

1 A bill to be entitled
2 An act relating to crimes against minors;
3 amending ss. 787.01 and 787.02, F.S.; revising
4 the elements of the crimes of kidnapping a
5 minor child and false imprisonment of a minor
6 child; amending s. 787.025, F.S.; revising the
7 elements of the crime of luring or enticing a
8 minor child for an unlawful purpose; specifying
9 an evidentiary fact that may be considered by
10 the court in determining whether the defendant
11 committed or attempted to commit such offense;
12 increasing the penalty imposed for committing
13 that offense; reenacting ss. 435.03(2)(j) and
14 (k), 435.04(2)(k) and (l), 775.21(4), 903.133,
15 and 910.14, F.S., relating to screening
16 standards, the Florida Sexual Predators Act,
17 bail on appeal, and kidnapping, to incorporate
18 the amendments to ss. 787.01, 787.02, 787.025,
19 F.S., in references thereto; reenacting and
20 amending s. 921.0022(3)(f), (i), and (j), F.S.,
21 relating to the offense severity ranking chart
22 of the Criminal Punishment Code, to incorporate
23 the amendments to s. 787.02, F.S., in
24 references thereto; conforming provisions to
25 changes made by the act; reenacting ss.
26 943.0435(1)(a), 943.0585, 943.059,
27 944.606(1)(b), 944.607(1)(a), 948.01(15), and
28 948.06(2)(a), F.S., relating to the
29 registration of sexual offenders, expunction
30 and court-ordered sealing of criminal history
31 records, the definition of the term "sexual

1 offender," and probation and community control,
 2 to incorporate the amendments to ss. 787.01,
 3 787.02, 787.025, F.S., in references thereto;
 4 amending s. 947.06, F.S.; requiring that, prior
 5 to a meeting of the Parole Commission, the
 6 victim of the crime be given documents and
 7 evidence relating to the granting, denying, or
 8 revoking of the inmate's parole; amending s.
 9 947.16, F.S.; requiring that an inmate
 10 convicted of kidnapping whose parole release
 11 order has been vacated by the court be
 12 reinterviewed at 5-year intervals following the
 13 vacated release order; amending s. 947.174,
 14 F.S.; requiring that an inmate convicted of
 15 kidnapping whose presumptive parole release
 16 date is more than 5 years after the initial
 17 interview be reinterviewed thereafter at 5-year
 18 intervals; providing an effective date.

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

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 22 Section 1. Section 787.01, Florida Statutes, is
 23 amended to read:

24 787.01 Kidnapping; kidnapping of child under age 16
 25 ~~13~~, aggravating circumstances.--

26 (1)(a) The term "kidnapping" means forcibly, secretly,
 27 or by threat confining, abducting, or imprisoning another
 28 person against her or his will and without lawful authority,
 29 with intent to:

30 1. Hold for ransom or reward or as a shield or
 31 hostage.

1 2. Commit or facilitate commission of any felony.

2 3. Inflict bodily harm upon or to terrorize the victim
3 or another person.

4 4. Interfere with the performance of any governmental
5 or political function.

6 (b) Confinement of a child under the age of 16 ~~13~~ is
7 against her or his will within the meaning of this subsection
8 if such confinement is without the consent of her or his
9 parent or legal guardian.

10 (2) A person who kidnaps a person is guilty of a
11 felony of the first degree, punishable by imprisonment for a
12 term of years not exceeding life or as provided in s. 775.082,
13 s. 775.083, or s. 775.084.

14 (3)(a) A person who commits the offense of kidnapping
15 upon a child under the age of 16 ~~13~~ and who, in the course of
16 committing the offense, commits one or more of the following:

17 1. Aggravated child abuse, as defined in s. 827.03;

18 2. Sexual battery, as defined in chapter 794, against
19 the child;

20 3. Lewd or lascivious battery, lewd or lascivious
21 molestation, lewd or lascivious conduct, or lewd or lascivious
22 exhibition, in violation of s. 800.04;

23 4. A violation of s. 796.03 or s. 796.04, relating to
24 prostitution, upon the child; or

25 5. Exploitation of the child or allowing the child to
26 be exploited, in violation of s. 450.151,

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28 commits a life felony, punishable as provided in s. 775.082,
29 s. 775.083, or s. 775.084.

30 (b) Pursuant to s. 775.021(4), nothing contained
31 herein shall be construed to prohibit the imposition of

1 separate judgments and sentences for the life felony described
2 in paragraph (a) and for each separate offense enumerated in
3 subparagraphs (a)1.-5.

4 Section 2. Section 787.02, Florida Statutes, is
5 amended to read:

6 787.02 False imprisonment; false imprisonment of child
7 under age 16 ~~13~~, aggravating circumstances.--

8 (1)(a) The term "false imprisonment" means forcibly,
9 by threat, or secretly confining, abducting, imprisoning, or
10 restraining another person without lawful authority and
11 against her or his will.

12 (b) Confinement of a child under the age of 16 ~~13~~ is
13 against her or his will within the meaning of this section if
14 such confinement is without the consent of her or his parent
15 or legal guardian.

16 (2) A person who commits the offense of false
17 imprisonment is guilty of a felony of the third degree,
18 punishable as provided in s. 775.082, s. 775.083, or s.
19 775.084.

20 (3)(a) A person who commits the offense of false
21 imprisonment upon a child under the age of 16 ~~13~~ and who, in
22 the course of committing the offense, commits any offense
23 enumerated in subparagraphs 1.-5., commits a felony of the
24 first degree, punishable by imprisonment for a term of years
25 not exceeding life or as provided in s. 775.082, s. 775.083,
26 or s. 775.084.

27 1. Aggravated child abuse, as defined in s. 827.03;
28 2. Sexual battery, as defined in chapter 794, against
29 the child;

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1 3. Lewd or lascivious battery, lewd or lascivious
2 molestation, lewd or lascivious conduct, or lewd or lascivious
3 exhibition, in violation of s. 800.04;

4 4. A violation of s. 796.03 or s. 796.04, relating to
5 prostitution, upon the child; or

6 5. Exploitation of the child or allowing the child to
7 be exploited, in violation of s. 450.151.

8 (b) Pursuant to s. 775.021(4), nothing contained
9 herein shall be construed to prohibit the imposition of
10 separate judgments and sentences for the first degree offense
11 described in paragraph (a) and for each separate offense
12 enumerated in subparagraphs (a)1.-5.

13 Section 3. Section 787.025, Florida Statutes, is
14 amended to read:

15 787.025 Luring or enticing a child.--

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

17 (a) "Structure" means a building of any kind, either
18 temporary or permanent, which has a roof over it, together
19 with the curtilage thereof.

20 (b) "Dwelling" means a building or conveyance of any
21 kind, either temporary or permanent, mobile or immobile, which
22 has a roof over it and is designed to be occupied by people
23 lodging together therein at night, together with the curtilage
24 thereof.

25 (c) "Conveyance" means any motor vehicle, ship,
26 vessel, railroad car, trailer, aircraft, or sleeping car.

27 (2)(a) A person over the age of 18 who, having been
28 previously convicted of a violation of chapter 794 or s.
29 800.04, or a violation of a similar law of another
30 jurisdiction, intentionally lures or entices, or attempts to
31 lure or entice, a child under the age of 16 ~~12~~ into a

1 structure, dwelling, or conveyance for other than a lawful
2 purpose commits a felony of the second ~~third~~ degree,
3 punishable as provided in s. 775.082, s. 775.083, or s.
4 775.084.

5 (b) If the defendant lured or enticed, or attempted to
6 lure or entice, For purposes of this section, the luring or
7 enticing, or attempted luring or enticing, of a child under
8 the age of 16 ~~12~~ into a structure, dwelling, or conveyance
9 without the consent of the child's parent or legal guardian,
10 that fact does not give rise to a presumption that the
11 defendant committed or attempted to commit such luring or
12 enticing for shall be prima facie evidence of other than a
13 lawful purpose, but may be considered with other competent
14 evidence in determining whether the defendant committed or
15 attempted to commit such luring or enticing for other than a
16 lawful purpose.

17 (3) It is an affirmative defense to a prosecution
18 under this section that:

19 (a) The person reasonably believed that his or her
20 action was necessary to prevent the child from being seriously
21 injured.

22 (b) The person lured or enticed, or attempted to lure
23 or entice, the child under the age of 16 ~~12~~ into a structure,
24 dwelling, or conveyance for a lawful purpose.

25 (c) The person's actions were reasonable under the
26 circumstances and the defendant did not have any intent to
27 harm the health, safety, or welfare of the child.

28 Section 4. For the purpose of incorporating the
29 amendments made by this act to sections 787.01 and 787.02,
30 Florida Statutes, in references thereto, paragraphs (j) and
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1 (k) of subsection (2) of section 435.03, Florida Statutes, are
2 reenacted to read:

3 435.03 Level 1 screening standards.--

4 (2) Any person for whom employment screening is
5 required by statute must not have been found guilty of,
6 regardless of adjudication, or entered a plea of nolo
7 contendere or guilty to, any offense prohibited under any of
8 the following provisions of the Florida Statutes or under any
9 similar statute of another jurisdiction:

10 (j) Section 787.01, relating to kidnapping.

11 (k) Section 787.02, relating to false imprisonment.

12 Section 5. For the purpose of incorporating the
13 amendments made by this act to sections 787.01 and 787.02,
14 Florida Statutes, in references thereto, paragraphs (k) and
15 (l) of subsection (2) of section 435.04, Florida Statutes, are
16 reenacted to read:

17 435.04 Level 2 screening standards.--

18 (2) The security background investigations under this
19 section must ensure that no persons subject to the provisions
20 of this section have been found guilty of, regardless of
21 adjudication, or entered a plea of nolo contendere or guilty
22 to, any offense prohibited under any of the following
23 provisions of the Florida Statutes or under any similar
24 statute of another jurisdiction:

25 (k) Section 787.01, relating to kidnapping.

26 (l) Section 787.02, relating to false imprisonment.

27 Section 6. For the purpose of incorporating the
28 amendments made by this act to sections 787.01, 787.02, and
29 787.025, Florida Statutes, in references thereto, subsection
30 (4) of section 775.21, Florida Statutes, is reenacted to read:
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1 775.21 The Florida Sexual Predators Act; definitions;
2 legislative findings, purpose, and intent; criteria;
3 designation; registration; community and public notification;
4 immunity; penalties.--

5 (4) SEXUAL PREDATOR CRITERIA.--

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

11 1. The felony is:

12 a. A capital, life, or first-degree felony violation,
13 or any attempt thereof, of s. 787.01 or s. 787.02, where the
14 victim is a minor and the defendant is not the victim's
15 parent, or of chapter 794, s. 800.04, or s. 847.0145, or a
16 violation of a similar law of another jurisdiction; or

17 b. Any felony violation, or any attempt thereof, of s.
18 787.01, s. 787.02, or s. 787.025, where the victim is a minor
19 and the defendant is not the victim's parent; chapter 794,
20 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04;
21 s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation
22 of a similar law of another jurisdiction, and the offender has
23 previously been convicted of or found to have committed, or
24 has pled nolo contendere or guilty to, regardless of
25 adjudication, any violation of s. 787.01, s. 787.02, or s.
26 787.025, where the victim is a minor and the defendant is not
27 the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s.
28 794.05; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
29 847.0133; s. 847.0135; or s. 847.0145, or a violation of a
30 similar law of another jurisdiction;

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

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

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

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

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

25 2. The offender was administratively registered as a
26 sexual predator because the Department of Corrections, the
27 department, or any other law enforcement agency obtained
28 information that indicated that the offender met the criteria
29 for designation as a sexual predator based on a violation of a
30 similar law in another jurisdiction,
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1 the department shall remove that offender from the
2 department's list of sexual predators and, for an offender
3 described under subparagraph 1., shall notify the state
4 attorney who prosecuted the offense that met the criteria for
5 administrative designation as a sexual predator, and, for an
6 offender described under this subparagraph, shall notify the
7 state attorney of the county where the offender establishes or
8 maintains a permanent or temporary residence. The state
9 attorney shall bring the matter to the court's attention in
10 order to establish that the offender meets the criteria for
11 designation as a sexual predator. If the court makes a written
12 finding that the offender is a sexual predator, the offender
13 must be designated as a sexual predator, must register or be
14 registered as a sexual predator with the department as
15 provided in subsection (6), and is subject to the community
16 and public notification as provided in subsection (7). If the
17 court does not make a written finding that the offender is a
18 sexual predator, the offender may not be designated as a
19 sexual predator with respect to that offense and is not
20 required to register or be registered as a sexual predator
21 with the department.

22 Section 7. For the purpose of incorporating the
23 amendments made by this act to section 787.01, Florida
24 Statutes, in references thereto, section 903.133, Florida
25 Statutes, is reenacted to read:

26 903.133 Bail on appeal; prohibited for certain felony
27 convictions.--Notwithstanding the provisions of s. 903.132, no
28 person adjudged guilty of a felony of the first degree for a
29 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
30 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
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1 violation of s. 794.011(2) or (3), shall be admitted to bail
 2 pending review either by posttrial motion or appeal.

3 Section 8. For the purpose of incorporating the
 4 amendments made by this act to sections 787.01 and 787.02,
 5 Florida Statutes, in references thereto, section 910.14,
 6 Florida Statutes, is reenacted to read:

7 910.14 Kidnapping.--A person who commits an offense
 8 provided for in s. 787.01 or s. 787.02 may be tried in any
 9 county in which the person's victim has been taken or confined
 10 during the course of the offense.

11 Section 9. For the purpose of incorporating the
 12 amendments made by this act to sections 787.01 and 787.02,
 13 Florida Statutes, in references thereto, paragraphs (f), (i),
 14 and (j) of subsection (3) of section 921.0022, Florida
 15 Statutes, are reenacted and amended to read:

16 921.0022 Criminal Punishment Code; offense severity
 17 ranking chart.--

18 (3) OFFENSE SEVERITY RANKING CHART

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Florida	Felony	
Statute	Degree	Description
		(f) LEVEL 6
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Forgery of pedigree papers.
499.0051(4)	2nd	Purchase or receipt of legend drug from unauthorized person.
499.0051(5)	2nd	Sale of legend drug to unauthorized person.

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1	775.0875(1)	3rd	Taking firearm from law
2			enforcement officer.
3	775.21(10)	3rd	Sexual predators; failure to
4			register; failure to renew
5			driver's license or
6			identification card.
7	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
8			without intent to kill.
9	784.021(1)(b)	3rd	Aggravated assault; intent to
10			commit felony.
11	784.041	3rd	Felony battery.
12	784.048(3)	3rd	Aggravated stalking; credible
13			threat.
14	784.048(5)	3rd	Aggravated stalking of person
15			under 16.
16	784.07(2)(c)	2nd	Aggravated assault on law
17			enforcement officer.
18	784.074(1)(b)	2nd	Aggravated assault on sexually
19			violent predators facility staff.
20	784.08(2)(b)	2nd	Aggravated assault on a person 65
21			years of age or older.
22	784.081(2)	2nd	Aggravated assault on specified
23			official or employee.
24	784.082(2)	2nd	Aggravated assault by detained
25			person on visitor or other
26			detainee.
27	784.083(2)	2nd	Aggravated assault on code
28			inspector.
29	787.02(2)	3rd	False imprisonment; restraining
30			with purpose other than those in
31			s. 787.01.

1	790.115(2)(d)	2nd	Discharging firearm or weapon on
2			school property.
3	790.161(2)	2nd	Make, possess, or throw
4			destructive device with intent to
5			do bodily harm or damage
6			property.
7	790.164(1)	2nd	False report of deadly explosive,
8			weapon of mass destruction, or
9			act of arson or violence to state
10			property.
11	790.19	2nd	Shooting or throwing deadly
12			missiles into dwellings, vessels,
13			or vehicles.
14	794.011(8)(a)	3rd	Solicitation of minor to
15			participate in sexual activity by
16			custodial adult.
17	794.05(1)	2nd	Unlawful sexual activity with
18			specified minor.
19	800.04(5)(d)	3rd	Lewd or lascivious molestation;
20			victim 12 years of age or older
21			but less than 16 years; offender
22			less than 18 years.
23	800.04(6)(b)	2nd	Lewd or lascivious conduct;
24			offender 18 years of age or
25			older.
26	806.031(2)	2nd	Arson resulting in great bodily
27			harm to firefighter or any other
28			person.
29	810.02(3)(c)	2nd	Burglary of occupied structure;
30			unarmed; no assault or battery.
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1	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more,
2			but less than \$100,000, grand
3			theft in 2nd degree.
4	812.014(2)(b)2.	2nd	Property stolen; cargo valued at
5			less than \$50,000, grand theft in
6			2nd degree.
7	812.015(9)	2nd	Retail theft; property stolen
8			\$300 or more; second or
9			subsequent conviction.
10	812.13(2)(c)	2nd	Robbery, no firearm or other
11			weapon (strong-arm robbery).
12	817.034(4)(a)1.	1st	Communications fraud, value
13			greater than \$50,000.
14	817.4821(5)	2nd	Possess cloning paraphernalia
15			with intent to create cloned
16			cellular telephones.
17	825.102(1)	3rd	Abuse of an elderly person or
18			disabled adult.
19	825.102(3)(c)	3rd	Neglect of an elderly person or
20			disabled adult.
21	825.1025(3)	3rd	Lewd or lascivious molestation of
22			an elderly person or disabled
23			adult.
24	825.103(2)(c)	3rd	Exploiting an elderly person or
25			disabled adult and property is
26			valued at less than \$20,000.
27	827.03(1)	3rd	Abuse of a child.
28	827.03(3)(c)	3rd	Neglect of a child.
29	827.071(2)&(3)	2nd	Use or induce a child in a sexual
30			performance, or promote or direct
31			such performance.

1	836.05	2nd	Threats; extortion.
2	836.10	2nd	Written threats to kill or do
3			bodily injury.
4	843.12	3rd	Aids or assists person to escape.
5	847.0135(3)	3rd	Solicitation of a child, via a
6			computer service, to commit an
7			unlawful sex act.
8	914.23	2nd	Retaliation against a witness,
9			victim, or informant, with bodily
10			injury.
11	943.0435(9)	3rd	Sex offenders; failure to comply
12			with reporting requirements.
13	944.35(3)(a)2.	3rd	Committing malicious battery upon
14			or inflicting cruel or inhuman
15			treatment on an inmate or
16			offender on community
17			supervision, resulting in great
18			bodily harm.
19	944.40	2nd	Escapes.
20	944.46	3rd	Harboring, concealing, aiding
21			escaped prisoners.
22	944.47(1)(a)5.	2nd	Introduction of contraband
23			(firearm, weapon, or explosive)
24			into correctional facility.
25	951.22(1)	3rd	Intoxicating drug, firearm, or
26			weapon introduced into county
27			facility.
28			(i) LEVEL 9
29	316.193		
30	(3)(c)3.b.	1st	DUI manslaughter; failing to
31			render aid or give information.

1	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to
2			render aid or give information.
3	499.0053	1st	Sale or purchase of contraband
4			legend drugs resulting in great
5			bodily harm.
6	560.123(8)(b)3.	1st	Failure to report currency or
7			payment instruments totaling or
8			exceeding \$100,000 by money
9			transmitter.
10	560.125(5)(c)	1st	Money transmitter business by
11			unauthorized person, currency, or
12			payment instruments totaling or
13			exceeding \$100,000.
14	655.50(10)(b)3.	1st	Failure to report financial
15			transactions totaling or
16			exceeding \$100,000 by financial
17			institution.
18	775.0844	1st	Aggravated white collar crime.
19	782.04(1)	1st	Attempt, conspire, or solicit to
20			commit premeditated murder.
21	782.04(3)	1st,PBL	Accomplice to murder in
22			connection with arson, sexual
23			battery, robbery, burglary, and
24			other specified felonies.
25	782.051(1)	1st	Attempted felony murder while
26			perpetrating or attempting to
27			perpetrate a felony enumerated in
28			s. 782.04(3).
29	782.07(2)	1st	Aggravated manslaughter of an
30			elderly person or disabled adult.
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1	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
2			reward or as a shield or hostage.
3	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
4			or facilitate commission of any
5			felony.
6	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
7			interfere with performance of any
8			governmental or political
9			function.
10	787.02(3)(a)	1st	False imprisonment; child under
11			age <u>16</u> 13 ; perpetrator also
12			commits aggravated child abuse,
13			sexual battery, or lewd or
14			lascivious battery, molestation,
15			conduct, or exhibition.
16	790.161	1st	Attempted capital destructive
17			device offense.
18	790.166(2)	1st,PBL	Possessing, selling, using, or
19			attempting to use a weapon of
20			mass destruction.
21	794.011(2)	1st	Attempted sexual battery; victim
22			less than 12 years of age.
23	794.011(2)	Life	Sexual battery; offender younger
24			than 18 years and commits sexual
25			battery on a person less than 12
26			years.
27	794.011(4)	1st	Sexual battery; victim 12 years
28			or older, certain circumstances.
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1	794.011(8)(b)	1st	Sexual battery; engage in sexual
2			conduct with minor 12 to 18 years
3			by person in familial or
4			custodial authority.
5	800.04(5)(b)	1st	Lewd or lascivious molestation;
6			victim less than 12 years;
7			offender 18 years or older.
8	812.13(2)(a)	1st,PBL	Robbery with firearm or other
9			deadly weapon.
10	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
11			deadly weapon.
12	817.568(7)	2nd,PBL	Fraudulent use of personal
13			identification information of an
14			individual under the age of 18 by
15			his or her parent, legal
16			guardian, or person exercising
17			custodial authority.
18	827.03(2)	1st	Aggravated child abuse.
19	847.0145(1)	1st	Selling, or otherwise
20			transferring custody or control,
21			of a minor.
22	847.0145(2)	1st	Purchasing, or otherwise
23			obtaining custody or control, of
24			a minor.
25	859.01	1st	Poisoning or introducing
26			bacteria, radioactive materials,
27			viruses, or chemical compounds
28			into food, drink, medicine, or
29			water with intent to kill or
30			injure another person.
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1	893.135	1st	Attempted capital trafficking
2			offense.
3	893.135(1)(a)3.	1st	Trafficking in cannabis, more
4			than 10,000 lbs.
5	893.135		
6	(1)(b)1.c.	1st	Trafficking in cocaine, more than
7			400 grams, less than 150
8			kilograms.
9	893.135		
10	(1)(c)1.c.	1st	Trafficking in illegal drugs,
11			more than 28 grams, less than 30
12			kilograms.
13	893.135		
14	(1)(d)1.c.	1st	Trafficking in phencyclidine,
15			more than 400 grams.
16	893.135		
17	(1)(e)1.c.	1st	Trafficking in methaqualone, more
18			than 25 kilograms.
19	893.135		
20	(1)(f)1.c.	1st	Trafficking in amphetamine, more
21			than 200 grams.
22	893.135		
23	(1)(h)1.c.	1st	Trafficking in
24			gamma-hydroxybutyric acid (GHB),
25			10 kilograms or more.
26	893.135		
27	(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10
28			kilograms or more.
29	893.135		
30	(1)(k)2.c.	1st	Trafficking in Phenethylamines,
31			400 grams or more.

1	896.101(5)(c)	1st	Money laundering, financial
2			instruments totaling or exceeding
3			\$100,000.
4	896.104(4)(a)3.	1st	Structuring transactions to evade
5			reporting or registration
6			requirements, financial
7			transactions totaling or
8			exceeding \$100,000.
9			(j) LEVEL 10
10	499.0054	1st	Sale or purchase of contraband
11			legend drugs resulting in death.
12	782.04(2)	1st,PBL	Unlawful killing of human; act is
13			homicide, unpremeditated.
14	787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm
15			upon or terrorize victim.
16	787.01(3)(a)	Life	Kidnapping; child under age <u>16</u>
17			13 , perpetrator also commits
18			aggravated child abuse, sexual
19			battery, or lewd or lascivious
20			battery, molestation, conduct, or
21			exhibition.
22	782.07(3)	1st	Aggravated manslaughter of a
23			child.
24	794.011(3)	Life	Sexual battery; victim 12 years
25			or older, offender uses or
26			threatens to use deadly weapon or
27			physical force to cause serious
28			injury.
29	876.32	1st	Treason against the state.
30	Section 10. For the purpose of incorporating the		
31	amendments made by this act to sections 787.01, 787.02, and		

1 787.025, Florida Statutes, in references thereto, paragraph
2 (a) of subsection (1) of section 943.0435, Florida Statutes,
3 is reenacted to read:

4 943.0435 Sexual offenders required to register with
5 the department; penalty.--

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

7 (a) "Sexual offender" means a person who:

8 1. Has been convicted of committing, or attempting,
9 soliciting, or conspiring to commit, any of the criminal
10 offenses proscribed in the following statutes in this state or
11 similar offenses in another jurisdiction: s. 787.01, s.
12 787.02, or s. 787.025, where the victim is a minor and the
13 defendant is not the victim's parent; chapter 794, excluding
14 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.
15 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;
16 s. 847.0138; s. 847.0145; or any similar offense committed in
17 this state which has been redesignated from a former statute
18 number to one of those listed in this subparagraph; and

19 2. Has been released on or after October 1, 1997, from
20 the sanction imposed for any conviction of an offense
21 described in subparagraph 1. For purposes of subparagraph 1.,
22 a sanction imposed in this state or in any other jurisdiction
23 includes, but is not limited to, a fine, probation, community
24 control, parole, conditional release, control release, or
25 incarceration in a state prison, federal prison, private
26 correctional facility, or local detention facility; or

27 3. Establishes or maintains a residence in this state
28 and who has not been designated as a sexual predator by a
29 court of this state but who has been designated as a sexual
30 predator, as a sexually violent predator, or by another sexual
31 offender designation in another state or jurisdiction and was,

1 as a result of such designation, subjected to registration or
2 community or public notification, or both, or would be if the
3 person were a resident of that state or jurisdiction; or

4 4. Establishes or maintains a residence in this state
5 who is in the custody or control of, or under the supervision
6 of, any other state or jurisdiction as a result of a
7 conviction for committing, or attempting, soliciting, or
8 conspiring to commit, any of the criminal offenses proscribed
9 in the following statutes or similar offense in another
10 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the
11 victim is a minor and the defendant is not the victim's
12 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;
13 s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
14 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or any
15 similar offense committed in this state which has been
16 redesignated from a former statute number to one of those
17 listed in this subparagraph.

18 Section 11. For the purpose of incorporating the
19 amendments made by this act to section 787.025, Florida
20 Statutes, in references thereto, section 943.0585, Florida
21 Statutes, is reenacted to read:

22 943.0585 Court-ordered expunction of criminal history
23 records.--The courts of this state have jurisdiction over
24 their own procedures, including the maintenance, expunction,
25 and correction of judicial records containing criminal history
26 information to the extent such procedures are not inconsistent
27 with the conditions, responsibilities, and duties established
28 by this section. Any court of competent jurisdiction may order
29 a criminal justice agency to expunge the criminal history
30 record of a minor or an adult who complies with the
31 requirements of this section. The court shall not order a

1 criminal justice agency to expunge a criminal history record
2 until the person seeking to expunge a criminal history record
3 has applied for and received a certificate of eligibility for
4 expunction pursuant to subsection (2). A criminal history
5 record that relates to a violation of s. 787.025, chapter 794,
6 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
7 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
8 893.135, or a violation enumerated in s. 907.041 may not be
9 expunged, without regard to whether adjudication was withheld,
10 if the defendant was found guilty of or pled guilty or nolo
11 contendere to the offense, or if the defendant, as a minor,
12 was found to have committed, or pled guilty or nolo contendere
13 to committing, the offense as a delinquent act. The court may
14 only order expunction of a criminal history record pertaining
15 to one arrest or one incident of alleged criminal activity,
16 except as provided in this section. The court may, at its sole
17 discretion, order the expunction of a criminal history record
18 pertaining to more than one arrest if the additional arrests
19 directly relate to the original arrest. If the court intends
20 to order the expunction of records pertaining to such
21 additional arrests, such intent must be specified in the
22 order. A criminal justice agency may not expunge any record
23 pertaining to such additional arrests if the order to expunge
24 does not articulate the intention of the court to expunge a
25 record pertaining to more than one arrest. This section does
26 not prevent the court from ordering the expunction of only a
27 portion of a criminal history record pertaining to one arrest
28 or one incident of alleged criminal activity. Notwithstanding
29 any law to the contrary, a criminal justice agency may comply
30 with laws, court orders, and official requests of other
31 jurisdictions relating to expunction, correction, or

1 confidential handling of criminal history records or
2 information derived therefrom. This section does not confer
3 any right to the expunction of any criminal history record,
4 and any request for expunction of a criminal history record
5 may be denied at the sole discretion of the court.

6 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY
7 RECORD.--Each petition to a court to expunge a criminal
8 history record is complete only when accompanied by:

9 (a) A certificate of eligibility for expunction issued
10 by the department pursuant to subsection (2).

11 (b) The petitioner's sworn statement attesting that
12 the petitioner:

13 1. Has never, prior to the date on which the petition
14 is filed, been adjudicated guilty of a criminal offense or
15 comparable ordinance violation or adjudicated delinquent for
16 committing a felony or a misdemeanor specified in s.
17 943.051(3)(b).

18 2. Has not been adjudicated guilty of, or adjudicated
19 delinquent for committing, any of the acts stemming from the
20 arrest or alleged criminal activity to which the petition
21 pertains.

22 3. Has never secured a prior sealing or expunction of
23 a criminal history record under this section, former s.
24 893.14, former s. 901.33, or former s. 943.058, or from any
25 jurisdiction outside the state.

26 4. Is eligible for such an expunction to the best of
27 his or her knowledge or belief and does not have any other
28 petition to expunge or any petition to seal pending before any
29 court.

30

31

1 Any person who knowingly provides false information on such
2 sworn statement to the court commits a felony of the third
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084.

5 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
6 to petitioning the court to expunge a criminal history record,
7 a person seeking to expunge a criminal history record shall
8 apply to the department for a certificate of eligibility for
9 expunction. The department shall, by rule adopted pursuant to
10 chapter 120, establish procedures pertaining to the
11 application for and issuance of certificates of eligibility
12 for expunction. The department shall issue a certificate of
13 eligibility for expunction to a person who is the subject of a
14 criminal history record if that person:

15 (a) Has obtained, and submitted to the department, a
16 written, certified statement from the appropriate state
17 attorney or statewide prosecutor which indicates:

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

20 2. That an indictment, information, or other charging
21 document, if filed or issued in the case, was dismissed or
22 nolle prosequi by the state attorney or statewide prosecutor,
23 or was dismissed by a court of competent jurisdiction.

24 3. That the criminal history record does not relate to
25 a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04,
26 s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133,
27 s. 847.0135, s. 847.0145, s. 893.135, or a violation
28 enumerated in s. 907.041, where the defendant was found guilty
29 of, or pled guilty or nolo contendere to any such offense, or
30 that the defendant, as a minor, was found to have committed,
31 or pled guilty or nolo contendere to committing, such an

1 offense as a delinquent act, without regard to whether
2 adjudication was withheld.

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

6 (c) Has submitted to the department a certified copy
7 of the disposition of the charge to which the petition to
8 expunge pertains.

9 (d) Has never, prior to the date on which the
10 application for a certificate of eligibility is filed, been
11 adjudicated guilty of a criminal offense or comparable
12 ordinance violation or adjudicated delinquent for committing a
13 felony or a misdemeanor specified in s. 943.051(3)(b).

14 (e) Has not been adjudicated guilty of, or adjudicated
15 delinquent for committing, any of the acts stemming from the
16 arrest or alleged criminal activity to which the petition to
17 expunge pertains.

18 (f) Has never secured a prior sealing or expunction of
19 a criminal history record under this section, former s.
20 893.14, former s. 901.33, or former s. 943.058.

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

24 (h) Is not required to wait a minimum of 10 years
25 prior to being eligible for an expunction of such records
26 because all charges related to the arrest or criminal activity
27 to which the petition to expunge pertains were dismissed prior
28 to trial, adjudication, or the withholding of adjudication.
29 Otherwise, such criminal history record must be sealed under
30 this section, former s. 893.14, former s. 901.33, or former s.
31

1 943.058 for at least 10 years before such record is eligible
2 for expunction.

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

4 (a) In judicial proceedings under this section, a copy
5 of the completed petition to expunge shall be served upon the
6 appropriate state attorney or the statewide prosecutor and
7 upon the arresting agency; however, it is not necessary to
8 make any agency other than the state a party. The appropriate
9 state attorney or the statewide prosecutor and the arresting
10 agency may respond to the court regarding the completed
11 petition to expunge.

12 (b) If relief is granted by the court, the clerk of
13 the court shall certify copies of the order to the appropriate
14 state attorney or the statewide prosecutor and the arresting
15 agency. The arresting agency is responsible for forwarding the
16 order to any other agency to which the arresting agency
17 disseminated the criminal history record information to which
18 the order pertains. The department shall forward the order to
19 expunge to the Federal Bureau of Investigation. The clerk of
20 the court shall certify a copy of the order to any other
21 agency which the records of the court reflect has received the
22 criminal history record from the court.

23 (c) For an order to expunge entered by a court prior
24 to July 1, 1992, the department shall notify the appropriate
25 state attorney or statewide prosecutor of an order to expunge
26 which is contrary to law because the person who is the subject
27 of the record has previously been convicted of a crime or
28 comparable ordinance violation or has had a prior criminal
29 history record sealed or expunged. Upon receipt of such
30 notice, the appropriate state attorney or statewide prosecutor
31 shall take action, within 60 days, to correct the record and

1 petition the court to void the order to expunge. The
2 department shall seal the record until such time as the order
3 is voided by the court.

4 (d) On or after July 1, 1992, the department or any
5 other criminal justice agency is not required to act on an
6 order to expunge entered by a court when such order does not
7 comply with the requirements of this section. Upon receipt of
8 such an order, the department must notify the issuing court,
9 the appropriate state attorney or statewide prosecutor, the
10 petitioner or the petitioner's attorney, and the arresting
11 agency of the reason for noncompliance. The appropriate state
12 attorney or statewide prosecutor shall take action within 60
13 days to correct the record and petition the court to void the
14 order. No cause of action, including contempt of court, shall
15 arise against any criminal justice agency for failure to
16 comply with an order to expunge when the petitioner for such
17 order failed to obtain the certificate of eligibility as
18 required by this section or such order does not otherwise
19 comply with the requirements of this section.

20 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
21 criminal history record of a minor or an adult which is
22 ordered expunged by a court of competent jurisdiction pursuant
23 to this section must be physically destroyed or obliterated by
24 any criminal justice agency having custody of such record;
25 except that any criminal history record in the custody of the
26 department must be retained in all cases. A criminal history
27 record ordered expunged that is retained by the department is
28 confidential and exempt from the provisions of s. 119.07(1)
29 and s. 24(a), Art. I of the State Constitution and not
30 available to any person or entity except upon order of a court
31 of competent jurisdiction. A criminal justice agency may

1 retain a notation indicating compliance with an order to
2 expunge.

3 (a) The person who is the subject of a criminal
4 history record that is expunged under this section or under
5 other provisions of law, including former s. 893.14, former s.
6 901.33, and former s. 943.058, may lawfully deny or fail to
7 acknowledge the arrests covered by the expunged record, except
8 when the subject of the record:

9 1. Is a candidate for employment with a criminal
10 justice agency;

11 2. Is a defendant in a criminal prosecution;

12 3. Concurrently or subsequently petitions for relief
13 under this section or s. 943.059;

14 4. Is a candidate for admission to The Florida Bar;

15 5. Is seeking to be employed or licensed by or to
16 contract with the Department of Children and Family Services
17 or the Department of Juvenile Justice or to be employed or
18 used by such contractor or licensee in a sensitive position
19 having direct contact with children, the developmentally
20 disabled, the aged, or the elderly as provided in s.
21 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
22 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
23 985.407, or chapter 400; or

24 6. Is seeking to be employed or licensed by the Office
25 of Teacher Education, Certification, Staff Development, and
26 Professional Practices of the Department of Education, any
27 district school board, or any local governmental entity that
28 licenses child care facilities.

29 (b) Subject to the exceptions in paragraph (a), a
30 person who has been granted an expunction under this section,
31 former s. 893.14, former s. 901.33, or former s. 943.058 may

1 not be held under any provision of law of this state to commit
2 perjury or to be otherwise liable for giving a false statement
3 by reason of such person's failure to recite or acknowledge an
4 expunged criminal history record.

5 (c) Information relating to the existence of an
6 expunged criminal history record which is provided in
7 accordance with paragraph (a) is confidential and exempt from
8 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
9 State Constitution, except that the department shall disclose
10 the existence of a criminal history record ordered expunged to
11 the entities set forth in subparagraphs (a)1., 4., 5., and 6.
12 for their respective licensing and employment purposes, and to
13 criminal justice agencies for their respective criminal
14 justice purposes. It is unlawful for any employee of an entity
15 set forth in subparagraph (a)1., subparagraph (a)4.,
16 subparagraph (a)5., or subparagraph (a)6. to disclose
17 information relating to the existence of an expunged criminal
18 history record of a person seeking employment or licensure
19 with such entity or contractor, except to the person to whom
20 the criminal history record relates or to persons having
21 direct responsibility for employment or licensure decisions.
22 Any person who violates this paragraph commits a misdemeanor
23 of the first degree, punishable as provided in s. 775.082 or
24 s. 775.083.

25 (5) STATUTORY REFERENCES.--Any reference to any other
26 chapter, section, or subdivision of the Florida Statutes in
27 this section constitutes a general reference under the
28 doctrine of incorporation by reference.

29 Section 12. For the purpose of incorporating the
30 amendments made by this act to section 787.025, Florida
31

1 Statutes, in references thereto, section 943.059, Florida
2 Statutes, is reenacted to read:
3 943.059 Court-ordered sealing of criminal history
4 records.--The courts of this state shall continue to have
5 jurisdiction over their own procedures, including the
6 maintenance, sealing, and correction of judicial records
7 containing criminal history information to the extent such
8 procedures are not inconsistent with the conditions,
9 responsibilities, and duties established by this section. Any
10 court of competent jurisdiction may order a criminal justice
11 agency to seal the criminal history record of a minor or an
12 adult who complies with the requirements of this section. The
13 court shall not order a criminal justice agency to seal a
14 criminal history record until the person seeking to seal a
15 criminal history record has applied for and received a
16 certificate of eligibility for sealing pursuant to subsection
17 (2). A criminal history record that relates to a violation of
18 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
19 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
20 s. 847.0145, s. 893.135, or a violation enumerated in s.
21 907.041 may not be sealed, without regard to whether
22 adjudication was withheld, if the defendant was found guilty
23 of or pled guilty or nolo contendere to the offense, or if the
24 defendant, as a minor, was found to have committed or pled
25 guilty or nolo contendere to committing the offense as a
26 delinquent act. The court may only order sealing of a criminal
27 history record pertaining to one arrest or one incident of
28 alleged criminal activity, except as provided in this section.
29 The court may, at its sole discretion, order the sealing of a
30 criminal history record pertaining to more than one arrest if
31 the additional arrests directly relate to the original arrest.

1 If the court intends to order the sealing of records
2 pertaining to such additional arrests, such intent must be
3 specified in the order. A criminal justice agency may not seal
4 any record pertaining to such additional arrests if the order
5 to seal does not articulate the intention of the court to seal
6 records pertaining to more than one arrest. This section does
7 not prevent the court from ordering the sealing of only a
8 portion of a criminal history record pertaining to one arrest
9 or one incident of alleged criminal activity. Notwithstanding
10 any law to the contrary, a criminal justice agency may comply
11 with laws, court orders, and official requests of other
12 jurisdictions relating to sealing, correction, or confidential
13 handling of criminal history records or information derived
14 therefrom. This section does not confer any right to the
15 sealing of any criminal history record, and any request for
16 sealing a criminal history record may be denied at the sole
17 discretion of the court.

18 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
19 petition to a court to seal a criminal history record is
20 complete only when accompanied by:

21 (a) A certificate of eligibility for sealing issued by
22 the department pursuant to subsection (2).

23 (b) The petitioner's sworn statement attesting that
24 the petitioner:

25 1. Has never, prior to the date on which the petition
26 is filed, been adjudicated guilty of a criminal offense or
27 comparable ordinance violation or adjudicated delinquent for
28 committing a felony or a misdemeanor specified in s.
29 943.051(3)(b).

30 2. Has not been adjudicated guilty of or adjudicated
31 delinquent for committing any of the acts stemming from the

1 arrest or alleged criminal activity to which the petition to
2 seal pertains.

3 3. Has never secured a prior sealing or expunction of
4 a criminal history record under this section, former s.
5 893.14, former s. 901.33, former s. 943.058, or from any
6 jurisdiction outside the state.

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

11
12 Any person who knowingly provides false information on such
13 sworn statement to the court commits a felony of the third
14 degree, punishable as provided in s. 775.082, s. 775.083, or
15 s. 775.084.

16 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
17 petitioning the court to seal a criminal history record, a
18 person seeking to seal a criminal history record shall apply
19 to the department for a certificate of eligibility for
20 sealing. The department shall, by rule adopted pursuant to
21 chapter 120, establish procedures pertaining to the
22 application for and issuance of certificates of eligibility
23 for sealing. The department shall issue a certificate of
24 eligibility for sealing to a person who is the subject of a
25 criminal history record provided that such person:

26 (a) Has submitted to the department a certified copy
27 of the disposition of the charge to which the petition to seal
28 pertains.

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

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

6 (d) Has not been adjudicated guilty of or adjudicated
7 delinquent for committing any of the acts stemming from the
8 arrest or alleged criminal activity to which the petition to
9 seal pertains.

10 (e) Has never secured a prior sealing or expunction of
11 a criminal history record under this section, former s.
12 893.14, former s. 901.33, or former s. 943.058.

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

16 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

17 (a) In judicial proceedings under this section, a copy
18 of the completed petition to seal shall be served upon the
19 appropriate state attorney or the statewide prosecutor and
20 upon the arresting agency; however, it is not necessary to
21 make any agency other than the state a party. The appropriate
22 state attorney or the statewide prosecutor and the arresting
23 agency may respond to the court regarding the completed
24 petition to seal.

25 (b) If relief is granted by the court, the clerk of
26 the court shall certify copies of the order to the appropriate
27 state attorney or the statewide prosecutor and to the
28 arresting agency. The arresting agency is responsible for
29 forwarding the order to any other agency to which the
30 arresting agency disseminated the criminal history record
31 information to which the order pertains. The department shall

1 forward the order to seal to the Federal Bureau of
2 Investigation. The clerk of the court shall certify a copy of
3 the order to any other agency which the records of the court
4 reflect has received the criminal history record from the
5 court.

6 (c) For an order to seal entered by a court prior to
7 July 1, 1992, the department shall notify the appropriate
8 state attorney or statewide prosecutor of any order to seal
9 which is contrary to law because the person who is the subject
10 of the record has previously been convicted of a crime or
11 comparable ordinance violation or has had a prior criminal
12 history record sealed or expunged. Upon receipt of such
13 notice, the appropriate state attorney or statewide prosecutor
14 shall take action, within 60 days, to correct the record and
15 petition the court to void the order to seal. The department
16 shall seal the record until such time as the order is voided
17 by the court.

18 (d) On or after July 1, 1992, the department or any
19 other criminal justice agency is not required to act on an
20 order to seal entered by a court when such order does not
21 comply with the requirements of this section. Upon receipt of
22 such an order, the department must notify the issuing court,
23 the appropriate state attorney or statewide prosecutor, the
24 petitioner or the petitioner's attorney, and the arresting
25 agency of the reason for noncompliance. The appropriate state
26 attorney or statewide prosecutor shall take action within 60
27 days to correct the record and petition the court to void the
28 order. No cause of action, including contempt of court, shall
29 arise against any criminal justice agency for failure to
30 comply with an order to seal when the petitioner for such
31 order failed to obtain the certificate of eligibility as

1 required by this section or when such order does not comply
2 with the requirements of this section.

3 (e) An order sealing a criminal history record
4 pursuant to this section does not require that such record be
5 surrendered to the court, and such record shall continue to be
6 maintained by the department and other criminal justice
7 agencies.

8 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
9 criminal history record of a minor or an adult which is
10 ordered sealed by a court of competent jurisdiction pursuant
11 to this section is confidential and exempt from the provisions
12 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
13 and is available only to the person who is the subject of the
14 record, to the subject's attorney, to criminal justice
15 agencies for their respective criminal justice purposes, or to
16 those entities set forth in subparagraphs (a)1., 4., 5., and
17 6. for their respective licensing and employment purposes.

18 (a) The subject of a criminal history record sealed
19 under this section or under other provisions of law, including
20 former s. 893.14, former s. 901.33, and former s. 943.058, may
21 lawfully deny or fail to acknowledge the arrests covered by
22 the sealed record, except when the subject of the record:

- 23 1. Is a candidate for employment with a criminal
24 justice agency;
- 25 2. Is a defendant in a criminal prosecution;
- 26 3. Concurrently or subsequently petitions for relief
27 under this section or s. 943.0585;
- 28 4. Is a candidate for admission to The Florida Bar;
- 29 5. Is seeking to be employed or licensed by or to
30 contract with the Department of Children and Family Services
31 or the Department of Juvenile Justice or to be employed or

1 used by such contractor or licensee in a sensitive position
2 having direct contact with children, the developmentally
3 disabled, the aged, or the elderly as provided in s.
4 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
5 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
6 415.103, s. 985.407, or chapter 400; or

7 6. Is seeking to be employed or licensed by the Office
8 of Teacher Education, Certification, Staff Development, and
9 Professional Practices of the Department of Education, any
10 district school board, or any local governmental entity which
11 licenses child care facilities.

12 (b) Subject to the exceptions in paragraph (a), a
13 person who has been granted a sealing under this section,
14 former s. 893.14, former s. 901.33, or former s. 943.058 may
15 not be held under any provision of law of this state to commit
16 perjury or to be otherwise liable for giving a false statement
17 by reason of such person's failure to recite or acknowledge a
18 sealed criminal history record.

19 (c) Information relating to the existence of a sealed
20 criminal record provided in accordance with the provisions of
21 paragraph (a) is confidential and exempt from the provisions
22 of s. 119.07(1) and s. 24(a), Art. I of the State
23 Constitution, except that the department shall disclose the
24 sealed criminal history record to the entities set forth in
25 subparagraphs (a)1., 4., 5., and 6. for their respective
26 licensing and employment purposes. It is unlawful for any
27 employee of an entity set forth in subparagraph (a)1.,
28 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.
29 to disclose information relating to the existence of a sealed
30 criminal history record of a person seeking employment or
31 licensure with such entity or contractor, except to the person

1 to whom the criminal history record relates or to persons
2 having direct responsibility for employment or licensure
3 decisions. Any person who violates the provisions of this
4 paragraph commits a misdemeanor of the first degree,
5 punishable as provided in s. 775.082 or s. 775.083.

6 (5) STATUTORY REFERENCES.--Any reference to any other
7 chapter, section, or subdivision of the Florida Statutes in
8 this section constitutes a general reference under the
9 doctrine of incorporation by reference.

10 Section 13. For the purpose of incorporating the
11 amendments made by this act to sections 787.01, 787.02, and
12 787.025, Florida Statutes, in references thereto, paragraph
13 (b) of subsection (1) of section 944.606, Florida Statutes, is
14 reenacted to read:

15 944.606 Sexual offenders; notification upon release.--

16 (1) As used in this section:

17 (b) "Sexual offender" means a person who has been
18 convicted of committing, or attempting, soliciting, or
19 conspiring to commit, any of the criminal offenses proscribed
20 in the following statutes in this state or similar offenses in
21 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
22 where the victim is a minor and the defendant is not the
23 victim's parent; chapter 794, excluding ss. 794.011(10) and
24 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
25 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;
26 or any similar offense committed in this state which has been
27 redesignated from a former statute number to one of those
28 listed in this subsection, when the department has received
29 verified information regarding such conviction; an offender's
30 computerized criminal history record is not, in and of itself,
31 verified information.

1 Section 14. For the purpose of incorporating the
2 amendments made by this act to sections 787.01, 787.02, and
3 787.025, Florida Statutes, in references thereto, paragraph
4 (a) of subsection (1) of section 944.607, Florida Statutes, is
5 reenacted to read:

6 944.607 Notification to Department of Law Enforcement
7 of information on sexual offenders.--

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

9 (a) "Sexual offender" means a person who is in the
10 custody or control of, or under the supervision of, the
11 department or is in the custody of a private correctional
12 facility:

13 1. On or after October 1, 1997, as a result of a
14 conviction for committing, or attempting, soliciting, or
15 conspiring to commit, any of the criminal offenses proscribed
16 in the following statutes in this state or similar offenses in
17 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
18 where the victim is a minor and the defendant is not the
19 victim's parent; chapter 794, excluding ss. 794.011(10) and
20 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
21 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;
22 or any similar offense committed in this state which has been
23 redesignated from a former statute number to one of those
24 listed in this paragraph; or

25 2. Who establishes or maintains a residence in this
26 state and who has not been designated as a sexual predator by
27 a court of this state but who has been designated as a sexual
28 predator, as a sexually violent predator, or by another sexual
29 offender designation in another state or jurisdiction and was,
30 as a result of such designation, subjected to registration or
31

1 community or public notification, or both, or would be if the
2 person were a resident of that state or jurisdiction.

3 Section 15. For the purpose of incorporating the
4 amendments made by this act to sections 787.01, 787.02, and
5 787.025, Florida Statutes, in references thereto, subsection
6 (15) of section 948.01, Florida Statutes, is reenacted to
7 read:

8 948.01 When court may place defendant on probation or
9 into community control.--

10 (15) Effective for an offense committed on or after
11 July 1, 1998, a person is ineligible for placement on
12 administrative probation if the person is sentenced to or is
13 serving a term of probation or community control, regardless
14 of the conviction or adjudication, for committing, or
15 attempting, conspiring, or soliciting to commit, any of the
16 felony offenses described in s. 787.01 or s. 787.02, where the
17 victim is a minor and the defendant is not the victim's
18 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
19 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.
20 847.0145.

21 Section 16. For the purpose of incorporating the
22 amendments made by this act to section 787.025, Florida
23 Statutes, in references thereto, paragraph (a) of subsection
24 (2) of section 948.06, Florida Statutes, is reenacted to read:

25 948.06 Violation of probation or community control;
26 revocation; modification; continuance; failure to pay
27 restitution or cost of supervision.--

28 (2)(a) When any state or local law enforcement agency
29 investigates or arrests a person for committing, or
30 attempting, soliciting, or conspiring to commit, a violation
31 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,

1 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement
2 agency shall contact the Department of Corrections to verify
3 whether the person under investigation or under arrest is on
4 probation, community control, parole, conditional release, or
5 control release.

6 Section 17. Section 947.06, Florida Statutes, is
7 amended to read:

8 947.06 Meeting; when commission may act.--The
9 commission shall meet at regularly scheduled intervals and
10 from time to time as may otherwise be determined by the chair.
11 The making of recommendations to the Governor and Cabinet in
12 matters relating to modifications of acts and decisions of the
13 chair as provided in s. 947.04(1) shall be by a majority vote
14 of the commission. No prisoner shall be placed on parole
15 except as provided in ss. 947.172 and 947.174 by a panel of no
16 fewer than two commissioners appointed by the chair. All
17 matters relating to the granting, denying, or revoking of
18 parole shall be decided in a meeting at which the public shall
19 have the right to be present. Prior to the meeting, each
20 victim of the crime committed by the inmate, or the victim's
21 next of kin, shall be presented with a copy of all documents,
22 findings, and evidence relating to the granting, denying, or
23 revoking of parole. Victims of the crime committed by the
24 inmate shall be permitted to make an oral statement or submit
25 a written statement regarding their views as to the granting,
26 denying, or revoking of parole. Persons not members or
27 employees of the commission or victims of the crime committed
28 by the inmate may be permitted to participate in deliberations
29 concerning the granting and revoking of paroles only upon the
30 prior written approval of the chair of the commission. To
31 facilitate the ability of victims and other persons to attend

1 | commission meetings, the commission shall meet in various
2 | counties including, but not limited to, Broward, Dade, Duval,
3 | Escambia, Hillsborough, Leon, Orange, and Palm Beach, with the
4 | location chosen being as close as possible to the location
5 | where the parole-eligible inmate committed the offense for
6 | which the parole-eligible inmate was sentenced. The
7 | commission shall adopt rules governing the oral participation
8 | of victims and the submission of written statements by
9 | victims.

10 | Section 18. Paragraph (g) of subsection (4) of section
11 | 947.16, Florida Statutes, is amended to read:

12 | 947.16 Eligibility for parole; initial parole
13 | interviews; powers and duties of commission.--

14 | (4) A person who has become eligible for an initial
15 | parole interview and who may, according to the objective
16 | parole guidelines of the commission, be granted parole shall
17 | be placed on parole in accordance with the provisions of this
18 | law; except that, in any case of a person convicted of murder,
19 | robbery, burglary of a dwelling or burglary of a structure or
20 | conveyance in which a human being is present, aggravated
21 | assault, aggravated battery, kidnapping, sexual battery or
22 | attempted sexual battery, incest or attempted incest, an
23 | unnatural and lascivious act or an attempted unnatural and
24 | lascivious act, lewd and lascivious behavior, assault or
25 | aggravated assault when a sexual act is completed or
26 | attempted, battery or aggravated battery when a sexual act is
27 | completed or attempted, arson, or any felony involving the use
28 | of a firearm or other deadly weapon or the use of intentional
29 | violence, at the time of sentencing the judge may enter an
30 | order retaining jurisdiction over the offender for review of a
31 | commission release order. This jurisdiction of the trial

1 court judge is limited to the first one-third of the maximum
2 sentence imposed. When any person is convicted of two or more
3 felonies and concurrent sentences are imposed, then the
4 jurisdiction of the trial court judge as provided herein
5 applies to the first one-third of the maximum sentence imposed
6 for the highest felony of which the person was convicted. When
7 any person is convicted of two or more felonies and
8 consecutive sentences are imposed, then the jurisdiction of
9 the trial court judge as provided herein applies to one-third
10 of the total consecutive sentences imposed.

11 (g) The decision of the original sentencing judge or,
12 in her or his absence, the chief judge of the circuit to
13 vacate any parole release order as provided in this section is
14 not appealable. Each inmate whose parole release order has
15 been vacated by the court shall be reinterviewed within 2
16 years after the date of receipt of the vacated release order
17 and every 2 years thereafter, or earlier by order of the court
18 retaining jurisdiction. However, each inmate whose parole
19 release order has been vacated by the court and who has been:

- 20 1. Convicted of murder or attempted murder;
- 21 2. Convicted of sexual battery or attempted sexual
22 battery; ~~or~~
- 23 3. Sentenced to a 25-year minimum mandatory sentence
24 previously provided in s. 775.082; ~~or~~
- 25 4. Convicted of kidnapping,

26
27 shall be reinterviewed once within 5 years after the date of
28 receipt of the vacated release order and once every 5 years
29 thereafter, if the commission finds that it is not reasonable
30 to expect that parole would be granted during the following
31 years and states the bases for the finding in writing. For

1 any inmate who is within 7 years of his or her tentative
2 release date, the commission may establish a reinterview date
3 prior to the 5-year schedule.

4 Section 19. Paragraph (b) of subsection (1) of section
5 947.174, Florida Statutes, is amended to read:

6 947.174 Subsequent interviews.--

7 (1)

8 (b) For any inmate convicted of murder, attempted
9 murder, sexual battery, attempted sexual battery, or
10 kidnapping, or who has been sentenced to a 25-year minimum
11 mandatory sentence previously provided in s. 775.082, and
12 whose presumptive parole release date is more than 5 years
13 after the date of the initial interview, a hearing examiner
14 shall schedule an interview for review of the presumptive
15 parole release date. Such interview shall take place once
16 within 5 years after the initial interview and once every 5
17 years thereafter if the commission finds that it is not
18 reasonable to expect that parole will be granted at a hearing
19 during the following years and states the bases for the
20 finding in writing. For any inmate who is within 7 years of
21 his or her tentative release date, the commission may
22 establish an interview date prior to the 5-year schedule.

23 Section 20. This act shall take effect October 1,
24 2004.