

1 A bill to be entitled
 2 An act relating to mandatory supervision for violent
 3 offenders; providing legislative intent; amending s.
 4 944.291, F.S.; specifying that certain offenders may
 5 only be released under mandatory supervision; amending
 6 s. 947.1405, F.S.; redesignating conditional release
 7 as mandatory supervision; specifying that certain
 8 offenders may only be released under mandatory
 9 supervision; conforming provisions; amending ss.
 10 216.136, 394.926, 394.927, 775.084, 775.16, 775.21,
 11 775.261, 893.11, 943.0435, 943.325, 944.171, 944.28,
 12 944.291, 944.606, 944.607, 944.608, 944.70, 945.36,
 13 947.071, 947.13, 947.141, 947.16, 947.22, 947.24,
 14 948.09, 948.11, 948.32, and 957.06, F.S.; conforming
 15 provisions to changes made by the act; providing an
 16 effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. The Legislature finds that people convicted of
 21 violent offenses and sentenced to incarceration are at a higher
 22 risk of continuing to perpetrate crimes after release. The
 23 Legislature further finds that intensive, post-incarceration
 24 supervision may help to transition these offenders from prison
 25 to a nonprison setting by offering participation in appropriate
 26 programs and by following specified terms and conditions. Such
 27 intensive postrelease supervision may also reduce recidivism.

28 Section 2. Subsection (2) of section 944.291, Florida

29 Statutes, is amended to read:

30 944.291 Prisoner released by reason of gain-time
31 allowances or attainment of provisional release date.—

32 (2) Any prisoner who is convicted of a crime committed on
33 or after October 1, 1988, which crime is contained in category
34 1, category 2, category 3, or category 4 of Rule 3.701 and Rule
35 3.988, Florida Rules of Criminal Procedure, and who has served
36 at least one prior felony commitment at a state or federal
37 correctional institution, ~~or~~ is sentenced as a habitual or
38 violent habitual offender pursuant to s. 775.084, or is
39 convicted of a crime committed on or after October 1, 2013,
40 which crime is or was contained in category 1, category 2,
41 category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida
42 Rules of Criminal Procedure (1993), may only be released under
43 mandatory supervision ~~conditional release~~ supervision as
44 described in chapter 947. Not fewer than 90 days before ~~prior to~~
45 the tentative release date or provisional release date,
46 whichever is earlier, the department shall provide the
47 commission with the name and inmate identification number for
48 each eligible inmate.

49 Section 3. Section 947.1405, Florida Statutes, is amended
50 to read:

51 947.1405 Mandatory supervision ~~Conditional release~~
52 program.—

53 (1) This section and s. 947.141 may be cited as the
54 "Mandatory Supervision ~~Conditional Release~~ Program Act."

55 (2) Any inmate who:

56 (a) Is convicted of a crime committed on or after October

57 | 1, 1988, and before January 1, 1994, and any inmate who is
 58 | convicted of a crime committed on or after January 1, 1994,
 59 | which crime is or was contained in category 1, category 2,
 60 | category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida
 61 | Rules of Criminal Procedure (1993), and who has served at least
 62 | one prior felony commitment at a state or federal correctional
 63 | institution;

64 | (b) Is sentenced as a habitual or violent habitual
 65 | offender or a violent career criminal pursuant to s. 775.084; ~~or~~

66 | (c) Is found to be a sexual predator under s. 775.21 or
 67 | former s. 775.23; or

68 | (d) Is convicted of a crime committed on or after October
 69 | 1, 2013, which crime is or was contained in category 1, category
 70 | 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,
 71 | Florida Rules of Criminal Procedure (1993),

72 |
 73 | shall, upon reaching the tentative release date or provisional
 74 | release date, whichever is earlier, as established by the
 75 | Department of Corrections, be released under supervision subject
 76 | to specified terms and conditions, including payment of the cost
 77 | of supervision pursuant to s. 948.09. Such supervision shall be
 78 | applicable to all sentences within the overall term of sentences
 79 | if an inmate's overall term of sentences includes one or more
 80 | sentences that are eligible for mandatory ~~conditional release~~
 81 | supervision as provided herein. Effective July 1, 1994, and
 82 | applicable for offenses committed on or after that date, the
 83 | commission may require, as a condition of mandatory supervision
 84 | ~~conditional release~~, that the supervisee ~~releasee~~ make payment

HB 829

2013

85 of the debt due and owing to a county or municipal detention
86 facility under s. 951.032 for medical care, treatment,
87 hospitalization, or transportation received by the supervisee
88 ~~releasee~~ while in that detention facility. The commission, in
89 determining whether to order such repayment and the amount of
90 such repayment, shall consider the amount of the debt, whether
91 there was any fault of the institution for the medical expenses
92 incurred, the financial resources of the supervisee ~~releasee~~,
93 the present and potential future financial needs and earning
94 ability of the supervisee ~~releasee~~, and dependents, and other
95 appropriate factors. If any inmate placed on mandatory
96 ~~conditional-release~~ supervision is also subject to probation or
97 community control, resulting from a probationary or community
98 control split sentence within the overall term of sentences, the
99 Department of Corrections shall supervise such person according
100 to the conditions imposed by the court and the commission shall
101 defer to such supervision. If the court revokes probation or
102 community control and resentences the offender to a term of
103 incarceration, such revocation also constitutes a sufficient
104 basis for the revocation of the mandatory ~~conditional-release~~
105 supervision on any nonprobationary or noncommunity control
106 sentence without further hearing by the commission. If any such
107 supervision on any nonprobationary or noncommunity control
108 sentence is revoked, such revocation may result in a forfeiture
109 of all gain-time, and the commission may revoke the resulting
110 deferred mandatory ~~conditional-release~~ supervision or take other
111 action it considers appropriate. If the term of mandatory
112 ~~conditional-release~~ supervision exceeds that of the probation or

HB 829

2013

113 community control, then, upon expiration of the probation or
114 community control, authority for the supervision shall revert to
115 the commission and the supervision shall be subject to the
116 conditions imposed by the commission. A panel of no fewer than
117 two commissioners shall establish the terms and conditions of
118 any such release. If the offense was a controlled substance
119 violation, the conditions shall include a requirement that the
120 offender submit to random substance abuse testing intermittently
121 throughout the term of mandatory ~~conditional release~~
122 supervision, upon the direction of the correctional probation
123 officer as defined in s. 943.10(3). The commission shall also
124 determine whether the terms and conditions of such release have
125 been violated and whether such violation warrants revocation of
126 the mandatory supervision ~~conditional release~~.

127 (3) As part of the mandatory supervision ~~conditional~~
128 ~~release~~ process, the commission, through review and
129 consideration of information provided by the department, shall
130 determine:

131 (a) The amount of reparation or restitution.

132 (b) The consequences of the offense as reported by the
133 aggrieved party.

134 (c) The aggrieved party's fear of the inmate or concerns
135 about the release of the inmate.

136 (4) The commission shall provide to the aggrieved party
137 information regarding the manner in which notice of any
138 developments concerning the status of the inmate during the term
139 of mandatory supervision ~~conditional release~~ may be requested.

140 (5) Within 180 days before ~~prior to~~ the tentative release

HB 829

2013

141 date or provisional release date, whichever is earlier, a
142 representative of the department shall review the inmate's
143 program participation, disciplinary record, psychological and
144 medical records, criminal records, and any other information
145 pertinent to the impending release. The department shall gather
146 and compile information necessary for the commission to make the
147 determinations set forth in subsection (3). A department
148 representative shall conduct a personal interview with the
149 inmate for the purpose of determining the details of the
150 inmate's release plan, including the inmate's planned residence
151 and employment. The department representative shall forward the
152 inmate's release plan to the commission and recommend to the
153 commission the terms and conditions of the mandatory supervision
154 ~~conditional release~~.

155 (6) The commission shall review the recommendations of the
156 department, and such other information as it deems relevant, and
157 may conduct a review of the inmate's record for the purpose of
158 establishing the terms and conditions of the mandatory
159 supervision ~~conditional release~~. The commission may impose any
160 special conditions it considers warranted from its review of the
161 release plan and recommendation. If the commission determines
162 that the inmate is eligible for release under this section, the
163 commission shall enter an order establishing the length of
164 supervision and the conditions attendant thereto. However, an
165 inmate who has been convicted of a violation of chapter 794 or
166 found by the court to be a sexual predator is subject to the
167 maximum level of supervision provided, with the mandatory
168 conditions as required in subsection (7), and that supervision

HB 829

2013

169 shall continue through the end of the supervisee's ~~releasee's~~
170 original court-imposed sentence. The length of supervision must
171 not exceed the maximum penalty imposed by the court.

172 (7) (a) Any inmate who is convicted of a crime committed on
173 or after October 1, 1995, or who has been previously convicted
174 of a crime committed on or after October 1, 1995, in violation
175 of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
176 847.0145, and is subject to mandatory ~~conditional release~~
177 supervision, shall have, in addition to any other conditions
178 imposed, the following special conditions imposed by the
179 commission:

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

186 2. If the victim was under the age of 18, a prohibition on
187 living within 1,000 feet of a school, child care facility, park,
188 playground, designated public school bus stop, or other place
189 where children regularly congregate. A supervisee ~~releasee~~ who
190 is subject to this subparagraph may not relocate to a residence
191 that is within 1,000 feet of a public school bus stop. Beginning
192 October 1, 2004, the commission or the department may not
193 approve a residence that is located within 1,000 feet of a
194 school, child care facility, park, playground, designated school
195 bus stop, or other place where children regularly congregate for
196 any supervisee ~~releasee~~ who is subject to this subparagraph. On

HB 829

2013

197 | October 1, 2004, the department shall notify each affected
198 | school district of the location of the residence of a supervisee
199 | ~~releasee~~ 30 days before ~~prior to~~ release and thereafter, if the
200 | supervisee ~~releasee~~ relocates to a new residence, shall notify
201 | any affected school district of the residence of the supervisee
202 | ~~releasee~~ within 30 days after relocation. If, on October 1,
203 | 2004, any public school bus stop is located within 1,000 feet of
204 | the existing residence of such supervisee ~~releasee~~, the district
205 | school board shall relocate that school bus stop. Beginning
206 | October 1, 2004, a district school board may not establish or
207 | relocate a public school bus stop within 1,000 feet of the
208 | residence of a supervisee ~~releasee~~ who is subject to this
209 | subparagraph. The failure of the district school board to comply
210 | with this subparagraph shall not result in a violation of
211 | mandatory ~~conditional-release~~ supervision. A supervisee ~~releasee~~
212 | who is subject to this subparagraph may not be forced to
213 | relocate and does not violate his or her mandatory ~~conditional~~
214 | ~~release~~ supervision if he or she is living in a residence that
215 | meets the requirements of this subparagraph and a school, child
216 | care facility, park, playground, designated public school bus
217 | stop, or other place where children regularly congregate is
218 | subsequently established within 1,000 feet of his or her
219 | residence.

220 | 3. Active participation in and successful completion of a
221 | sex offender treatment program with qualified practitioners
222 | specifically trained to treat sex offenders, at the supervisee's
223 | ~~releasee's~~ own expense. If a qualified practitioner is not
224 | available within a 50-mile radius of the supervisee's ~~releasee's~~

225 residence, the offender shall participate in other appropriate
226 therapy.

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

231 5. If the victim was under the age of 18, a prohibition
232 against contact with children under the age of 18 without review
233 and approval by the commission. The commission may approve
234 supervised contact with a child under the age of 18 if the
235 approval is based upon a recommendation for contact issued by a
236 qualified practitioner who is basing the recommendation on a
237 risk assessment. Further, the sex offender must be currently
238 enrolled in or have successfully completed a sex offender
239 therapy program. The commission may not grant supervised contact
240 with a child if the contact is not recommended by a qualified
241 practitioner and may deny supervised contact with a child at any
242 time. When considering whether to approve supervised contact
243 with a child, the commission must review and consider the
244 following:

245 a. A risk assessment completed by a qualified
246 practitioner. The qualified practitioner must prepare a written
247 report that must include the findings of the assessment and
248 address each of the following components:

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

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

252 (III) The sex offender's history of adult charges without

253 | apparent sexual motivation;

254 | (IV) The sex offender's history of juvenile charges,

255 | whenever available;

256 | (V) The sex offender's offender treatment history,

257 | including a consultation from the sex offender's treating, or

258 | most recent treating, therapist;

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

260 | (VII) The sex offender's mental health and substance abuse

261 | history as provided by the Department of Corrections;

262 | (VIII) The sex offender's personal, social, educational,

263 | and work history;

264 | (IX) The results of current psychological testing of the

265 | sex offender if determined necessary by the qualified

266 | practitioner;

267 | (X) A description of the proposed contact, including the

268 | location, frequency, duration, and supervisory arrangement;

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

270 | with the proposed contact, when age-appropriate;

271 | (XII) The parent's or legal guardian's preference

272 | regarding the proposed contact; and

273 | (XIII) The qualified practitioner's opinion, along with

274 | the basis for that opinion, as to whether the proposed contact

275 | would likely pose significant risk of emotional or physical harm

276 | to the child.

277 |

278 | The written report of the assessment must be given to the

279 | commission.

280 | b. A recommendation made as a part of the risk-assessment

281 | report as to whether supervised contact with the child should be
282 | approved;

283 | c. A written consent signed by the child's parent or legal
284 | guardian, if the parent or legal guardian is not the sex
285 | offender, agreeing to the sex offender having supervised contact
286 | with the child after receiving full disclosure of the sex
287 | offender's present legal status, past criminal history, and the
288 | results of the risk assessment. The commission may not approve
289 | contact with the child if the parent or legal guardian refuses
290 | to give written consent for supervised contact;

291 | d. A safety plan prepared by the qualified practitioner,
292 | who provides treatment to the offender, in collaboration with
293 | the sex offender, the child's parent or legal guardian, and the
294 | child, when age appropriate, which details the acceptable
295 | conditions of contact between the sex offender and the child.
296 | The safety plan must be reviewed and approved by the Department
297 | of Corrections before being submitted to the commission; and

298 | e. Evidence that the child's parent or legal guardian, if
299 | the parent or legal guardian is not the sex offender,
300 | understands the need for and agrees to the safety plan and has
301 | agreed to provide, or to designate another adult to provide,
302 | constant supervision any time the child is in contact with the
303 | offender.

304 |
305 | The commission may not appoint a person to conduct a risk
306 | assessment and may not accept a risk assessment from a person
307 | who has not demonstrated to the commission that he or she has
308 | met the requirements of a qualified practitioner as defined in

309 | this section.

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

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

321 | 8. Effective for a supervisee ~~releasee~~ whose crime is
322 | committed on or after July 1, 2005, a prohibition on accessing
323 | the Internet or other computer services until a qualified
324 | practitioner in the offender's sex offender treatment program,
325 | after a risk assessment is completed, approves and implements a
326 | safety plan for the offender's accessing or using the Internet
327 | or other computer services.

328 | 9. A requirement that the supervisee ~~releasee~~ must submit
329 | two specimens of blood to the Department of Law Enforcement to
330 | be registered with the DNA database.

331 | 10. A requirement that the supervisee ~~releasee~~ make
332 | restitution to the victim, as determined by the sentencing court
333 | or the commission, for all necessary medical and related
334 | professional services relating to physical, psychiatric, and
335 | psychological care.

336 | 11. Submission to a warrantless search by the community

HB 829

2013

337 control or probation officer of the probationer's or community
338 controllee's person, residence, or vehicle.

339 (b) For a supervisee ~~releasee~~ whose crime was committed on
340 or after October 1, 1997, in violation of chapter 794, s.
341 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, and who is
342 subject to mandatory ~~conditional-release~~ supervision, in
343 addition to any other provision of this subsection, the
344 commission shall impose the following additional conditions of
345 mandatory ~~conditional-release~~ supervision:

346 1. As part of a treatment program, participation in a
347 minimum of one annual polygraph examination to obtain
348 information necessary for risk management and treatment and to
349 reduce the sex offender's denial mechanisms. The polygraph
350 examination must be conducted by a polygrapher who is a member
351 of a national or state polygraph association and who is
352 certified as a postconviction sex offender polygrapher, where
353 available, and at the expense of the supervisee ~~releasee~~. The
354 results of the examination shall be provided to the supervisee's
355 ~~releasee's~~ probation officer and qualified practitioner and may
356 not be used as evidence in a hearing to prove that a violation
357 of supervision has occurred.

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

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

363 4. If there was sexual contact, a submission to, at the
364 supervisee's ~~releasee's~~ expense, an HIV test with the results to

HB 829

2013

365 | be released to the victim or the victim's parent or guardian.

366 | 5. Electronic monitoring of any form when ordered by the
367 | commission. Any person who has been placed under supervision and
368 | is electronically monitored by the department must pay the
369 | department for the cost of the electronic monitoring service at
370 | a rate that may not exceed the full cost of the monitoring
371 | service. Funds collected under this subparagraph shall be
372 | deposited into the General Revenue Fund. The department may
373 | exempt a person from the payment of all or any part of the
374 | electronic monitoring service cost if the department finds that
375 | any of the factors listed in s. 948.09(3) exist.

376 | (8) It is the finding of the Legislature that the
377 | population of offenders released from state prison into the
378 | community who meet the mandatory supervision ~~conditional release~~
379 | criteria poses the greatest threat to the public safety of the
380 | groups of offenders under community supervision. Therefore, the
381 | Department of Corrections is to provide intensive supervision by
382 | experienced correctional probation officers to mandatory
383 | supervision ~~conditional release~~ offenders. Subject to specific
384 | appropriation by the Legislature, caseloads may be restricted to
385 | a maximum of 40 mandatory supervision ~~conditional release~~
386 | offenders per officer to provide for enhanced public safety and
387 | to effectively monitor conditions of electronic monitoring or
388 | curfews, if so ordered by the commission.

389 | (9) The commission shall adopt rules pursuant to ss.
390 | 120.536(1) and 120.54 necessary to implement the provisions of
391 | the Mandatory Supervision ~~Conditional Release~~ Program Act.

392 | (10) Effective for a supervisee ~~releasee~~ whose crime was

HB 829

2013

393 committed on or after September 1, 2005, in violation of chapter
394 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145, and
395 the unlawful activity involved a victim who was 15 years of age
396 or younger and the offender is 18 years of age or older or for a
397 supervisee ~~releasee~~ who is designated as a sexual predator
398 pursuant to s. 775.21, in addition to any other provision of
399 this section, the commission must order electronic monitoring
400 for the duration of the supervisee's ~~releasee's~~ supervision.

401 (11) Effective for a supervisee ~~releasee~~ whose crime was
402 committed on or after October 1, 2008, and who has been found to
403 have committed the crime for the purpose of benefiting,
404 promoting, or furthering the interests of a criminal gang, the
405 commission shall, in addition to any other conditions imposed,
406 impose a condition prohibiting the supervisee ~~releasee~~ from
407 knowingly associating with other criminal gang members or
408 associates, except as authorized by law enforcement officials,
409 prosecutorial authorities, or the court, for the purpose of
410 aiding in the investigation of criminal activity.

411 (12) In addition to all other conditions imposed, for a
412 supervisee ~~releasee~~ who is subject to mandatory supervision
413 ~~conditional release~~ for a crime that was committed on or after
414 May 26, 2010, and who has been convicted at any time of
415 committing, or attempting, soliciting, or conspiring to commit,
416 any of the criminal offenses listed in s. 943.0435(1)(a)1.a.(I),
417 or a similar offense in another jurisdiction against a victim
418 who was under 18 years of age at the time of the offense, if the
419 supervisee ~~releasee~~ has not received a pardon for any felony or
420 similar law of another jurisdiction necessary for the operation

421 of this subsection, if a conviction of a felony or similar law
422 of another jurisdiction necessary for the operation of this
423 subsection has not been set aside in any postconviction
424 proceeding, or if the supervisee ~~releasee~~ has not been removed
425 from the requirement to register as a sexual offender or sexual
426 predator pursuant to s. 943.04354, the commission must impose
427 the following conditions:

428 (a) A prohibition on visiting schools, child care
429 facilities, parks, and playgrounds without prior approval from
430 the supervisee's ~~releasee's~~ supervising officer. The commission
431 may also designate additional prohibited locations to protect a
432 victim. The prohibition ordered under this paragraph does not
433 prohibit the supervisee ~~releasee~~ from visiting a school, child
434 care facility, park, or playground for the sole purpose of
435 attending a religious service as defined in s. 775.0861 or
436 picking up or dropping off the supervisee's ~~releasee's~~ child or
437 grandchild at a child care facility or school.

438 (b) A prohibition on distributing candy or other items to
439 children on Halloween; wearing a Santa Claus costume, or other
440 costume to appeal to children, on or preceding Christmas;
441 wearing an Easter Bunny costume, or other costume to appeal to
442 children, on or preceding Easter; entertaining at children's
443 parties; or wearing a clown costume without prior approval from
444 the commission.

445 Section 4. Paragraph (c) of subsection (5) of section
446 216.136, Florida Statutes, is amended to read:

447 216.136 Consensus estimating conferences; duties and
448 principals.—

HB 829

2013

449 (5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.—The Criminal
450 Justice Estimating Conference shall:

451 (c) Develop official information relating to the number of
452 sexual offenders and sexual predators who are required by law to
453 be placed on community control, probation, or mandatory
454 supervision ~~conditional release~~ who are subject to electronic
455 monitoring.

456 Section 5. Subsection (2) of section 394.926, Florida
457 Statutes, is amended to read:

458 394.926 Notice to victims of release of persons committed
459 as sexually violent predators; notice to Department of
460 Corrections and Parole Commission.—

461 (2) If a sexually violent predator who has an active or
462 pending term of probation, community control, parole, mandatory
463 supervision ~~conditional release~~, or other court-ordered or
464 postprison release supervision is released from custody, the
465 department must immediately notify the Department of
466 Corrections' Office of Community Corrections in Tallahassee. The
467 Parole Commission must also be immediately notified of any
468 releases of a sexually violent predator who has an active or
469 pending term of parole, mandatory supervision ~~conditional~~
470 ~~release~~, or other postprison release supervision that is
471 administered by the Parole Commission.

472 Section 6. Section 394.927, Florida Statutes, is amended
473 to read:

474 394.927 Escape while in lawful custody; notice to victim;
475 notice to the Department of Corrections and Parole Commission.—

476 (1) A person who is held in lawful custody pursuant to a

477 judicial finding of probable cause under s. 394.915 or pursuant
 478 to a commitment as a sexually violent predator under s. 394.916
 479 and who escapes or attempts to escape while in such custody
 480 commits a felony of the second degree, punishable as provided in
 481 s. 775.082, s. 775.083, or s. 775.084.

482 (2) If a person who is held in custody pursuant to a
 483 finding of probable cause or commitment as a sexually violent
 484 predator escapes while in custody, the department shall
 485 immediately notify the victim in accordance with s. 394.926. The
 486 state attorney that filed the petition for civil commitment of
 487 the escapee must also be immediately notified by the department.
 488 If the escapee has an active or pending term of probation,
 489 community control, parole, mandatory supervision ~~conditional~~
 490 ~~release~~, or other court-ordered or postprison release
 491 supervision, the department shall also immediately notify the
 492 Department of Corrections' Office of Community Corrections in
 493 Tallahassee. The Parole Commission shall also be immediately
 494 notified of an escape if the escapee has an active or pending
 495 term of parole, mandatory supervision ~~conditional release~~, or
 496 other postprison release supervision that is administered by the
 497 Parole Commission.

498 Section 7. Paragraphs (a), (b), and (d) of subsection (1)
 499 of section 775.084, Florida Statutes, are amended to read:

500 775.084 Violent career criminals; habitual felony
 501 offenders and habitual violent felony offenders; three-time
 502 violent felony offenders; definitions; procedure; enhanced
 503 penalties or mandatory minimum prison terms.—

504 (1) As used in this act:

HB 829

2013

505 (a) "Habitual felony offender" means a defendant for whom
506 the court may impose an extended term of imprisonment, as
507 provided in paragraph (4) (a), if it finds that:

508 1. The defendant has previously been convicted of any
509 combination of two or more felonies in this state or other
510 qualified offenses.

511 2. The felony for which the defendant is to be sentenced
512 was committed:

513 a. While the defendant was serving a prison sentence or
514 other sentence, or court-ordered or lawfully imposed supervision
515 that is imposed as a result of a prior conviction for a felony
516 or other qualified offense; or

517 b. Within 5 years of the date of the conviction of the
518 defendant's last prior felony or other qualified offense, or
519 within 5 years of the defendant's release from a prison
520 sentence, probation, community control, control release,
521 mandatory supervision ~~conditional release~~, parole or court-
522 ordered or lawfully imposed supervision or other sentence that
523 is imposed as a result of a prior conviction for a felony or
524 other qualified offense, whichever is later.

525 3. The felony for which the defendant is to be sentenced,
526 and one of the two prior felony convictions, is not a violation
527 of s. 893.13 relating to the purchase or the possession of a
528 controlled substance.

529 4. The defendant has not received a pardon for any felony
530 or other qualified offense that is necessary for the operation
531 of this paragraph.

532 5. A conviction of a felony or other qualified offense

533 necessary to the operation of this paragraph has not been set
 534 aside in any postconviction proceeding.

535 (b) "Habitual violent felony offender" means a defendant
 536 for whom the court may impose an extended term of imprisonment,
 537 as provided in paragraph (4)(b), if it finds that:

538 1. The defendant has previously been convicted of a felony
 539 or an attempt or conspiracy to commit a felony and one or more
 540 of such convictions was for:

- 541 a. Arson;
 - 542 b. Sexual battery;
 - 543 c. Robbery;
 - 544 d. Kidnapping;
 - 545 e. Aggravated child abuse;
 - 546 f. Aggravated abuse of an elderly person or disabled
 547 adult;
 - 548 g. Aggravated assault with a deadly weapon;
 - 549 h. Murder;
 - 550 i. Manslaughter;
 - 551 j. Aggravated manslaughter of an elderly person or
 552 disabled adult;
 - 553 k. Aggravated manslaughter of a child;
 - 554 l. Unlawful throwing, placing, or discharging of a
 555 destructive device or bomb;
 - 556 m. Armed burglary;
 - 557 n. Aggravated battery; or
 - 558 o. Aggravated stalking.
- 559 2. The felony for which the defendant is to be sentenced
 560 was committed:

561 a. While the defendant was serving a prison sentence or
 562 other sentence, or court-ordered or lawfully imposed supervision
 563 that is imposed as a result of a prior conviction for an
 564 enumerated felony; or

565 b. Within 5 years of the date of the conviction of the
 566 last prior enumerated felony, or within 5 years of the
 567 defendant's release from a prison sentence, probation, community
 568 control, control release, mandatory supervision ~~conditional~~
 569 ~~release~~, parole, or court-ordered or lawfully imposed
 570 supervision or other sentence that is imposed as a result of a
 571 prior conviction for an enumerated felony, whichever is later.

572 3. The defendant has not received a pardon on the ground
 573 of innocence for any crime that is necessary for the operation
 574 of this paragraph.

575 4. A conviction of a crime necessary to the operation of
 576 this paragraph has not been set aside in any postconviction
 577 proceeding.

578 (d) "Violent career criminal" means a defendant for whom
 579 the court must impose imprisonment pursuant to paragraph (4) (d),
 580 if it finds that:

581 1. The defendant has previously been convicted as an adult
 582 three or more times for an offense in this state or other
 583 qualified offense that is:

584 a. Any forcible felony, as described in s. 776.08;

585 b. Aggravated stalking, as described in s. 784.048(3) and
 586 (4);

587 c. Aggravated child abuse, as described in s.
 588 827.03(2) (a);

589 d. Aggravated abuse of an elderly person or disabled
590 adult, as described in s. 825.102(2);

591 e. Lewd or lascivious battery, lewd or lascivious
592 molestation, lewd or lascivious conduct, or lewd or lascivious
593 exhibition, as described in s. 800.04 or s. 847.0135(5);

594 f. Escape, as described in s. 944.40; or

595 g. A felony violation of chapter 790 involving the use or
596 possession of a firearm.

597 2. The defendant has been incarcerated in a state prison
598 or a federal prison.

599 3. The primary felony offense for which the defendant is
600 to be sentenced is a felony enumerated in subparagraph 1. and
601 was committed on or after October 1, 1995, and:

602 a. While the defendant was serving a prison sentence or
603 other sentence, or court-ordered or lawfully imposed supervision
604 that is imposed as a result of a prior conviction for an
605 enumerated felony; or

606 b. Within 5 years after the conviction of the last prior
607 enumerated felony, or within 5 years after the defendant's
608 release from a prison sentence, probation, community control,
609 control release, mandatory supervision ~~conditional release~~,
610 parole, or court-ordered or lawfully imposed supervision or
611 other sentence that is imposed as a result of a prior conviction
612 for an enumerated felony, whichever is later.

613 4. The defendant has not received a pardon for any felony
614 or other qualified offense that is necessary for the operation
615 of this paragraph.

616 5. A conviction of a felony or other qualified offense

HB 829

2013

617 necessary to the operation of this paragraph has not been set
618 aside in any postconviction proceeding.

619 Section 8. Paragraph (a) of subsection (1) and paragraph
620 (b) of subsection (2) of section 775.16, Florida Statutes, are
621 amended to read:

622 775.16 Drug offenses; additional penalties.—In addition to
623 any other penalty provided by law, a person who has been
624 convicted of sale of or trafficking in, or conspiracy to sell or
625 traffic in, a controlled substance under chapter 893, if such
626 offense is a felony, or who has been convicted of an offense
627 under the laws of any state or country which, if committed in
628 this state, would constitute the felony of selling or
629 trafficking in, or conspiracy to sell or traffic in, a
630 controlled substance under chapter 893, is:

631 (1) Disqualified from applying for employment by any
632 agency of the state, unless:

633 (a) The person has completed all sentences of imprisonment
634 or supervisory sanctions imposed by the court, by the Parole
635 Commission, or by law; or

636 (2) Disqualified from applying for a license, permit, or
637 certificate required by any agency of the state to practice,
638 pursue, or engage in any occupation, trade, vocation,
639 profession, or business, unless:

640 (b) The person has complied with the conditions of
641 subparagraphs 1. and 2. which shall be monitored by the
642 Department of Corrections while the person is under any
643 supervisory sanction. If the person fails to comply with
644 provisions of these subparagraphs by either failing to maintain

645 treatment or by testing positive for drug use, the department
 646 shall notify the licensing, permitting, or certifying agency,
 647 which may refuse to reissue or reinstate such license, permit,
 648 or certification. The licensee, permittee, or certificateholder
 649 under supervision may:

650 1. Seek evaluation and enrollment in, and once enrolled
 651 maintain enrollment in until completion, a drug treatment and
 652 rehabilitation program which is approved or regulated by the
 653 Department of Children and Family Services, unless it is deemed
 654 by the program that the person does not have a substance abuse
 655 problem. The treatment and rehabilitation program may be
 656 specified by:

657 a. The court, in the case of court-ordered supervisory
 658 sanctions;

659 b. The Parole Commission, in the case of parole, control
 660 release, or mandatory supervision ~~conditional release~~; or

661 c. The Department of Corrections, in the case of
 662 imprisonment or any other supervision required by law.

663 2. Submit to periodic urine drug testing pursuant to
 664 procedures prescribed by the Department of Corrections. If the
 665 person is indigent, the costs shall be paid by the Department of
 666 Corrections; or

667
 668 The provisions of this section do not apply to any of the taxes,
 669 fees, or permits regulated, controlled, or administered by the
 670 Department of Revenue in accordance with the provisions of s.
 671 213.05.

672 Section 9. Paragraph (e) of subsection (2) of section

673 775.21, Florida Statutes, is amended to read:

674 775.21 The Florida Sexual Predators Act.—

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

676 (e) "Conviction" means a determination of guilt which is
 677 the result of a trial or the entry of a plea of guilty or nolo
 678 contendere, regardless of whether adjudication is withheld. A
 679 conviction for a similar offense includes, but is not limited
 680 to, a conviction by a federal or military tribunal, including
 681 courts-martial conducted by the Armed Forces of the United
 682 States, and includes a conviction or entry of a plea of guilty
 683 or nolo contendere resulting in a sanction in any state of the
 684 United States or other jurisdiction. A sanction includes, but is
 685 not limited to, a fine, probation, community control, parole,
 686 mandatory supervision ~~conditional release~~, control release, or
 687 incarceration in a state prison, federal prison, private
 688 correctional facility, or local detention facility.

689 Section 10. Paragraph (a) of subsection (3) of section
 690 775.261, Florida Statutes, is amended to read:

691 775.261 The Florida Career Offender Registration Act.—

692 (3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

693 (a) A career offender released on or after July 1, 2002,
 694 from a sanction imposed in this state must register as required
 695 under subsection (4) and is subject to community and public
 696 notification as provided under subsection (5). For purposes of
 697 this section, a sanction imposed in this state includes, but is
 698 not limited to, a fine, probation, community control, parole,
 699 mandatory supervision ~~conditional release~~, control release, or
 700 incarceration in a state prison, private correctional facility,

701 or local detention facility, and:

702 1. The career offender has not received a pardon for any
 703 felony or other qualified offense that is necessary for the
 704 operation of this paragraph; or

705 2. A conviction of a felony or other qualified offense
 706 necessary to the operation of this paragraph has not been set
 707 aside in any postconviction proceeding.

708 Section 11. Paragraph (a) of subsection (1) of section
 709 893.11, Florida Statutes, is amended to read:

710 893.11 Suspension, revocation, and reinstatement of
 711 business and professional licenses.—For the purposes of s.
 712 120.60(6), any conviction in any court reported to the
 713 Comprehensive Case Information System of the Florida Association
 714 of Court Clerks and Comptrollers, Inc., for the sale of, or
 715 trafficking in, a controlled substance or for conspiracy to
 716 sell, or traffic in, a controlled substance constitutes an
 717 immediate serious danger to the public health, safety, or
 718 welfare, and is grounds for disciplinary action by the licensing
 719 state agency. A state agency shall initiate an immediate
 720 emergency suspension of an individual professional license
 721 issued by the agency, in compliance with the procedures for
 722 summary suspensions in s. 120.60(6), upon the agency's findings
 723 of the licensee's conviction in any court reported to the
 724 Comprehensive Case Information System of the Florida Association
 725 of Court Clerks and Comptrollers, Inc., for the sale of, or
 726 trafficking in, a controlled substance, or for conspiracy to
 727 sell, or traffic in, a controlled substance. Before renewing any
 728 professional license, a state agency that issues a professional

729 license must use the Comprehensive Case Information System of
730 the Florida Association of Court Clerks and Comptrollers, Inc.,
731 to obtain information relating to any conviction for the sale
732 of, or trafficking in, a controlled substance or for conspiracy
733 to sell, or traffic in, a controlled substance. The clerk of
734 court shall provide electronic access to each state agency at no
735 cost and also provide certified copies of the judgment upon
736 request to the agency. Upon a showing by any such convicted
737 defendant whose professional license has been suspended or
738 revoked pursuant to this section that his or her civil rights
739 have been restored or upon a showing that the convicted
740 defendant meets the following criteria, the agency head may
741 reinstate or reactivate such license when:

742 (1) The person has complied with the conditions of
743 paragraphs (a) and (b) which shall be monitored by the
744 Department of Corrections while the person is under any
745 supervisory sanction. If the person fails to comply with
746 provisions of these paragraphs by either failing to maintain
747 treatment or by testing positive for drug use, the department
748 shall notify the licensing agency, which shall revoke the
749 license. The person under supervision may:

750 (a) Seek evaluation and enrollment in, and once enrolled
751 maintain enrollment in until completion, a drug treatment and
752 rehabilitation program which is approved or regulated by the
753 Department of Children and Family Services. The treatment and
754 rehabilitation program shall be specified by:

755 1. The court, in the case of court-ordered supervisory
756 sanctions;

HB 829

2013

757 2. The Parole Commission, in the case of parole, control
758 release, or mandatory supervision ~~conditional release~~; or

759 3. The Department of Corrections, in the case of
760 imprisonment or any other supervision required by law.

761 Section 12. Paragraph (a) of subsection (1) and subsection
762 (11) of section 943.0435, Florida Statutes, are amended to read:

763 943.0435 Sexual offenders required to register with the
764 department; penalty.—

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

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

769 a.(I) Has been convicted of committing, or attempting,
770 soliciting, or conspiring to commit, any of the criminal
771 offenses proscribed in the following statutes in this state or
772 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
773 or s. 787.025(2)(c), where the victim is a minor and the
774 defendant is not the victim's parent or guardian; s.
775 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
776 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
777 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
778 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
779 or s. 985.701(1); or any similar offense committed in this state
780 which has been redesignated from a former statute number to one
781 of those listed in this sub-sub-subparagraph; and

782 (II) Has been released on or after October 1, 1997, from
783 the sanction imposed for any conviction of an offense described
784 in sub-sub-subparagraph (I). For purposes of sub-sub-

HB 829

2013

785 subparagraph (I), a sanction imposed in this state or in any
786 other jurisdiction includes, but is not limited to, a fine,
787 probation, community control, parole, mandatory supervision
788 ~~conditional release~~, control release, or incarceration in a
789 state prison, federal prison, private correctional facility, or
790 local detention facility;

791 b. Establishes or maintains a residence in this state and
792 who has not been designated as a sexual predator by a court of
793 this state but who has been designated as a sexual predator, as
794 a sexually violent predator, or by another sexual offender
795 designation in another state or jurisdiction and was, as a
796 result of such designation, subjected to registration or
797 community or public notification, or both, or would be if the
798 person were a resident of that state or jurisdiction, without
799 regard to whether the person otherwise meets the criteria for
800 registration as a sexual offender;

801 c. Establishes or maintains a residence in this state who
802 is in the custody or control of, or under the supervision of,
803 any other state or jurisdiction as a result of a conviction for
804 committing, or attempting, soliciting, or conspiring to commit,
805 any of the criminal offenses proscribed in the following
806 statutes or similar offense in another jurisdiction: s. 787.01,
807 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
808 the defendant is not the victim's parent or guardian; s.
809 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
810 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
811 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
812 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;

HB 829

2013

813 or s. 985.701(1); or any similar offense committed in this state
814 which has been redesignated from a former statute number to one
815 of those listed in this sub-subparagraph; or

816 d. On or after July 1, 2007, has been adjudicated
817 delinquent for committing, or attempting, soliciting, or
818 conspiring to commit, any of the criminal offenses proscribed in
819 the following statutes in this state or similar offenses in
820 another jurisdiction when the juvenile was 14 years of age or
821 older at the time of the offense:

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

823 (II) Section 800.04(4)(b) where the victim is under 12
824 years of age or where the court finds sexual activity by the use
825 of force or coercion;

826 (III) Section 800.04(5)(c)1. where the court finds
827 molestation involving unclothed genitals; or

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

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

833
834 For each violation of a qualifying offense listed in this
835 subsection, the court shall make a written finding of the age of
836 the victim at the time of the offense. For a violation of s.
837 800.04(4), the court shall additionally make a written finding
838 indicating that the offense did or did not involve sexual
839 activity and indicating that the offense did or did not involve
840 force or coercion. For a violation of s. 800.04(5), the court

841 shall additionally make a written finding that the offense did
842 or did not involve unclothed genitals or genital area and that
843 the offense did or did not involve the use of force or coercion.

844 (11) Except as provided in s. 943.04354, a sexual offender
845 must maintain registration with the department for the duration
846 of his or her life, unless the sexual offender has received a
847 full pardon or has had a conviction set aside in a
848 postconviction proceeding for any offense that meets the
849 criteria for classifying the person as a sexual offender for
850 purposes of registration. However, a sexual offender:

851 (a)1. Who has been lawfully released from confinement,
852 supervision, or sanction, whichever is later, for at least 25
853 years and has not been arrested for any felony or misdemeanor
854 offense since release, provided that the sexual offender's
855 requirement to register was not based upon an adult conviction:

856 a. For a violation of s. 787.01 or s. 787.02;

857 b. For a violation of s. 794.011, excluding s.

858 794.011(10);

859 c. For a violation of s. 800.04(4)(b) where the court
860 finds the offense involved a victim under 12 years of age or
861 sexual activity by the use of force or coercion;

862 d. For a violation of s. 800.04(5)(b);

863 e. For a violation of s. 800.04(5)c.2. where the court
864 finds the offense involved unclothed genitals or genital area;

865 f. For any attempt or conspiracy to commit any such
866 offense; or

867 g. For a violation of similar law of another jurisdiction,

868

869 may petition the criminal division of the circuit court of the
870 circuit in which the sexual offender resides for the purpose of
871 removing the requirement for registration as a sexual offender.

872 2. The court may grant or deny relief if the offender
873 demonstrates to the court that he or she has not been arrested
874 for any crime since release; the requested relief complies with
875 the provisions of the federal Adam Walsh Child Protection and
876 Safety Act of 2006 and any other federal standards applicable to
877 the removal of registration requirements for a sexual offender
878 or required to be met as a condition for the receipt of federal
879 funds by the state; and the court is otherwise satisfied that
880 the offender is not a current or potential threat to public
881 safety. The state attorney in the circuit in which the petition
882 is filed must be given notice of the petition at least 3 weeks
883 before the hearing on the matter. The state attorney may present
884 evidence in opposition to the requested relief or may otherwise
885 demonstrate the reasons why the petition should be denied. If
886 the court denies the petition, the court may set a future date
887 at which the sexual offender may again petition the court for
888 relief, subject to the standards for relief provided in this
889 subsection.

890 3. The department shall remove an offender from
891 classification as a sexual offender for purposes of registration
892 if the offender provides to the department a certified copy of
893 the court's written findings or order that indicates that the
894 offender is no longer required to comply with the requirements
895 for registration as a sexual offender.

896 (b) As defined in sub-subparagraph (1)(a)1.b. must

897 maintain registration with the department for the duration of
 898 his or her life until the person provides the department with an
 899 order issued by the court that designated the person as a sexual
 900 predator, as a sexually violent predator, or by another sexual
 901 offender designation in the state or jurisdiction in which the
 902 order was issued which states that such designation has been
 903 removed or demonstrates to the department that such designation,
 904 if not imposed by a court, has been removed by operation of law
 905 or court order in the state or jurisdiction in which the
 906 designation was made, and provided such person no longer meets
 907 the criteria for registration as a sexual offender under the
 908 laws of this state.

909 Section 13. Paragraph (a) of subsection (7) of section
 910 943.325, Florida Statutes, is amended to read:

911 943.325 DNA database.—

912 (7) COLLECTION OF DNA SAMPLES FROM OFFENDERS.—

913 (a) Any qualifying offender, who is:

- 914 1. Arrested in this state;
- 915 2. Incarcerated in this state; or
- 916 3. On probation, community control, parole, mandatory
 917 supervision ~~conditional release~~, control release, or any other
 918 type of court-ordered supervision in this state,

919

920 shall be required to submit a DNA sample to a department-
 921 designated facility.

922 Section 14. Paragraph (a) of subsection (2) of section
 923 944.171, Florida Statutes, is amended to read:

924 944.171 Housing of inmates.—

925 (2) Notwithstanding s. 944.17, the department may enter
926 into contracts with another state, a political subdivision of
927 another state, or a correctional management services vendor in
928 another state for the transfer and confinement in that state of
929 inmates who have been committed to the custody of the
930 department.

931 (a) Any such contract must include:

932 1. A termination date.

933 2. Provisions concerning the costs of inmate maintenance,
934 extraordinary medical and dental expenses, and any participation
935 in or receipt by inmates of rehabilitative or correctional
936 services, facilities, programs, or treatment, including those
937 costs not reasonably included as part of normal maintenance.

938 3. Provisions concerning participation in programs of
939 inmate employment, if any, the disposition or crediting of any
940 payments received by inmates on account of employment, and the
941 crediting of proceeds or disposal of any products resulting from
942 employment.

943 4. Provisions for the delivery and retaking of inmates.

944 5. A provision for a waiver of extradition by the parties
945 to the contract.

946 6. Retention of jurisdiction of the inmates transferred by
947 Florida.

948 7. Regular reporting procedures concerning Florida inmates
949 by officials of the state, political subdivision, or
950 correctional management services vendor with which the
951 department is contracting.

952 8. Provisions concerning procedures for community

953 supervision, including probation, parole, mandatory supervision
 954 ~~conditional release~~, and discharge.

955 9. The same standards of reasonable and humane care as the
 956 inmates would receive in an appropriate institution in this
 957 state.

958 10. Any other matters that are necessary and appropriate
 959 to establish the obligations, responsibilities, and rights of
 960 Florida and the state, political subdivision, or correctional
 961 management services vendor with which the department is
 962 contracting.

963 Section 15. Subsection (1) of section 944.28, Florida
 964 Statutes, is amended to read:

965 944.28 Forfeiture of gain-time and the right to earn gain-
 966 time in the future.—

967 (1) If a prisoner is convicted of escape, or if the
 968 clemency, mandatory supervision ~~conditional release~~ as described
 969 in chapter 947, probation or community control as described in
 970 chapter 948, provisional release as described in s. 944.277,
 971 parole, or control release as described in s. 947.146 granted to
 972 the prisoner is revoked, the department may, without notice or
 973 hearing, declare a forfeiture of all gain-time earned according
 974 to the provisions of law by such prisoner before ~~prior to~~ such
 975 escape or his or her release under such clemency, mandatory
 976 supervision ~~conditional release~~, probation, community control,
 977 provisional release, control release, or parole.

978 Section 16. Subsection (2) of section 944.291, Florida
 979 Statutes, is amended to read:

980 944.291 Prisoner released by reason of gain-time

981 allowances or attainment of provisional release date.—

982 (2) Any prisoner who is convicted of a crime committed on
 983 or after October 1, 1988, which crime is contained in category
 984 1, category 2, category 3, or category 4 of Rule 3.701 and Rule
 985 3.988, Florida Rules of Criminal Procedure, and who has served
 986 at least one prior felony commitment at a state or federal
 987 correctional institution, or is sentenced as a habitual or
 988 violent habitual offender pursuant to s. 775.084, may only be
 989 released under mandatory ~~conditional release~~ supervision as
 990 described in chapter 947. Not fewer than 90 days before ~~prior to~~
 991 the tentative release date or provisional release date,
 992 whichever is earlier, the department shall provide the
 993 commission with the name and inmate identification number for
 994 each eligible inmate.

995 Section 17. Paragraph (a) of subsection (1) of section
 996 944.606, Florida Statutes, is amended to read:

997 944.606 Sexual offenders; notification upon release.—

998 (1) As used in this section:

999 (a) "Convicted" means there has been a determination of
 1000 guilt as a result of a trial or the entry of a plea of guilty or
 1001 nolo contendere, regardless of whether adjudication is withheld.
 1002 A conviction for a similar offense includes, but is not limited
 1003 to, a conviction by a federal or military tribunal, including
 1004 courts-martial conducted by the Armed Forces of the United
 1005 States, and includes a conviction or entry of a plea of guilty
 1006 or nolo contendere resulting in a sanction in any state of the
 1007 United States or other jurisdiction. A sanction includes, but is
 1008 not limited to, a fine; probation; community control; parole;

1009 | mandatory supervision ~~conditional release~~; control release; or
 1010 | incarceration in a state prison, federal prison, private
 1011 | correctional facility, or local detention facility.

1012 | Section 18. Paragraph (b) of subsection (1) and paragraph
 1013 | (g) of subsection (6) of section 944.607, Florida Statutes, are
 1014 | amended to read:

1015 | 944.607 Notification to Department of Law Enforcement of
 1016 | information on sexual offenders.—

1017 | (1) As used in this section, the term:

1018 | (b) "Conviction" means a determination of guilt which is
 1019 | the result of a trial or the entry of a plea of guilty or nolo
 1020 | contendere, regardless of whether adjudication is withheld.
 1021 | Conviction of a similar offense includes, but is not limited to,
 1022 | a conviction by a federal or military tribunal, including
 1023 | courts-martial conducted by the Armed Forces of the United
 1024 | States, and includes a conviction or entry of a plea of guilty
 1025 | or nolo contendere resulting in a sanction in any state of the
 1026 | United States or other jurisdiction. A sanction includes, but is
 1027 | not limited to, a fine; probation; community control; parole;
 1028 | mandatory supervision ~~conditional release~~; control release; or
 1029 | incarceration in a state prison, federal prison, private
 1030 | correctional facility, or local detention facility.

1031 | (6) The information provided to the Department of Law
 1032 | Enforcement must include:

1033 | (g) A digitized photograph of the sexual offender which
 1034 | must have been taken within 60 days before the offender is
 1035 | released from the custody of the department or a private
 1036 | correctional facility by expiration of sentence under s. 944.275

HB 829

2013

1037 or must have been taken by January 1, 1998, or within 60 days
1038 after the onset of the department's supervision of any sexual
1039 offender who is on probation, community control, mandatory
1040 supervision ~~conditional release~~, parole, provisional release, or
1041 control release or who is supervised by the department under the
1042 Interstate Compact Agreement for Probationers and Parolees. If
1043 the sexual offender is in the custody of a private correctional
1044 facility, the facility shall take a digitized photograph of the
1045 sexual offender within the time period provided in this
1046 paragraph and shall provide the photograph to the department.

1047
1048 If any information provided by the department changes during the
1049 time the sexual offender is under the department's control,
1050 custody, or supervision, including any change in the offender's
1051 name by reason of marriage or other legal process, the
1052 department shall, in a timely manner, update the information and
1053 provide it to the Department of Law Enforcement in the manner
1054 prescribed in subsection (2).

1055 Section 19. Paragraph (e) of subsection (5) of section
1056 944.608, Florida Statutes, is amended to read:

1057 944.608 Notification to Department of Law Enforcement of
1058 information on career offenders.—

1059 (5) The information provided to the Department of Law
1060 Enforcement must include:

1061 (e) A digitized photograph of the career offender, which
1062 must have been taken within 60 days before the career offender
1063 is released from the custody of the department or a private
1064 correctional facility or within 60 days after the onset of the

HB 829

2013

1065 department's supervision of any career offender who is on
1066 probation, community control, mandatory supervision ~~conditional~~
1067 ~~release~~, parole, provisional release, or control release. If the
1068 career offender is in the custody or control of, or under the
1069 supervision of, a private correctional facility, the facility
1070 shall take a digitized photograph of the career offender within
1071 the time period provided in this paragraph and shall provide the
1072 photograph to the department.

1073 Section 20. Paragraph (a) of subsection (1) of section
1074 944.70, Florida Statutes, is amended to read:

1075 944.70 Conditions for release from incarceration.—

1076 (1) (a) A person who is convicted of a crime committed on
1077 or after October 1, 1983, but before January 1, 1994, may be
1078 released from incarceration only:

- 1079 1. Upon expiration of the person's sentence;
- 1080 2. Upon expiration of the person's sentence as reduced by
1081 accumulated gain-time;
- 1082 3. As directed by an executive order granting clemency;
- 1083 4. Upon attaining the provisional release date;
- 1084 5. Upon placement in a mandatory supervision ~~conditional~~
1085 ~~release~~ program pursuant to s. 947.1405; or
- 1086 6. Upon the granting of control release pursuant to s.
1087 947.146.

1088 Section 21. Paragraph (d) of subsection (1) of section
1089 945.36, Florida Statutes, is amended to read:

1090 945.36 Exemption from health testing regulations for law
1091 enforcement personnel conducting drug tests on inmates and
1092 releasees.—

HB 829

2013

1093 (1) Any law enforcement officer, state or county probation
1094 officer, or employee of the Department of Corrections, who is
1095 certified by the Department of Corrections pursuant to
1096 subsection (2), is exempt from part I of chapter 483, for the
1097 limited purpose of administering a urine screen drug test to:

1098 (d) Persons released as a condition of mandatory
1099 supervision ~~conditional release~~;

1100 Section 22. Paragraphs (f) and (g) of subsection (2) of
1101 section 947.071, Florida Statutes, are amended to read:

1102 947.071 Rulemaking procedures; indexing of orders.—

1103 (2) The only final orders of the commission which shall be
1104 indexed pursuant to chapter 120 are:

1105 (f) Orders granting mandatory supervision ~~conditional~~
1106 ~~release~~.

1107 (g) Orders revoking mandatory supervision ~~conditional~~
1108 ~~release~~.

1109 Section 23. Paragraph (f) of subsection (1) of section
1110 947.13, Florida Statutes, is amended to read:

1111 947.13 Powers and duties of commission.—

1112 (1) The commission shall have the powers and perform the
1113 duties of:

1114 (f) Establishing the terms and conditions of persons
1115 released on mandatory supervision ~~conditional release~~ under s.
1116 947.1405, and determining subsequent ineligibility for mandatory
1117 supervision ~~conditional release~~ due to a violation of the terms
1118 or conditions of mandatory supervision ~~conditional release~~ and
1119 taking action with respect to such a violation.

1120 Section 24. Subsections (3), (4), and (6) of section

1121 947.141, Florida Statutes, are amended to read:

1122 947.141 Violations of mandatory supervision ~~conditional~~
 1123 ~~release~~, control release, or conditional medical release or
 1124 addiction-recovery supervision.-

1125 (3) Within 45 days after notice to the Parole Commission
 1126 of the arrest of a supervisee ~~releasee~~ charged with a violation
 1127 of the terms and conditions of mandatory supervision ~~conditional~~
 1128 ~~release~~, control release, conditional medical release, or
 1129 addiction-recovery supervision, the supervisee ~~releasee~~ must be
 1130 afforded a hearing conducted by a commissioner or a duly
 1131 authorized representative thereof. If the supervisee ~~releasee~~
 1132 elects to proceed with a hearing, the supervisee ~~releasee~~ must
 1133 be informed orally and in writing of the following:

1134 (a) The alleged violation with which the supervisee
 1135 ~~releasee~~ is charged.

1136 (b) The supervisee's ~~releasee's~~ right to be represented by
 1137 counsel.

1138 (c) The supervisee's ~~releasee's~~ right to be heard in
 1139 person.

1140 (d) The supervisee's ~~releasee's~~ right to secure, present,
 1141 and compel the attendance of witnesses relevant to the
 1142 proceeding.

1143 (e) The supervisee's ~~releasee's~~ right to produce documents
 1144 on the supervisee's ~~releasee's~~ own behalf.

1145 (f) The supervisee's ~~releasee's~~ right of access to all
 1146 evidence used against the supervisee ~~releasee~~ and to confront
 1147 and cross-examine adverse witnesses.

1148 (g) The supervisee's ~~releasee's~~ right to waive the

HB 829

2013

1149 hearing.

1150 (4) Within a reasonable time following the hearing, the
1151 commissioner or the commissioner's duly authorized
1152 representative who conducted the hearing shall make findings of
1153 fact in regard to the alleged violation. A panel of no fewer
1154 than two commissioners shall enter an order determining whether
1155 the charge of violation of mandatory supervision ~~conditional~~
1156 ~~release~~, control release, conditional medical release, or
1157 addiction-recovery supervision has been sustained based upon the
1158 findings of fact presented by the hearing commissioner or
1159 authorized representative. By such order, the panel may revoke
1160 mandatory supervision ~~conditional release~~, control release,
1161 conditional medical release, or addiction-recovery supervision
1162 and thereby return the supervisee ~~releasee~~ to prison to serve
1163 the sentence imposed, reinstate the original order granting the
1164 release, or enter such other order as it considers proper.
1165 Effective for inmates whose offenses were committed on or after
1166 July 1, 1995, the panel may order the placement of a supervisee
1167 ~~releasee~~, upon a finding of violation pursuant to this
1168 subsection, into a local detention facility as a condition of
1169 supervision.

1170 (6) Whenever a mandatory supervision ~~conditional release~~,
1171 control release, conditional medical release, or addiction-
1172 recovery supervision is revoked by a panel of no fewer than two
1173 commissioners and the supervisee ~~releasee~~ is ordered to be
1174 returned to prison, the supervisee ~~releasee~~, by reason of the
1175 misconduct, shall be deemed to have forfeited all gain-time or
1176 commutation of time for good conduct, as provided for by law,

HB 829

2013

1177 earned up to the date of release. However, if a conditional
1178 medical release is revoked due to the improved medical or
1179 physical condition of the supervisee ~~releasee~~, the supervisee
1180 ~~releasee~~ shall not forfeit gain-time accrued before the date of
1181 conditional medical release. This subsection does not deprive
1182 the prisoner of the right to gain-time or commutation of time
1183 for good conduct, as provided by law, from the date of return to
1184 prison.

1185 Section 25. Paragraphs (a) and (f) of subsection (2) of
1186 section 947.16, Florida Statutes, are amended to read:

1187 947.16 Eligibility for parole; initial parole interviews;
1188 powers and duties of commission.—

1189 (2) The following special types of cases shall have their
1190 initial parole interview as follows:

1191 (a) An initial interview may be postponed for a period not
1192 to exceed 90 days. Such postponement shall be for good cause,
1193 which shall include, but need not be limited to, the need for
1194 the department to obtain a presentence or postsentence
1195 investigation report or a probation or parole or mandatory
1196 supervision ~~conditional-release~~ violation report. The reason for
1197 postponement shall be noted in writing and included in the
1198 official record. No postponement for good cause shall result in
1199 an initial interview being conducted later than 90 days after
1200 the inmate's initially scheduled initial interview.

1201 (f) An initial interview may be held at the discretion of
1202 the commission after the entry of a commission order to revoke
1203 parole or mandatory supervision ~~conditional-release~~.

1204 Section 26. Subsection (2) of section 947.22, Florida

1205 Statutes, is amended to read:

1206 947.22 Authority to arrest parole violators with or
1207 without warrant.—

1208 (2) Any parole and probation officer, when she or he has
1209 reasonable ground to believe that a parolee, control releasee,
1210 or mandatory supervisee ~~conditional releasee~~ has violated the
1211 terms and conditions of her or his parole, control release, or
1212 mandatory supervision ~~conditional release~~ in a material respect,
1213 has the right to arrest the releasee or parolee without warrant
1214 and bring her or him forthwith before one or more commissioners
1215 or a duly authorized representative of the Parole Commission or
1216 Control Release Authority; and proceedings shall thereupon be
1217 had as provided herein when a warrant has been issued by a
1218 member of the commission or authority or a duly authorized
1219 representative of the commission or authority.

1220 Section 27. Subsections (1) and (2) of section 947.24,
1221 Florida Statutes, are amended to read:

1222 947.24 Discharge from parole supervision or release
1223 supervision.—

1224 (1) When a person is placed on parole, control release, or
1225 mandatory supervision ~~conditional release~~, the commission shall
1226 determine the period of time the person will be under parole
1227 supervision or release supervision in the following manner:

1228 (a) If the person is being paroled or released under
1229 supervision from a single or concurrent sentence, the period of
1230 time the person will be under parole supervision or release
1231 supervision may not exceed 2 years unless the commission
1232 designates a longer period of time, in which case it must advise

HB 829

2013

1233 the parolee or releasee in writing of the reasons for the
1234 extended period. In any event, the period of parole supervision
1235 or release supervision may not exceed the maximum period for
1236 which the person has been sentenced.

1237 (b) If the person is being paroled or released under
1238 supervision from a consecutive sentence or sentences, the period
1239 of time the person will be under parole supervision or release
1240 supervision will be for the maximum period for which the person
1241 was sentenced.

1242 (2) The commission shall review the progress of each
1243 person who has been placed on parole, control release, or
1244 mandatory supervision ~~conditional release~~ after 2 years of
1245 supervision in the community and biennially thereafter. The
1246 department shall provide to the commission the information
1247 necessary to conduct such a review. Such review must include
1248 consideration of whether to modify the reporting schedule,
1249 thereby authorizing the person under parole supervision or
1250 release supervision to submit reports quarterly, semiannually,
1251 or annually. The commission, after having retained jurisdiction
1252 of a person for a sufficient length of time to evidence
1253 satisfactory rehabilitation and cooperation, may further modify
1254 the terms and conditions of the person's parole, control
1255 release, or mandatory supervision ~~conditional release~~, may
1256 discharge the person from parole supervision or release
1257 supervision, may relieve the person from making further reports,
1258 or may permit the person to leave the state or country, upon
1259 finding that such action is in the best interests of the person
1260 and society.

1261 Section 28. Paragraph (a) of subsection (1) and subsection
 1262 (3) of section 948.09, Florida Statutes, are amended to read:

1263 948.09 Payment for cost of supervision and
 1264 rehabilitation.—

1265 (1) (a) 1. Any person ordered by the court, the Department
 1266 of Corrections, or the parole commission to be placed on
 1267 probation, drug offender probation, community control, parole,
 1268 control release, provisional release supervision, addiction-
 1269 recovery supervision, or mandatory supervision ~~conditional~~
 1270 ~~release~~ supervision under chapter 944, chapter 945, chapter 947,
 1271 chapter 948, or chapter 958, or in a pretrial intervention
 1272 program, must, as a condition of any placement, pay the
 1273 department a total sum of money equal to the total month or
 1274 portion of a month of supervision times the court-ordered
 1275 amount, but not to exceed the actual per diem cost of the
 1276 supervision. The department shall adopt rules by which an
 1277 offender who pays in full and in advance of regular termination
 1278 of supervision may receive a reduction in the amount due. The
 1279 rules shall incorporate provisions by which the offender's
 1280 ability to pay is linked to an established written payment plan.
 1281 Funds collected from felony offenders may be used to offset
 1282 costs of the Department of Corrections associated with community
 1283 supervision programs, subject to appropriation by the
 1284 Legislature.

1285 2. In addition to any other contribution or surcharge
 1286 imposed by this section, each felony offender assessed under
 1287 this paragraph shall pay a \$2-per-month surcharge to the
 1288 department. The surcharge shall be deemed to be paid only after

HB 829

2013

1289 the full amount of any monthly payment required by the
1290 established written payment plan has been collected by the
1291 department. These funds shall be used by the department to pay
1292 for correctional probation officers' training and equipment,
1293 including radios, and firearms training, firearms, and attendant
1294 equipment necessary to train and equip officers who choose to
1295 carry a concealed firearm while on duty. Nothing in this
1296 subparagraph shall be construed to limit the department's
1297 authority to determine who shall be authorized to carry a
1298 concealed firearm while on duty, or to limit the right of a
1299 correctional probation officer to carry a personal firearm
1300 approved by the department.

1301 (3) Any failure to pay contribution as required under this
1302 section may constitute a ground for the revocation of probation
1303 by the court, the revocation of parole or mandatory supervision
1304 ~~conditional release~~ by the Parole Commission, the revocation of
1305 control release by the Control Release Authority, or removal
1306 from the pretrial intervention program by the state attorney.
1307 The Department of Corrections may exempt a person from the
1308 payment of all or any part of the contribution if it finds any
1309 of the following factors to exist:

1310 (a) The offender has diligently attempted, but has been
1311 unable, to obtain employment which provides him or her
1312 sufficient income to make such payments.

1313 (b) The offender is a student in a school, college,
1314 university, or course of career training designed to fit the
1315 student for gainful employment. Certification of such student
1316 status shall be supplied to the Secretary of Corrections by the

HB 829

2013

1317 educational institution in which the offender is enrolled.

1318 (c) The offender has an employment handicap, as determined
1319 by a physical, psychological, or psychiatric examination
1320 acceptable to, or ordered by, the secretary.

1321 (d) The offender's age prevents him or her from obtaining
1322 employment.

1323 (e) The offender is responsible for the support of
1324 dependents, and the payment of such contribution constitutes an
1325 undue hardship on the offender.

1326 (f) The offender has been transferred outside the state
1327 under an interstate compact adopted pursuant to chapter 949.

1328 (g) There are other extenuating circumstances, as
1329 determined by the secretary.

1330 Section 29. Subsection (6) of section 948.11, Florida
1331 Statutes, is amended to read:

1332 948.11 Electronic monitoring devices.—

1333 (6) For probationers, community controllees, or mandatory
1334 supervisees ~~conditional releasees~~ who have current or prior
1335 convictions for violent or sexual offenses, the department, in
1336 carrying out a court or commission order to electronically
1337 monitor an offender, must use a system that actively monitors
1338 and identifies the offender's location and timely reports or
1339 records the offender's presence near or within a crime scene or
1340 in a prohibited area or the offender's departure from specified
1341 geographic limitations. Procurement of electronic monitoring
1342 services under this subsection shall be by competitive
1343 procurement in accordance with s. 287.057.

1344 Section 30. Section 948.32, Florida Statutes, is amended

1345 to read:

1346 948.32 Requirements of law enforcement agency upon arrest
 1347 of persons for certain sex offenses.—

1348 (1) When any state or local law enforcement agency
 1349 investigates or arrests a person for committing, or attempting,
 1350 soliciting, or conspiring to commit, a violation of s.
 1351 787.025(2)(c), chapter 794, s. 796.03, s. 800.04, s. 827.071, s.
 1352 847.0133, s. 847.0135, or s. 847.0145, the law enforcement
 1353 agency shall contact the Department of Corrections to verify
 1354 whether the person under investigation or under arrest is on
 1355 probation, community control, parole, mandatory supervision
 1356 ~~conditional release~~, or control release.

1357 (2) If the law enforcement agency finds that the person
 1358 under investigation or under arrest is on probation, community
 1359 control, parole, mandatory supervision ~~conditional release~~, or
 1360 control release, the law enforcement agency shall immediately
 1361 notify the person's probation officer or release supervisor of
 1362 the investigation or the arrest.

1363 Section 31. Subsection (6) of section 957.06, Florida
 1364 Statutes, is amended to read:

1365 957.06 Powers and duties not delegable to contractor.—A
 1366 contract entered into under this chapter does not authorize,
 1367 allow, or imply a delegation of authority to the contractor to:

1368 (6) Make recommendations to the Parole Commission with
 1369 respect to the denial or granting of parole, control release,
 1370 mandatory supervision ~~conditional release~~, or conditional
 1371 medical release. However, the contractor may submit written
 1372 reports to the Parole Commission and must respond to a written

HB 829

2013

1373 | request by the Parole Commission for information.

1374 | Section 32. This act shall take effect October 1, 2013.