

1                   A bill to be entitled  
2       An act relating to sexual offenses; amending s. 775.21,  
3       F.S.; replacing the definition of the term "instant  
4       message name" with the definition of the term "Internet  
5       identifier"; providing that voluntary disclosure of  
6       specified information waives a disclosure exemption for  
7       such information; conforming provisions; requiring  
8       disclosure of passport and immigration status information;  
9       requiring that a sexual predator who is unable to secure  
10      or update a driver's license or identification card within  
11      a specified period must report specified information to  
12      the local sheriff's office within a specified period after  
13      such change with confirmation that he or she also reported  
14      such information to the Department of Highway Safety and  
15      Motor Vehicles; revising reporting requirements if a  
16      sexual predator plans to leave the United States for more  
17      than a specified period; creating s. 847.0141, F.S.;  
18      prohibiting a minor's intentional or knowing use of an  
19      electronic communication device to transmit, distribute,  
20      or display a visual depiction of himself or herself that  
21      depicts nudity and is harmful to minors; providing  
22      penalties; prohibiting a minor's intentional or knowing  
23      possession of a visual depiction of another minor that  
24      depicts nudity and is harmful to minors; providing an  
25      exception; providing penalties; providing duties for law  
26      enforcement officers; providing for prosecution of a minor  
27      under other provisions; amending s. 943.0435, F.S.;  
28      replacing the definition of the term "instant message

29 name" with the definition of the term "Internet  
30 identifier"; conforming provisions; requiring disclosure  
31 of passport and immigration status information; requiring  
32 that a sexual predator who is unable to secure or update a  
33 driver's license or identification card within a specified  
34 period must report specified information to the local  
35 sheriff's office within a specified period of such change  
36 with confirmation that he or she also reported such  
37 information to the Department of Highway Safety and Motor  
38 Vehicles; providing additional requirements for sexual  
39 offenders intending to reside outside of the United  
40 States; amending s. 943.04351, F.S.; requiring a specified  
41 national search of registration information regarding  
42 sexual predators and sexual offenders prior to appointment  
43 or employment of persons by state agencies and  
44 governmental subdivisions; amending s. 943.04354, F.S.;  
45 revising the age range applicable to provisions allowing  
46 removal of the requirement to register as a sexual  
47 offender or sexual predator in certain circumstances;  
48 revising eligibility requirements for removal of the  
49 requirement to register as a sexual offender or sexual  
50 predator; amending s. 943.0437, F.S.; replacing the  
51 definition of the term "instant message name" with the  
52 definition of the term "Internet identifier"; conforming  
53 provisions; amending ss. 944.606 and 944.607, F.S.;  
54 replacing the definition of the term "instant message  
55 name" with the definition of the term "Internet  
56 identifier"; conforming provisions; requiring disclosure

57 | of passport and immigration status information; amending  
58 | s. 947.005, F.S.; revising the definition of the term  
59 | "risk assessment"; amending s. 948.31, F.S.; providing  
60 | that conditions imposed under that section do not require  
61 | oral pronouncement at the time of sentencing and shall be  
62 | considered standard conditions of probation or community  
63 | control for certain offenders; removing a provision  
64 | prohibiting contact with minors if sexual offender  
65 | treatment is recommended; amending ss. 985.481 and  
66 | 985.4815, F.S.; requiring disclosure of passport and  
67 | immigration status information by certain sexual offenders  
68 | adjudicated delinquent and certain juvenile sexual  
69 | offenders; providing a short title; amending s. 39.001,  
70 | F.S.; providing legislative intent and goals; conforming  
71 | cross-references; amending s. 39.01, F.S.; revising the  
72 | definitions of the terms "abuse," "child who is found to  
73 | be dependent," and "sexual abuse of a child"; amending s.  
74 | 39.401, F.S.; requiring delivery of children alleged to be  
75 | dependent and sexually exploited to short-term safe  
76 | houses; amending s. 39.402, F.S.; providing for a  
77 | presumption that placement of a child alleged to have been  
78 | sexually exploited in a short-term safe house is  
79 | necessary; providing requirements for findings in a  
80 | shelter hearing relating to placement of an allegedly  
81 | sexually exploited child in a short-term safe house;  
82 | amending s. 39.521, F.S.; providing for a presumption that  
83 | placement of a child alleged to have been sexually  
84 | exploited in a safe house is necessary; creating s.

85 39.524, F.S.; requiring assessment of certain children for  
86 placement in a safe house; providing for use of such  
87 assessments; providing requirements for safe houses  
88 receiving such children; requiring an annual report  
89 concerning safe-house placements; creating s. 409.1678,  
90 F.S.; providing definitions; requiring circuits of the  
91 Department of Children and Family Services to address  
92 child welfare service needs of sexually exploited children  
93 as a component of their master plans; providing duties,  
94 responsibilities, and requirements for safe houses and  
95 their operators; providing for training for law  
96 enforcement officials who are likely to encounter sexually  
97 exploited children; amending s. 796.07, F.S.; providing  
98 for an increased civil penalty for soliciting another to  
99 commit prostitution or related acts; providing for  
100 disposition of proceeds; amending s. 960.065, F.S.;  
101 allowing victim compensation for sexually exploited  
102 children; amending s. 985.115, F.S.; conforming a  
103 provision to changes made by the act; amending ss. 985.145  
104 and 985.15, F.S.; providing a presumption against filing a  
105 delinquency petition for certain prostitution-related  
106 offenses in certain circumstances; providing severability;  
107 providing effective dates.

108  
109 Be It Enacted by the Legislature of the State of Florida:

110  
111 Section 1. Paragraph (i) of subsection (2), paragraphs  
112 (a), (e), (g), (i), and (j) of subsection (6), paragraph (a) of

113 subsection (8), and paragraph (a) of subsection (10) of section  
 114 775.21, Florida Statutes, are amended to read:

115 775.21 The Florida Sexual Predators Act.—

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

117 (i) "Internet identifier ~~Instant message name~~" means all  
 118 electronic mail, chat, instant messenger, social networking, or  
 119 similar name used for Internet communication, but does not  
 120 include a date of birth, social security number, or personal  
 121 identification number (PIN) ~~an identifier that allows a person~~  
 122 ~~to communicate in real time with another person using the~~  
 123 ~~Internet.~~ Voluntary disclosure by the sexual predator of his or  
 124 her date of birth, social security number, or personal  
 125 identification number (PIN) as an Internet identifier waives the  
 126 disclosure exemption in this paragraph for such personal  
 127 information.

128 (6) REGISTRATION.—

129 (a) A sexual predator must register with the department  
 130 through the sheriff's office by providing the following  
 131 information to the department:

132 1. Name; social security number; age; race; sex; date of  
 133 birth; height; weight; hair and eye color; photograph; address  
 134 of legal residence and address of any current temporary  
 135 residence, within the state or out of state, including a rural  
 136 route address and a post office box; if no permanent or  
 137 temporary address, any transient residence within the state;  
 138 address, location or description, and dates of any current or  
 139 known future temporary residence within the state or out of  
 140 state; all ~~any~~ electronic mail addresses ~~address~~ and all

141 Internet identifiers ~~any instant message name~~ required to be  
142 provided pursuant to subparagraph (g)4.; all home telephone  
143 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date  
144 and place of any employment; date and place of each conviction;  
145 fingerprints; and a brief description of the crime or crimes  
146 committed by the offender. A post office box shall not be  
147 provided in lieu of a physical residential address. The sexual  
148 predator must also produce or provide information about his or  
149 her passport, if he or she has a passport, and, if he or she is  
150 an alien, must produce or provide information about documents  
151 establishing his or her immigration status.

152 a. If the sexual predator's place of residence is a motor  
153 vehicle, trailer, mobile home, or manufactured home, as defined  
154 in chapter 320, the sexual predator shall also provide to the  
155 department written notice of the vehicle identification number;  
156 the license tag number; the registration number; and a  
157 description, including color scheme, of the motor vehicle,  
158 trailer, mobile home, or manufactured home. If a sexual  
159 predator's place of residence is a vessel, live-aboard vessel,  
160 or houseboat, as defined in chapter 327, the sexual predator  
161 shall also provide to the department written notice of the hull  
162 identification number; the manufacturer's serial number; the  
163 name of the vessel, live-aboard vessel, or houseboat; the  
164 registration number; and a description, including color scheme,  
165 of the vessel, live-aboard vessel, or houseboat.

166 b. If the sexual predator is enrolled, employed, or  
167 carrying on a vocation at an institution of higher education in  
168 this state, the sexual predator shall also provide to the

169 department the name, address, and county of each institution,  
 170 including each campus attended, and the sexual predator's  
 171 enrollment or employment status. Each change in enrollment or  
 172 employment status shall be reported in person at the sheriff's  
 173 office, or the Department of Corrections if the sexual predator  
 174 is in the custody or control of or under the supervision of the  
 175 Department of Corrections, within 48 hours after any change in  
 176 status. The sheriff or the Department of Corrections shall  
 177 promptly notify each institution of the sexual predator's  
 178 presence and any change in the sexual predator's enrollment or  
 179 employment status.

180 2. Any other information determined necessary by the  
 181 department, including criminal and corrections records;  
 182 nonprivileged personnel and treatment records; and evidentiary  
 183 genetic markers when available.

184 (e)1. If the sexual predator is not in the custody or  
 185 control of, or under the supervision of, the Department of  
 186 Corrections or is not in the custody of a private correctional  
 187 facility, the sexual predator shall register in person:

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

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

194 2. Any change in the sexual predator's permanent or  
 195 temporary residence, name, or all any electronic mail addresses  
 196 ~~address~~ and all Internet identifiers ~~any instant message name~~

197 required to be provided pursuant to subparagraph (g)4., after  
198 the sexual predator registers in person at the sheriff's office  
199 as provided in subparagraph 1., shall be accomplished in the  
200 manner provided in paragraphs (g), (i), and (j). When a sexual  
201 predator registers with the sheriff's office, the sheriff shall  
202 take a photograph and a set of fingerprints of the predator and  
203 forward the photographs and fingerprints to the department,  
204 along with the information that the predator is required to  
205 provide pursuant to this section.

206 (g)1. Each time a sexual predator's driver's license or  
207 identification card is subject to renewal, and, without regard  
208 to the status of the predator's driver's license or  
209 identification card, within 48 hours after any change of the  
210 predator's residence or change in the predator's name by reason  
211 of marriage or other legal process, the predator shall report in  
212 person to a driver's license office and shall be subject to the  
213 requirements specified in paragraph (f). The Department of  
214 Highway Safety and Motor Vehicles shall forward to the  
215 department and to the Department of Corrections all photographs  
216 and information provided by sexual predators. Notwithstanding  
217 the restrictions set forth in s. 322.142, the Department of  
218 Highway Safety and Motor Vehicles is authorized to release a  
219 reproduction of a color-photograph or digital-image license to  
220 the Department of Law Enforcement for purposes of public  
221 notification of sexual predators as provided in this section. A  
222 sexual predator who is unable to secure or update a driver's  
223 license or identification card with the Department of Highway  
224 Safety and Motor Vehicles as provided in paragraph (f) and this



225 paragraph must also report any change of the predator's  
226 residence or change in the predator's name by reason of marriage  
227 or other legal process within 48 hours after the change to the  
228 sheriff's office in the county where the predator resides or is  
229 located and provide confirmation that he or she reported such  
230 information to the Department of Highway Safety and Motor  
231 Vehicles.

232 2. A sexual predator who vacates a permanent, temporary,  
233 or transient residence and fails to establish or maintain  
234 another permanent, temporary, or transient residence shall,  
235 within 48 hours after vacating the permanent, temporary, or  
236 transient residence, report in person to the sheriff's office of  
237 the county in which he or she is located. The sexual predator  
238 shall specify the date upon which he or she intends to or did  
239 vacate such residence. The sexual predator must provide or  
240 update all of the registration information required under  
241 paragraph (a). The sexual predator must provide an address for  
242 the residence or other place that he or she is or will be  
243 located during the time in which he or she fails to establish or  
244 maintain a permanent or temporary residence.

245 3. A sexual predator who remains at a permanent,  
246 temporary, or transient residence after reporting his or her  
247 intent to vacate such residence shall, within 48 hours after the  
248 date upon which the predator indicated he or she would or did  
249 vacate such residence, report in person to the sheriff's office  
250 to which he or she reported pursuant to subparagraph 2. for the  
251 purpose of reporting his or her address at such residence. When  
252 the sheriff receives the report, the sheriff shall promptly

253 convey the information to the department. An offender who makes  
254 a report as required under subparagraph 2. but fails to make a  
255 report as required under this subparagraph commits a felony of  
256 the second degree, punishable as provided in s. 775.082, s.  
257 775.083, or s. 775.084.

258 4. A sexual predator must register all ~~any~~ electronic mail  
259 addresses and Internet identifiers ~~address or instant message~~  
260 ~~name~~ with the department prior to using such electronic mail  
261 addresses and Internet identifiers ~~address or instant message~~  
262 ~~name on or after October 1, 2007~~. The department shall establish  
263 an online system through which sexual predators may securely  
264 access and update all electronic mail address and Internet  
265 identifier ~~instant message name~~ information.

266 (i) A sexual predator who intends to establish a  
267 permanent, temporary, or transient residence in another state or  
268 jurisdiction other than the State of Florida shall report in  
269 person to the sheriff of the county of current residence within  
270 48 hours before the date he or she intends to leave this state  
271 to establish residence in another state or jurisdiction or  
272 within 21 days before his or her planned departure date if the  
273 intended residence of 7 days or more is outside of the United  
274 States. The sexual predator must provide to the sheriff the  
275 address, municipality, county, ~~and~~ state, and country of  
276 intended residence. The sheriff shall promptly provide to the  
277 department the information received from the sexual predator.  
278 The department shall notify the statewide law enforcement  
279 agency, or a comparable agency, in the intended state, ~~or~~  
280 jurisdiction, or country of residence of the sexual predator's

281 intended residence. The failure of a sexual predator to provide  
 282 his or her intended place of residence is punishable as provided  
 283 in subsection (10).

284 (j) A sexual predator who indicates his or her intent to  
 285 establish a permanent, temporary, or transient residence in  
 286 another state, a ~~ex~~ jurisdiction other than the State of  
 287 Florida, or another country and later decides to remain in this  
 288 state shall, within 48 hours after the date upon which the  
 289 sexual predator indicated he or she would leave this state,  
 290 report in person to the sheriff to which the sexual predator  
 291 reported the intended change of residence, and report his or her  
 292 intent to remain in this state. If the sheriff is notified by  
 293 the sexual predator that he or she intends to remain in this  
 294 state, the sheriff shall promptly report this information to the  
 295 department. A sexual predator who reports his or her intent to  
 296 establish a permanent, temporary, or transient residence in  
 297 another state, a ~~ex~~ jurisdiction other than the State of  
 298 Florida, or another country, but who remains in this state  
 299 without reporting to the sheriff in the manner required by this  
 300 paragraph, commits a felony of the second degree, punishable as  
 301 provided in s. 775.082, s. 775.083, or s. 775.084.

302 (8) VERIFICATION.—The department and the Department of  
 303 Corrections shall implement a system for verifying the addresses  
 304 of sexual predators. The system must be consistent with the  
 305 provisions of the federal Adam Walsh Child Protection and Safety  
 306 Act of 2006 and any other federal standards applicable to such  
 307 verification or required to be met as a condition for the  
 308 receipt of federal funds by the state. The Department of

309 | Corrections shall verify the addresses of sexual predators who  
310 | are not incarcerated but who reside in the community under the  
311 | supervision of the Department of Corrections and shall report to  
312 | the department any failure by a sexual predator to comply with  
313 | registration requirements. County and local law enforcement  
314 | agencies, in conjunction with the department, shall verify the  
315 | addresses of sexual predators who are not under the care,  
316 | custody, control, or supervision of the Department of  
317 | Corrections. Local law enforcement agencies shall report to the  
318 | department any failure by a sexual predator to comply with  
319 | registration requirements.

320 |       (a) A sexual predator must report in person each year  
321 | during the month of the sexual predator's birthday and during  
322 | every third month thereafter to the sheriff's office in the  
323 | county in which he or she resides or is otherwise located to  
324 | reregister. The sheriff's office may determine the appropriate  
325 | times and days for reporting by the sexual predator, which shall  
326 | be consistent with the reporting requirements of this paragraph.  
327 | Reregistration shall include any changes to the following  
328 | information:

329 |       1. Name; social security number; age; race; sex; date of  
330 | birth; height; weight; hair and eye color; address of any  
331 | permanent residence and address of any current temporary  
332 | residence, within the state or out of state, including a rural  
333 | route address and a post office box; if no permanent or  
334 | temporary address, any transient residence within the state;  
335 | address, location or description, and dates of any current or  
336 | known future temporary residence within the state or out of

337 | state; all ~~any~~ electronic mail addresses ~~address~~ and all  
338 | Internet identifiers ~~any instant message name~~ required to be  
339 | provided pursuant to subparagraph (6)(g)4.; all home telephone  
340 | numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date  
341 | and place of any employment; vehicle make, model, color, and  
342 | license tag number; fingerprints; and photograph. A post office  
343 | box shall not be provided in lieu of a physical residential  
344 | address. The sexual predator must also produce or provide  
345 | information about his or her passport, if he or she has a  
346 | passport, and, if he or she is an alien, must produce or provide  
347 | information about documents establishing his or her immigration  
348 | status.

349 |         2. If the sexual predator is enrolled, employed, or  
350 | carrying on a vocation at an institution of higher education in  
351 | this state, the sexual predator shall also provide to the  
352 | department the name, address, and county of each institution,  
353 | including each campus attended, and the sexual predator's  
354 | enrollment or employment status.

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

CS/CS/CS/HB 1277

2011

365 vessel, live-aboard vessel, or houseboat; the registration  
 366 number; and a description, including color scheme, of the  
 367 vessel, live-aboard vessel, or houseboat.

368 (10) PENALTIES.—

369 (a) Except as otherwise specifically provided, a sexual  
 370 predator who fails to register; who fails, after registration,  
 371 to maintain, acquire, or renew a driver's license or  
 372 identification card; who fails to provide required location  
 373 information, electronic mail address information, Internet  
 374 identifier ~~instant message name~~ information, all home telephone  
 375 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~, or  
 376 change-of-name information; who fails to make a required report  
 377 in connection with vacating a permanent residence; who fails to  
 378 reregister as required; who fails to respond to any address  
 379 verification correspondence from the department within 3 weeks  
 380 of the date of the correspondence; or who otherwise fails, by  
 381 act or omission, to comply with the requirements of this  
 382 section, commits a felony of the third degree, punishable as  
 383 provided in s. 775.082, s. 775.083, or s. 775.084.

384 Section 2. Section 847.0141, Florida Statutes, is created  
 385 to read:

386 847.0141 Unlawful electronic communication between minors;  
 387 possession of visual depiction of another minor.—

388 (1) It is unlawful for a minor to intentionally or  
 389 knowingly use an electronic communication device to transmit,  
 390 distribute, or display a visual depiction of himself or herself  
 391 that depicts nudity and is harmful to minors.

392           (2) (a) It is unlawful for a minor to intentionally or  
 393 knowingly posses a visual depiction of another minor that  
 394 depicts nudity and is harmful to minors.

395           (b) A minor does not violate paragraph (a) if all of the  
 396 following apply:

397           1. The minor did not solicit the visual depiction.

398           2. The minor took reasonable steps to report the visual  
 399 depiction to the minor's legal guardian or to a school or law  
 400 enforcement official.

401           3. The minor did not transmit or distribute the visual  
 402 depiction to a third party.

403           (3) A minor who violates subsection (1) or subsection (2):

404           (a) Commits a noncriminal violation for a first violation,  
 405 punishable by 8 hours of community service or, if ordered by the  
 406 court in lieu of community service, a \$60 fine. The court may  
 407 also order suitable training concerning such offenses and may  
 408 prohibit the use or possession of electronic devices, which may  
 409 include, but are not limited to, cellular telephones, cameras,  
 410 computers, or other electronic media devices. The court shall  
 411 order the confiscation of such unlawful material and authorize  
 412 the law enforcement agency in which the material is held to  
 413 destroy the unlawful material.

414           (b) Commits a misdemeanor of the second degree for a  
 415 violation that occurs after being found to have committed a  
 416 noncriminal violation under paragraph (a), punishable as  
 417 provided in s. 775.082 or s. 775.083. The court must order  
 418 suitable training concerning such offenses and prohibit the use  
 419 or possession of electronic communication devices, which may

420 include, but are not limited to, cellular telephones, cameras,  
421 computers, or other electronic media devices. The court shall  
422 order the confiscation of such unlawful material and authorize  
423 the law enforcement agency in which the material is held to  
424 destroy the unlawful material.

425 (c) Commits a misdemeanor of the first degree for a  
426 violation that occurs after being found to have committed a  
427 misdemeanor of the second degree under paragraph (b), punishable  
428 as provided in s. 775.082 or s. 775.083. The court must order  
429 suitable training concerning such offenses or, if ordered by the  
430 court in lieu of training, counseling and prohibit the use or  
431 possession of electronic devices, which may include, but are not  
432 limited to, cellular telephones, cameras, computers, or other  
433 electronic media devices. The court shall order confiscation of  
434 such unlawful material and authorize the law enforcement agency  
435 in which the material is held to destroy the unlawful material.

436 (d) Commits a felony of the third degree for a violation  
437 that occurs after being found to have committed a misdemeanor of  
438 the first degree under paragraph (c), punishable as provided in  
439 s. 775.082, s. 775.083, or s. 775.084. The court must order a  
440 mental health evaluation by a qualified practitioner, as defined  
441 in s. 948.001, and treatment, if recommended by the  
442 practitioner. The court shall order confiscation of such  
443 unlawful material and authorize the law enforcement agency in  
444 which the material is held to destroy the unlawful material.

445 (4) Whenever any law enforcement officer arrests any  
446 person charged with any offense under this section, the officer  
447 shall seize the prohibited material and take the material into



448 his or her custody to await the sentence of the court upon the  
 449 trial of the offender.

450 (5) This section does not prohibit the prosecution of a  
 451 minor for a violation of any law of this state if the electronic  
 452 communication includes the depiction of sexual conduct or sexual  
 453 excitement and does not prohibit the prosecution of a minor for  
 454 stalking under s. 784.048.

455 Section 3. Paragraphs (a) and (g) of subsection (1),  
 456 subsection (2), paragraphs (a) and (d) of subsection (4),  
 457 subsections (7) and (8), and paragraph (c) of subsection (14) of  
 458 section 943.0435, Florida Statutes, are amended to read:

459 943.0435 Sexual offenders required to register with the  
 460 department; penalty.—

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

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

465 a.(I) Has been convicted of committing, or attempting,  
 466 soliciting, or conspiring to commit, any of the criminal  
 467 offenses proscribed in the following statutes in this state or  
 468 similar offenses in another jurisdiction: s. 787.01, s. 787.02,  
 469 or s. 787.025(2)(c), where the victim is a minor and the  
 470 defendant is not the victim's parent or guardian; s. 794.011,  
 471 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.  
 472 800.04; s. 825.1025; s. 826.04 where the victim is a minor and  
 473 the defendant is 18 years of age or older; s. 827.071; s.  
 474 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.  
 475 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense

476 committed in this state which has been redesignated from a  
477 former statute number to one of those listed in this sub-sub-  
478 subparagraph; and

479 (II) Has been released on or after October 1, 1997, from  
480 the sanction imposed for any conviction of an offense described  
481 in sub-sub-subparagraph (I). For purposes of sub-sub-  
482 subparagraph (I), a sanction imposed in this state or in any  
483 other jurisdiction includes, but is not limited to, a fine,  
484 probation, community control, parole, conditional release,  
485 control release, or incarceration in a state prison, federal  
486 prison, private correctional facility, or local detention  
487 facility;

488 b. Establishes or maintains a residence in this state and  
489 who has not been designated as a sexual predator by a court of  
490 this state but who has been designated as a sexual predator, as  
491 a sexually violent predator, or by another sexual offender  
492 designation in another state or jurisdiction and was, as a  
493 result of such designation, subjected to registration or  
494 community or public notification, or both, or would be if the  
495 person were a resident of that state or jurisdiction, without  
496 regard to whether the person otherwise meets the criteria for  
497 registration as a sexual offender;

498 c. Establishes or maintains a residence in this state who  
499 is in the custody or control of, or under the supervision of,  
500 any other state or jurisdiction as a result of a conviction for  
501 committing, or attempting, soliciting, or conspiring to commit,  
502 any of the criminal offenses proscribed in the following  
503 statutes or similar offense in another jurisdiction: s. 787.01,

504 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and  
 505 the defendant is not the victim's parent or guardian; s.  
 506 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.  
 507 796.035; s. 800.04; s. 825.1025; s. 826.04 where the victim is a  
 508 minor and the defendant is 18 years of age or older; s. 827.071;  
 509 s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137;  
 510 s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar  
 511 offense committed in this state which has been redesignated from  
 512 a former statute number to one of those listed in this sub-  
 513 subparagraph; or

514 d. On or after July 1, 2007, has been adjudicated  
 515 delinquent for committing, or attempting, soliciting, or  
 516 conspiring to commit, any of the criminal offenses proscribed in  
 517 the following statutes in this state or similar offenses in  
 518 another jurisdiction when the juvenile was 14 years of age or  
 519 older at the time of the offense:

- 520 (I) Section 794.011, excluding s. 794.011(10);
- 521 (II) Section 800.04(4)(b) where the victim is under 12  
 522 years of age or where the court finds sexual activity by the use  
 523 of force or coercion;
- 524 (III) Section 800.04(5)(c)1. where the court finds  
 525 molestation involving unclothed genitals; or
- 526 (IV) Section 800.04(5)(d) where the court finds the use of  
 527 force or coercion and unclothed genitals.

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

531

532 For each violation of a qualifying offense listed in this  
 533 subsection, the court shall make a written finding of the age of  
 534 the victim at the time of the offense. For a violation of s.  
 535 800.04(4), the court shall additionally make a written finding  
 536 indicating that the offense did or did not involve sexual  
 537 activity and indicating that the offense did or did not involve  
 538 force or coercion. For a violation of s. 800.04(5), the court  
 539 shall additionally make a written finding that the offense did  
 540 or did not involve unclothed genitals or genital area and that  
 541 the offense did or did not involve the use of force or coercion.

542 (g) "Internet identifier ~~Instant message name~~" has the  
 543 same meaning as provided in s. 775.21 ~~means an identifier that~~  
 544 ~~allows a person to communicate in real time with another person~~  
 545 ~~using the Internet.~~

546 (2) A sexual offender shall:

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

548 1. In the county in which the offender establishes or  
 549 maintains a permanent, temporary, or transient residence within  
 550 48 hours after:

551 a. Establishing permanent, temporary, or transient  
 552 residence in this state; or

553 b. Being released from the custody, control, or  
 554 supervision of the Department of Corrections or from the custody  
 555 of a private correctional facility; or

556 2. In the county where he or she was convicted within 48  
 557 hours after being convicted for a qualifying offense for  
 558 registration under this section if the offender is not in the  
 559 custody or control of, or under the supervision of, the

560 Department of Corrections, or is not in the custody of a private  
 561 correctional facility.

562  
 563 Any change in the information required to be provided pursuant  
 564 to paragraph (b), including, but not limited to, any change in  
 565 the sexual offender's permanent, temporary, or transient  
 566 residence, name, all any electronic mail addresses ~~address~~ and  
 567 all Internet identifiers ~~any instant message name~~ required to be  
 568 provided pursuant to paragraph (4)(d), after the sexual offender  
 569 reports in person at the sheriff's office, shall be accomplished  
 570 in the manner provided in subsections (4), (7), and (8).

571 (b) Provide his or her name; date of birth; social  
 572 security number; race; sex; height; weight; hair and eye color;  
 573 tattoos or other identifying marks; occupation and place of  
 574 employment; address of permanent or legal residence or address  
 575 of any current temporary residence, within the state or out of  
 576 state, including a rural route address and a post office box; if  
 577 no permanent or temporary address, any transient residence  
 578 within the state, address, location or description, and dates of  
 579 any current or known future temporary residence within the state  
 580 or out of state; all home telephone numbers ~~number~~ and ~~any~~  
 581 cellular telephone numbers ~~number~~; all any electronic mail  
 582 addresses ~~address~~ and all Internet identifiers ~~any instant~~  
 583 ~~message name~~ required to be provided pursuant to paragraph  
 584 (4)(d); date and place of each conviction; and a brief  
 585 description of the crime or crimes committed by the offender. A  
 586 post office box shall not be provided in lieu of a physical  
 587 residential address. The sexual offender must also produce or

588 provide information about his or her passport, if he or she has  
589 a passport, and, if he or she is an alien, must produce or  
590 provide information about documents establishing his or her  
591 immigration status.

592 1. If the sexual offender's place of residence is a motor  
593 vehicle, trailer, mobile home, or manufactured home, as defined  
594 in chapter 320, the sexual offender shall also provide to the  
595 department through the sheriff's office written notice of the  
596 vehicle identification number; the license tag number; the  
597 registration number; and a description, including color scheme,  
598 of the motor vehicle, trailer, mobile home, or manufactured  
599 home. If the sexual offender's place of residence is a vessel,  
600 live-aboard vessel, or houseboat, as defined in chapter 327, the  
601 sexual offender shall also provide to the department written  
602 notice of the hull identification number; the manufacturer's  
603 serial number; the name of the vessel, live-aboard vessel, or  
604 houseboat; the registration number; and a description, including  
605 color scheme, of the vessel, live-aboard vessel, or houseboat.

606 2. If the sexual offender is enrolled, employed, or  
607 carrying on a vocation at an institution of higher education in  
608 this state, the sexual offender shall also provide to the  
609 department through the sheriff's office the name, address, and  
610 county of each institution, including each campus attended, and  
611 the sexual offender's enrollment or employment status. Each  
612 change in enrollment or employment status shall be reported in  
613 person at the sheriff's office, within 48 hours after any change  
614 in status. The sheriff shall promptly notify each institution of  
615 the sexual offender's presence and any change in the sexual

616 offender's enrollment or employment status.

617

618 When a sexual offender reports at the sheriff's office, the  
619 sheriff shall take a photograph and a set of fingerprints of the  
620 offender and forward the photographs and fingerprints to the  
621 department, along with the information provided by the sexual  
622 offender. The sheriff shall promptly provide to the department  
623 the information received from the sexual offender.

624 (4) (a) Each time a sexual offender's driver's license or  
625 identification card is subject to renewal, and, without regard  
626 to the status of the offender's driver's license or  
627 identification card, within 48 hours after any change in the  
628 offender's permanent, temporary, or transient residence or  
629 change in the offender's name by reason of marriage or other  
630 legal process, the offender shall report in person to a driver's  
631 license office, and shall be subject to the requirements  
632 specified in subsection (3). The Department of Highway Safety  
633 and Motor Vehicles shall forward to the department all  
634 photographs and information provided by sexual offenders.  
635 Notwithstanding the restrictions set forth in s. 322.142, the  
636 Department of Highway Safety and Motor Vehicles is authorized to  
637 release a reproduction of a color-photograph or digital-image  
638 license to the Department of Law Enforcement for purposes of  
639 public notification of sexual offenders as provided in this  
640 section and ss. 943.043 and 944.606. A sexual offender who is  
641 unable to secure or update a driver's license or identification  
642 card with the Department of Highway Safety and Motor Vehicles as  
643 provided in subsection (3) and this subsection must also report

644 any change in the sexual offender's permanent, temporary, or  
645 transient residence or change in the offender's name by reason  
646 of marriage or other legal process within 48 hours after the  
647 change to the sheriff's office in the county where the offender  
648 resides or is located and provide confirmation that he or she  
649 reported such information to Department of Highway Safety and  
650 Motor Vehicles.

651 (d) A sexual offender must register all ~~any~~ electronic  
652 mail addresses and Internet identifiers ~~address or instant~~  
653 ~~message name~~ with the department prior to using such electronic  
654 mail addresses and Internet identifiers ~~address or instant~~  
655 ~~message name on or after October 1, 2007.~~ The department shall  
656 establish an online system through which sexual offenders may  
657 securely access and update all electronic mail address and  
658 Internet identifier ~~instant message name~~ information.

659 (7) A sexual offender who intends to establish a  
660 permanent, temporary, or transient residence in another state or  
661 jurisdiction other than the State of Florida shall report in  
662 person to the sheriff of the county of current residence within  
663 48 hours before the date he or she intends to leave this state  
664 to establish residence in another state or jurisdiction or  
665 within 21 days before his or her planned departure date if the  
666 intended residence of 7 days or more is outside of the United  
667 States. The notification must include the address, municipality,  
668 county, ~~and state,~~ and country of intended residence. The  
669 sheriff shall promptly provide to the department the information  
670 received from the sexual offender. The department shall notify  
671 the statewide law enforcement agency, or a comparable agency, in



CS/CS/CS/HB 1277

2011

672 the intended state, ~~or~~ jurisdiction, or country of residence of  
673 the sexual offender's intended residence. The failure of a  
674 sexual offender to provide his or her intended place of  
675 residence is punishable as provided in subsection (9).

676 (8) A sexual offender who indicates his or her intent to  
677 establish a permanent, temporary, or transient residence in  
678 another state, a ~~or~~ jurisdiction other than the State of  
679 Florida, or another country and later decides to remain in this  
680 state shall, within 48 hours after the date upon which the  
681 sexual offender indicated he or she would leave this state,  
682 report in person to the sheriff to which the sexual offender  
683 reported the intended change of permanent, temporary, or  
684 transient residence, and report his or her intent to remain in  
685 this state. The sheriff shall promptly report this information  
686 to the department. A sexual offender who reports his or her  
687 intent to establish a permanent, temporary, or transient  
688 residence in another state, a ~~or~~ jurisdiction other than the  
689 State of Florida, or another country but who remains in this  
690 state without reporting to the sheriff in the manner required by  
691 this subsection commits a felony of the second degree,  
692 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

693 (14)

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

699 1. Name; social security number; age; race; sex; date of

700 birth; height; weight; hair and eye color; address of any  
 701 permanent residence and address of any current temporary  
 702 residence, within the state or out of state, including a rural  
 703 route address and a post office box; if no permanent or  
 704 temporary address, any transient residence within the state;  
 705 address, location or description, and dates of any current or  
 706 known future temporary residence within the state or out of  
 707 state; all ~~any~~ electronic mail addresses ~~address~~ and all  
 708 Internet identifiers ~~any instant message name~~ required to be  
 709 provided pursuant to paragraph (4) (d); all home telephone  
 710 numbers ~~number~~ and all ~~any~~ cellular telephone numbers ~~number~~;  
 711 date and place of any employment; vehicle make, model, color,  
 712 and license tag number; fingerprints; and photograph. A post  
 713 office box shall not be provided in lieu of a physical  
 714 residential address. The sexual offender must also produce or  
 715 provide information about his or her passport, if he or she has  
 716 a passport, and, if he or she is an alien, must produce or  
 717 provide information about documents establishing his or her  
 718 immigration status.

719 2. If the sexual offender is enrolled, employed, or  
 720 carrying on a vocation at an institution of higher education in  
 721 this state, the sexual offender shall also provide to the  
 722 department the name, address, and county of each institution,  
 723 including each campus attended, and the sexual offender's  
 724 enrollment or employment status.

725 3. If the sexual offender's place of residence is a motor  
 726 vehicle, trailer, mobile home, or manufactured home, as defined  
 727 in chapter 320, the sexual offender shall also provide the

728 vehicle identification number; the license tag number; the  
 729 registration number; and a description, including color scheme,  
 730 of the motor vehicle, trailer, mobile home, or manufactured  
 731 home. If the sexual offender's place of residence is a vessel,  
 732 live-aboard vessel, or houseboat, as defined in chapter 327, the  
 733 sexual offender shall also provide the hull identification  
 734 number; the manufacturer's serial number; the name of the  
 735 vessel, live-aboard vessel, or houseboat; the registration  
 736 number; and a description, including color scheme, of the  
 737 vessel, live-aboard vessel or houseboat.

738 4. Any sexual offender who fails to report in person as  
 739 required at the sheriff's office, or who fails to respond to any  
 740 address verification correspondence from the department within 3  
 741 weeks of the date of the correspondence or who fails to report  
 742 all electronic mail addresses and all Internet identifiers ~~or~~  
 743 ~~instant message names~~, commits a felony of the third degree,  
 744 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

745 Section 4. Section 943.04351, Florida Statutes, is amended  
 746 to read:

747 943.04351 Search of registration information regarding  
 748 sexual predators and sexual offenders required prior to  
 749 appointment or employment.—A state agency or governmental  
 750 subdivision, prior to making any decision to appoint or employ a  
 751 person to work, whether for compensation or as a volunteer, at  
 752 any park, playground, day care center, or other place where  
 753 children regularly congregate, must conduct a search of that  
 754 person's name or other identifying information against the  
 755 registration information regarding sexual predators and sexual

756 offenders maintained by the Department of Law Enforcement under  
 757 s. 943.043. The agency or governmental subdivision may conduct  
 758 the search using the Internet site maintained by the Department  
 759 of Law Enforcement. Also, a national search must be conducted  
 760 through the Dru Sjodin National Sex Offender Public Website  
 761 maintained by the United States Department of Justice. This  
 762 section does not apply to those positions or appointments within  
 763 a state agency or governmental subdivision for which a state and  
 764 national criminal history background check is conducted.

765 Section 5. Section 943.04354, Florida Statutes, is amended  
 766 to read:

767 943.04354 Removal of the requirement to register as a  
 768 sexual offender or sexual predator in special circumstances.—

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

772 (a) Was or will be convicted or adjudicated delinquent of  
 773 a violation of s. 794.011, s. 800.04, s. 827.071, or s.  
 774 847.0135(5) or the person committed a violation of s. 794.011,  
 775 s. 800.04, s. 827.071, or s. 847.0135(5) for which adjudication  
 776 of guilt was or will be withheld, and the person does not have  
 777 any other conviction, adjudication of delinquency, or withhold  
 778 of adjudication of guilt for a violation of s. 794.011, s.  
 779 800.04, s. 827.071, or s. 847.0135(5);

780 (b) Is required to register as a sexual offender or sexual  
 781 predator solely on the basis of this violation; and

782 (c) Is not more than 4 years older than the victim of this  
 783 violation who was 13 ~~14~~ years of age or older but not more than

CS/CS/CS/HB 1277

2011

784 18 ~~17~~ years of age at the time the person committed this  
785 violation.

786 (2) If a person meets the criteria in subsection (1) ~~and~~  
787 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~  
788 ~~847.0135(5) was committed on or after July 1, 2007,~~ the person  
789 may move the court that will sentence or dispose of this  
790 violation to remove the requirement that the person register as  
791 a sexual offender or sexual predator. The person must allege in  
792 the motion that he or she meets the criteria in subsection (1)  
793 and that removal of the registration requirement will not  
794 conflict with federal law. The state attorney must be given  
795 notice of the motion at least 21 days before the date of  
796 sentencing or disposition of this violation and may present  
797 evidence in opposition to the requested relief or may otherwise  
798 demonstrate why the motion should be denied. At sentencing or  
799 disposition of this violation, the court shall rule on this  
800 motion and, if the court determines the person meets the  
801 criteria in subsection (1) and the removal of the registration  
802 requirement will not conflict with federal law, it may grant the  
803 motion and order the removal of the registration requirement. If  
804 the court denies the motion, the person is not authorized under  
805 this section to petition for removal of the registration  
806 requirement.

807 (3) (a) This subsection applies to a person who:

808 ~~1. Is not a person described in subsection (2) because the~~  
809 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~  
810 ~~committed on or after July 1, 2007;~~

811        ~~1.2.~~ Is subject to registration as a sexual offender or  
812 sexual predator for a violation of s. 794.011, s. 800.04, or s.  
813 827.071; and

814        ~~2.3.~~ Meets the criteria in subsection (1).

815        (b) A person may petition the court in which the sentence  
816 or disposition for the violation of s. 794.011, s. 800.04, or s.  
817 827.071 occurred for removal of the requirement to register as a  
818 sexual offender or sexual predator. The person must allege in  
819 the petition that he or she meets the criteria in subsection (1)  
820 and removal of the registration requirement will not conflict  
821 with federal law. The state attorney must be given notice of the  
822 petition at least 21 days before the hearing on the petition and  
823 may present evidence in opposition to the requested relief or  
824 may otherwise demonstrate why the petition should be denied. The  
825 court shall rule on the petition and, if the court determines  
826 the person meets the criteria in subsection (1) and removal of  
827 the registration requirement will not conflict with federal law,  
828 it may grant the petition and order the removal of the  
829 registration requirement. If the court denies the petition, the  
830 person is not authorized under this section to file any further  
831 petition for removal of the registration requirement.

832        (4) If a person provides to the Department of Law  
833 Enforcement a certified copy of the court's order removing the  
834 requirement that the person register as a sexual offender or  
835 sexual predator for the violation of s. 794.011, s. 800.04, s.  
836 827.071, or s. 847.0135(5), the registration requirement will  
837 not apply to the person and the department shall remove all  
838 information about the person from the public registry of sexual

CS/CS/CS/HB 1277

2011

839 offenders and sexual predators maintained by the department.  
840 However, the removal of this information from the public  
841 registry does not mean that the public is denied access to  
842 information about the person's criminal history or record that  
843 is otherwise available as a public record.

844 Section 6. Subsection (2) and paragraph (a) of subsection  
845 (3) of section 943.0437, Florida Statutes, are amended to read:

846 943.0437 Commercial social networking websites.—

847 (2) The department may provide information relating to  
848 electronic mail addresses and Internet identifiers ~~instant~~  
849 ~~message names~~ maintained as part of the sexual offender registry  
850 to commercial social networking websites or third parties  
851 designated by commercial social networking websites. The  
852 commercial social networking website may use this information  
853 for the purpose of comparing registered users and screening  
854 potential users of the commercial social networking website  
855 against the list of electronic mail addresses and Internet  
856 identifiers ~~instant message names~~ provided by the department.

857 (3) This section shall not be construed to impose any  
858 civil liability on a commercial social networking website for:

859 (a) Any action voluntarily taken in good faith to remove  
860 or disable any profile of a registered user associated with an  
861 electronic mail address or Internet identifier ~~instant message~~  
862 ~~name~~ contained in the sexual offender registry.

863 Section 7. Paragraphs (b) and (d) of subsection (1) and  
864 paragraph (a) of subsection (3) of section 944.606, Florida  
865 Statutes, are amended to read:

866 944.606 Sexual offenders; notification upon release.—

867 (1) As used in this section:

868 (b) "Sexual offender" means a person who has been  
869 convicted of committing, or attempting, soliciting, or  
870 conspiring to commit, any of the criminal offenses proscribed in  
871 the following statutes in this state or similar offenses in  
872 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c),  
873 where the victim is a minor and the defendant is not the  
874 victim's parent or guardian; s. 794.011, excluding s.  
875 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.  
876 825.1025; s. 826.04 where the victim is a minor and the  
877 defendant is 18 years of age or older; s. 827.071; s. 847.0133;  
878 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;  
879 s. 847.0145; or s. 985.701(1); or any similar offense committed  
880 in this state which has been redesignated from a former statute  
881 number to one of those listed in this subsection, when the  
882 department has received verified information regarding such  
883 conviction; an offender's computerized criminal history record  
884 is not, in and of itself, verified information.

885 (d) "Internet identifier ~~Instant message name"~~ has the  
886 same meaning as provided in s. 775.21 ~~means an identifier that~~  
887 ~~allows a person to communicate in real time with another person~~  
888 ~~using the Internet.~~

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

892 1. The department must provide: the sexual offender's  
893 name, any change in the offender's name by reason of marriage or  
894 other legal process, and any alias, if known; the correctional



CS/CS/CS/HB 1277

2011

895 facility from which the sexual offender is released; the sexual  
 896 offender's social security number, race, sex, date of birth,  
 897 height, weight, and hair and eye color; address of any planned  
 898 permanent residence or temporary residence, within the state or  
 899 out of state, including a rural route address and a post office  
 900 box; if no permanent or temporary address, any transient  
 901 residence within the state; address, location or description,  
 902 and dates of any known future temporary residence within the  
 903 state or out of state; date and county of sentence and each  
 904 crime for which the offender was sentenced; a copy of the  
 905 offender's fingerprints and a digitized photograph taken within  
 906 60 days before release; the date of release of the sexual  
 907 offender; all ~~any~~ electronic mail addresses ~~address~~ and all  
 908 Internet identifiers ~~any instant message name~~ required to be  
 909 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone  
 910 numbers ~~number~~ and ~~any~~ cellular telephone numbers; and passport  
 911 information, if he or she has a passport, and, if he or she is  
 912 an alien, information about documents establishing his or her  
 913 immigration status ~~number~~. The department shall notify the  
 914 Department of Law Enforcement if the sexual offender escapes,  
 915 absconds, or dies. If the sexual offender is in the custody of a  
 916 private correctional facility, the facility shall take the  
 917 digitized photograph of the sexual offender within 60 days  
 918 before the sexual offender's release and provide this photograph  
 919 to the Department of Corrections and also place it in the sexual  
 920 offender's file. If the sexual offender is in the custody of a  
 921 local jail, the custodian of the local jail shall register the  
 922 offender within 3 business days after intake of the offender for

923 any reason and upon release, and shall notify the Department of  
 924 Law Enforcement of the sexual offender's release and provide to  
 925 the Department of Law Enforcement the information specified in  
 926 this paragraph and any information specified in subparagraph 2.  
 927 that the Department of Law Enforcement requests.

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

931 Section 8. Paragraphs (a) and (f) of subsection (1),  
 932 paragraph (a) of subsection (4), paragraph (b) of subsection  
 933 (6), and paragraph (c) of subsection (13) of section 944.607,  
 934 Florida Statutes, are amended to read:

935 944.607 Notification to Department of Law Enforcement of  
 936 information on sexual offenders.—

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

938 (a) "Sexual offender" means a person who is in the custody  
 939 or control of, or under the supervision of, the department or is  
 940 in the custody of a private correctional facility:

941 1. On or after October 1, 1997, as a result of a  
 942 conviction for committing, or attempting, soliciting, or  
 943 conspiring to commit, any of the criminal offenses proscribed in  
 944 the following statutes in this state or similar offenses in  
 945 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c),  
 946 where the victim is a minor and the defendant is not the  
 947 victim's parent or guardian; s. 794.011, excluding s.  
 948 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.  
 949 825.1025; s. 826.04 where the victim is a minor and the  
 950 defendant is 18 years of age or older; s. 827.071; s. 847.0133;

951 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;  
 952 s. 847.0145; or s. 985.701(1); or any similar offense committed  
 953 in this state which has been redesignated from a former statute  
 954 number to one of those listed in this paragraph; or

955 2. Who establishes or maintains a residence in this state  
 956 and who has not been designated as a sexual predator by a court  
 957 of this state but who has been designated as a sexual predator,  
 958 as a sexually violent predator, or by another sexual offender  
 959 designation in another state or jurisdiction and was, as a  
 960 result of such designation, subjected to registration or  
 961 community or public notification, or both, or would be if the  
 962 person were a resident of that state or jurisdiction, without  
 963 regard as to whether the person otherwise meets the criteria for  
 964 registration as a sexual offender.

965 (f) "Internet identifier ~~Instant message name~~" has the  
 966 same meaning as provided in s. 775.21 ~~means an identifier that~~  
 967 ~~allows a person to communicate in real time with another person~~  
 968 ~~using the Internet.~~

969 (4) A sexual offender, as described in this section, who  
 970 is under the supervision of the Department of Corrections but is  
 971 not incarcerated must register with the Department of  
 972 Corrections within 3 business days after sentencing for a  
 973 registrable offense and otherwise provide information as  
 974 required by this subsection.

975 (a) The sexual offender shall provide his or her name;  
 976 date of birth; social security number; race; sex; height;  
 977 weight; hair and eye color; tattoos or other identifying marks;  
 978 all any electronic mail addresses ~~address~~ and all Internet

979 identifiers ~~any instant message name~~ required to be provided  
980 pursuant to s. 943.0435(4)(d); permanent or legal residence and  
981 address of temporary residence within the state or out of state  
982 while the sexual offender is under supervision in this state,  
983 including any rural route address or post office box; if no  
984 permanent or temporary address, any transient residence within  
985 the state; and address, location or description, and dates of  
986 any current or known future temporary residence within the state  
987 or out of state. The sexual offender must also produce or  
988 provide information about his or her passport, if he or she has  
989 a passport, and, if he or she is an alien, must produce or  
990 provide information about documents establishing his or her  
991 immigration status. The Department of Corrections shall verify  
992 the address of each sexual offender in the manner described in  
993 ss. 775.21 and 943.0435. The department shall report to the  
994 Department of Law Enforcement any failure by a sexual predator  
995 or sexual offender to comply with registration requirements.

996 (6) The information provided to the Department of Law  
997 Enforcement must include:

998 (b) The sexual offender's most current address, place of  
999 permanent, temporary, or transient residence within the state or  
1000 out of state, and address, location or description, and dates of  
1001 any current or known future temporary residence within the state  
1002 or out of state, while the sexual offender is under supervision  
1003 in this state, including the name of the county or municipality  
1004 in which the offender permanently or temporarily resides, or has  
1005 a transient residence, and address, location or description, and  
1006 dates of any current or known future temporary residence within

CS/CS/CS/HB 1277

2011

1007 the state or out of state, and, if known, the intended place of  
1008 permanent, temporary, or transient residence, and address,  
1009 location or description, and dates of any current or known  
1010 future temporary residence within the state or out of state upon  
1011 satisfaction of all sanctions. The sexual offender must also  
1012 produce or provide information about his or her passport, if he  
1013 or she has a passport, and, if he or she is an alien, must  
1014 produce or provide information about documents establishing his  
1015 or her immigration status;

1016  
1017 If any information provided by the department changes during the  
1018 time the sexual offender is under the department's control,  
1019 custody, or supervision, including any change in the offender's  
1020 name by reason of marriage or other legal process, the  
1021 department shall, in a timely manner, update the information and  
1022 provide it to the Department of Law Enforcement in the manner  
1023 prescribed in subsection (2).

1024 (13)

1025 (c) The sheriff's office may determine the appropriate  
1026 times and days for reporting by the sexual offender, which shall  
1027 be consistent with the reporting requirements of this  
1028 subsection. Reregistration shall include any changes to the  
1029 following information:

1030 1. Name; social security number; age; race; sex; date of  
1031 birth; height; weight; hair and eye color; address of any  
1032 permanent residence and address of any current temporary  
1033 residence, within the state or out of state, including a rural  
1034 route address and a post office box; if no permanent or

1035 temporary address, any transient residence; address, location or  
 1036 description, and dates of any current or known future temporary  
 1037 residence within the state or out of state; all ~~any~~ electronic  
 1038 mail addresses ~~address~~ and all Internet identifiers ~~any instant~~  
 1039 ~~message name~~ required to be provided pursuant to s.  
 1040 943.0435(4)(d); date and place of any employment; vehicle make,  
 1041 model, color, and license tag number; fingerprints; and  
 1042 photograph. A post office box shall not be provided in lieu of a  
 1043 physical residential address. The sexual offender must also  
 1044 produce or provide information about his or her passport, if he  
 1045 or she has a passport, and, if he or she is an alien, must  
 1046 produce or provide information about documents establishing his  
 1047 or her immigration status.

1048 2. If the sexual offender is enrolled, employed, or  
 1049 carrying on a vocation at an institution of higher education in  
 1050 this state, the sexual offender shall also provide to the  
 1051 department the name, address, and county of each institution,  
 1052 including each campus attended, and the sexual offender's  
 1053 enrollment or employment status.

1054 3. If the sexual offender's place of residence is a motor  
 1055 vehicle, trailer, mobile home, or manufactured home, as defined  
 1056 in chapter 320, the sexual offender shall also provide the  
 1057 vehicle identification number; the license tag number; the  
 1058 registration number; and a description, including color scheme,  
 1059 of the motor vehicle, trailer, mobile home, or manufactured  
 1060 home. If the sexual offender's place of residence is a vessel,  
 1061 live-aboard vessel, or houseboat, as defined in chapter 327, the  
 1062 sexual offender shall also provide the hull identification

1063 number; the manufacturer's serial number; the name of the  
 1064 vessel, live-aboard vessel, or houseboat; the registration  
 1065 number; and a description, including color scheme, of the  
 1066 vessel, live-aboard vessel or houseboat.

1067 4. Any sexual offender who fails to report in person as  
 1068 required at the sheriff's office, or who fails to respond to any  
 1069 address verification correspondence from the department within 3  
 1070 weeks of the date of the correspondence, or who fails to report  
 1071 all electronic mail addresses and all Internet identifiers ~~or~~  
 1072 ~~instant message names~~, commits a felony of the third degree,  
 1073 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1074 Section 9. Subsection (11) of section 947.005, Florida  
 1075 Statutes, is amended to read:

1076 947.005 Definitions.—As used in this chapter, unless the  
 1077 context clearly indicates otherwise:

1078 (11) "Risk assessment" means an assessment completed by a  
 1079 ~~an independent~~ qualified practitioner to evaluate the level of  
 1080 risk associated when a sex offender has contact with a child.

1081 Section 10. Section 948.31, Florida Statutes, is amended  
 1082 to read:

1083 948.31 Evaluation and treatment of sexual predators and  
 1084 offenders on probation or community control.—Conditions imposed  
 1085 pursuant to this section do not require oral pronouncement at  
 1086 the time of sentencing and shall be considered standard  
 1087 conditions of probation or community control for offenders  
 1088 specified in this section. The court shall require an evaluation  
 1089 by a qualified practitioner to determine the need of a  
 1090 probationer or community controllee for treatment. If the court

CS/CS/CS/HB 1277

2011

1091 determines that a need therefor is established by the evaluation  
 1092 process, the court shall require sexual offender treatment as a  
 1093 term or condition of probation or community control for any  
 1094 person who is required to register as a sexual predator under s.  
 1095 775.21 or sexual offender under s. 943.0435, s. 944.606, or s.  
 1096 944.607. Such treatment shall be required to be obtained from a  
 1097 qualified practitioner as defined in s. 948.001. Treatment may  
 1098 not be administered by a qualified practitioner who has been  
 1099 convicted or adjudicated delinquent of committing, or  
 1100 attempting, soliciting, or conspiring to commit, any offense  
 1101 that is listed in s. 943.0435(1)(a)1.a.(I). ~~The court shall~~  
 1102 ~~impose a restriction against contact with minors if sexual~~  
 1103 ~~offender treatment is recommended.~~ The evaluation and  
 1104 recommendations for treatment of the probationer or community  
 1105 controllee shall be provided to the court for review.

1106 Section 11. Paragraph (a) of subsection (3) of section  
 1107 985.481, Florida Statutes, is amended to read:

1108 985.481 Sexual offenders adjudicated delinquent;  
 1109 notification upon release.-

1110 (3)(a) The department must provide information regarding  
 1111 any sexual offender who is being released after serving a period  
 1112 of residential commitment under the department for any offense,  
 1113 as follows:

1114 1. The department must provide the sexual offender's name,  
 1115 any change in the offender's name by reason of marriage or other  
 1116 legal process, and any alias, if known; the correctional  
 1117 facility from which the sexual offender is released; the sexual  
 1118 offender's social security number, race, sex, date of birth,



1119 height, weight, and hair and eye color; address of any planned  
 1120 permanent residence or temporary residence, within the state or  
 1121 out of state, including a rural route address and a post office  
 1122 box; if no permanent or temporary address, any transient  
 1123 residence within the state; address, location or description,  
 1124 and dates of any known future temporary residence within the  
 1125 state or out of state; date and county of disposition and each  
 1126 crime for which there was a disposition; a copy of the  
 1127 offender's fingerprints and a digitized photograph taken within  
 1128 60 days before release; the date of release of the sexual  
 1129 offender; all ~~and~~ home telephone numbers ~~number~~ and ~~any~~ cellular  
 1130 telephone numbers; and passport information, if he or she has a  
 1131 passport, and, if he or she is an alien, information about  
 1132 documents establishing his or her immigration status ~~number~~. The  
 1133 department shall notify the Department of Law Enforcement if the  
 1134 sexual offender escapes, absconds, or dies. If the sexual  
 1135 offender is in the custody of a private correctional facility,  
 1136 the facility shall take the digitized photograph of the sexual  
 1137 offender within 60 days before the sexual offender's release and  
 1138 also place it in the sexual offender's file. If the sexual  
 1139 offender is in the custody of a local jail, the custodian of the  
 1140 local jail shall register the offender within 3 business days  
 1141 after intake of the offender for any reason and upon release,  
 1142 and shall notify the Department of Law Enforcement of the sexual  
 1143 offender's release and provide to the Department of Law  
 1144 Enforcement the information specified in this subparagraph and  
 1145 any information specified in subparagraph 2. which the  
 1146 Department of Law Enforcement requests.

CS/CS/CS/HB 1277

2011

1147           2. The department may provide any other information  
1148 considered necessary, including criminal and delinquency  
1149 records, when available.

1150           Section 12. Paragraph (a) of subsection (4), paragraph (a)  
1151 of subsection (6), and paragraph (b) of subsection (13) of  
1152 section 985.4815, Florida Statutes, are amended to read:

1153           985.4815 Notification to Department of Law Enforcement of  
1154 information on juvenile sexual offenders.—

1155           (4) A sexual offender, as described in this section, who  
1156 is under the supervision of the department but who is not  
1157 committed must register with the department within 3 business  
1158 days after adjudication and disposition for a registrable  
1159 offense and otherwise provide information as required by this  
1160 subsection.

1161           (a) The sexual offender shall provide his or her name;  
1162 date of birth; social security number; race; sex; height;  
1163 weight; hair and eye color; tattoos or other identifying marks;  
1164 permanent or legal residence and address of temporary residence  
1165 within the state or out of state while the sexual offender is in  
1166 the care or custody or under the jurisdiction or supervision of  
1167 the department in this state, including any rural route address  
1168 or post office box; if no permanent or temporary address, any  
1169 transient residence; address, location or description, and dates  
1170 of any current or known future temporary residence within the  
1171 state or out of state; passport information, if he or she has a  
1172 passport, and, if he or she is an alien, information about  
1173 documents establishing his or her immigration status; and the  
1174 name and address of each school attended. The department shall

1175 | verify the address of each sexual offender and shall report to  
 1176 | the Department of Law Enforcement any failure by a sexual  
 1177 | offender to comply with registration requirements.

1178 |         (6) (a) The information provided to the Department of Law  
 1179 | Enforcement must include the following:

1180 |             1. The information obtained from the sexual offender under  
 1181 | subsection (4).

1182 |             2. The sexual offender's most current address and place of  
 1183 | permanent, temporary, or transient residence within the state or  
 1184 | out of state, and address, location or description, and dates of  
 1185 | any current or known future temporary residence within the state  
 1186 | or out of state, while the sexual offender is in the care or  
 1187 | custody or under the jurisdiction or supervision of the  
 1188 | department in this state, including the name of the county or  
 1189 | municipality in which the offender permanently or temporarily  
 1190 | resides, or has a transient residence, and address, location or  
 1191 | description, and dates of any current or known future temporary  
 1192 | residence within the state or out of state; and, if known, the  
 1193 | intended place of permanent, temporary, or transient residence,  
 1194 | and address, location or description, and dates of any current  
 1195 | or known future temporary residence within the state or out of  
 1196 | state upon satisfaction of all sanctions. The sexual offender  
 1197 | must also produce or provide information about his or her  
 1198 | passport, if he or she has a passport, and, if he or she is an  
 1199 | alien, must produce or provide information about documents  
 1200 | establishing his or her immigration status.

1201 |             3. The legal status of the sexual offender and the  
 1202 | scheduled termination date of that legal status.

1203 4. The location of, and local telephone number for, any  
 1204 department office that is responsible for supervising the sexual  
 1205 offender.

1206 5. An indication of whether the victim of the offense that  
 1207 resulted in the offender's status as a sexual offender was a  
 1208 minor.

1209 6. The offense or offenses at adjudication and disposition  
 1210 that resulted in the determination of the offender's status as a  
 1211 sex offender.

1212 7. A digitized photograph of the sexual offender, which  
 1213 must have been taken within 60 days before the offender was  
 1214 released from the custody of the department or a private  
 1215 correctional facility by expiration of sentence under s.  
 1216 944.275, or within 60 days after the onset of the department's  
 1217 supervision of any sexual offender who is on probation,  
 1218 postcommitment probation, residential commitment, nonresidential  
 1219 commitment, licensed child-caring commitment, community control,  
 1220 conditional release, parole, provisional release, or control  
 1221 release or who is supervised by the department under the  
 1222 Interstate Compact Agreement for Probationers and Parolees. If  
 1223 the sexual offender is in the custody of a private correctional  
 1224 facility, the facility shall take a digitized photograph of the  
 1225 sexual offender within the time period provided in this  
 1226 subparagraph and shall provide the photograph to the department.

1227 (13)

1228 (b) The sheriff's office may determine the appropriate  
 1229 times and days for reporting by the sexual offender, which shall  
 1230 be consistent with the reporting requirements of this

1231 subsection. Reregistration shall include any changes to the  
 1232 following information:

1233 1. Name; social security number; age; race; sex; date of  
 1234 birth; height; weight; hair and eye color; address of any  
 1235 permanent residence and address of any current temporary  
 1236 residence, within the state or out of state, including a rural  
 1237 route address and a post office box; if no permanent or  
 1238 temporary address, any transient residence; address, location or  
 1239 description, and dates of any current or known future temporary  
 1240 residence within the state or out of state; passport  
 1241 information, if he or she has a passport, and, if he or she is  
 1242 an alien, information about documents establishing his or her  
 1243 immigration status; name and address of each school attended;  
 1244 date and place of any employment; vehicle make, model, color,  
 1245 and license tag number; fingerprints; and photograph. A post  
 1246 office box shall not be provided in lieu of a physical  
 1247 residential address.

1248 2. If the sexual offender is enrolled, employed, or  
 1249 carrying on a vocation at an institution of higher education in  
 1250 this state, the sexual offender shall also provide to the  
 1251 department the name, address, and county of each institution,  
 1252 including each campus attended, and the sexual offender's  
 1253 enrollment or employment status.

1254 3. If the sexual offender's place of residence is a motor  
 1255 vehicle, trailer, mobile home, or manufactured home, as defined  
 1256 in chapter 320, the sexual offender shall also provide the  
 1257 vehicle identification number; the license tag number; the  
 1258 registration number; and a description, including color scheme,

1259 of the motor vehicle, trailer, mobile home, or manufactured  
 1260 home. If the sexual offender's place of residence is a vessel,  
 1261 live-aboard vessel, or houseboat, as defined in chapter 327, the  
 1262 sexual offender shall also provide the hull identification  
 1263 number; the manufacturer's serial number; the name of the  
 1264 vessel, live-aboard vessel, or houseboat; the registration  
 1265 number; and a description, including color scheme, of the  
 1266 vessel, live-aboard vessel, or houseboat.

1267 4. Any sexual offender who fails to report in person as  
 1268 required at the sheriff's office, or who fails to respond to any  
 1269 address verification correspondence from the department within 3  
 1270 weeks after the date of the correspondence, commits a felony of  
 1271 the third degree, punishable as provided in ss. 775.082,  
 1272 775.083, and 775.084.

1273 Section 13. Sections 13-25 of this act may be cited as the  
 1274 "Florida Safe Harbor Act."

1275 Section 14. Effective January 1, 2012, subsections (4)  
 1276 through (12) of section 39.001, Florida Statutes, are renumbered  
 1277 as subsections (5) through (13), respectively, paragraph (c) of  
 1278 present subsection (7) and paragraph (b) of present subsection  
 1279 (9) are amended, and a new subsection (4) is added to that  
 1280 section, to read:

1281 39.001 Purposes and intent; personnel standards and  
 1282 screening.—

1283 (4) SEXUAL EXPLOITATION SERVICES.—

1284 (a) The Legislature recognizes that child sexual  
 1285 exploitation is a serious problem nationwide and in this state.  
 1286 The children at greatest risk of being sexually exploited are

1287 runaways and throwaways. Many of these children have a history  
1288 of abuse and neglect. The vulnerability of these children starts  
1289 with isolation from family and friends. Traffickers maintain  
1290 control of child victims through psychological manipulation,  
1291 force, drug addiction, or the exploitation of economic,  
1292 physical, or emotional vulnerability. Children exploited through  
1293 the sex trade often find it difficult to trust adults because of  
1294 their abusive experiences. These children make up a population  
1295 that is difficult to serve and even more difficult to  
1296 rehabilitate. Although minors are by law unable to consent to  
1297 sexual activity, they are most often treated as perpetrators of  
1298 crime rather than victims. Moreover, the historical treatment of  
1299 such children as delinquents has too often resulted in the  
1300 failure to successfully prosecute the trafficker, who is the  
1301 true wrongdoer and threat to society.

1302 (b) The Legislature establishes the following goals for  
1303 the state related to the status and treatment of sexually  
1304 exploited children in the dependency process:

1305 1. To ensure the safety of children.

1306 2. To provide for the treatment of such children as  
1307 dependent children rather than as delinquents.

1308 3. To sever the bond between exploited children and  
1309 traffickers and to reunite these children with their families or  
1310 provide them with appropriate guardians.

1311 4. To enable such children to be willing and reliable  
1312 witnesses in the prosecution of traffickers.

1313 (c) The Legislature finds that sexually exploited children  
1314 need special care and services in the dependency process,

1315 including counseling, health care, substance abuse treatment,  
 1316 educational opportunities, and a safe environment secure from  
 1317 traffickers.

1318 (d) The Legislature further finds that sexually exploited  
 1319 children need the special care and services described in  
 1320 paragraph (c) independent of their citizenship, residency,  
 1321 alien, or immigrant status. It is the intent of the Legislature  
 1322 that this state provide such care and services to all sexually  
 1323 exploited children in this state who are not otherwise receiving  
 1324 comparable services, such as those under the federal Trafficking  
 1325 Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

1326 (8) ~~(7)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.-

1327 (c) The office is authorized and directed to:

1328 1. Oversee the preparation and implementation of the state  
 1329 plan established under subsection (9) ~~(8)~~ and revise and update  
 1330 the state plan as necessary.

1331 2. Provide for or make available continuing professional  
 1332 education and training in the prevention of child abuse and  
 1333 neglect.

1334 3. Work to secure funding in the form of appropriations,  
 1335 gifts, and grants from the state, the Federal Government, and  
 1336 other public and private sources in order to ensure that  
 1337 sufficient funds are available for the promotion of adoption,  
 1338 support of adoptive families, and child abuse prevention  
 1339 efforts.

1340 4. Make recommendations pertaining to agreements or  
 1341 contracts for the establishment and development of:

1342 a. Programs and services for the promotion of adoption,



1343 support of adoptive families, and prevention of child abuse and  
 1344 neglect.

1345       b. Training programs for the prevention of child abuse and  
 1346 neglect.

1347       c. Multidisciplinary and discipline-specific training  
 1348 programs for professionals with responsibilities affecting  
 1349 children, young adults, and families.

1350       d. Efforts to promote adoption.

1351       e. Postadoptive services to support adoptive families.

1352       5. Monitor, evaluate, and review the development and  
 1353 quality of local and statewide services and programs for the  
 1354 promotion of adoption, support of adoptive families, and  
 1355 prevention of child abuse and neglect and shall publish and  
 1356 distribute an annual report of its findings on or before January  
 1357 1 of each year to the Governor, the Speaker of the House of  
 1358 Representatives, the President of the Senate, the head of each  
 1359 state agency affected by the report, and the appropriate  
 1360 substantive committees of the Legislature. The report shall  
 1361 include:

1362           a. A summary of the activities of the office.

1363           b. A summary of the adoption data collected and reported  
 1364 to the federal Adoption and Foster Care Analysis and Reporting  
 1365 System (AFCARS) and the federal Administration for Children and  
 1366 Families.

1367           c. A summary of the child abuse prevention data collected  
 1368 and reported to the National Child Abuse and Neglect Data System  
 1369 (NCANDS) and the federal Administration for Children and  
 1370 Families.

1371 d. A summary detailing the timeliness of the adoption  
 1372 process for children adopted from within the child welfare  
 1373 system.

1374 e. Recommendations, by state agency, for the further  
 1375 development and improvement of services and programs for the  
 1376 promotion of adoption, support of adoptive families, and  
 1377 prevention of child abuse and neglect.

1378 f. Budget requests, adoption promotion and support needs,  
 1379 and child abuse prevention program needs by state agency.

1380 6. Work with the direct-support organization established  
 1381 under s. 39.0011 to receive financial assistance.

1382 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.—

1383 (b) The office and the other agencies and organizations  
 1384 listed in paragraph (9)~~(8)~~(a) shall readdress the state plan and  
 1385 make necessary revisions every 5 years, at a minimum. Such  
 1386 revisions shall be submitted to the Speaker of the House of  
 1387 Representatives and the President of the Senate no later than  
 1388 June 30 of each year divisible by 5. At least biennially, the  
 1389 office shall review the state plan and make any necessary  
 1390 revisions based on changing needs and program evaluation  
 1391 results. An annual progress report shall be submitted to update  
 1392 the state plan in the years between the 5-year intervals. In  
 1393 order to avoid duplication of effort, these required plans may  
 1394 be made a part of or merged with other plans required by either  
 1395 the state or Federal Government, so long as the portions of the  
 1396 other state or Federal Government plan that constitute the state  
 1397 plan for the promotion of adoption, support of adoptive  
 1398 families, and prevention of child abuse, abandonment, and

1399 neglect are clearly identified as such and are provided to the  
 1400 Speaker of the House of Representatives and the President of the  
 1401 Senate as required above.

1402 Section 15. Effective January 1, 2012, subsections (2) and  
 1403 (15) and paragraph (g) of subsection (67) of section 39.01,  
 1404 Florida Statutes, are amended to read:

1405 39.01 Definitions.—When used in this chapter, unless the  
 1406 context otherwise requires:

1407 (2) "Abuse" means any willful act or threatened act that  
 1408 results in any physical, mental, or sexual abuse, injury, or  
 1409 harm that causes or is likely to cause the child's physical,  
 1410 mental, or emotional health to be significantly impaired. Abuse  
 1411 of a child includes acts or omissions. Corporal discipline of a  
 1412 child by a parent or legal custodian for disciplinary purposes  
 1413 does not in itself constitute abuse when it does not result in  
 1414 harm to the child.

1415 (15) "Child who is found to be dependent" means a child  
 1416 who, pursuant to this chapter, is found by the court:

1417 (a) To have been abandoned, abused, or neglected by the  
 1418 child's parent or parents or legal custodians;

1419 (b) To have been surrendered to the department, the former  
 1420 Department of Health and Rehabilitative Services, or a licensed  
 1421 child-placing agency for purpose of adoption;

1422 (c) To have been voluntarily placed with a licensed child-  
 1423 caring agency, a licensed child-placing agency, an adult  
 1424 relative, the department, or the former Department of Health and  
 1425 Rehabilitative Services, after which placement, under the  
 1426 requirements of this chapter, a case plan has expired and the

1427 parent or parents or legal custodians have failed to  
 1428 substantially comply with the requirements of the plan;

1429 (d) To have been voluntarily placed with a licensed child-  
 1430 placing agency for the purposes of subsequent adoption, and a  
 1431 parent or parents have signed a consent pursuant to the Florida  
 1432 Rules of Juvenile Procedure;

1433 (e) To have no parent or legal custodians capable of  
 1434 providing supervision and care; ~~or~~

1435 (f) To be at substantial risk of imminent abuse,  
 1436 abandonment, or neglect by the parent or parents or legal  
 1437 custodians; or

1438 (g) To have been sexually exploited and to have no parent,  
 1439 legal custodian, or responsible adult relative currently known  
 1440 and capable of providing the necessary and appropriate  
 1441 supervision and care.

1442 (67) "Sexual abuse of a child" means one or more of the  
 1443 following acts:

1444 (g) The sexual exploitation of a child, which includes the  
 1445 act of a child offering to engage in or engaging in  
 1446 prostitution; or allowing, encouraging, or forcing a child to:

- 1447 1. Solicit for or engage in prostitution; ~~or~~
- 1448 2. Engage in a sexual performance, as defined by chapter  
 1449 827; or
- 1450 3. Participate in the trade of sex trafficking as provided  
 1451 in s. 796.035.

1452 Section 16. Effective January 1, 2012, paragraph (b) of  
 1453 subsection (2) and paragraph (b) of subsection (3) of section  
 1454 39.401, Florida Statutes, are amended to read:

1455           39.401 Taking a child alleged to be dependent into  
 1456 custody; law enforcement officers and authorized agents of the  
 1457 department.—

1458           (2) If the law enforcement officer takes the child into  
 1459 custody, that officer shall:

1460           (b) Deliver the child to an authorized agent of the  
 1461 department, stating the facts by reason of which the child was  
 1462 taken into custody and sufficient information to establish  
 1463 probable cause that the child is abandoned, abused, or  
 1464 neglected, or otherwise dependent. In the case of a child for  
 1465 whom there is probable cause to believe he or she has been  
 1466 sexually exploited, the law enforcement officer shall deliver  
 1467 the child to the appropriate short-term safe house as provided  
 1468 for in s. 409.1678 if a short-term safe house is available.

1469  
 1470 For cases involving allegations of abandonment, abuse, or  
 1471 neglect, or other dependency cases, within 3 days after such  
 1472 release or within 3 days after delivering the child to an  
 1473 authorized agent of the department, the law enforcement officer  
 1474 who took the child into custody shall make a full written report  
 1475 to the department.

1476           (3) If the child is taken into custody by, or is delivered  
 1477 to, an authorized agent of the department, the agent shall  
 1478 review the facts supporting the removal with an attorney  
 1479 representing the department. The purpose of the review is to  
 1480 determine whether there is probable cause for the filing of a  
 1481 shelter petition.

1482           (b) If the facts are sufficient and the child has not been

1483 returned to the custody of the parent or legal custodian, the  
 1484 department shall file the petition and schedule a hearing, and  
 1485 the attorney representing the department shall request that a  
 1486 shelter hearing be held within 24 hours after the removal of the  
 1487 child. While awaiting the shelter hearing, the authorized agent  
 1488 of the department may place the child in licensed shelter care,  
 1489 or in a short-term safe house if the child is a sexually  
 1490 exploited child, or may release the child to a parent or legal  
 1491 custodian or responsible adult relative or the adoptive parent  
 1492 of the child's sibling who shall be given priority consideration  
 1493 over a licensed placement, or a responsible adult approved by  
 1494 the department if this is in the best interests of the child.  
 1495 Placement of a child which is not in a licensed shelter must be  
 1496 preceded by a criminal history records check as required under  
 1497 s. 39.0138. In addition, the department may authorize placement  
 1498 of a housekeeper/homemaker in the home of a child alleged to be  
 1499 dependent until the parent or legal custodian assumes care of  
 1500 the child.

1501 Section 17. Effective January 1, 2012, subsection (2) and  
 1502 paragraphs (a), (d), and (h) of subsection (8) of section  
 1503 39.402, Florida Statutes, are amended to read:

1504 39.402 Placement in a shelter.—

1505 (2) A child taken into custody may be placed or continued  
 1506 in a shelter only if one or more of the criteria in subsection  
 1507 (1) apply ~~applies~~ and the court has made a specific finding of  
 1508 fact regarding the necessity for removal of the child from the  
 1509 home and has made a determination that the provision of  
 1510 appropriate and available services will not eliminate the need

CS/CS/CS/HB 1277

2011

1511 for placement. In the case of a child who is alleged to have  
1512 been sexually exploited, there is a rebuttable presumption that  
1513 placement in a short-term safe house is necessary.

1514 (8) (a) A child may not be held in a shelter longer than 24  
1515 hours unless an order so directing is entered by the court after  
1516 a shelter hearing. In the interval until the shelter hearing is  
1517 held, the decision to place the child in a shelter or release  
1518 the child from a shelter lies with the protective investigator.  
1519 In the case of a child who is alleged to have been sexually  
1520 exploited, there is a rebuttable presumption that placement in a  
1521 short-term safe house is necessary.

1522 (d) At the shelter hearing, in order to continue the child  
1523 in shelter care:

1524 1. The department must establish probable cause that  
1525 reasonable grounds for removal exist and that the provision of  
1526 appropriate and available services will not eliminate the need  
1527 for placement;

1528 2. The department must establish probable cause for the  
1529 belief that the child has been sexually exploited and,  
1530 therefore, that placement in a short-term safe house is the most  
1531 appropriate environment for the child; or

1532 ~~3.2.~~ The court must determine that additional time is  
1533 necessary, which may not exceed 72 hours, in which to obtain and  
1534 review documents pertaining to the family in order to  
1535 appropriately determine the risk to the child during which time  
1536 the child shall remain in the department's custody, if so  
1537 ordered by the court.

1538 (h) The order for placement of a child in shelter care

1539 must identify the parties present at the hearing and must  
1540 contain written findings:

1541 1. That placement in shelter care is necessary based on  
1542 the criteria in subsections (1) and (2).

1543 2. That placement in shelter care is in the best interest  
1544 of the child.

1545 3. That continuation of the child in the home is contrary  
1546 to the welfare of the child because the home situation presents  
1547 a substantial and immediate danger to the child's physical,  
1548 mental, or emotional health or safety which cannot be mitigated  
1549 by the provision of preventive services.

1550 4. That based upon the allegations of the petition for  
1551 placement in shelter care, there is probable cause to believe  
1552 that the child is dependent or that the court needs additional  
1553 time, which may not exceed 72 hours, in which to obtain and  
1554 review documents pertaining to the family in order to  
1555 appropriately determine the risk to the child.

1556 5. That the department has made reasonable efforts to  
1557 prevent or eliminate the need for removal of the child from the  
1558 home. A finding of reasonable effort by the department to  
1559 prevent or eliminate the need for removal may be made and the  
1560 department is deemed to have made reasonable efforts to prevent  
1561 or eliminate the need for removal if:

1562 a. The first contact of the department with the family  
1563 occurs during an emergency;

1564 b. The appraisal of the home situation by the department  
1565 indicates that the home situation presents a substantial and  
1566 immediate danger to the child's physical, mental, or emotional



CS/CS/CS/HB 1277

2011

1567 health or safety which cannot be mitigated by the provision of  
1568 preventive services;

1569 c. The child cannot safely remain at home, either because  
1570 there are no preventive services that can ensure the health and  
1571 safety of the child or because, even with appropriate and  
1572 available services being provided, the health and safety of the  
1573 child cannot be ensured;

1574 d. The child has been sexually exploited; or

1575 e.~~d.~~ The parent or legal custodian is alleged to have  
1576 committed any of the acts listed as grounds for expedited  
1577 termination of parental rights in s. 39.806(1)(f)-(i).

1578 6. That the court notified the parents, relatives that are  
1579 providing out-of-home care for the child, or legal custodians of  
1580 the time, date, and location of the next dependency hearing and  
1581 of the importance of the active participation of the parents,  
1582 relatives that are providing out-of-home care for the child, or  
1583 legal custodians in all proceedings and hearings.

1584 7. That the court notified the parents or legal custodians  
1585 of their right to counsel to represent them at the shelter  
1586 hearing and at each subsequent hearing or proceeding, and the  
1587 right of the parents to appointed counsel, pursuant to the  
1588 procedures set forth in s. 39.013.

1589 8. That the court notified relatives who are providing  
1590 out-of-home care for a child as a result of the shelter petition  
1591 being granted that they have the right to attend all subsequent  
1592 hearings, to submit reports to the court, and to speak to the  
1593 court regarding the child, if they so desire.

1594 Section 18. Effective January 1, 2012, paragraph (f) of

1595 subsection (1) and paragraph (d) of subsection (3) of section  
 1596 39.521, Florida Statutes, are amended to read:

1597 39.521 Disposition hearings; powers of disposition.-

1598 (1) A disposition hearing shall be conducted by the court,  
 1599 if the court finds that the facts alleged in the petition for  
 1600 dependency were proven in the adjudicatory hearing, or if the  
 1601 parents or legal custodians have consented to the finding of  
 1602 dependency or admitted the allegations in the petition, have  
 1603 failed to appear for the arraignment hearing after proper  
 1604 notice, or have not been located despite a diligent search  
 1605 having been conducted.

1606 (f) If the court places the child in an out-of-home  
 1607 placement, the disposition order must include a written  
 1608 determination that the child cannot safely remain at home with  
 1609 reunification or family preservation services and that removal  
 1610 of the child is necessary to protect the child. If the child is  
 1611 removed before the disposition hearing, the order must also  
 1612 include a written determination as to whether, after removal,  
 1613 the department made a reasonable effort to reunify the parent  
 1614 and child. Reasonable efforts to reunify are not required if the  
 1615 court finds that any of the acts listed in s. 39.806(1)(f)-(l)  
 1616 have occurred. The department has the burden of demonstrating  
 1617 that it made reasonable efforts.

1618 1. For the purposes of this paragraph, the term  
 1619 "reasonable effort" means the exercise of reasonable diligence  
 1620 and care by the department to provide the services ordered by  
 1621 the court or delineated in the case plan.

1622 2. In support of its determination as to whether

1623 reasonable efforts have been made, the court shall:

1624       a. Enter written findings as to whether prevention or

1625 reunification efforts were indicated.

1626       b. If prevention or reunification efforts were indicated,

1627 include a brief written description of what appropriate and

1628 available prevention and reunification efforts were made.

1629       c. Indicate in writing why further efforts could or could

1630 not have prevented or shortened the separation of the parent and

1631 child.

1632       3. A court may find that the department made a reasonable

1633 effort to prevent or eliminate the need for removal if:

1634       a. The first contact of the department with the family

1635 occurs during an emergency;

1636       b. The appraisal by the department of the home situation

1637 indicates a substantial and immediate danger to the child's

1638 safety or physical, mental, or emotional health which cannot be

1639 mitigated by the provision of preventive services;

1640       c. The child cannot safely remain at home, because there

1641 are no preventive services that can ensure the health and safety

1642 of the child or, even with appropriate and available services

1643 being provided, the health and safety of the child cannot be

1644 ensured. There is a rebuttable presumption that any child who

1645 has been found to be a victim of sexual exploitation as defined

1646 in s. 39.01(67)(g) meets the terms of this sub-subparagraph; or

1647       d. The parent is alleged to have committed any of the acts

1648 listed as grounds for expedited termination of parental rights

1649 under s. 39.806(1)(f)-(l).

1650       4. A reasonable effort by the department for reunification

1651 has been made if the appraisal of the home situation by the  
 1652 department indicates that the severity of the conditions of  
 1653 dependency is such that reunification efforts are inappropriate.  
 1654 The department has the burden of demonstrating to the court that  
 1655 reunification efforts were inappropriate.

1656 5. If the court finds that the prevention or reunification  
 1657 effort of the department would not have permitted the child to  
 1658 remain safely at home, the court may commit the child to the  
 1659 temporary legal custody of the department or take any other  
 1660 action authorized by this chapter.

1661 (3) When any child is adjudicated by a court to be  
 1662 dependent, the court shall determine the appropriate placement  
 1663 for the child as follows:

1664 (d) If the child cannot be safely placed in a nonlicensed  
 1665 placement, the court shall commit the child to the temporary  
 1666 legal custody of the department. Such commitment invests in the  
 1667 department all rights and responsibilities of a legal custodian.  
 1668 The department shall not return any child to the physical care  
 1669 and custody of the person from whom the child was removed,  
 1670 except for court-approved visitation periods, without the  
 1671 approval of the court. Any order for visitation or other contact  
 1672 must conform to the provisions of s. 39.0139. There is a  
 1673 rebuttable presumption that any child who has been found to be a  
 1674 victim of sexual exploitation as defined in s. 39.01(67)(g) be  
 1675 committed to a safe house as provided for in s. 409.1678. The  
 1676 term of such commitment continues until terminated by the court  
 1677 or until the child reaches the age of 18. After the child is  
 1678 committed to the temporary legal custody of the department, all

1679 further proceedings under this section are governed by this  
 1680 chapter.

1681  
 1682 Protective supervision continues until the court terminates it  
 1683 or until the child reaches the age of 18, whichever date is  
 1684 first. Protective supervision shall be terminated by the court  
 1685 whenever the court determines that permanency has been achieved  
 1686 for the child, whether with a parent, another relative, or a  
 1687 legal custodian, and that protective supervision is no longer  
 1688 needed. The termination of supervision may be with or without  
 1689 retaining jurisdiction, at the court's discretion, and shall in  
 1690 either case be considered a permanency option for the child. The  
 1691 order terminating supervision by the department shall set forth  
 1692 the powers of the custodian of the child and shall include the  
 1693 powers ordinarily granted to a guardian of the person of a minor  
 1694 unless otherwise specified. Upon the court's termination of  
 1695 supervision by the department, no further judicial reviews are  
 1696 required, so long as permanency has been established for the  
 1697 child.

1698 Section 19. Effective January 1, 2012, section 39.524,  
 1699 Florida Statutes, is created to read:

1700 39.524 Safe-harbor placement.—

1701 (1) Except as provided in s. 39.407, any dependent child 6  
 1702 years of age or older who has been found to be a victim of  
 1703 sexual exploitation as defined in s. 39.01(67)(g) must be  
 1704 assessed for placement in a safe house as provided in s.  
 1705 409.1678. The assessment shall be conducted by the department or  
 1706 its agent and shall incorporate and address current and

1707 historical information from any law enforcement reports;  
1708 psychological testing or evaluation that has occurred; current  
1709 and historical information from the guardian ad litem, if one  
1710 has been assigned; current and historical information from any  
1711 current therapist, teacher, or other professional who has  
1712 knowledge of the child and has worked with the child; and any  
1713 other information concerning the availability and suitability of  
1714 safe-house placement. If such placement is determined to be  
1715 appropriate as a result of this procedure, the child must be  
1716 placed in a safe house, if one is available. As used in this  
1717 section, the term "available" as it relates to a placement means  
1718 a placement that is located within the circuit or that is  
1719 otherwise reasonably accessible.

1720 (2) The results of the assessment described in subsection  
1721 (1) and the actions taken as a result of the assessment must be  
1722 included in the next judicial review of the child. At each  
1723 subsequent judicial review, the court must be advised in writing  
1724 of the status of the child's placement, with special reference  
1725 regarding the stability of the placement and the permanency  
1726 planning for the child.

1727 (3) Any safe house that receives children under this  
1728 section shall establish special permanency teams dedicated to  
1729 overcoming the special permanency challenges presented by this  
1730 population of children. Each facility shall report to the  
1731 department its success in achieving permanency for children  
1732 placed by the department in its care at intervals that allow the  
1733 current information to be provided to the court at each judicial  
1734 review for the child.

1735 (4) (a) By December 1 of each year, the department shall  
1736 report to the Legislature on the placement of children in safe  
1737 houses during the year, including the criteria used to determine  
1738 the placement of children, the number of children who were  
1739 evaluated for placement, the number of children who were placed  
1740 based upon the evaluation, and the number of children who were  
1741 not placed.

1742 (b) The department shall maintain data specifying the  
1743 number of children who were referred to a safe house for whom  
1744 placement was unavailable and the counties in which such  
1745 placement was unavailable. The department shall include this  
1746 data in its report under this subsection so that the Legislature  
1747 may consider this information in developing the General  
1748 Appropriations Act.

1749 Section 20. Effective January 1, 2012, section 409.1678,  
1750 Florida Statutes, is created to read:

1751 409.1678 Safe harbor for children who are victims of  
1752 sexual exploitation.—

1753 (1) As used in this section, the term:

1754 (a) "Child advocate" means an employee of a short-term  
1755 safe house who has been trained to work with and advocate for  
1756 the needs of sexually exploited children. The advocate shall  
1757 accompany the child to all court appearances, meetings with law  
1758 enforcement, and the state attorney's office and shall serve as  
1759 a liaison between the short-term safe house and the court.

1760 (b) "Safe house" means a living environment that has set  
1761 aside gender-specific, separate, and distinct living quarters  
1762 for sexually exploited children who have been adjudicated

CS/CS/CS/HB 1277

2011

1763 dependent or delinquent and need to reside in a secure  
1764 residential facility with staff members awake 24 hours a day. A  
1765 safe house shall be operated by a licensed family foster home or  
1766 residential child-caring agency as defined in s. 409.175,  
1767 including a runaway youth center as defined in s. 409.441. Each  
1768 facility must be appropriately licensed in this state as a  
1769 residential child-caring agency as defined in s. 409.175 and  
1770 must be accredited by July 1, 2012. A safe house serving  
1771 children who have been sexually exploited must have available  
1772 staff or contract personnel with the clinical expertise,  
1773 credentials, and training to provide services identified in  
1774 paragraph (2) (b).

1775 (c) "Secure" means that a child is supervised 24 hours a  
1776 day by staff members who are awake while on duty.

1777 (d) "Sexually exploited child" means a dependent child who  
1778 has suffered sexual exploitation as defined in s. 39.01(67)(g)  
1779 and is ineligible for relief and benefits under the federal  
1780 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

1781 (e) "Short-term safe house" means a shelter operated by a  
1782 licensed residential child-caring agency as defined in s.  
1783 409.175, including a runaway youth center as defined in s.  
1784 409.441, that has set aside gender-specific, separate, and  
1785 distinct living quarters for sexually exploited children. In  
1786 addition to shelter, the house shall provide services and care  
1787 to sexually exploited children, including food, clothing,  
1788 medical care, counseling, and appropriate crisis intervention  
1789 services at the time they are taken into custody by law  
1790 enforcement or the department.



CS/CS/CS/HB 1277

2011

1791           (2) (a) Notwithstanding any other provision of law,  
1792 pursuant to regulations of the department, every circuit of the  
1793 department shall address the child welfare service needs of  
1794 sexually exploited children as a component of the circuit's  
1795 master plan. This determination shall be made in consultation  
1796 with local law enforcement, runaway and homeless youth program  
1797 providers, local probation departments, local community-based  
1798 care and social services, local guardians ad litem, public  
1799 defenders, state attorney's offices, and child advocates and  
1800 services providers who work directly with sexually exploited  
1801 youth.

1802           (b) The lead agency, not-for-profit agency, or local  
1803 government entity providing safe-house services is responsible  
1804 for security, crisis intervention services, general counseling  
1805 and victim-witness counseling, a comprehensive assessment,  
1806 residential care, transportation, access to behavioral health  
1807 services, recreational activities, food, clothing, supplies,  
1808 infant care, and miscellaneous expenses associated with caring  
1809 for these children; for necessary arrangement for or provision  
1810 of educational services, including life skills services and  
1811 planning services to successfully transition residents back to  
1812 the community; and for ensuring necessary and appropriate health  
1813 and dental care.

1814           (c) This section does not prohibit any provider of these  
1815 services from appropriately billing Medicaid for services  
1816 rendered, from contracting with a local school district for  
1817 educational services, or from obtaining federal or local funding  
1818 for services provided, as long as two or more funding sources do

1819 not pay for the same specific service that has been provided to  
 1820 a child.

1821 (d) The lead agency, not-for-profit agency, or local  
 1822 government entity providing safe-house services has the legal  
 1823 authority for children served in a safe-house program, as  
 1824 provided in chapter 39 or this chapter, as appropriate, to  
 1825 enroll the child in school, to sign for a driver's license for  
 1826 the child, to cosign loans and insurance for the child, to sign  
 1827 for medical treatment of the child, and to authorize other such  
 1828 activities.

1829 (e) All of the services created under this section may, to  
 1830 the extent possible provided by law, be available to all  
 1831 sexually exploited children whether they are accessed  
 1832 voluntarily, as a condition of probation, through a diversion  
 1833 program, through a proceeding under chapter 39, or through a  
 1834 referral from a local community-based care or social service  
 1835 agency.

1836 (3) The local circuit administrator may, to the extent  
 1837 that funds are available, in conjunction with local law  
 1838 enforcement officials, contract with an appropriate not-for-  
 1839 profit agency having experience working with sexually exploited  
 1840 children to train law enforcement officials who are likely to  
 1841 encounter sexually exploited children in the course of their law  
 1842 enforcement duties on the provisions of this section and how to  
 1843 identify and obtain appropriate services for sexually exploited  
 1844 children. Circuits may work cooperatively to provide such  
 1845 training, and such training may be provided on a regional basis.  
 1846 The department shall assist circuits in obtaining any available

1847 funds for the purposes of conducting law enforcement training  
 1848 from the Office of Juvenile Justice and Delinquency Prevention  
 1849 of the United States Department of Justice.

1850 Section 21. Effective January 1, 2012, paragraph (f) of  
 1851 subsection (2) of section 796.07, Florida Statutes, is  
 1852 republished, and subsection (6) of that section is amended, to  
 1853 read:

1854 796.07 Prohibiting prostitution and related acts, ~~etc.;~~  
 1855 ~~evidence; penalties; definitions.~~

1856 (2) It is unlawful:

1857 (f) To solicit, induce, entice, or procure another to  
 1858 commit prostitution, lewdness, or assignation.

1859 (6) A person who violates paragraph (2)(f) shall be  
 1860 assessed a civil penalty of \$5,000 ~~\$500~~ if the violation results  
 1861 in any judicial disposition other than acquittal or dismissal.  
 1862 Of the proceeds from each penalty ~~penalties~~ assessed under this  
 1863 subsection, \$500 shall be paid to the circuit court  
 1864 administrator for the sole purpose of paying the administrative  
 1865 costs of treatment-based drug court programs provided under s.  
 1866 397.334 and \$4,500 shall be paid to the Department of Children  
 1867 and Family Services for the sole purpose of funding safe houses  
 1868 and short-term safe houses as provided in s. 409.1678.

1869 Section 22. Effective January 1, 2012, section 960.065,  
 1870 Florida Statutes, is amended to read:

1871 960.065 Eligibility for awards.—

1872 (1) Except as provided in subsection (2), the following  
 1873 persons shall be eligible for awards pursuant to this chapter:

1874 (a) A victim.

1875 (b) An intervenor.

1876 (c) A surviving spouse, parent or guardian, sibling, or  
 1877 child of a deceased victim or intervenor.

1878 (d) Any other person who is dependent for his or her  
 1879 principal support upon a deceased victim or intervenor.

1880 (2) Any claim filed by or on behalf of a person who:

1881 (a) Committed or aided in the commission of the crime upon  
 1882 which the claim for compensation was based;

1883 (b) Was engaged in an unlawful activity at the time of the  
 1884 crime upon which the claim for compensation is based;

1885 (c) Was in custody or confined, regardless of conviction,  
 1886 in a county or municipal detention facility, a state or federal  
 1887 correctional facility, or a juvenile detention or commitment  
 1888 facility at the time of the crime upon which the claim for  
 1889 compensation is based;

1890 (d) Has been adjudicated as a habitual felony offender,  
 1891 habitual violent offender, or violent career criminal under s.  
 1892 775.084; or

1893 (e) Has been adjudicated guilty of a forcible felony  
 1894 offense as described in s. 776.08,  
 1895  
 1896 is ineligible ~~shall not be eligible~~ for an award.

1897 (3) Any claim filed by or on behalf of a person who was in  
 1898 custody or confined, regardless of adjudication, in a county or  
 1899 municipal facility, a state or federal correctional facility, or  
 1900 a juvenile detention, commitment, or assessment facility at the  
 1901 time of the crime upon which the claim is based, who has been  
 1902 adjudicated as a habitual felony offender under s. 775.084, or

1903 who has been adjudicated guilty of a forcible felony offense as  
 1904 described in s. 776.08, renders the person ineligible ~~shall not~~  
 1905 ~~be eligible~~ for an award. Notwithstanding the foregoing, upon a  
 1906 finding by the Crime Victims' Services Office of the existence  
 1907 of mitigating or special circumstances that would render such a  
 1908 disqualification unjust, an award may be approved. A decision  
 1909 that mitigating or special circumstances do not exist in a case  
 1910 subject to this section does ~~shall~~ not constitute final agency  
 1911 action subject to review pursuant to ss. 120.569 and 120.57.

1912 (4) Payment may not be made under this chapter if the  
 1913 person who committed the crime upon which the claim is based  
 1914 will receive any direct or indirect financial benefit from such  
 1915 payment, unless such benefit is minimal or inconsequential.  
 1916 Payment may not be denied based on the victim's familial  
 1917 relationship to the offender or based upon the sharing of a  
 1918 residence by the victim and offender, except to prevent unjust  
 1919 enrichment of the offender.

1920 (5) A person is not ineligible for an award pursuant to  
 1921 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that  
 1922 person is a victim of sexual exploitation of a child as defined  
 1923 in s. 39.01(67) (g).

1924 Section 23. Effective January 1, 2012, paragraph (b) of  
 1925 subsection (2) of section 985.115, Florida Statutes, is amended  
 1926 to read:

1927 985.115 Release or delivery from custody.—

1928 (2) Unless otherwise ordered by the court under s. 985.255  
 1929 or s. 985.26, and unless there is a need to hold the child, a  
 1930 person taking a child into custody shall attempt to release the

1931 child as follows:

1932 (b) Contingent upon specific appropriation, to a shelter  
 1933 approved by the department or to an authorized agent or short-  
 1934 term safe house under s. 39.401(2)(b).

1935 Section 24. Effective January 1, 2012, paragraph (i) of  
 1936 subsection (1) of section 985.145, Florida Statutes, is amended  
 1937 to read:

1938 985.145 Responsibilities of juvenile probation officer  
 1939 during intake; screenings and assessments.—

1940 (1) The juvenile probation officer shall serve as the  
 1941 primary case manager for the purpose of managing, coordinating,  
 1942 and monitoring the services provided to the child. Each program  
 1943 administrator within the Department of Children and Family  
 1944 Services shall cooperate with the primary case manager in  
 1945 carrying out the duties and responsibilities described in this  
 1946 section. In addition to duties specified in other sections and  
 1947 through departmental rules, the assigned juvenile probation  
 1948 officer shall be responsible for the following:

1949 (i) Recommendation concerning a petition.—Upon determining  
 1950 that the report, affidavit, or complaint complies with the  
 1951 standards of a probable cause affidavit and that the interests  
 1952 of the child and the public will be best served, the juvenile  
 1953 probation officer may recommend that a delinquency petition not  
 1954 be filed. If such a recommendation is made, the juvenile  
 1955 probation officer shall advise in writing the person or agency  
 1956 making the report, affidavit, or complaint, the victim, if any,  
 1957 and the law enforcement agency having investigative jurisdiction  
 1958 over the offense of the recommendation; the reasons therefor;

1959 and that the person or agency may submit, within 10 days after  
 1960 the receipt of such notice, the report, affidavit, or complaint  
 1961 to the state attorney for special review. In the case of a  
 1962 report, affidavit, or complaint alleging a violation of s.  
 1963 796.07(2)(f), there is a presumption that the juvenile probation  
 1964 officer recommend that a petition not be filed unless the child  
 1965 has previously been adjudicated delinquent. The state attorney,  
 1966 upon receiving a request for special review, shall consider the  
 1967 facts presented by the report, affidavit, or complaint, and by  
 1968 the juvenile probation officer who made the recommendation that  
 1969 no petition be filed, before making a final decision as to  
 1970 whether a petition or information should or should not be filed.

1971 Section 25. Effective January 1, 2012, paragraph (c) of  
 1972 subsection (1) of section 985.15, Florida Statutes, is amended  
 1973 to read:

1974 985.15 Filing decisions.—

1975 (1) The state attorney may in all cases take action  
 1976 independent of the action or lack of action of the juvenile  
 1977 probation officer and shall determine the action that is in the  
 1978 best interest of the public and the child. If the child meets  
 1979 the criteria requiring prosecution as an adult under s. 985.556,  
 1980 the state attorney shall request the court to transfer and  
 1981 certify the child for prosecution as an adult or shall provide  
 1982 written reasons to the court for not making such a request. In  
 1983 all other cases, the state attorney may:

1984 (c) File a petition for delinquency. In the case of a  
 1985 report, affidavit, or complaint alleging a violation of s.  
 1986 796.07(2)(f), there is a presumption that a petition not be

CS/CS/CS/HB 1277

2011

1987 filed unless the child has previously been adjudicated  
1988 delinquent;

1989       Section 26. If any provision of this act or its  
1990 application to any person or circumstance is held invalid, the  
1991 invalidity does not affect other provisions or applications of  
1992 this act which can be given effect without the invalid provision  
1993 or application, and to this end the provisions of this act are  
1994 severable. This section shall take effect upon this act becoming  
1995 a law.

1996       Section 27. Except as otherwise expressly provided in this  
1997 act and except for this section, which shall take effect upon  
1998 this act becoming a law, this act shall take effect April 30,  
1999 2012.