the department's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center.

~~(6)~~(3) The information provided to the Department of Law Enforcement must include:

(a) The information obtained from the sexual offender under subsection (4) name of the sex offender and any alias, if known;

(b) The sexual sex offender's most current address and place of permanent ~~and or~~ temporary residence, including the name of the county or municipality in which the offender permanently or temporarily resides and, if known, the intended place of permanent or temporary residence upon satisfaction of all sanctions;

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

(d) The location of, and local telephone number for, any Department of Corrections' office that of probation, community control, parole, conditional release, or control release which is responsible for supervising the sexual sex offender;

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

~~(f)~~ A physical description of the sex offender;

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

~~(g)~~(h) A digitized photograph of the sexual sex offender which must have been taken within 60 days before the offender is released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275 or must have been taken by January 1, 1998, or within 60 days after the onset of the department's supervision of any sexual sex offender who is on probation, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If the sexual sex offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual sex offender within the time period provided in this paragraph and shall provide the photograph to the department.

If any information provided by the department changes during the time the sexual sex offender is under the department's control, custody, or supervision, the department shall, in a timely manner, update the information and provide it to the Department of Law Enforcement in the manner prescribed in subsection (2).

(7) If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender and forward the information to the Department of Law Enforcement. The custodian of the local jail shall also take a digitized photograph of the sexual offender while the offender remains in custody and shall provide the digitized photograph to the Department of Law Enforcement.

(8) If the sexual offender is under federal supervision, the federal agency responsible for supervising the sexual offender may forward to the Department of Law Enforcement any information regarding the sexual offender which is consistent with the information provided by the department under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the Department of Law Enforcement for purposes of public notification.

(9) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register in the manner provided in s. 943.0435(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(10).

(10) The failure of a sexual offender to submit to the taking of a digitized photograph, or to otherwise comply with the requirements of this section, is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(11)(4) The department, the Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, the Department of Corrections, and its personnel of those departments, and any individual or entity acting at the request or upon the direction of those departments are immune from civil liability for damages for good-faith good-faith compliance with this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or and providing information. The presumption of good faith is not overcome if technical or clerical errors are made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, and its personnel of those departments, or any individual or entity acting at the request or upon the direction of those departments in compiling, recording, reporting, or providing information, or, if the information compiled, recorded, or provided by the department and its personnel is incomplete or incorrect because the information has not been provided to the department by a person or agency required to provide the information, or because the if the department and its personnel compile, record, or provide information that was not reported or was falsely reported without the knowledge of the department and its personnel.

Section 12. Subsection (4) is added to section 947.177, Florida Statutes, to read:

947.177 Inmate release; notice by Department of Corrections, Control Release Authority, or Parole Commission.—

(4) An inmate who refuses to submit to the taking of a digitized photograph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. Subsection (15) is added to section 948.01, Florida Statutes, to read:

948.01 When court may place defendant on probation or into community control.—

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

Section 14. Subsection (5) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation or community control.—

(5) Conditions imposed pursuant to this subsection, as specified in paragraphs (a) and (b), do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this subsection.

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

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

2. If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the court.

3. Active participation in and successful completion of a sex offender treatment program with therapists specifically trained to treat sex offenders, at the probationer's or community controllee's own expense. If a specially trained therapist is not available within a 50-mile radius of the probationer's or community controllee's residence, the offender shall participate in other appropriate therapy.

4. A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.

5. If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the sentencing court without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the sentencing court.

6. If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or other place where children regularly congregate.

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

8. A requirement that the probationer or community controllee must submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA data bank.

9. A requirement that the probationer or community controllee make restitution to the victim, as ordered by the court under s. 775.089, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

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

(b) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on sex offender probation for a violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any other provision of this subsection, the court must impose the following conditions of probation or community control:

1. As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid by the sex offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of community supervision has occurred.

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

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

4. If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim and/or the victim's parent or guardian.

5. Electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

Section 15. This section and section 5 of this act shall take effect upon becoming a law; sections 1, 2, 4, 7, 9, 13, and 14 of this act shall take effect July 1, 1998; and sections 3, 6, 8, 10, 11, and 12 of this act shall take effect October 1, 1998.

Approved by the Governor May 21, 1998.

Filed in Office Secretary of State May 21, 1998.