



# CAMPUS SAFETY AND SECURITY

What Everyone on Campus Needs to Know

Valencia College works hard to keep our campuses safe. As a member of the campus community, you have a role in campus safety as well. The information provided here will assist you in making the right decisions concerning your own safety and security. With your assistance, we can provide a safer campus environment.

## THE JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS ACT

Valencia College prepares this annual report in compliance with the Jeanne Clery Disclosure of Campus Security Policy And Campus Crime Statistics Act, commonly known as the Clery Act. The 2018 Annual Security Report is prepared by the college's Safety and Security department through cooperation of law enforcement. Crime, arrest and referral statistics are collected from jurisdictional law enforcement agencies, including the college's Safety and Security department. These statistics are published annually and available on the college's Annual Security Report website: [valenciacollege.edu/security](http://valenciacollege.edu/security). The college publishes its report by Oct. 1 of each calendar year. This report contains three years of crime statistics. The college is required to disclose crime statistics for campus and public areas immediately adjacent to the campus. The college is responsible for the gathering of crime data, which is compiled and submitted to the Department of Education.

### History

Jeanne Clery, a 19-year-old Lehigh University freshman, was assaulted and murdered in her dorm room in April 1986. The Jeanne Clery Act was enacted in the belief that crime awareness can prevent campus victimization.

The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses. Compliance is monitored by the Department of Education, which can impose financial penalties in excess of \$58,000 per violation.

Valencia College is committed to adhere to the requirements of the law by producing this annual security report.

## LAW ENFORCEMENT RELATIONSHIP AND JURISDICTION

Campus security officers are not sworn law enforcement personnel and are not empowered as such. They do not have the authority to make arrests. Campus security has jurisdiction limited to buildings, facilities and/or property owned or under the control of Valencia College.

Security operations are supplemented with local law enforcement officers who are contracted during college hours of operations. When local law enforcement are not readily available on campus, security is directed to reach out to law enforcement in their vicinity.

The college does maintain a cooperative working relationship with the Orlando Police Department, Kissimmee Police Department, Winter Park Police Department, Orange County Sheriff's Office and Osceola County Sheriff's Office. These agencies will promptly respond to our campuses within their jurisdiction for emergencies, to complete police reports and to conduct criminal investigations. Although Valencia College does not have a formal memorandum of understanding with any law enforcement agency, the college encourages accurate and prompt reporting of all crimes and other emergencies which occur on or near our campuses, whether the victim elects to, or is unable to, make such a report.

### Mission

Valencia provides opportunities for academic, technical and life-long learning in a collaborative culture dedicated to inquiry, results and excellence.

### Values

**Learning** by committing to Valencia's core competencies—Think, Value, Communicate, and Act—and the potential of each person to learn at the highest levels of achievement for personal and professional success.

**People** by creating a caring, inclusive and safe environment that inspires all people to achieve their goals, share their success and encourage others.

**Diversity** by fostering the understanding it builds in learning relations and appreciating the dimensions it adds to our quality of life.

**Access** by reaching out to our communities, inviting and supporting all learners and partners to achieve their goals.

**Integrity** by respecting the ideas of freedom, civic responsibility, academic honesty, personal ethics, and the courage to act.

[valenciacollege.edu/about/vision.php](http://valenciacollege.edu/about/vision.php)

## REPORTING EMERGENCIES AND CRIME ON CAMPUS

An emergency or a fire shall be immediately reported to security or to appropriate emergency agencies (dial 911 for the latter). Individuals may also report crimes/incidents that are no longer in progress by contacting any security office or through the use of the online Incident Reporting Form: [valenciacollege.edu/students/security/reporting.php](http://valenciacollege.edu/students/security/reporting.php)

Take note of the yellow or white boxes strategically located on most campuses—they contain emergency call buttons. When the box is opened, the caller is in immediate contact with the campus Safety and Security department. In addition to providing voice contact with security, the dispatcher is also able to pinpoint the caller's location. These phones are for emergency use only. Since Valencia College does not have any off-campus student organizations or off-campus housing, there is no monitoring and recording of criminal activity through local police agencies.

Valencia College also offers a safety app for employees and students. This app can be downloaded through the Google Play Store or Apple Store onto your cellphone. The Valencia College Safety app has a quick link to the FDLE Sexual Offenders/Predators Search.

[valenciacollege.edu/students/security/safety-app.php](http://valenciacollege.edu/students/security/safety-app.php)

## CONFIDENTIAL CRIME REPORTING PROCEDURES

If you are the victim of a crime and do not want to pursue action within the college system or the criminal justice system, you may still want to consider making a report. When an incident is reported to any representative of the college, such report is not generally confidential due to the duties required of the college to respond. A victim's request for confidentiality will be considered by the college in determining an appropriate response. However, such requests will be considered in association with the college's legal obligation to report. With such information, the college can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crime statistics for the institution. If you see a crime/ disruptive behavior occurring on campus and would like to report it anonymously, you can use the online Anonymous Reporting Form: [valenciacollege.edu/students/security/reporting.php](http://valenciacollege.edu/students/security/reporting.php)

## PASTORAL AND PROFESSIONAL COUNSELORS

Valencia College does not employ pastoral or professional level counselors. The college does not identify any employees to serve as confidential resources. Individuals seeking confidential resources refer to [valenicacollege.edu/security](http://valenicacollege.edu/security) for a list of available resources, as well as the BayCare Student Assistance Program. Staff shall refer to Atlas/Employee tab/Benefits and Wellness drop-down portal.

## POLICIES ON ALCOHOL AND ILLEGAL DRUG USE ON CAMPUS

Students are prohibited from the unlawful possession, sale or consumption of alcoholic beverages on campus. The possession or consumption of alcoholic beverages at off-campus college functions shall be governed by the laws of the community. The college also prohibits the unlawful possession, use or distribution of illicit drugs by students and employees on college property or as part of any college activities.

Educational information on alcohol and other drugs is available to our students through Student Development opportunities, such as the Wellness Ambassadors and other programs sponsored by the Campus Activities Board and the Student Government Association.

Additionally, Student Development offers information and programming opportunities during Alcohol Awareness Month, Domestic Violence Month and our Safe Spring Break campaigns across all campuses of the college. Valencia College maintains a service contract with an outsourced mental health provider for counseling and treatment services; and anyone in need of treatment for other alcohol and/or drug-related problems can also be assisted by referrals from offices of Student Affairs to a variety of community programs and partnerships. See the Drug-Free Campus Policy: **6Hx28:10.08.1**.

## EMERGENCY NOTIFICATION AND EVACUATION PROCEDURES

### What is Valencia College Alert?

Valencia College initiates emergency notifications primarily through Blackboard Alerts and the Valencia College Safety app. These notification methods are tested throughout the year. It provides timely and accurate information about emergency situations which could impact personal safety or college operations. The goal is to help keep the individuals safe and be informed during incidents.

Generally, emails and text messages will be used only for events that present an imminent danger to the campus community or that will significantly impact college operations. Examples of situations in which text messages and emails might be sent include, but are not limited to: bomb threats, chemical spills and facility failures, threats of violence, a dangerous suspect at-large and extreme weather alerts.

The **Valencia College Safety app** allows students and staff to simultaneously call and send their location to the security department in an emergency. It also offers a variety of other features, such as:

- Emergency Contacts
- Virtual Walk Home
- Campus Maps
- Notification History
- Friend Walk
- Report a Tip
- Safety Toolbox
- Emergency Plans

- Security Website
- Emergency Guidelines for Study Abroad
- Mobile Blue Light
- Chat with Security
- FDLE Sexual Offenders/Predators Search

Supplemental messages will be issued through Valencia College Alert and the above site will be updated during an emergency as information becomes available. For questions about Valencia College Alert and how it is used, contact your campus Safety and Security department.

### Emergency Notification

Valencia College will make reasonable efforts to provide notification about emergencies and natural or man-made disasters affecting the college. Each Valencia College employee who is authorized and trained to activate the Valencia College Alert system has the responsibility of ensuring that it is activated primarily for life safety situations. It is not typically used for routine notifications.

The Valencia College Safety and Security department will, upon confirmation of a significant or dangerous situation occurring on or near campus, promptly and without delay, taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency. The Valencia College Safety and Security department will be primarily responsible for confirming a significant or dangerous public safety situation on campus, via an independent source, victim, and witness or officer observation on campus based on available information at the time.

The entire campus community will be notified when there is the potential any member could be affected by an incident, or when a situation threatens the operation of the campus as a whole. Notification outside of the campus community could be disseminated through the college's Public Affairs and Marketing department. Security will continuously assess the incident and provide additional information as necessary.

Valencia College Alert is a multimedia communications system that provides timely and accurate information about emergency situations that could impact the college. The goal is to help keep the campus safe and informed during an emergency. Valencia College Alert features several communication tools, including emails, text messages, web updates, social media, PA speakers, digital flat screens and more.

### Evacuations

Buildings on all campuses have a notification system for evacuations. In most buildings, this is the fire alarm system. Some of those systems only sound an alarm, while others give voice evacuation directions. Upon the sounding of the alarm, if time permits, the Campus Emergency Response Team (CERT) members will go to predetermined areas to direct individuals to walk quickly out of the building by way of the closest available exit in a calm, orderly manner to the evacuation area. CERT members and Security will provide assistance to physically challenged individuals as needed or requested.

Routine testing of the evacuation plans will be under the control of the college's compliance team, executed with the assistance of the college's Safety and Security department.

## TIMELY WARNING NOTIFICATIONS

In compliance with the Clery Act, Valencia College provides Timely Warnings, called campus safety alerts to students, faculty and staff as soon as pertinent information is available. These timely warnings are issued for any Clery Act crime and may include non-Clery Act crimes that are considered by the institution to represent a serious or continuing threat to students and employees. These warnings are issued in an effort to communicate prevention strategies or basic safety information about reported crimes or activities that are considered a threat or are in the public's interest.

Timely warnings will be issued by authorized and designated members of the Valencia College Safety and Security department through Valencia College Alert to all students, faculty and staff. Current campus safety alerts will be posted on: [valenciacollege.edu/students/security/timely-warnings.php](http://valenciacollege.edu/students/security/timely-warnings.php)

## SECURITY AWARENESS PROGRAMS AND CRIME PREVENTION

### Staying Safe on Campus

Both students and the general public are welcome at any of Valencia College campuses during normal hours of operation: 7:00 a.m. to 10:00 p.m. Monday through Friday (hours may vary slightly during the weekends, holidays and during the summer). Although college campuses are among the safest places in our society, like any other public place, there is a need to remain aware and alert. Suggestions for staying safe while on campus include the following:

- Walk in groups.
- Call security for an escort anytime you feel uncomfortable walking on campus.
- Stay in areas that are well lit.
- Remain alert and report suspicious activity to campus security, Campus Security Authority and staff, and/or law enforcement.
- If you suspect an imminent threat from someone you see on campus, notify security immediately and do not approach the person who concerns you.
- Call 911.

### Lighting, Locks, Patrols and Other Safety Measures

Valencia College continually looks at ways to improve safety. We have allocated substantial resources to improve lighting, alarms, communications, staffing and other important safety measures. When warranted, we have the capacity to remotely lock down the exterior doors to every building on every campus within moments of a notification of an event, reducing the possibility of a "moving threat." To meet safety and security regulations, the college also performs the following:

- Campus maintenance teams regularly inspect the campuses and facilities for safety and security issues.
- All reported safety and security related issues are acknowledged immediately.
- The college operations team (plant operations, grounds, compliance) and security work closely together to ensure a safe and secure campus environment.

The Valencia College Safety and Security department employs 120 officers under the auspices of the office of the managing director for Safety and Security. All officers are trained and licensed under the State of Florida Statutes Chapter 493. Officers also receive training in the following areas:

- CPR
- AED
- Emergency evacuation procedures
- C.E.R.T training
- Run, Hide, Fight

## OBTAINING INFORMATION REGARDING SECURITY PROCEDURES AND PRACTICES

Valencia College offers information regarding security practices and procedures through the following avenues:

- New employee and student orientation program
- Valencia College **Safety, Security and Risk Management** website
- Multiple Valencia College publications: The Grove, Campus Concentrate, The Juice, Supervisor Segment and Student Handbook
- Campus Safety Week
- Campus training sessions

Any changes to security procedures are distributed through our publications and the **Safety, Security and Risk Management** website.

### Response to Active Threat

#### **RUN, HIDE, FIGHT** Surviving an Active Shooter Event

Active threats are situations in which an individual, or many individuals, are actively looking for ways to kill or harm people. Most of these attempts occur in well-populated areas. The majority of the weapons used are firearms and explosives. Active threats can start off by targeted individuals, but expand to randomly selected victims. The events are usually unpredictable and require law enforcement to respond.

Valencia College has adopted the Department of Homeland Security and City of Houston's instructional video Run, Hide, Fight to educate the campus community on how to increase their chances of survival during an active shooter event. Should you ever find yourself caught up in an active shooter event, your survival may depend on whether you have a plan or not. There are three things you could do to make a difference: RUN, HIDE or FIGHT. Run if you can, hide if you cannot run and fight if all else fails. Training is offered numerous times throughout the year.

### CPTED Surveys

Crime Prevention Through Environmental Design (CPTED) is a multi-disciplinary approach to deterring criminals and designing our crime behavior through effective environmental design. CPTED's goal is to prevent crime by designing a physical environment that positively influences human behavior. The theory is based on four principles: natural access control, natural surveillance, territoriality and maintenance. CPTED strategies rely upon the ability to influence potential offender decisions that precede criminal acts. The primary goal of CPTED is to deter criminal activity by specifically altering the physical design of the communities in which humans reside and congregate. CPTED principles of design affect elements of the built environment ranging from the small-scale to the overarching, including building form of an entire urban neighborhood and the amount of opportunity for "eyes on the street." CPTED practitioners with the college are certified through the State of Florida and conduct assessments of the college's campuses to identify areas where opportunities exist to increase the level of safety and security that the campus provides. Practitioners work with multiple departments within the college.

### Security Escorts

Escort services are provided to students and staff upon request, anytime they feel unsafe on campus. This service is offered through the college's Safety and Security department. Upon request, a security officer will provide a walking escort to and from your vehicle. Requests can also be made through the **Valencia College Safety app**.

## Campus Security Advisory Committees

Meetings are held with various members representing different areas across the campus. The purpose behind these meetings is to provide an opportunity for faculty, staff and students to participate in an open forum to provide feedback concerning the level of service being delivered and types of programs being offered by the Safety and Security department. The goals of the committee are to identify and resolve safety or security issues, as well as promote security awareness within the college community. Safety and Security chairs these meetings to share information concerning any changes in security procedures, policy, leadership and special events occurring during the past quarter. They will cover the quarterly stats and provide information regarding any recent training opportunities or new equipment received. The final portion of the meeting is reserved as an open forum for anyone from the floor to voice a concern or opinion they have concerning any safety or security issues. With representation from the various departments across the campus, the goal is to disseminate information to everyone, as well as let everyone have a voice.

## Tabling Events

The campus Safety and Security department maintains an active relationship with Student Development. Through this relationship, we are able to offer security information by way of tabling events during their Welcome Back activities. Student Development also offers Safe Spring Break and Domestic Violence Awareness programs to promote awareness of safety issues.

## Behavioral Assessment Team (BAT)

The Valencia College Behavioral Assessment Team (BAT) was formed in 2011-12. The team follows protocols to review "threatening behavior," assess potential issues and take action to reduce risk for Valencia College community members. This team is lead by a dean of students, managing director of safety and security. Membership includes the vice president for student affairs, assistant vice president of operations, deans of students and assistant directors of the security department, student conduct coordinators, faculty association representatives, counselor representatives and human resources representatives.

Members of the BAT meet regularly to discuss reported behaviors, share information and receive training on what to look for and how to appropriately respond to threatening behavior. The BAT has created two online reporting forms, both available on the Valencia College Safety, Security and Risk Management website by clicking on **Report Incident**.

In addition, the BAT has also created the **Classroom Behavioral Intervention Support** (CBIS) Guide for your reference.

The **Anonymous Reporting Form**, is for incidents that have occurred and have been observed by a person who would like to remain anonymous and provide the level of detail that is available at the time. Reports from both forms are reviewed and acted upon as appropriate.

*We ask for everyone to be aware of their surroundings and report any threatening behavior in order to keep us all safe.*

**AND REMEMBER, IF YOU "SEE SOMETHING, SAY SOMETHING!"**

## POLICY ON SEXUAL ASSAULT

Valencia College values the health and safety of every member of our community and expects its students and employees to treat others with respect. Behaviors such as sexual assault, interpersonal violence and stalking are violations of the Discrimination, Harassment and Related Misconduct Policy **6Hx28:2-01** and may result in disciplinary action against the Responding Party and sanctions including, but not limited to, suspension or expulsion of students and separation of employment for employees. Disciplinary action on the part of the college does not preclude the possibility of criminal charges against the individual(s).

Sexual assault may take many forms including, but not limited to, gang rape, acquaintance rape, date rape and stranger rape. This may occur both on and off college campuses. Sexual assault can occur at any time of the day or night, at home, in the workplace, in social settings and in public places. Both men and women have been assaulted by strangers, people whom they have known and trusted, as well as people whom they have dated.

Valencia College clearly defines the policy as: DISCRIMINATION, HARASSMENT AND RELATED MISCONDUCT (Including Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, Stalking, Complicity, and Retaliation)

## WHAT TO DO IF YOU ARE SEXUALLY ASSAULTED

- Get to a location where you will be safe from further attack.
- For your own protection, call the police immediately, especially if the assailant is nearby. The police will help you whether or not you choose to prosecute the assailant. To contact police 24 hours a day, dial 911.
- Contact campus security. Our officers have also been trained to assist rape victims and can help with reporting an assault to the proper authorities.
- Get medical attention immediately. The primary purpose of a medical examination following a rape is to check for physical injury, the presence of sexually transmitted diseases or pregnancy as a result of the rape.
- The secondary purpose of a medical examination is to aid police investigation and legal proceedings.
- Do not bathe or douche. You might be literally washing away valuable evidence and hindering the investigation. It is imperative that you have an examination and/or talk with medical personnel.
- It is alright to change your clothes, but save your clothing and do not throw away anything that you were wearing. Your clothing could be used as evidence for prosecution. Place each item of clothing in a separate paper bag for the police. Extremely valuable physical evidence can be obtained from the Reporting Party, the Reporting Party's clothing and objects from the scene of the crime.

If a Reporting Party thinks they may want to press charges, they are encouraged to immediately be examined through the **Victim Service Center of Central Florida** at [victimservicecenter.org](http://victimservicecenter.org) or call **(407) 254-9415**.

Their services include immediate support and advocacy to both reporting and non-reporting survivors of sexual assault, including forensic evidence collection.

They will also provide confidential victim advocates to accompany parties during the exam.

These services are offered even if an individual chooses not to report the crime to law enforcement. Evidence can be collected hours after an assault, but the sooner it is done, the more likely useful evidence can be recovered. Victims of sexual assault should be aware their personal information will be exempt from public disclosure to the greatest extent permitted by law. Individuals reporting dating or domestic violence should take steps to preserve evidence that may aid in any administrative action and/or criminal prosecution. Examples of items with evidentially value include; any recorded media such as voice mails, emails, text messages, Facebook or other social media messaging, and any other notes, writings, correspondence, etc. that may be relevant to the case.

Depending on the situation, clothing worn by the Reporting Party and/or the Responding Party may be needed as evidence and, therefore, should be preserved in its original state. Do not disturb the scene of any dating or domestic violence incident as law enforcement personnel may want to photograph the scene upon

their arrival. They will also want to photograph any injuries which are immediately apparent or appear days later. If any weapon was used or any object was used as a weapon, leave it in its original state and do not touch it until police arrive.

It is very important to seek medical attention as soon as possible so a Reporting Party can receive treatment for any physical injuries, be screened for sexually transmitted diseases/ pregnancy/ date rape drugs and/or obtain emergency contraception. Victims are encouraged to seek medical care even if they do not think they want to report the incidents to law enforcement.

## WHERE TO GO FOR HELP

Many sexual assault cases go unreported because the victim fears retaliation or possible humiliation if word gets around they have been the victim of a sexual offense. Victims tend to feel guilty, as though they did something to bring it on themselves, and often keep the incident to themselves or share some of the incident with a close friend. While this may be helpful in the immediate sense, we urge you to talk to a knowledgeable counselor about your reactions to being victimized. It is often times when victims talk about what happened with a trained professional they are able to overcome the trauma of the attack, and live a productive life.

## VICTIM ASSISTANCE AGENCIES

If you or someone you know is the victim of a crime or a violation of the Student Code of Conduct, it is important you contact the Valencia College Safety and Security department to help you address the matter.

We recommend you add security numbers to your cell phone for each campus you attend. Listed below are some additional agencies that may be able to assist you:

CAMPUS SECURITY	PHONE NUMBER
<b>AMTC</b>	<b>407-582-4000</b>
<b>District Office</b>	<b>407-582-3000</b>
<b>East Campus</b>	<b>407-582-2000</b>
<b>Fire Academy</b>	<b>407-582-1000</b>
<b>Lake Nona Campus</b>	<b>407-582-7000</b>
<b>Osceola Campus</b>	<b>407-582-4000</b>
<b>Poinciana Campus</b>	<b>407-582-6500</b>
<b>School of Public Safety</b>	<b>407-582-8000</b>
<b>West Campus</b>	<b>407-582-1000</b>
<b>Winter Park Campus</b>	<b>407-582-6000</b>

## SEXUAL ASSAULT/RAPE CRISIS

<b>Victim Service Center of Central Florida 24-Hour Hotline</b>	<b>407-497-6701</b>
<b>Harbor House of Central Florida 24-Hour Hotline</b>	<b>407-886-2856</b>

## VALENCIA COLLEGE OPTIONS TO REPORT DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT AND STALKING

In addition to or in lieu of reporting to law enforcement, you may report an alleged offense to any Responsible Employee on campus who will then notify the Title IX coordinator. You may also report directly to the Title IX coordinator or a deputy Title IX coordinator. There are several staff members designated as deputy Title IX coordinators throughout the campuses. You may

choose to speak to someone on your campus; however, you may also speak with any of the employees on this list in addition to any "Responsible Employee." A Responsible Employee defined by Valencia College is: Employees with administrative or supervisory responsibilities on campus or who have been designated as Campus Security Authorities (CSA's) are considered Responsible Employees.

A Responsible Employee is a Valencia College employee who has the authority to address sexual misconduct, who has the duty to report incidents of sexual misconduct, or any member of the Valencia College community could reasonably believe has such authority or duty. Because the college has an obligation to make reasonable efforts to investigate and address instances of known or suspected sexual misconduct, Responsible Employees and campus security authorities who have information or receive a report of sexual misconduct, interpersonal violence and/or stalking must immediately share with the Title IX coordinator/ equal opportunity officer all known details of an incident as referenced in the Discrimination, Harassment and Related Misconduct Policy **6Hx28:2-01**.

The college's Responsible Employees include, but are not limited to, the following employees or categories of employees who serve in a managerial, leadership or supervisory position who have significant responsibility for the welfare of Valencia College students, faculty and staff:

- Senior leadership (e.g., college president, campus presidents, vice presidents, special assistants to the president, executive deans, including associates and assistants)
- Other administrators/professional staff (e.g., deans, directors, program directors, chairpersons/discipline coordinators, and managers—in all administrative and academic areas)
- Other designated staff (e.g., Title IX coordinator/equal opportunity officer, assistant director, Title IX/equal opportunity, manager of student services, coordinator of student conduct, assistant director, employee relations, campus director, Organizational Development and Human Resources)
- Director, Study Abroad and Global Exchange
- All faculty and staff members who accompany students on college-related trips, both within the U.S. and abroad
- All faculty or staff advisors to student organizations or activities
- Counselors
- Ombudspersons
- Designated campus safety authority and security staff

The full list of deputy Title IX coordinators can be found at [inclusion.valenciacollege.edu/reporting](https://inclusion.valenciacollege.edu/reporting) to include:

### Ryan Kane

*Assistant Vice President, Organizational Development and Inclusion Title IX Coordinator and Equal Opportunity Officer*  
407-582-3421

### Lauren Kelly

*Director, Equal Opportunity and Employee Relations*  
407-582-8125

### Ben Taylor

*Assistant Director Title IX and Equal Opportunity*  
407-582-3454

### Chanda Postell

*Assistant Director Title IX and Equal Opportunity*  
407-582-3422

### District Office

Amy Bosley

*Vice President Organizational Development and Human Resources*  
407-582-8255

Michelle Sever  
Director HR Policy and Compliance Programs  
407-582-8256

Trisha Whitmire  
Project Coordinator, DOJ, OVW Equal Opportunity and Employee Relations  
407-582-3867

#### East Campus, School of Public Safety

Ruth Ridore  
Director, ODHR, East Region  
407-582-2760

Allison Powell  
Assistant Director, ODHR, East Region  
407-582-2275

Joe Sarrubbo  
Dean of Students, East and Winter Park  
407-582-2586

Emily Wente  
Coordinator, Student Conduct and Academic Success  
407-582-2346

Rob Pigman  
Assistant Director, Security East, SPS and Winter Park  
407-582-2365

#### West Campus

Carla McKnight  
Director, ODHR, West Region  
407-582-1756

Rose Quiles  
Assistant Director, ODHR, West Region  
407-582-5001

Ben Lion  
Dean of Students, West Campus  
407-582-1388

Jason Sininger  
Coordinator, Student Conduct and Academic Success  
407-582-1557

Art King  
Assistant Director Security, West and District Office  
407-582-1327

#### Winter Park Campus, in addition to the East Campus staff:

Julie Corderman  
Manager, Student Services  
407-582-6868

#### Osceola Campus

Lisandra Suarez  
Director, ODHR, Osceola Region  
321-682-4710

Dan Suarez  
Assistant Director, ODHR, Osceola Region  
407-582-8042

Jill Szentmiklosi  
Dean of Students, Osceola, Lake Nona, Poinciana  
321-682-4142

Lora Lee Johnston  
Coordinator, Student Conduct and Academic Success  
407-582-1557

Misty Ellis Peaslee  
Assistant Director Security Osceola, Lake Nona, Poinciana, AMTF  
407-582-1047

#### Lake Nona Campus, in addition to the Osceola Campus staff:

Mindy Mozena  
Director, Student Services  
407-582-7780

## WHAT VICTIMS OF SEXUAL ASSAULT CAN EXPECT FROM THE CAMPUS SECURITY DEPARTMENT

It is the policy of the campus Safety and Security department to ensure sexual assault victims are afforded sensitivity and maximum humane consideration.

- Officers will treat a victim with courtesy, sensitivity, dignity and understanding.
- Officers will act thoughtfully without prejudging or blaming a victim.
- A victim's request to speak to an officer of the same gender will be accommodated.
- Officers will meet privately with a victim in a location of the victim's choice.
- Officers will inform a victim of services and resources available, both off campus and on campus.
- Officers will facilitate contacts with law enforcement officials to initiate an investigation at the victim's request.

## INTERIM PROTECTIVE MEASURES

Valencia College Title IX and equal opportunity deputy coordinators can implement interim protective measures as needed, to ensure safety of victims and alleged victims. Interim protective measures are "Actions taken by the college to ensure equal access to its education programs and activities and foster a more stable and safe environment during the process of reporting, investigation, and/or resolution." These may include and are not limited to: No contact orders, alteration of class schedule, assistance in setting up appointments off campus, imposition of a trespass warning, rescheduling of exams and/or assignments, providing alternative course completion options, change in work schedule, job assignment, or work location, limiting or prohibiting access to college facilities or activities, leave of absence, providing academic support services, or any other measure which can be tailored to the involved individuals to achieve the goals of Valencia College Discrimination, Harassment and Related Misconduct Policy **6Hx28:2-01**.

## INFORMATION ABOUT INJUNCTIONS (RESTRAINING ORDERS)

The following websites include information about obtaining an injunction (also known as a restraining order):

Orange County:

[myorangeclerk.com/Divisions/Family/Restraining-Orders](http://myorangeclerk.com/Divisions/Family/Restraining-Orders)

Osceola County:

[osceolaclerk.com/Home/Content/injunction-protection](http://osceolaclerk.com/Home/Content/injunction-protection)

If you need assistance in facilitating this process, please contact your campus Safety and Security department or the Title IX coordinator/equal opportunity officer at 407-582-3421.

## CONFIDENTIALITY FOR VICTIMS AND OTHER RELEVANT PARTIES

Privacy generally means that information related to a report under the Discrimination, Harassment and Related Misconduct Policy **6Hx28:2-01** will be shared only with those college employees who need to know in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

Confidentiality means that information shared with the designated community professionals, referred to in the college's Discrimination, Harassment and Related Misconduct Policy **6Hx28:2:01** as "External Confidential Resources", will be disclosed only with the individual's express written permission.

There are no confidential reporting options on campus. For this reason, Valencia College partners with these external resources, such as The Victim Service Center of Central Florida, in order to provide a confidential support resource to our students, faculty and staff.

## **VALENCIA COLLEGE PROCEDURES FOR RESOLVING CASES OF ALLEGED DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING**

In order to determine which approach to take in resolving matters of dating violence, domestic violence, sexual assault or stalking.

A first step is for the Title IX coordinator/equal opportunity officer or a deputy Title IX coordinator to conduct an initial assessment. The assessment will consider the nature of the report, the safety of the individual and of the campus community, the Reporting Party's expressed preference for resolution, and the necessity for any interim remedies or accommodations to protect the safety of the Reporting Party or the community.

The initial assessment will make the determination as to whether the alleged behavior, if true, would be a violation of this policy or would be subject to another college policy. If the allegations would be more appropriately addressed through another policy, the college will notify the Reporting Party in writing of the result of the initial assessment and provide information as to alternative college resources to appropriately address the allegation.

As part of the initial assessment the college may:

1. Assess the nature and circumstances of the allegation.
2. Address the immediate physical safety and emotional well-being.
3. Notify the Reporting Party of the right to contact or to decline to contact law enforcement and seek medical treatment.
4. Notify the Reporting Party of the importance of preservation of evidence.
5. Assess whether the reported matter involves minors and if so, follow the appropriate reporting guidelines.
6. Enter the report into the college's daily crime log, but omit the Reporting Party's name and other identifying information.
7. Assess the reported conduct for the need for a timely warning under the Clery Act.
8. Provide the Reporting Party with information about on- and off-campus resources.
9. Notify the Reporting Party of the range of interim accommodations and remedies.
10. Provide the Reporting Party with an explanation of the procedural options, including remedies-based resolution and discipline-based resolution.
11. Receive information identifying the respective advisors (if any) for the reporting and responding parties.
12. Assess for pattern evidence or other similar conduct by the Reporting Party.
13. Discuss the Reporting Party's expressed preference for manner of resolution and any barriers to proceeding.
14. Explain the college's policy prohibiting retaliation to the Reporting Party and Responding Party.

Once the initial assessment is complete, meaning that the college has sufficient information to determine the best course of action, and there is a reasonable assessment of safety of the Reporting Party, the decision is made to follow up with a remedies-based resolution or a disciplinary-based resolution.

The "remedies-based resolution" is a voluntary approach. Depending on the circumstances and requested resolution the Reporting Party may or may not be notified of the report or resolution. The Responding Party would be notified only if the

action taken would impact the Responding Party. The remedies-based resolution does not involve any disciplinary action against a Responding Party.

The disciplinary-based resolution is preceded by an investigation. The college designates a training investigator who may be an employee of the college or an external investigator engaged to assist the college in its fact-gathering. The investigator will seek to complete the investigation within 20 college business days of receiving the report of the alleged violation. This time frame may be extended for good cause. At the end of the investigation, if there is a determination that there may be a policy violation, the case is then referred for disciplinary action. At this point, the process continues in different ways depending on the affiliation of the Responding Party.

For any meeting with a college official during the investigation, and disciplinary process, the Reporting Party and/or Responding Party may bring an advisor or supportive person with them. This person may not speak on behalf of the Reporting or Responding Party.

Notification to both the Responding Party and Reporting Party will take place once the investigation is concluded. The Reporting Party and Responding Party will have five days to review the investigation report before it is forwarded to the disciplinary resolution officer. This five-day period includes review and opportunity to comment on the report. After the five-day period has lapsed, the investigator will then make a finding and the matter may be forwarded to the disciplinary resolution officer if there is a finding of responsibility.

Both the Reporting and Responding Party have five days to challenge the designation of the disciplinary resolution officer on the basis of bias, conflict of interest, or an inability to be fair and impartial. The challenge goes to the Title IX coordinator/ equal opportunity officer or designee who will review the challenge and determine if the disciplinary resolution officer will not be able to provide an impartial decision.

When the Responding Party is an employee:

Possible sanctions for college employees may include: any form of responsive action or progressive discipline as set forth in college policies and procedures, including training, referral to counseling, and or disciplinary action, such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination.

When the Responding Party is a student:

If, after an investigation it is determined that there is sufficient information alleged to suggest that a policy violation may have occurred, a "Notice of Alleged Violation" will be issued to the Responding Party with a copy to the Reporting Party. The "Notice of Alleged Violation" will be forwarded to the disciplinary resolution officer who will be identified in the "Notice." Typically, in cases involving students, the disciplinary resolution officer is a dean of students. The disciplinary resolution officer will make a finding, by a preponderance of the evidence, whether or not the Responding Party is responsible for conduct in violation of the Discrimination, Harassment and Related Misconduct Policy **6Hx28-2:01**.

Possible sanctions for students may include:

- Removal from specific courses or activities
- Suspension from the college
- Expulsion from the college

Once the disciplinary resolution officer has made the decision, the reporting and Responding Party will each be notified, simultaneously, in writing of the decision. The Reporting and Responding Parties have a five-day period to appeal the finding. Once the five-day period has passed, the decision is final.

At the conclusion of the investigation, the investigator(s) will prepare a written investigation report that summarizes

the information gathered and synthesizes the contested and uncontested issues of fact and any supporting information or accounts. In preparing the investigation report, the investigator(s) will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation.

## **DEFINITIONS OF DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, STALKING AND OF CONSENT**

The State of Florida defines “dating violence” in criminal law as: **Fla. Stat. § 784.046 (1) (d)** “Dating violence” means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past 6 months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

Florida criminal law defines “domestic violence” as: **Fla. Stat. § 741.28 Domestic violence; definitions. — As used in § 741.28-741.31:**

- (1) “Department” means the Florida Department of Law Enforcement.
- (2) “Domestic violence” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.
- (3) “Family or household member” means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.
- (4) “Law enforcement officer” means any person who is elected, appointed, or employed by any municipality or the state or any political subdivision thereof who meets the minimum qualifications established in § 943.13 and is certified as a law enforcement officer under § 943.1395.

Under Florida criminal law “Sexual Assault” is called “Sexual Battery” defined as: **Fla. Stat. § 794.0115 Sexual battery.**

- (1) As used in this chapter:
  - (a) “Consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.
  - (b) “Mentally defective” means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.
  - (c) “Mentally incapacitated” means temporarily incapable of appraising or controlling a person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

- (d) “Offender” means a person accused of a sexual offense in violation of a provision of this chapter.
  - (e) “Physically helpless” means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.
  - (f) “Retaliation” includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.
  - (g) “Serious personal injury” means great bodily harm or pain, permanent disability, or permanent disfigurement.
  - (h) “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.
  - (i) “Victim” means a person who has been the object of a sexual offense.
  - (j) “Physically incapacitated” means bodily impaired or handicapped and substantially limited in ability to resist or flee.
- (2) (a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in § 775.082 and 921.141.
  - (b) A person less than 18 yoa who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 yoa commits a life felony, punishable as provided in § 775.082, § 775.083, § 775.084, or § 794.0115.
- (3) A person who commits sexual battery upon a person 12 years of age or older, without that person’s consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in § 775.082, § 775.083, § 775.084, or § 794.0115.
- (4) (a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age without that person’s consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in § 775.082, § 775.083, § 775.084, or § 794.0115.
  - (b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older without that person’s consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in § 775.082, § 775.083, § 775.084, or § 794.0115.
  - (c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older without that person’s consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in § 775.082, § 775.083, § 775.084, or § 794.0115.
  - (d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in § 775.082, § 775.083, § 775.084, or § 794.0115 if the person commits sexual battery upon a person 12 years of age or older without that person’s consent, under any of the circumstances listed in paragraph (e), and such person was previously convicted of a violation of:
    1. Section 787.01(2) or § 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under § 800.04 or

- § **847.0135**(5);
- 2. Section **787.01**(3) (a) 2. Or 3.
- 3. Section **787.02**(3) (a) 2. Or 3.
- 4. Section **800.04**;
- 5. Section **825.1025**;
- 6. Section **847.0135**(5); or
- 7. This chapter, excluding subsection (10) of this section. (e)  
The following circumstances apply to paragraphs (a)-(d):
  1. The victim is physically helpless to resist.
  2. The offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.
  3. The offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.
  4. The offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim.
  5. The victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact.
  6. The victim is physically incapacitated.
  7. The offender is a law enforcement officer, correctional officer, or correctional probation officer as defined in § **943.10**(1), (2), (3), (6), (7), (8), or (9), who is certified under § **943.1395** or is an elected official exempt from such certification by virtue of § **943.253**, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.
- (5) (a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the first degree, punishable as provided in § **775.082**, § **775.083**, § **775.084**, or § **794.0115**.
- (b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in § **775.082**, § **775.083**, § **775.084**, or § **794.0115**.
- (c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in § **775.082**, § **775.083**, § **775.084**, or § **794.0115**.
- (d) A person commits a felony of the first degree, punishable as provided in § **775.082**, § **775.083**, § **775.084**, or § **794.0115** if the person commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of a violation of:

1. Section **787.01**(2) or § **787.02** (2) when the violation involves a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under § **800.04** or § **847.0135**(5);
  2. Section **787.01**(3) (a) 2. Or 3.
  3. Section **787.02**(3) (a) 2. Or 3.
  4. Section **800.04**;
  5. Section **825.1025**;
  6. Section **847.0135**(5); or
  7. This chapter, excluding subsection (10) of this section.
- (6) (a) The offenses described in paragraphs (5) (a)-(c) are included in any sexual battery offense charged under subsection (3).
- (b) The offense described in paragraph (5) (a) is included in an offense charged under paragraph (4) (a).
- (c) The offense described in paragraph (5) (b) is included in an offense charged under paragraph (4) (b).
- (d) The offense described in paragraph (5) (c) is included in an offense charged under paragraph (4) (c).
- (e) The offense described in paragraph (5) (d) is included in an offense charged under paragraph (4) (d).
- (7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for basic gain-time under § **944.275**. This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."
- (8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:
- (a) Solicits that person to engage in any act which would constitute sexual battery under paragraph (1) (h) commits a felony of the third degree, punishable as provided in § **775.082**, § **775.083**, or § **775.084**.
  - (b) Engages in any act with that person while the person is 12 years of age or older but younger than 18 years of age which constitutes sexual battery under paragraph (1)(h) commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in § **775.082**, § **775.083**, or § **775.084**.
  - (c) Engages in any act with that person while the person is less than 12 years of age which constitutes sexual battery under paragraph (1) (h), or in an attempt to commit sexual battery injures the sexual organs of such person commits a capital or life felony, punishable pursuant to subsection (2).
- (9) For prosecution under paragraph (4) (a), paragraph (4)(b), paragraph (4) (c), or paragraph (4) (d) which involves an offense committed under any of the circumstances listed in subparagraph (4) (e) 7. acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.
- (10) A person who falsely accuses a person listed in subparagraph (4) (e) 7. or other person in a position of control or authority as an agent or employee of government of violating paragraph (4) (a), paragraph (4) (b), paragraph (4) (c), or paragraph (4) (d) commits a felony of the third degree, punishable as provided in § **775.082**, § **775.083**, or § **775.084**.

The State of Florida defines "stalking" in criminal law as: Fla. Stat. § **784.048** Stalking; definitions; penalties.

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

- (a) "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
  - (b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.
  - (c) "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.
  - (d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.
- (2) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in § 775.082 or § 775.083.
  - (3) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in § 775.082, § 775.083, or § 775.084.
  - (4) A person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to § 784.046, or an injunction for protection against domestic violence pursuant to § 741.30, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in § 775.082, § 775.083, or § 775.084.
  - (5) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child under 16 years of age commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in § 775.082, § 775.083, or § 775.084.
  - (6) A law enforcement officer may arrest, without a warrant, any person that he or she has probable cause to believe has violated this section.
  - (7) A person who, after having been sentenced for a violation of § 794.011, § 800.04, or § 847.0135(5) and prohibited from contacting the victim of the offense under § 921.244, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the victim commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in § 775.082, § 775.083, or § 775.084.
  - (8) The punishment imposed under this section shall run consecutive to any former sentence imposed for a conviction for any offense under § 794.011, § 800.04, or § 847.0135(5).
  - (9) The sentencing court shall consider, as a part of any sentence, issuing an order restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as determined by the court. It is the intent of the

legislature that the length of any such order be based upon the seriousness of the facts before the court, the probability of future violations by the perpetrator and the safety of the victim and his or her family members or individuals closely associated with the victim.

- (10) The order may be issued by the court even if the defendant is sentenced to a state prison or a county jail or even if the imposition of the sentence is suspended and the defendant is placed on probation.

Consent is defined in Florida within the criminal statute related to sexual battery. Fla. Stat. § 794.011 Sexual battery.

- (a) "Consent" means intelligent, knowing and voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

## BYSTANDER INTERVENTION

Bystanders are typically individuals who are members of a community and are aware of some issue such as violence, or other high risk concern taking place. As a member of the Valencia College community, you may be faced with situations that cause you to ask yourself, "Should I do something to help?" You may also be asking yourself, "What can I do to make Valencia College a safer place to work and/or go to school?"

You have the power to make a decision to help keep our community safe. In addition to our campus security staff, each member of the Valencia College community has a responsibility to take action when they see something or hear of something happening.

What does action look like? It could be as simple as asking a friend if they are all right, or calling security to report an issue, or it could be a more direct approach like getting involved in separating two individuals who are fighting. You are not asked to put yourself in harm's way, however you are encouraged to help ensure the safety and well-being of all members of our community by being the one who decides to take action.

## SEX OFFENDER REGISTRATION POLICY

In accordance with the Jeanne Clery Act, the college is responsible for advising the campus community where to obtain information on registered sex offenders. Use the following website that is maintained by the state of Florida to access the registry: <https://offender.fdle.state.fl.us/offender/sops/search.jsf>

## CAMPUS SECURITY AUTHORITIES

Campus Security Authorities are identified, based on the role or positions throughout the college and receive annual training for this function.

In compliance with the Jeanne Clery Act, Valencia College performs annual training based on federal mandates required for all colleges and universities.

## DAILY CRIME LOG

Reported activity on or near campus locations is maintained within the security offices of Valencia College for sixty days.

# CAMPUS SECURITY CRIME AND EMERGENCY NUMBERS

## Advanced Manufacturing Training Center

Campus Security . . . . . 407-582-4000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Osceola County Sheriff's Office

Emergency . . . . . 911  
Non-Emergency . . . . . 407-348-2222  
Crime Prevention . . . . . 407-348-1190

## District Office

Campus Security . . . . . 407-582-3000 or  
. . . . . 407-582-1000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Orlando Police

Emergency . . . . . 911  
Non-Emergency . . . . . 321-235-5300  
Crime Prevention . . . . . 407-246-2461

## East Campus

Campus Security (24/7) . . . . . 407-582-2000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Orange County Sheriff's Office

Emergency . . . . . 911  
Non-Emergency . . . . . 407-836-4357  
Crime Prevention . . . . . 407-249-4508

## Lake Nona Campus

Campus Security . . . . . 407-582-7000 or  
. . . . . 407-582-4000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Orlando Police

Emergency . . . . . 911  
Non-Emergency . . . . . 321-235-5300  
Crime Prevention . . . . . 407-246-2461

## Osceola Campus

Campus Security (24/7) . . . . . 407-582-4000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Kissimmee Police Department

Emergency . . . . . 911  
Non-Emergency . . . . . 407-846-3333  
Crime Prevention . . . . . 407-847-0176 Ext. 3123

## Poinciana Campus

Campus Security . . . . . 407-582-6500 or  
. . . . . 407-582-4000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Osceola County Sheriff's Office

Emergency . . . . . 911  
Non-Emergency . . . . . 407-348-2222  
Crime Prevention . . . . . 407-348-1190

## School of Public Safety

Campus Security . . . . . 407-582-8000 or  
. . . . . 407-582-2000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Orange County Sheriff's Office

Emergency . . . . . 911  
Non-Emergency . . . . . 407-836-4357  
Crime Prevention . . . . . 407-249-4508

## West Campus

Campus Security (24/7) . . . . . 407-582-1000 or  
. . . . . 407-582-2000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Orlando Police

Emergency . . . . . 911  
Non-Emergency . . . . . 321-235-5300  
Crime Prevention . . . . . 407-246-2461

## Winter Park Campus

Campus Security . . . . . 407-582-6000 or  
. . . . . 407-582-2000  
(After business hours) . . . . . 407-582-1000

### Police Jurisdiction: Winter Park Police Department

Emergency . . . . . 911  
Non-Emergency . . . . . 407-644-1313  
Crime Prevention . . . . . 407-599-3311

## Resources

### Orange County Fire and Rescue

Emergency . . . . . 911  
Non-Emergency . . . . . 407-644-1313  
Crime Prevention . . . . . 407-599-3311

### Osceola County Fire and Rescue

Emergency . . . . . 911  
Non-Emergency . . . . . 407-396-6076  
Crime Prevention . . . . . 407-348-1190

### Victim Service Center of Central Florida

407-497-6701  
[victimservicecenter.org](http://victimservicecenter.org)  
(Confidential 24-hour Sexual Assault Hotline)

### Help Now of Osceola Inc.

407-847-8562  
[helpnowshelter.org](http://helpnowshelter.org)  
(24-hour crisis hotline for domestic abuse)

### Florida Council against Sexual Violence

888-956-7273  
[fcasv.org](http://fcasv.org)

### BayCare Student Assistance Program

800-878-5470  
[baycare.org/](http://baycare.org/)  
(available to students who are currently enrolled in Valencia College credit classes)

### Harbor House of Central Florida

407-886-2856  
[harborhousefl.com](http://harborhousefl.com)  
(24-hour Domestic Violence Hotline)

### National Domestic Violence Hotline

800-799-7233  
[thehotline.org](http://thehotline.org)

### RAINN (Rape, Abuse and Incest National Network)

800-656-4673  
[rainn.org](http://rainn.org)

## VALENCIA COLLEGE CRIME STATISTICS

YEAR	2015		2016		2017	
<b>CRIMINAL OFFENSES</b>	<b>OC</b>	<b>PP</b>	<b>OC</b>	<b>PP</b>	<b>OC</b>	<b>PP</b>
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0
Rape	0	0	0	0	0	0
Fondling	0	0	0	0	0	0
Incest	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	4	1
Burglary - Building	1	0	3	0	7	1
Motor Vehicle Theft	4	0	0	0	0	0
Arson	0	0	0	0	0	0
Hate Crimes	0	0	1	0	0	0
<b>VAWA Offenses</b>	<b>OC</b>	<b>PP</b>	<b>OC</b>	<b>PP</b>	<b>OC</b>	<b>PP</b>
Domestic Violence	0	0	0	0	1	0
Dating Violence	1	0	1	0	0	0
Stalking	1	0	2	0	17	0
<b>VIOLATIONS</b>	<b>ARR</b>	<b>REF</b>	<b>ARR</b>	<b>REF</b>	<b>ARR</b>	<b>REF</b>
Liquor Law	0	0	4	0	0	0
Drug Abuse	3	0	1	0	1	3
Weapons: Carrying, Possessing, Etc.	0	0	0	0	2	2
<b>TOTALS</b>	<b>10</b>		<b>13</b>		<b>40</b>	
<b>Unfounded Crimes</b>	<b>0</b>		<b>0</b>		<b>0</b>	

In 2018, there was a report of an on-campus sexual battery. The report was investigated by law enforcement, and later determined that it was unfounded. Note: Unfounded crimes can only be unfounded through law enforcement; however, unfounded crimes must still be reported.

## STATISTICS BY CAMPUS 2018-ONLY

CAMPUS	DO		WEST		EAST		WPK		OSC		LNC		PNC		AMTC		SPS		TOTALS	
<b>CRIMINAL OFFENSES</b>	<b>OC</b>	<b>PP</b>																		
Murder/Non-Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Negligent Manslaughter	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rape	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Fondling	0	0	2	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	3
Incest	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Statutory Rape	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Robbery	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Aggravated Assault	0	0	2	0	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0	4
Burglary - Building	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Motor Vehicle Theft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Arson	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hate Crimes	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
<b>VAWA OFFENSES</b>	<b>OC</b>	<b>PP</b>																		
Domestic Violence	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Dating Violence	0	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	2
Stalking	0	0	9	0	9	0	0	0	2	0	1	0	0	0	0	0	0	0	0	21
<b>VIOLATIONS</b>	<b>ARR</b>	<b>REF</b>																		
Liquor Law	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Drug Abuse	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Weapons: Carrying, Possessing, Etc.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTALS</b>	<b>0</b>	<b>0</b>	<b>15</b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>35</b>
<b>Unfounded Crimes</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>											

Notes: OC - On-Campus  
 PP - Public Property  
 ARR - Arrest  
 REF - Referrals

Valencia College does not have any on-campus student housing.  
 Valencia College does not have any non-campus buildings or property.

## **6Hx28:10.08.1**

### **Policy Statement:**

I. In compliance with the provisions of the Federal Drug-Free Schools and Communities Act of 1989, Valencia College will take such steps as are necessary in order to adopt and implement a program to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by Valencia College students or employees on college premises or as part of any college activity.

II. The president or a designee is authorized to impose disciplinary sanctions on students and employees (consistent with local, state, and federal law), up to and including expulsion or termination of employment and referral for prosecution, for violations of standards of conduct required by this policy. For the purposes of this policy, a disciplinary sanction may include the completion of an appropriate rehabilitation program.

### **Procedures:**

The president or a designee shall, at a minimum, take the following steps to implement a drug prevention program by:

I. Making an annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit except for continuing education units, regardless of the length of the student's program of study, of:

A. Standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on college property or as part of any college activities;

B. A description of the applicable legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs and alcohol;

C. A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

D. A description of any drug or alcohol counseling, treatment, or rehabilitation or reentry programs that are available to employees or students; and

E. A clear statement that the College will impose disciplinary sanctions on students and employees (consistent with local, state, and federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by this policy. For the purpose of this policy, a disciplinary sanction may include the completion of an appropriate rehabilitation program.

II. Establishing and conducting a biennial review by the College of its program to:

A. Determine its effectiveness and implement changes to the program if they are needed; and

B. Ensure that the disciplinary sanctions described in paragraphs of this policy are consistently enforced.

## **6Hx28:2.01**

Valencia College clearly defines the policy as: DISCRIMINATION, HARASSMENT AND RELATED MISCONDUCT (Including Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, Stalking, Complicity, and Retaliation)

### **Policy Statement**

#### **I. NOTICE OF NON-DISCRIMINATION BASED ON PROTECTED STATUS**

A. It is the policy of the District Board of Trustees to provide equal opportunity for employment and educational opportunities to all applicants for employment, employees, applicants for admission, students, and others affiliated with the College, without regard to race, ethnicity, color, national origin, age, religion, disability, marital status, sex/gender, genetic information, sexual orientation, gender identity, pregnancy, and any other factor protected under applicable federal, state, and local civil rights laws, rules and regulations (collectively referred to as "Protected Status").

B. In addition, Valencia College ("Valencia" or "College") strives to be a community in which all members can learn and work in an atmosphere free from all forms of Harassment, including Sexual Harassment, discrimination, intimidation and/or retaliation. This Policy prohibits all forms of Discrimination and Harassment based on Protected Status. It expressly, therefore, also prohibits Sexual Assault and Sexual Exploitation, which by definition involve conduct of a sexual nature and are prohibited forms of Sexual or Gender-Based Harassment. This Policy further prohibits Stalking and Interpersonal Violence, which need not be based on an individual's Protected Status. Finally, this Policy prohibits Complicity for knowingly assisting in an act that violates this Policy and Retaliation against an individual because of their good faith participation in the reporting, investigation, and/or adjudication of violations of this Policy. These behaviors are collectively referred to in this Policy as Prohibited Conduct.

C. All members of the College community are responsible for conducting themselves in accordance with this Policy and other College policies and procedures. Valencia students and employees who violate this Policy may face discipline up to and including expulsion or termination.

D. The College's protection of these statuses is grounded in federal, state, and local laws. The College encourages all community members to take reasonable and prudent actions to prevent or stop Prohibited Conduct. Taking action may include direct intervention when safe to do so, seeking assistance from a person in authority at the College, enlisting the assistance of friends, contacting law enforcement, or contacting Campus Safety and Security. Members of the College community who exercise this positive responsibility will be supported by the College and protected from Retaliation.

E. The College has an obligation to make reasonable efforts to investigate and address known or suspected instances of Prohibited Conduct. To foster a climate that encourages prevention and reporting of Prohibited Conduct, the College will actively promote prevention efforts, educate the College community, respond to all reports promptly, provide Interim Protective Measures to address safety and emotional well-being, and act in a manner that recognizes the inherent dignity of the individuals involved.

## II. SEXUAL OR GENDER BASED HARASSMENT, SEXUAL ASSAULT, SEXUAL EXPLOITATION, INTERPERSONAL VIOLENCE, AND STALKING

A. Title IX of the Education Amendments of 1972 states that: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

B. Sexual or Gender-Based Harassment, Sexual Assault, Sexual Exploitation, and Retaliation, as defined in this Policy, are prohibited forms of discrimination under Title IX, which covers all of the College's programs and activities. Like racial, religious, and national origin Harassment, Sexual or Gender-Based Harassment and Sexual Violence are also prohibited under Title VII of the Civil Rights Act of 1964, Section 760 et al, F.S., and other applicable laws.

C. The College's prohibition against Interpersonal Violence (including domestic and dating violence) and Stalking is also governed by federal law because these forms of behavior are prohibited by the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) (the Clery Act) and Section 304 of the Violence Against Women Reauthorization Act of 2013. Such acts violate the essential dignity of our community member(s) and are contrary to our institutional values.

D. The College, as an educational community, will promptly and equitably respond to reports of Sexual Assault, Interpersonal Violence, and Stalking in order to eliminate the Harassment, prevent its recurrence, and address its effects on any individual or the community. The College recognizes that Sexual Assault, Interpersonal Violence, and Stalking encompass a broad spectrum of conduct and will respond according to both the severity of the offense and the threat it poses to the campus community.

## III. PROHIBITED CONDUCT

This Policy prohibits all forms of Discrimination and Harassment based on an individual's Protected Status, including (as defined in Appendix A and hyperlinked throughout), race, color, national origin, ethnicity, age, religion, disability, marital status, sex/gender, genetic information, sexual orientation, gender identity, pregnancy, and any other factor protected under applicable federal state, and local civil rights laws, rules and regulations. In addition, this Policy prohibits related misconduct, including Sexual Assault, Sexual Exploitation, Interpersonal Violence, Stalking, Complicity, and Retaliation.

ADDITIONAL GUIDANCE ABOUT DISCRIMINATION AND HARASSMENT Consistent with the definitions provided in Appendix A, conduct that constitutes Discrimination and Harassment based on Protected Status:

1. May be blatant and involve an overt action, threat, or reprisal; or may be subtle and indirect, with a coercive aspect that is unstated but implied.
2. May or may not include intent to harm.
3. May not always be directed at a specific individual.
4. May be committed by anyone, regardless of Protected Status, position, or authority.
5. May be committed by a stranger, an acquaintance, or someone with whom the Reporting Party has a current or previous relationship, including a romantic or sexual relationship.
6. May be committed by or against an individual or by or against an organization or group.
7. May occur in the classroom, in the workplace, or in any other setting.
8. May be a pattern of behavior or, if sufficiently severe, a one-time event.
9. May be committed in the presence of others, when the Reporting Party and Responding Party are alone, or through remote communications, including email, text messages, or social media.
10. May take the form of threats, assault, property damage, economic abuse, and violence or threats of violence.
11. May include harassing or retaliatory behavior directed to a sexual or romantic partner, family member, or friend of the Reporting Party.

## IV. SCOPE AND APPLICABILITY OF THE POLICY

### A. Individuals covered by this policy

1. This Policy and associated procedures apply to the conduct of and protect College students, employees, interns, volunteers, and visitors. The non-discrimination provisions also apply to contractors and other third parties under circumstances within the College's control.

2. When used in this Policy, Reporting Party refers to any individual who may have been the subject of any Prohibited Conduct by an individual or organization covered under the Policy, regardless of whether the Reporting Party makes a report or seeks action under the Policy. Responding Party refers to any individual who has been alleged to have violated the Policy.

### B. Locations covered by this policy

1. This Policy applies to all Prohibited Conduct that occurs on campus (including the District Office, centers, and other property owned or leased by the College). It also applies to Prohibited Conduct that occurs off campus, including online or electronic conduct, if the conduct occurs in the context of an employment or education program or activity of the College, has continuing adverse effects on campus, or has continuing adverse effects in an off-campus employment or education program or activity. Examples of covered off-campus conduct include conduct that occurs at College-sponsored events and activities, during study abroad, or in internship programs. In determining whether the College has jurisdiction over off-campus conduct that is not part of an educational program or activity of the College, and in evaluating "continuing adverse effects," the Title IX Coordinator will consider the seriousness of the alleged conduct, the risk of harm involved, whether both parties are members of the campus community, whether the off-campus conduct is part of a series of actions that occurred both on and off campus, the nature/scope of the continuing effect on campus, and whether the alleged conduct has created a hostile environment.

2. Regardless of when, where, and with whom the conduct occurred, the College will offer reasonably available resources and assistance to individuals covered by this Policy who report or experience Prohibited Conduct. In cases of Sexual Assault, Interpersonal Violence,

and Stalking, if the Responding Party is not a member of the College community, the College will also assist the Reporting Party in identifying and contacting external law enforcement agencies and community resources.

## V. DEFINITIONS

A complete glossary of terms may be found in Appendix A.

## VI. ANNUAL REVIEW

This Policy is maintained by the Title IX Coordinator. The Title IX Coordinator and the Equal Opportunity Response Team will review this Policy on at least an annual basis. The review will capture evolving legal requirements, evaluate the support and resources available to the parties, and assess the effectiveness of the resolution process (including the fairness of the process, the time needed to complete the process, and the sanctions and remedies imposed). The review will include the opportunity for individuals affected by the Policy to provide feedback and will incorporate an aggregate view of reports, resolution, and climate.

## VII. IMPLEMENTATION

The President or designee(s) shall adopt procedures to implement this Policy.

## VIII. RELATED POLICIES

(There may be relevant information in other College policies. Where that information conflicts with information in this Policy, this Policy will control.) Substitute Admission and Graduation Requirements for Students with Disabilities Accommodation of Religious Observances by Students Ethical Conduct and Performance Disciplinary Action Employee Dispute Resolution Suspension, Dismissal, Return to Annual Contract, or Non-Renewal of Contracts Student Records Student Code of Conduct Child Abuse Reporting

### **Drug Free Campuses**

#### Policy History

This Policy shall apply to all Reports alleging violation made on or after February 25, 2015, regardless of when the conduct is alleged to have occurred. This Policy supersedes any policies and procedures to the contrary.

Adopted 12-10-02; Amended 12-21-04; Amended 12-18-12; Amended 2-25-2015; Formerly 1-12, 2-1, 2-2, 2-3, 10-6

Procedures (Adopted 2-25-2015; Date of Last Review 06-26-2019)

These internal procedures provide mechanisms for students, faculty, and staff to receive a fair investigation and hearing on issues covered by Policy 6Hx28:02-01. Students/employees are not required to exhaust these procedures with regard to any report alleging violation before pursuing remedies outside the College with any applicable external enforcement agencies, including the Equal Employment Opportunity Commission, the Florida Commission on Human Relations, the Office for Civil Rights of the Department of Education, the Department of Justice, and the Department of Labor.

## I. REPORTING PROHIBITED CONDUCT

A. The College encourages all individuals to report Prohibited Conduct to the College and, if appropriate, to local law enforcement. Both College and criminal reports may be pursued simultaneously. College officials can assist a Reporting Party in contacting local law enforcement, at the request of the Reporting Party.

B. Although a report may come in through many sources, the College is committed to ensuring that all reports are referred to the Director, Equal Opportunity & Employee Relations who, with consultation from the Title IX Coordinator, will ensure consistent application of the Policy to all individuals and allow the College to respond promptly and equitably to eliminate the Harassment, prevent its recurrence, and eliminate its effects. The College provides reporting options through multiple contact points across campuses that are broadly accessible to all College community members. The College's Title IX Coordinator oversees the investigation and resolution of all Prohibited Conduct covered by the Policy on Prohibited Discrimination, Harassment, and Related Misconduct (the "Policy"). To report an incident involving Prohibited Conduct or discuss any aspect of the Policy, individuals are encouraged to contact the Title IX Coordinator or any of the designated College officials who together comprise the College's Equal Opportunity Response Team (see Appendix B).

C. The College recognizes that deciding whether to make a report and choosing how to proceed are personal decisions. At the time a report is made, a Reporting Party does not have to decide whether to request any particular course of action or know how they wish to proceed, if at all. Choosing to make a report and deciding how to proceed after making the report can be a process that unfolds over time. The College will make every effort to respect an individual's autonomy in making the determination as to how to proceed, and as described below, will balance agency and autonomy with the College's obligation to provide a safe and non-discriminatory learning and working environment. Resources are available to support a Reporting Party regardless of the course of action chosen. All individuals are encouraged to make a report, regardless of when, where, or with whom the incident occurred, and to seek any necessary assistance from campus or community resources.

D. The report may be made in person, by telephone, in writing, by email, or by other electronic means. Reports may be anonymous. Reports will be shared as appropriate with members of the College's Equal Opportunity Response Team. As may be required by law, any report involving a minor will be shared with the Florida Department of Children and Family Services and law enforcement agencies. Title IX Coordinator Mr. Ryan Kane 1768 Park Center Drive Orlando, FL 32835 Email: rkane8@valenciacollege.edu

Telephone: 407-582-3421

Office for Civil Rights 61 Forsyth Street S.W., Suite 19T10 Atlanta, GA 30303-8297 Email: OCR.Atlanta@ed.gov Telephone: 404-974-9406 or (800) 421-3481 Facsimile: 404-974-9471

### 1. Emergency and External Reporting Options for Reports of Sexual Assault, Sexual Exploitation, Interpersonal Violence, and Stalking

The College encourages all individuals to seek assistance from law enforcement and/or a medical provider (see list in Appendix D) as soon as possible after an incident of Sexual Assault, Sexual Exploitation, Interpersonal Violence, or Stalking. This is the best option to ensure preservation of evidence and to begin a timely investigation and remedial response. Contacting law enforcement does not automatically lead to the filing of criminal charges, and a Reporting Party may discuss available options with local authorities.

The College will assist any Valencia community member in utilizing community resources to obtain a safe place and will provide transportation to the hospital or law enforcement agency, coordination with a law enforcement investigation, and information about on- and off-campus resources and options for resolution.

## 2. Discrimination and Harassment Based on Disability

The Title IX Coordinator serves as the employee responsible for coordinating the College's efforts with regard to Section 504 of the Rehabilitation Act of 1970 and Title II of the Americans with Disabilities Act of 1990 and their implementing regulations. Those wishing to report discrimination or harassment based on disability should contact the Title IX Coordinator.

Title IX Coordinator Mr. Ryan Kane 1768 Park Center Drive, Orlando, FL 32835 Email: rkane8@valenciacollege.edu Telephone: 407-582-3421

## 3. Anonymity, Privacy, Confidentiality, and College Obligations

The College will seek action consistent with the Reporting Party's request where possible. Where a Reporting Party makes a report but requests that a name or other identifiable information not be shared with the Responding Party or that no formal action be taken, the College will balance this request with its dual obligation to provide a safe and nondiscriminatory environment for all Valencia community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against a Responding Party.

### a. Anonymity

i. The College will take all reasonable steps to investigate and respond to the report alleging violation consistent with a request for anonymity or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the Reporting Party. The College will assess any barriers to proceeding, including Retaliation, and will inform the Reporting Party that Title IX and this policy prohibit Retaliation and the College will take strong responsive action to protect the Reporting Party. Where the College is unable to take action consistent with the request of the Reporting Party, the Title IX Coordinator (or designee) will communicate with the Reporting Party about the College's chosen course of action, which may include the College's choosing to pursue action against a Responding Party on its own behalf. Alternatively, the College may take non-disciplinary measures to remedy and limit the effects of the misconduct and prevent any recurrence while protecting the identity of the Reporting Party.

ii. For any report under this Policy, every effort will be made to respect and safeguard the privacy interests of all individuals involved in a manner coinciding with the need for a careful assessment of the report and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Privacy and confidentiality have distinct meanings under this Policy.

### b. Privacy

Privacy generally means that information related to a report under this Policy will be shared only with those College employees who need to know in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. If the decision is made to pursue disciplinary action against a Responding Party, information related to the report will be shared with the Responding Party. Information regarding a report may be shared with either party's parents or guardians as may be authorized under the Family Education Rights and Privacy Act (FERPA).

### c. Confidentiality

i. Confidentiality means that information shared with designated community professionals, referred to in this Policy as External Confidential Resources, will be disclosed only with the individual's express written permission. External Confidential Resources will not share information about an individual (including whether that individual has received services) with anyone, including the College, without the individual's express written permission, unless there is a continuing threat of serious violence to the patient/client or to others, or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor).

ii. There are no College employees with legally-protected confidentiality. However, the College provides students and employees with access to External Confidential Resources (see Appendix E).

## 4. Reporting Obligations of Employees and Students

A report of Prohibited Conduct should be made to the Designated Reporting Options, comprised of members of the Equal Opportunity Response Team. The College recognizes, however, that an individual may choose to share information with other College employees, including those College employees designated as Responsible Employees. Information shared with a Responsible Employee must immediately be shared with the Title IX Coordinator or a member of the Equal Opportunity Response Team.

### a. Responsible Employees

i. Employees, including but not limited to, those with administrative or supervisory responsibilities on campus or who have been designated as Campus Security Authorities are considered Responsible Employees. Because the College has an obligation to make reasonable efforts to investigate and address instances of known or suspected Prohibited Conduct, Responsible Employees and Campus Security Authorities who have information or receive a report of Prohibited Conduct must immediately share with the Title IX Coordinator all known details of an incident. No identifying information with respect to a Reporting Party, however, will be entered in the College's daily crime log or annual security report, or released in a timely warning or community notification. The list of Responsible Employees includes, for example, the President, Vice Presidents, Campus Presidents, Deans, Directors, supervisors, Campus Safety officers, Counselors, Discipline Coordinators, Department Chairpersons, and faculty and staff who serve as advisors to student groups. A full list of Responsible Employees can be found in Appendix C.

ii. Responsible Employees will safeguard an individual's privacy, but are required by the College to immediately share all details about a report of Prohibited Conduct (including the known details of the incident [e.g., date, time, location], the names of the parties involved, a brief description of the incident, and whether the incident has been previously reported) with the Title IX Coordinator or a member of the Equal Opportunity Response Team in person, by telephone, electronically, or by email. Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

### b. All Other Employees

All other employees are strongly encouraged to share any information about such conduct with the Title IX Coordinator or a member of the Equal Opportunity Response Team, in recognition of the understanding that centralized reporting is an important tool to address, end, and prevent Prohibited Conduct. All College employees are required to safeguard an individual's privacy.

#### c. Students

All students (who are not otherwise required to report as a Responsible Employee) are strongly encouraged to report any information, including reports or partial reports, to the Title IX Coordinator or a member of the Equal Opportunity Response Team.

#### 5. Reports Involving Minors

Florida law requires any person who knows, or has reasonable cause to suspect, that a child (under 18 years of age) is abused, abandoned, or neglected, immediately to report such knowledge or suspicion to the Florida Department of Children and Family Services (DCF). In addition, Florida law prohibits any person from knowingly and willfully preventing another person from meeting their reporting obligation to DCF. Any person may contact local law enforcement authorities to make a report of suspected child abuse at any time; however, this does not negate the statutory obligation to also report to DCF.

Any individual may make a direct report as follows:

- a. If a child is in immediate danger, call 911, then contact DCF.
- b. If there is no immediate danger, contact DCF's statewide hotline, 24 hours a day, 7 days a week, at 1-800-962-2873; or via facsimile at 1-800-914-0004; or via the web at
- c. <http://www.myflfamilies.com/service-programs/abuse-hotline/report-online>.

Additional information regarding reporting suspected child abuse or neglect may be found in the College's Policy on Child Abuse Reporting, which may be found here: <https://valenciacollege.edu/about/general-counsel/policy/documents/volume10/10-09-child-abuse-reporting.pdf>.

#### 6. Timeliness of Report, Location of Incident

Reporting Parties and third-party witnesses are encouraged to report Discrimination, Harassment, Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Stalking, Interpersonal Violence, Complicity, and Retaliation as soon as possible in order to maximize the College's ability to respond promptly and effectively. There is no time limit on reporting violations of this Policy. If the Responding Party is no longer a student or employee at the time of the report, the College may not be able to take disciplinary action against the Responding Party, but it will still seek to meet its Title IX obligation by providing support for a Reporting Party and taking steps to end the Discrimination or Harassment, prevent its recurrence, and address its effects. An incident does not have to occur on campus to be reported to the College. See "Locations Covered by This Policy."

## II. INITIAL ASSESSMENT

A. Upon receipt of a report, the College will conduct an Initial Assessment. The goal of this assessment is to provide an integrated and coordinated response to reports and to determine what steps are necessary to maintain an environment free from discrimination, harassment, and related misconduct. The assessment will first consider the nature of the report, the safety of the individual and of the campus community, the Reporting Party's expressed preference for resolution, and the necessity for any interim remedies or accommodations to protect the safety of the Reporting Party or the community.

B. The Initial Assessment will ultimately make the determination as to whether the conduct alleged could form the basis of a violation of this policy, would be subject to another College Policy, or would not be applicable under College policies. Reasons that an Initial Assessment may lead to a determination that the conduct could not form the basis of a violation of this policy include, but are not limited to:

1. A determination that the alleged conduct could not have occurred
2. A determination that the impact on the Reporting Party could not have substantially interfered with their educational or work environment
3. A determination that the Reporting Party is not a member of a protected class covered by this policy
4. A determination that the College lacks jurisdiction over the Reporting Party, the Responding Party, and/or the alleged conduct
5. An admission by the Reporting Party that the alleged conduct did not occur
6. A determination that, even if the alleged conduct occurred, it could not form the basis for a finding of discrimination or harassment under this policy; or
7. A determination by and in the discretion of the Title IX Coordinator that a full investigation would have a negative impact on the health, safety, welfare, or well-being of the Reporting Party, Responding Party, any witness, or the college community as a whole. In no event will an investigation be avoided solely due to the personal or professional interests of the parties, for purposes of delay, or to prejudice the rights of any individual.

The Title IX Coordinator will provide written approval of the determination made for each Initial Assessment. If the allegations would more appropriately be addressed through another policy, the College will notify the reporting party in writing of the result of the Initial Assessment and provide information as to alternative College resources to appropriately address the allegation. The Title IX Coordinator retains the discretion to open separate investigations into potential patterns of behavior that may, taken together, constitute violations of this policy.

The Initial Assessment will proceed until a reasonable assessment of the safety of the Reporting Party and the campus community can be made, and the College has sufficient information to determine whether the conduct alleged by the Reporting Party could result in a violation of this policy. This may include addressing the safety and well-being of those involved; referrals to law enforcement, medical, or other external resources; notifying the parties of their rights and limitations, including the college's policy prohibiting retaliation; assessing implications under the Clery Act; and other concerns as appropriate given the facts and circumstances of each matter. When completing the Initial Assessment, the College may also determine whether any Interim Protective Measures that may be in place should be continued, modified, or concluded.

### C. Interim Protective Measures

1. When a report is received, the Title IX Coordinator, in consultation with the Equal Opportunity Response Team and other administrators as needed, will provide reasonable and appropriate Interim Protective Measures when necessary to protect the safety of the parties or witnesses involved. Interim Protective Measures are temporary actions taken by the College to ensure equal access to its education programs and activities and foster a stable and safe environment during the process of reporting, investigation, and/or resolution. These measures are designed, as appropriate, to restore or preserve access to education without unreasonably burdening any party and are intended to be non-disciplinary and non-punitive. As determined to be appropriate in the sole discretion of the College, Interim Protective Measures may be applied or modified at any time—for the Reporting Party, the Responding Party, and other involved individuals as appropriate to ensure their safety and well-being. Interim Protective Measures may be requested by the parties or imposed by the College at any time, regardless of whether any particular course of action is sought by the Reporting Party. Interim measures will be kept private to the extent practical.
2. Interim Protective Measures are initiated based on information gathered during a report and generally are not intended to be permanent resolutions; hence, they may be amended, withdrawn, or made permanent resulting from a remedies-based resolution or investigation. The Title IX Coordinator (or designee), in consultation with other administrators as needed, will maintain consistent contact with the parties so that safety, emotional, and physical wellbeing concerns can be reasonably addressed.
3. In the event that a Reporting Party does not wish to proceed with an investigation or disciplinary resolution, the Title IX Coordinator will determine, based on the available information, including information learned in the Initial Assessment or as part of the investigation, whether the investigation or disciplinary resolution proceedings should nonetheless be initiated or if already begun, continue. In making this determination, the College will consider, in light of the facts and circumstances of the reported matter and among other factors;
  - a. The seriousness and impact of the conduct
  - b. The respective ages and roles of the Reporting Party and Responding Party
  - c. Whether the Reporting Party is a minor under the age of 18
  - d. Whether the Responding Party has admitted to the conduct
  - e. Whether the Responding Party has a pattern of similar conduct, including whether there have been other reports of Harassment or misconduct against the Responding Party
  - f. The extent of prior remedial methods taken with the Responding Party
  - g. The rights of the Responding Party to receive notice and relevant information before disciplinary action is sought
  - h. If circumstances suggest there is an increased risk of the Responding Party's committing additional acts of Prohibited Conduct
  - i. Whether the Responding Party has a history of arrests or records indicating a history of Prohibited Conduct
  - j. Whether the Responding Party threatened further Prohibited Conduct against the Reporting Party or others
  - k. Whether the Prohibited Conduct was committed by multiple individuals
  - l. If the circumstances suggest there is an increased risk of future Prohibited Conduct under similar circumstances
  - m. Whether the Prohibited Conduct was perpetrated with a weapon
  - n. The existence of independent evidence
  - o. Whether the College possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence)
  - p. Whether the Reporting Party wants to participate in an investigation or disciplinary hearing
  - q. Whether the Reporting Party has requested anonymity.
4. All individuals are encouraged to report concerns about the adequacy of the Interim Protective Measures or failure of another individual to abide by any Interim Protective Measure to the Title IX Coordinator. Violations of Interim Protective Measures will be addressed under this Policy, or through other applicable College policies. The Title IX Coordinator will take appropriate, responsive, and prompt action to enforce Interim Protective Measures and/or to respond to Retaliation by another party or witness. The range of Interim Protective Measures includes but is not limited to:
  - a. Assistance in setting up initial appointments off campus.
  - b. Imposition of a trespass warning issued by local law enforcement, in partnership with Safety & Security and/or a college-issued "No-Contact Order."
  - c. Rescheduling of exams and assignments.
  - d. Providing alternative course completion options.
  - e. Change in class schedule, including the ability to drop a course without penalty or to transfer sections.
  - f. Change in work schedule, work location, or job assignment.
  - g. Limiting or prohibiting access to College facilities or activities pending resolution of the matter.
  - h. Leave of absence (voluntary or involuntary).
  - i. Providing an escort to ensure safe movement between classes and activities.
  - j. Providing academic support services, such as tutoring.
  - k. College-imposed leave, suspension, or separation for the Responding Party.
  - l. Any other appropriate measure which can be tailored to the involved individuals to achieve the goals of this Policy.
5. Where the report of Prohibited Conduct poses a substantial and immediate threat of harm to the safety or well-being of an individual, members of the campus community, or the performance of normal College functions, the College may place a student or student

organization on interim suspension or impose leave or place an employee on administrative leave. Pending resolution of the report, the individual or organization may be denied access to campus, campus facilities, and/or all other College activities or privileges for which they might otherwise be eligible, as the College determines appropriate. When interim suspension or leave is imposed, the College will make reasonable efforts to complete the investigation and resolution within an expedited time frame.

### III. DETERMINATION TO PROCEED TO REMEDIES-BASED RESPONSE OR INVESTIGATION

a. At the conclusion of the Initial Assessment, the Title IX Coordinator, in coordination with the Equal Opportunity Response Team (as appropriate), will determine the appropriate manner of resolution, which may include remedies-based resolution, the initiation of an investigation to determine if disciplinary action is warranted, or no further action under this policy based on the information gathered as part of the Initial Assessment. Any individual wishing to explore alternative resolution methods is encouraged to discuss these options with the Title IX Coordinator, or a staff member in Equal Opportunity & Employee Relations. The College will consider the interest of the Reporting Party and the Reporting Party's expressed preference for manner of resolution. Where possible and as warranted by an assessment of the facts and circumstances, the College will seek action consistent with the Reporting Party's request. Participation in remedies-based resolution is voluntary, and a Reporting Party or Responding Party may request to end remedies-based resolution and initiate, and/or continue with, an investigation at any time. Requests must be made to the Title IX Coordinator, who has the discretion to determine which method of resolution is appropriate.

b. Following this assessment and determination, the College may take no further action under this policy, or may seek either a voluntary remedies-based resolution that does not involve disciplinary action against a Responding Party, or a resolution by initiating an investigation, which may result in disciplinary action against a Responding Party. The goal of the investigation is to gather all relevant facts and determine if there is sufficient information to refer the report for disciplinary action. Each resolution process is guided by the same principles of fairness and respect for all parties. All individuals who violate these standards will be held accountable for their behavior through a process that protects the rights of both the Reporting Party and the Responding Party. Resources are available for both students and employees, whether as Reporting Parties or Responding Parties, to provide support and guidance throughout the investigation and resolution of the report.

#### 1. Remedies-Based Resolution:

a. Remedies-based resolution is a voluntary approach designed to address a possible hostile environment without taking disciplinary action against a Responding Party. Where the Initial Assessment concludes that remedies-based resolution may be appropriate, the College will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Reporting Party's access to educational, extracurricular, and employment activities at the College and to address a possible hostile environment without requiring a finding of or admission of responsibility on the part of the Responding Party. Other potential remedies include targeted or broad-based educational programming or training, supported direct confrontation of the Responding Party and/or indirect action by the Title IX Coordinator or the College. Depending on the form of remedies-based resolution used, it may be possible for a Reporting Party to maintain anonymity from the Responding Party.

b. The College may offer mediation for appropriate cases, but will not compel a Reporting Party to engage in mediation, to directly confront the Responding Party, or to participate in any particular form of remedies-based resolution. Mediation, even if voluntary, may not be used in cases involving Sexual Assault, interpersonal violence, and/or stalking. The decision to pursue remedies-based resolution will be made when the College has sufficient information about the nature and scope of the conduct, which may occur at any time.

c. The Title IX Coordinator will maintain records of all reports and conduct referred for remedies-based resolution, which will typically be completed within thirty (30) business days of the initial report.

#### 2. Investigation:

a. Where the Initial Assessment concludes that reported conduct may have violated this Policy, that disciplinary action may be appropriate, and the conduct is not being addressed through a remedies-based resolution the College will initiate an investigation. The College will designate an investigator(s) who has specific training and experience investigating allegations of the type presented, including when appropriate, sexual and gender-based Harassment, Sexual Assault, Stalking, and Interpersonal Violence. The investigator(s) may be an employee of the College or an external investigator engaged to assist the College in its fact-gathering. Any investigator(s) chosen to conduct the investigation must be impartial and free of any actual conflict of interest. The College may use a team of two or more investigators, when appropriate.

b. It is the responsibility of the College, not of the parties, to gather relevant information, to the extent reasonably possible. The investigator(s) will conduct the investigation in a manner appropriate in light of the circumstances of the case. The investigator(s) will coordinate the gathering of information from the Reporting Party, the Responding Party, and any other individuals who may have information relevant to the determination. The investigator(s) will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. The Reporting Party and Responding Party will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident and cannot participate solely to speak about an individual's character.

c. Medical and counseling records of a Reporting or Responding Party are privileged confidential records that individuals are not required to disclose. However, these records may contain information that a party may voluntarily choose to share with the investigator(s). Any records provided by a party become part of the file and are available for review by the opposing party.

d. In gathering the facts, the investigator(s) may consider other allegations of, or findings of responsibility for, similar conduct by the Responding Party to the extent such information is relevant and available. Such information may prove to be relevant.

e. In cases of Sexual Assault, Sexual Violence, Sexual Exploitation, Interpersonal Violence, or Stalking, a Reporting Party's prior sexual history is generally not relevant and will not be considered as evidence during an investigation. Where there is a current or ongoing relationship between the Reporting Party and the Responding Party, and the Responding Party alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Reporting Party with other individuals is typically not relevant and will be considered only under very limited circumstances (e.g., to explain an injury or physical finding or other material fact).

f. In instances of allegations of Interpersonal Violence, whether there was a relationship (including romantic or intimate relationship with the Reporting Party [of the same or different sex or gender]; the Reporting Party's spouse or partner [of the same or different sex or gender]; the Reporting Party's family member; or the Reporting Party's cohabitant or household member [including a roommate]) will be gauged by the length, type, and frequency of interaction between the parties. Reports of violence between individuals that do not involve one of these specified relationships or do not involve an individual's Protected Status will be resolved for students under the Student Code of Conduct and for employees under other appropriate policies and procedures.

g. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns. A Reporting Party or Responding Party may have an Advisor accompany them to any meeting they attend related to the investigation of Prohibited Conduct in accordance with this Policy and procedures.

h. The College will seek to complete the fact-gathering in an investigation within twenty (20) College business days of receiving the report of alleged violation, but this time frame may be extended for good cause. At the request of law enforcement, the College may agree to defer its Title IX fact-gathering until after the initial stages of a criminal investigation. The College will nevertheless communicate with the Reporting Party regarding Title IX rights, procedural options, and the implementation of interim measures to ensure the safety and well-being of all affected individuals. The College will promptly resume its Title IX fact-gathering as soon as law enforcement has released the case for review following the initial criminal investigation. The investigator(s) or designee will provide timely updates, as appropriate or requested, about the timing and status of the investigation.

i. Information gathered during the review or investigation will be used to evaluate the responsibility of the Responding Party, provide for the safety of the Reporting Party and the College campus community, and take appropriate measures designed to end the misconduct, prevent its recurrence, and address its effects.

C. How the College intends to proceed, i.e. remedies-based resolution or investigation, will be communicated to the Reporting Party in writing. Depending on the circumstances and requested resolution, the Responding Party may or may not be notified of the report or resolution. A Responding Party will be notified when the College seeks action that would impact a Responding Party, such as Interim Protective Measures that restrict the Responding Party's movement on campus, the initiation of an investigation, or the request to involve the Responding Party in a voluntary, remedies-based resolution.

#### IV. REVIEW OF INVESTIGATION REPORT

At the conclusion of the investigation, the investigator(s) will prepare a written investigation report that summarizes the information gathered and synthesizes the contested and uncontested issues of fact and any supporting information or accounts. In preparing the investigation report, the investigator(s) will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation.

##### A. Resolution of Investigation Reports for Cases of Discrimination, Harassment or Retaliation (Excluding Sexual or Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking)

1. Before the investigator's report is finalized, the Reporting Party and Responding Party will be given the opportunity to review all information that will be used in adjudication of the matter. This includes any relevant information gathered including but not limited to documents and written statements of the parties or witnesses. The Reporting Party and Responding Party may submit any additional comment or information, including identifying any additional witnesses, to the investigation team within five (5) College business days of the opportunity to review the relevant portions of the report. Upon receipt of any additional information by the Reporting Party or Responding Party, or after the five (5) College business day comment period has lapsed without comment, the investigator(s) will make a finding as to whether there is sufficient information alleged to suggest that a policy violation occurred.

2. In cases of Discrimination, Harassment, or Retaliation (excluding Sexual or Gender Based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking), after consultation with the Title IX Coordinator, the investigator(s) will submit the final report to the Vice President, Organizational Development and Human Resources (or designee) if the Responding Party is an employee; or to the Vice President of Student Affairs (or designee) if the Responding Party is a student, who will review the investigation report and determine whether or not to accept the findings of the investigator(s).

Upon receipt and review of the investigation report, the Vice President, Organizational Development and Human Resources (or designee), or Vice President, Student Affairs (or designee) may request the investigator(s) conduct additional fact-gathering and/or possible further investigation. In addition to accepting the findings of the investigator(s), the Vice President may reject the report in whole or may suspend a decision pending further review by the investigator for purposes of additional fact gathering or clarification.

A letter summarizing the decision by the Vice President, Organizational Development and Human Resources (or designee) or Vice President of Student Affairs (or designee) and the investigation report, will then be issued to the Reporting Party, the Responding Party, and, to the Vice President/Campus President and immediate supervisor (in cases when the responding party is an employee) for further consideration of disciplinary action after any appeal process has concluded. The decision letter will identify an Appeals Officer. A finding of responsibility for a violation of this policy may be appealed by the Responding Party to the designated Appeals Officer. The Appeals Officer is typically a vice president or senior level administrator.

2. The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. The limited grounds for appeal are as follows:

a. New information that could affect the finding by the investigator(s) and that was not reasonably available through the exercise of due diligence at the time of the investigation; and/or

b. Material deviation(s) from written procedures that significantly affected the outcome

Mere dissatisfaction or disagreement with the finding of responsibility is not a valid basis for appeal.

3. The issues raised on appeal shall be limited to those issues raised during the investigation. Any issues not raised during the investigation or new issues that could have been raised, but were not, shall be precluded on appeal. To secure an appeal, the Responding Party must file a written request to have the finding reviewed with the designated Appeals Officer no later than five (5) College business days from the date on which the party receives a copy of the final report.

4. Upon acceptance of an appeal, the Appeals Officer shall notify the Reporting and Responding Parties, the Vice President for Organizational Development and Human Resources (or designee) or the Vice President for Student Affairs (or designee), the Title IX Coordinator, and those individuals who received a copy of the final investigation report.

5. The Appeals Officer shall consider the facts in support of the request and seek clarification of facts as deemed necessary. The Appeals Officer may request further investigation or that the investigator(s) address particular issues. If the Appeals Officer receives new information (not reasonably available through the exercise of due diligence at the time of the investigation) pursuant to the Appeals Officer's efforts to clarify facts, that the Appeals Officer believes may change the outcome, the Appeals Officer shall ask the Vice President, Organizational Development and Human Resources (or designee), or Vice President, Student Affairs (or designee), to reconsider their acceptance or rejection of the findings in light of the new information. The Vice President, Organizational Development and Human Resources (or designee), or Vice President, Student Affairs (or designee) shall inform the Appeals Officer of the reconsidered finding. The Appeals Officer shall apprise the Reporting and Responding Parties of the new information and the reconsidered finding so that each has an opportunity to review and refute any such additional information before the Appeals Officer renders a final decision.

6. The Appeals Officer shall communicate the results of the appeal to the Reporting Party and Responding Party within fifteen (15) College business days from the date of submission of all appeal documents by both parties. The Appeals Officer's written decision shall be provided to the Reporting and Responding Parties, the Vice President for Organizational Development and Human Resources or Vice President for Student Affairs the Title IX Coordinator, and those individuals who received a copy of the original investigation report. The Appeals Officer may accept or reject, the findings of the Vice President in whole or in part. The decision on whether or not the alleged conduct actually occurred and constituted a violation of this policy made by the Appeals Officer shall be final.

7. An investigation shall be considered complete and the investigation shall be closed after the period has passed within which the Responding Party may submit an appeal, if none has been submitted, or following a final decision by the Appeals Officer, if the Responding Party has requested an appeal. A matter also may be closed administratively when the Vice President for Organizational Development and Human Resources, Vice President for Student Affairs, and/or the Title IX Coordinator decides that further investigation is either impossible or unnecessary.

8. Circumstances may arise that require the extension of time frames for good cause, including extension beyond fifteen (15) College business days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening College break or planned leave (vacation/sick/personal) of involved parties, or other unforeseen circumstances.

9. An employee who is found responsible for violating this policy will then be referred to his/her immediate supervisor and/or his/her respective Vice President/Campus President for possible disciplinary action under applicable College policies.

10. A student who is found responsible for violating this policy will then be referred to a Dean of Students for possible disciplinary action under the Student Code of Conduct.

B. Resolution of Investigation Reports in Cases of Sexual or Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking.

Before the investigator's report is finalized, the Reporting Party and Responding Party will be given the opportunity to review all information that will be used in adjudication of the matter. This includes any relevant information gathered including but not limited to documents and written statements of the parties or witnesses. The Reporting Party and Responding Party may submit any additional comment or information, including identifying any additional witnesses, to the investigator(s) within five (5) College business days of the opportunity to review the relevant portions of the report. Upon receipt of any additional information by the Reporting Party or Responding Party, or after the five College business (5) day comment period has lapsed without comment, the investigator(s) will make a finding as to whether there is sufficient information alleged to suggest that a policy violation may have occurred (that is, that the policy elements have been raised, and there are sufficient facts alleged that the Vice President for Organizational Development and Human Resources [for cases where the Responding Party is an employee] or Vice President for Student Affairs [for cases where the Responding Party is a student] could find a policy violation if established by a preponderance of the evidence).

1. Determination not to proceed in cases of sexual or gender-based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking

If the investigator(s), in consultation with the Title IX Coordinator, determines that there is insufficient information alleged to suggest that a policy violation may have occurred, the Reporting Party and Responding Party will be notified in writing. The Reporting Party will have the opportunity to seek review by an Appeals Officer by submitting a written request for review to the Title IX Coordinator within five (5) College business days of the date of such notice. The Appeals Officer is typically a vice president or senior level administrator. The Responding Party will be notified if an appeal has been submitted. The Appeals Officer shall consider the facts in support of the request and seek clarification of facts as deemed necessary. The Appeals Officer may request that the investigator(s) conduct an additional investigation or address particular issues. If the Appeals Officer receives new information (not reasonably available through the exercise of due diligence at the time of the investigation) pursuant to their efforts to clarify facts, that they believe may change the outcome, the Appeals Officer shall ask the investigator(s) to reconsider the findings in light of the new information. The Appeals Officer will render a decision in writing, to both parties, within fifteen (15) College business days of receipt of the request for review. The decision of the Appeals Officer is final.

2. Determination to proceed in cases of sexual or gender-based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking

If the investigator, in consultation with the Title IX Coordinator, determines that there is sufficient information alleged to suggest that a policy violation may have occurred, the Title IX Coordinator (or designee) will issue a Notice of Alleged Violation to the Responding Party, with a copy to the Reporting Party, and refer the report and Notice of Alleged Violation to the Vice President for Organizational Development and Human Resources (for cases where the Reporting Party is an employee) or Vice President of Student Affairs (or designee) for cases where the Reporting Party is a student. For a report of Prohibited Conduct against a student employee who is acting within the scope of their employment at the time of the incident, the College may forward the case for review to either the Vice President for Organizational Development and Human Resources or to the Vice President for Student Affairs (or designee). As outlined

in greater detail below, the appropriate Vice President (or designee) will make a finding, by a preponderance of the evidence, as to whether or not the Responding Party is responsible for conduct in violation of this Policy.

a. Finding of Responsibility in cases of sexual or gender-based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking

i. In reaching determinations of responsibility, the appropriate Vice President (or designee) will consult with the Reporting Party, the Responding Party, the Title IX Coordinator and other affected parties, as appropriate, to ensure a full assessment of the relevant facts and impacts. In cases of sexual or gender-based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking the Vice President (or designee) will offer separate, in-person meetings with the Reporting Party and the Responding Party. If a Reporting Party or Responding Party meets with the Vice President (or designee) they may be accompanied by an Advisor. At any time, the Responding Party may choose to agree to a finding of responsibility to some or all of the reported conduct. After a consideration of all of the relevant information, the Vice President (or designee) will make a finding by a preponderance of the evidence as to whether the Responding Party is responsible for engaging in Prohibited Conduct.

ii. The Vice President (or designee) will provide a copy of their decision of responsibility in addition to the final investigation report to the Responding Party, the Reporting Party and to the Title IX Coordinator. The decision letter will also identify an Appeals Officer, who is typically a Vice President or senior level administrator.

iii. A finding of responsibility by the Vice President (or designee) may be appealed by the Responding Party to the designated Appeals Officer.

The appeal shall consist of a plain, concise, and complete written statement outlining the grounds for the appeal. The limited grounds for appeal are as follows:

a. New information that could affect the finding of the Disciplinary Resolution Officer and that was not reasonably available through the exercise of due diligence at the time of the investigation; and/or

b. Material deviation(s) from written procedures that significantly affected the outcome.

Mere dissatisfaction or disagreement with the finding of cause is not a valid basis for appeal.

iv. The issues raised on appeal shall be limited to those issues raised during the investigation. Any issues not raised during the investigation or new issues that could have been raised, but were not, shall be precluded on appeal. To secure an appeal, the Responding Party must file a written request to the Title IX Coordinator to no later than five (5) College business days from the date on which the party receives a copy of the final report.

v. Upon acceptance of an appeal, the Appeals Officer shall notify the Reporting Party, the Vice President for Organizational Development and Human Resources (or designee) or the Vice President for Student Affairs (or designee), the Title IX Coordinator, and those individuals who received a copy of the final investigation report.

vi. The Appeals Officer shall consider the facts in support of the request and seek clarification of facts as deemed necessary. The Appeals Officer may request further investigation or that the investigator(s) address particular issues. If the Appeals Officer receives new information (not reasonably available through the exercise of due diligence at the time of the investigation) pursuant to their efforts to clarify facts, that they believes may change the outcome, the Appeals Officer shall ask the Vice President, Organizational Development and Human Resources (or designee), or Vice President, Student Affairs, to reconsider the findings in light of the new information. The Vice President, Organizational Development and Human Resources (or designee), or Vice President, Student Affairs (or designee) will initiate further investigation as needed, and shall inform the Appeals Officer of any adjustments made to the finding letter and/or final report. The Appeals Officer shall apprise the Reporting and Responding Parties of the new information and a reconsidered finding so that each has an opportunity to review and refute any such additional information before the Appeals Officer renders a final decision.

vii. The Appeals Officer shall communicate the results of the appeal to the Reporting Party and Responding Party within fifteen (15) College business days from the date of submission of all appeal documents by both parties. The Appeals Officer's written decision shall be provided to the Reporting and Responding Parties, the Vice President for Organizational Development and Human Resources or Vice President for Student Affairs the Title IX Coordinator, and those individuals who received a copy of the original investigation report. The Appeals Officer may accept or reject, whole or in part the findings of the Vice President in whole or in part. The decision on whether or not the alleged conduct actually occurred and constituted a violation of this policy made by the Appeals Officer shall be final.

viii. An investigation shall be considered complete and the investigation shall be closed after the period has passed within which the Responding Party may submit an appeal, if none has been submitted, or following a final decision by the Appeals Officer, if the Responding Party has requested an appeal. A matter also may be closed administratively when the Vice President for Organizational Development and Human Resources, Vice President for Student Affairs, and/or the Title IX Coordinator decides that further investigation is either impossible or unnecessary.

ix. Circumstances may arise that require the extension of time frames for good cause, including extension beyond fifteen (15) College business days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening College break or planned leave (vacation/sick/personal) of involved parties, or other unforeseen circumstances.

x. An employee who is found responsible for violating this policy will then be referred to their immediate supervisor and/or their respective Vice President/Campus President for possible disciplinary action under applicable College policies.

xi. A student who is found responsible for violating this policy will then be referred to a Dean of Students for possible disciplinary action under the Student Code of Conduct.

b. Referral for Sanction in cases of sexual or gender-based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking when the Responding Party is an employee

i. In cases where an employee has been found responsible for sexual or gender based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking and an appeal was not submitted or the appeal process supported the finding of responsibility, the investigation report is then forwarded to the immediate supervisor and the respective Vice President/Campus President who,

together with the Vice President Organizational Development and Human Resources and/or Title IX Coordinator, will consider the appropriate sanction designed to address the misconduct, prevent its recurrence, and remedy its effect, while supporting the College's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety or deter individuals from future behavior.

ii. For employees, the sanction may include any form of responsive action or discipline as set forth in College Policies and Procedures, including but not limited to training, referral to counseling, and/or disciplinary action, such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay, or termination.

Generally, for College faculty and staff, a recommendation of termination or other disciplinary action may implicate other applicable Policies and Procedures, including Policy: 6Hx28:3F-03, Suspension, Dismissal, Return to Annual Contract, or Non-Renewal of Contracts; Policy: 6Hx28:3E-09, Employee Dispute Resolution; and Policy: 6Hx28:3E-08, Disciplinary Action. Under these circumstances, additional steps may occur or be available as set forth in those Policies and procedures. The College will support Reporting Parties, to the extent permitted by law, in being present and heard as witnesses in any subsequent hearing/appeal process conducted at the request of Responding Parties in response to such recommendations of disciplinary action.

c. Referral for Sanction in cases of sexual or gender-based Harassment, Sexual Assault, Sexual Exploitation, Interpersonal Violence, and/or Stalking when the Responding Party is a student

i. If the Responding Party is a student and is found responsible, the Disciplinary Resolution Officer will then initiate sanctions through the Student Code of Conduct (College Policy **6Hx28:8-03**).

ii. For students, the sanction may include removal from specific courses or activities, suspension from the College, or expulsion. A full list of the range of sanctions for students is contained in the Student Code of Conduct.

#### V. TIME FRAMES FOR RESOLUTION

A. The College will make every effort to successfully resolve all reports within sixty (60) College business days. All time frames expressed in this Policy are meant to be guidelines rather than rigid requirements. Circumstances may arise that require the extension of time frames for good cause, including extension beyond sixty (60) College business days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, the effect of a concurrent criminal investigation, any intervening College break or planned leave (vacation/sick/personal) of involved parties, or other unforeseen circumstances.

B. In general, a Reporting Party and Responding Party can expect that the process will proceed according to the time frames provided in this Policy. In the event that the investigation and resolution time frames are extended for good cause, the College will notify all parties of the reason for the delay and the expected adjustment in time frames. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. All parties involved are entitled to periodic status updates on the process and any subsequent appeals.

#### VI. OBLIGATION TO PRESENT TRUTHFUL INFORMATION

The College takes the validity of information seriously because a report of Discrimination, Harassment, Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Stalking, Interpersonal Violence, Complicity, and/or Retaliation may have severe consequences. Any individual who makes a report or provides information as part of an investigation or hearing process that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action and may also violate state criminal statutes and civil defamation laws. These provisions do not apply to reports or responses made in good faith, even if the facts alleged in the report or the response are not substantiated by an investigation.

#### VII. RETALIATION

A. During the investigation and resolution of violations of this Policy that are alleged in good faith, reasonable steps will be taken to protect the Reporting Party, the Responding Party, and other participants in the reporting, investigation, and resolution process from Retaliation.

B. Retaliation is a violation of College Policy. Any individual who engages in Retaliation will be subject to prompt and appropriate disciplinary action. Individuals who have a concern about potential or actual Retaliation should contact the Title IX Coordinator or a Deputy Title IX Coordinator for assistance in addressing the concern. If the concern about Retaliation involves the Title IX Coordinator, an individual may contact the Director of Compliance and Audit at [InternalAudit@valenciacollege.edu](mailto:InternalAudit@valenciacollege.edu) or by telephone at 407-582-3253.

#### VIII. ADVISORS AND ATTORNEYS

A. At any point during the processes listed above, the Reporting Party and Responding Party have the right to be assisted by an Advisor of their choice, which may include an attorney, however, an attorney may not represent their client as part of this process. Under no circumstances may an Advisor be a witness. The Advisor may accompany the Reporting Party or Responding Party to any meeting with an investigator or a College employee. Persons who serves as Advisors should plan to make themselves available for meetings throughout the process. The Advisor is a silent and non-participating presence who solely observes and provides support during the investigation process. During proceedings, the Advisor may speak only to the party by whom they were invited. Any exceptions to this prohibition will be at the sole discretion of the Title IX Coordinator (or designee). The Title IX Coordinator has the right at all times to determine what constitutes appropriate behavior on the part of an Advisor.

B. Any party may seek the assistance of an attorney at their own expense. This process is not a legal proceeding and should not be regarded as such. Similarly, the College will not recognize or enforce agreements between the parties reached outside of these procedures.

#### IX. COMMUNICATION

College-issued email is the primary means of communication used by the College. The Title IX Coordinator, investigator, and/or designee will deliver notice to students and/or employees by College-issued email, and may concurrently send a duplicate by means of mail, courier service, or in person delivery to the permanent address in the College's official records.

## X. RECORDS

The Title IX Coordinator will retain records of all reports, regardless of whether the matter is resolved by means of Initial Assessment, remedies-based resolution or disciplinary resolution.

## XI. RELEASE OF INFORMATION

A. If a report of Prohibited Conduct discloses a serious and continuing threat to the campus community, Valencia College Security will issue a timely notification to protect the health or safety of the community as required by the Clery Act. The notification will not include identifying information about a Reporting Party.

B. Pursuant to the Clery Act and Section 304 of the Violence Against Women Reauthorization Act of 2013, information regarding criminal incidents reported to Campus Security authorities must be shared with Valencia College Security for inclusion in the Daily Crime Log. This information will also be included in the College's Annual Security Report (<http://valenciacollege.edu/security/annual-security-report.cfm>)

C. The College may also share aggregate and not personally identifiable data about reports, outcomes, and sanctions.

D. All College proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, the Violence Against Women Act, FERPA, state and local laws, and College Policy. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or College Policy/procedure.

## APPENDIX A: DEFINITIONS

Term	Definition
Advisor	A silent and non-participating presence who solely observes and provides support during the investigation process. In cases of Sexual Assault, Sexual Violence, Interpersonal Violence, or Stalking, the Advisor may be an attorney. In all other cases, the Advisor may not be an attorney.
Age	The number of years from the date of a person's birth. With respect to employment, individuals who are forty (40) years of age or older are protected from Discrimination and Harassment. There is no age threshold for students or other participants in educational programs or activities.
Coercion or Force	Conduct, intimidation, and express or implied threats of physical or emotional harm that would reasonably place an individual in fear of immediate or future harm and that are employed to persuade or compel someone to engage in sexual contact.
College Community	Faculty, staff, administrators, students, student employees, volunteers, and visitors.
Color	An individual's skin pigmentation, complexion, shade, or tone.
Complicity	Any act that knowingly aids, facilitates, promotes, or encourages the commission of Prohibited Conduct by another person.
Confidentiality	Information shared with designated community professionals, referred to in this Policy as External Confidential Resources, will be disclosed only with the individual's express written permission. External Confidential Resources will not share information about an individual (including whether that individual has received services) with anyone, including the College, without the individual's express written permission, unless there is a continuing threat of serious violence to the patient/client or to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor).
Consent	<p>Consent is the communication of an affirmative, conscious, and freely made decision by each participant to engage in agreed upon forms of sexual contact. Consent requires an outward demonstration, through understandable words or actions, which conveys a clear willingness to engage in sexual contact.</p> <ul style="list-style-type: none"><li>• Consent cannot to be inferred from silence, passivity, or a lack of resistance, and relying on non-verbal communication alone may result in a violation of this Policy. For example, a person who does not physically resist or verbally refuse sexual contact may not necessarily be giving Consent. There is no requirement that an individual verbally or physically resist unwelcome sexual contact for there to be a violation of this Policy.</li><li>• Consent cannot to be inferred from an existing or previous dating or sexual relationship. Even in the context of a relationship, there must be mutual Consent to engage in sexual contact for each occasion and each form of sexual contact.</li><li>• Consent to one form of sexual contact does not constitute Consent to any other form of sexual contact, nor does Consent to sexual contact with one person constitute Consent to sexual contact with any other person. Additionally, Consent to sexual contact on one occasion is not Consent to engage in sexual contact on another occasion.</li><li>• Consent cannot be obtained by Coercion or Force or by taking advantage of a person's inability to give Consent because of Incapacitation or other circumstances.</li><li>• A person who has given Consent to engage in sexual contact may withdraw Consent at any time. However, withdrawal of Consent requires an outward demonstration, through understandable words or actions that clearly conveys that a party is no longer willing to engage in sexual contact. Once Consent is withdrawn, the sexual contact must cease immediately.</li><li>• Note that generally in Florida, consent cannot legally be given by a minor under the age of 18, with certain specified statutory exceptions.</li></ul>

<b>Term</b>	<b>Definition</b>
Disability	A physical or mental impairment that substantially limits one or more major life activities; or a record of such impairment; or regarding an individual as having such impairment. A qualified person with a disability must be able to perform the essential functions of the employment, internship, or volunteer position or the academic or extracurricular program, with or without reasonable accommodation.
Discrimination	Any unlawful distinction, preference, or detriment to an individual as compared to others that is based on an individual's Protected Status and that is sufficiently serious, persistent, or pervasive so as to unreasonably interfere with or limit: <ul style="list-style-type: none"> <li>• An employee's or applicant for employment's access to employment or conditions and benefits of employment;</li> <li>• A student's or admission applicant's ability to participate in, access, or benefit from educational programs, services, or activities;</li> <li>• An authorized volunteer's ability to participate in a volunteer activity; or</li> <li>• A guest's or visitor's ability to participate in, access, or benefit from the College's programs.</li> </ul> Discrimination also includes failing to provide identified and agreed upon reasonable accommodations consistent with state and federal laws, to a qualified person with a Disability.
Equal Opportunity Response Team	A group of individuals led by the Title IX Coordinator and including the Title IX Deputy Coordinators, who work together to assess and respond to reports of Discrimination, Harassment, Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Stalking, Interpersonal Violence, Complicity, and Retaliation.
Gender-Based Harassment	Sexual Harassment also includes Harassment based on gender, sexual orientation, gender identity, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature. Also includes Harassment for exhibiting what is perceived as a stereotypical characteristic for one's Sex or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived Sex, Gender, or Sexual Orientation of the individuals involved.
Gender / Gender Expression / Gender Identity	An individual's socially-constructed status based on the behavioral, cultural, or psychological traits typically associated with societal attribution of masculinity and femininity, typically related to one's assigned sex at birth. This includes Gender Expression, which is how someone expresses their Gender through appearance, behavior, or mannerisms, and Gender Identity, which is the Gender with which an individual identifies psychologically, regardless of what Gender they were assigned at birth. A person's Gender Expression may not be the same as their Gender Identity.
Genetic Information	Information about (i) an individual's genetic tests, (ii) the genetic tests of family members of such individual, and (iii) the manifestation of a disease or disorder in family members of such individual. Genetic Information includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services by such individual or any family member of such individual.
Harassment	A type of Discrimination that occurs when verbal, physical, electronic, other conduct based on an individual's Protected Status interferes with that individual's: <ul style="list-style-type: none"> <li>• educational environment;</li> <li>• work environment;</li> <li>• participation in a College program or activity; or</li> <li>• receipt of legitimately-requested services (e.g., disability or religious accommodations), and creates Hostile Environment Harassment or Quid Pro Quo Harassment.</li> </ul>
Hostile Environment Harassment	Unwelcome conduct based on Protected Status that is so severe, persistent, or pervasive that it alters the conditions of education, employment, or participation in a College program or activity, thereby creating an environment that a reasonable person in similar circumstances and with similar identities would find hostile, intimidating, or abusive under both a subjective and objective assessment. An isolated incident, unless sufficiently severe, does not amount to Hostile Environment Harassment.
Incapacitation	Sleep, unconsciousness, intermittent consciousness, or any other state where an individual is unaware or unable to give consent to sexual contact. Incapacitation may also exist because of alcohol or other drugs, and/or mental or developmental Disability that impairs the ability to consent to sexual contact.
Interim Protective Measures	Actions taken by the College to ensure equal access to its education programs and activities and foster a more stable and safe environment during the process of reporting, investigation, and/or resolution.

<b>Term</b>	<b>Definition</b>
Interpersonal Violence	<p>Physical, sexual, emotional, economic, or psychological actions or threats of actions that a reasonable person in similar circumstances and with similar identities would find intimidating, frightening, terrorizing, or threatening (commonly referred to as domestic violence or dating violence). Such behaviors may include threats of violence to an individual or an individual's family member.</p> <p>Interpersonal Violence can encompass a broad range of abusive behavior committed by a person who is or has been:</p> <ul style="list-style-type: none"> <li>• In a romantic or intimate relationship with the Reporting Party (of the same or different sex);</li> <li>• The Reporting Party's spouse or partner (of the same or different sex);</li> <li>• The Reporting Party's family member; or The Reporting Party's cohabitant or household member, including a roommate.</li> </ul>
National Origin/Ethnicity	An individual's actual or perceived country or ethnicity of origin.
Privacy	Information related to a report under this Policy will be shared only with those College employees who need to know in order to assist in the active review, investigation, or resolution of the report.
Protected Status	Consistent with federal, state, and local laws, the College prohibits Discrimination and Harassment based on race, ethnicity, color, national origin, age, religion, disability, marital status, gender, genetic information, sexual orientation, gender identity, pregnancy, and any other factor protected under applicable federal, state, and local civil rights laws, rules, and regulations.
Quid Pro Quo Harassment	Unwelcome conduct based on Protected Status where submission to or rejection of such conduct is used, explicitly or implicitly, as the basis for decisions affecting an individual's education, employment, or participation in a College program or activity.
Race	An individual's actual or perceived racial or ethnic ancestry or physical characteristics associated with a person's race, such as a person's color, hair, facial features, height, and weight.
Religion	All aspects of religious observance and practice, as well as belief. A well-formed and thought-out set of beliefs held by more than one individual, which may not necessarily involve belief in a supreme being. The College will accommodate an individual's observances and practices required by their creed, unless it is unable to reasonably accommodate an individual's creed-required observance or practice without undue hardship.
Remedies-Based Resolution	A voluntary approach designed to eliminate a hostile environment without taking disciplinary action against a Responding Party.
Reporting Party	An individual who may have been subject to any Prohibited Conduct by an individual or organization covered under the policy, regardless of whether the Reporting Party makes a report or seeks action under the policy. In some instances, a third party who makes the College aware of the Prohibited Conduct will not necessarily be same individual as the Reporting Party as defined by this policy. In these situations, the third party will not be entitled to the procedural rights afforded to Reporting Parties, but may be protected from retaliation for their involvement.
Responding Party	An individual who is alleged to have violated the College Policy on Discrimination, Harassment, Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Stalking, Interpersonal Violence, Complicity, or Retaliation and who is named in a report alleging violation.
Responsible Employees	Employees with administrative or supervisory responsibilities on campus or who have been designated as Campus Security Authorities.
Retaliation	Retaliation is acts or words taken against an individual because of the individual's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity includes an individual's good faith (i) participation in the reporting, investigation, or resolution of an alleged violation of this Policy; (ii) opposition to policies, practices, or actions that the individual reasonably believes are in violation of the Policy; or (iii) requests for accommodations on the basis of religion or Disability. Retaliation may include intimidation, threats, coercion, or adverse employment or educational actions. Retaliation may be found even when an underlying report made in good faith is not substantiated. Retaliation may be committed by the Responding Party, the Reporting Party, or any other individual or group of individuals.
Sex	An individual's biological status of male or female, including pregnancy. Conduct of a sexual nature is by definition based on Sex as a Protected Status.
Sexual Assault / Sexual contact	Sexual Assault involves having or attempting to have sexual contact with another individual without Consent. Sexual contact is the intentional touching or penetration of another person's clothed or unclothed body, including but not limited to the mouth, neck, buttocks, anus, genitalia, or breast, by another with any part of the body or any object in a sexual manner. Sexual contact also includes causing another person to touch their own or another's body in a sexual manner. Sexual Assault includes, without limitation, sexual battery as defined in Section 794, F.S.

Term	Definition
Sexual Exploitation	<p>Taking advantage of the sexuality of another person without consent or in a manner that extends the bounds of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose.</p> <p>Examples of Sexual Exploitation include:</p> <ul style="list-style-type: none"> <li>• Observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;</li> <li>• Non-consensual streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and consent of all parties involved;</li> <li>• Prostituting another individual;</li> <li>• Exposing one's genitals in non-consensual circumstances;</li> <li>• Knowingly exposing another individual to a sexually transmitted infection or sexual virus without that individual's knowledge; and</li> <li>• Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.</li> </ul>
Sexual Harassment	<p>Any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature, when:</p> <ul style="list-style-type: none"> <li>• Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's academic work, employment, or participation in any aspect of a College program or activity; or</li> <li>• Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the individual; or</li> <li>• Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently serious, pervasive, or persistent as to create an intimidating, hostile, humiliating, demeaning, or sexually offensive working, academic, or social environment under both an objective (a reasonable person's) and subjective (the Reporting Party's) view.</li> </ul>
Sexual Orientation	<p>The inclination or capacity to develop intimate emotional, spiritual, physical, and/or sexual relationships with those of the same or different Sex or Gender, or irrespective of Sex or Gender.</p>
Stalking	<p>Repeated, unwanted attention; physical, verbal, or electronic contact; or any other course of conduct directed at an individual that is sufficiently serious to cause physical, emotional, or psychological fear or distress or to create a hostile, intimidating, or abusive environment for a reasonable person in similar circumstances and with similar identities.</p> <p>Stalking may involve individuals who are known to one another, who have a current or previous relationship, or who are strangers.</p> <p>Stalking includes the concept of cyber-Stalking, a particular form of Stalking which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.</p>
Student	<p>All persons taking Valencia College courses, including both academic credit and continuing education, both full-time or part-time; and/or (i) all persons who are not officially enrolled for a particular term but have a continuing relationship with Valencia College or intend to enroll in the next term. This provision is intended to include within the definition of students, those persons enrolled in the spring and summer semesters who engage in misconduct during the summer and students who are first time enrollees who engage in misconduct prior to the time of enrollment; and/or (ii) all persons who are attending classes on a Valencia campus although they may be enrolled students in other higher education institutions.</p>
Title IX Coordinator	<p>The designated College official with primary responsibility for coordinating the College's compliance with Title VII, Title IX, and other federal and state regulations pertaining to equal access and equal opportunity.</p>
Title IX Deputy Coordinators	<p>Individuals responsible for supporting the Title IX Coordinator and accessible to any College community member for consultation and guidance on issues related to Discrimination, Harassment, Sexual and Gender-Based Harassment, Sexual Assault, Sexual Exploitation, Stalking, Interpersonal Violence, Complicity, and Retaliation.</p> <p>Deputy Coordinators are located in Human Resources, Student Affairs, and Safety/Security, and are available at each campus location as well as at the District Office.</p>

## APPENDIX B: EQUAL OPPORTUNITY RESPONSE TEAM

Role	Name	Title	Campus	Phone	Email
Title IX Coordinator	Ryan Kane	AVP Org. Development & Inclusion	District Office 246	407-582-3421	rkane8@valenciacollege.edu
Deputy Coordinator	Lauren Kelly	Director, Equal Opportunity & Employee Relations	District Office 244	407-582-8125	lkelly22@valenciacollege.edu
Deputy Coordinator	Ben Taylor	Assistant Director, Equal Opportunity & Employee Relations	District Office 240	407-582-3454	wtaylor17@valenciacollege.edu
Deputy Coordinator	Vacant	Assistant Director, Equal Opportunity & Employee Relations	District Office 247		
Deputy Coordinator	Amy Bosley	Vice President, Organizational Development & Human Resources	District Office 245	407-582-8255	abosley@valenciacollege.edu
Deputy Coordinator	Carla McKnight	Regional Director, Human Resources West, District Office, Downtown Campus	West 6-306A	407-582-1756	Cmcknight5@valenciacollege.edu
Deputy Coordinator	Lisandra Suarez	Regional Director, Human Resources Osceola, Lake Nona, Poinciana, Advanced Manufacturing	Osceola 1-219C	321-682-4710	lsuarez@valenciacollege.edu
Deputy Coordinator	Rose Quiles	Assistant Director, HR, West, District Office, Downtown Campus	West 6-306B	407-582-5001	rquiles9@valenciacollege.edu
Deputy Coordinator	Chanda Postell	Assistant Director, HR, East, Winter Park, Public Safety	East 7-176	407-582-3422	cpostell2@valenciacollege.edu
Deputy Coordinator	Melanie Rodriguez	Assistant Director, HR, Osceola, Lake Nona, Poinciana, Advanced Manufacturing	Osceola 1-222	321-682-4307	mgonzalez10@valenciacollege.edu
Deputy Coordinator	Julie Corderman	Director, Student Services, Winter Park Campus	Winter Park 204	407-582-6868	jcorderman@valenciacollege.edu
Deputy Coordinator	Jill Szentmiklosi	Dean of Students, Osceola Campus	Osceola 2-103C	321-682-4142	jszentmiklosi@valenciacollege.edu
Deputy Coordinator	Ben Lion	Dean of Students, West Campus	West SSB 110	407-582-1388	blion@valenciacollege.edu
Deputy Coordinator	Joe Sarrubbo	Dean of Students, East Campus	East 5-210L	407-582-2586	jsarrubbo@valenciacollege.edu
Deputy Coordinator	Edna Jones Miller	Dean of Students, Downtown Campus		407-582-5166	ejonesmiller@valenciacollege.edu
Deputy Coordinator	Vacant	Assistant Director, Student Conduct	West SSB 133	407-582-1557	
Deputy Coordinator	Ariel Hernandez	Assistant Director, Student Conduct	East 5-211E	407-582-2346	Ahernandez249@valenciacollege.edu
Deputy Coordinator	Mindy Mozena	Director, Student Services Lake Nona	Lake Nona 1-149C	407-582-7780	mmozena@valenciacollege.edu
Deputy Coordinator	Tanner Anthony	Assistant Director, Student Conduct	Osceola 2-103A	321-682-4093	tanthony11@valenciacollege.edu

The Equal Opportunity Response Team may be expanded to include other members of the College community based on the unique circumstances of the issue under consideration.

## APPENDIX C: RESPONSIBLE EMPLOYEES

Employees with administrative or supervisory responsibilities on campus or who have been designated as Campus Security Authorities are considered Responsible Employees. A responsible employee is a Valencia employee who has the authority to address sexual misconduct, who has the duty to report incidents of sexual misconduct, or who a member of the Valencia College community could reasonably believe has such authority or duty. Because the College has an obligation to make reasonable efforts to investigate and address instances of known or suspected sexual misconduct, Responsible Employees and Campus Security Authorities who have information or receive a report of sexual misconduct, interpersonal violence and/or stalking must immediately share with the Title IX Coordinator all known details of an incident.

The College's Responsible Employees include, but are not limited to, the following employees or categories of employees who serve in a managerial, leadership, or supervisory position who have significant responsibility for the welfare of Valencia Students, Faculty, or Staff:

- Senior leadership (e.g., College President, Campus Presidents, Vice Presidents, Special Assistants to the President, Executive Deans, including Associates and Assistants)
- Other Administrators/Professional Staff (e.g., deans, directors, program directors, chairpersons/discipline coordinators, and supervisors - in all administrative and academic areas)
- Other Designated Staff (e.g., Title IX Coordinator; Director and Assistant Director, Equal Opportunity & Employee Relations, Director, Student Services; Assistant Director, Student Conduct; Regional Director and Assistant Director, Organizational Development and Human Resources)
- Director, Study Abroad and Global Exchange
- All faculty and staff members who accompany students on College-related trips, both within the U.S. and abroad
- All faculty or staff advisors to students and/or organizations or activities
- Counselors
- Ombudspersons
- Staff who serve in tutoring roles
- Campus Safety and Security Staff (e.g., Security Field Officer; Security Officer)

## APPENDIX D: LAW ENFORCEMENT AND MEDICAL PROVIDERS

Law Enforcement	Medical Providers
City of Orlando Police Department (321) 235-5300	Health Orlando (407) 303-5600
Orange County Sheriff's Office For Emergencies: 911 Non-Emergency: (407) 254-7000	Advent Health East Orlando (407) 303-8110
City of Kissimmee Police Department For Emergencies: 911 Non-Emergency: (407) 846-3333	Advent Health Kissimmee (407) 846-4343
City of Winter Park Police Department For Emergencies: 911 Non-Emergency: (407) 623-3268	Advent Health Apopka (407) 862-6263
Osceola County Sheriff's Office For Emergencies: 911 Non-Emergency: (407) 348-2222	Orlando Regional Medical Center (321) 841-5111
	Dr. P. Phillips Hospital (407) 351-8500
	Health Central Hospital (407) 296-1000
	Osceola Regional Medical Center (407) 846-2266
	Victim Service Center of Central Florida (407) 497-6701

## **APPENDIX E: EXTERNAL CONFIDENTIAL RESOURCES**

### **Victim Service Center of Central Florida**

(407) 497-6701; 24-hour confidential hotline

VSC's mission is to provide individualized services and resources to victims of sexual assault, violent crime and traumatic circumstances, through crisis response, advocacy, therapy, and community awareness.

### **Harbor House of Central Florida**

(407) 886-2856; 24-hour confidential hotline

[www.harborhousefl.com](http://www.harborhousefl.com)

Harbor House works to prevent and eliminate domestic abuse in Central Florida by providing critical life-saving services to survivors, implementing and advancing best practices, and educating and engaging the community in a united front.

### **Help Now of Osceola, Inc.**

(407) 847-8562; 24-hour confidential hotline

[www.helpnowshelter.org](http://www.helpnowshelter.org)

Help Now of Osceola's vision is to eradicate violence and abuse in the community and also provides safe shelter, empowers survivors of domestic violence through counseling and advocacy and promotes violence free living through community awareness.

### **BayCare**

Available to students who are currently enrolled in Valencia College credit classes (800) 878-5470

[Baycare.org/sap](http://Baycare.org/sap)

BayCare Health System will improve the health of all we serve through community-owned health care services that set the standard for high-quality, compassionate care.

### **Employee Assistance Program**

Available to current full-time employees of Valencia College 24 hours a day (866) 248-4094

[www.liveandworkwell.com](http://www.liveandworkwell.com)

**741.28 Domestic violence; definitions. As used in ss. 741.28-741.31:**

- (1) "Department" means the Florida Department of Law Enforcement.
- (2) "Domestic violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.
- (3) "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.
- (4) "Law enforcement officer" means any person who is elected, appointed, or employed by any municipality or the state or any political subdivision thereof who meets the minimum qualifications established in s. 943.13 and is certified as a law enforcement officer under s. 943.1395.

**741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement; public records exemption.—**

- (1) There is created a cause of action for an injunction for protection against domestic violence.
  - (a) Any person described in paragraph (e), who is either the victim of domestic violence as defined in s. 741.28 or has reasonable cause to believe he or she is in imminent danger of becoming the victim of any act of domestic violence, has standing in the circuit court to file a sworn petition for an injunction for protection against domestic violence.
  - (b) This cause of action for an injunction may be sought whether or not any other cause of action is currently pending between the parties. However, the pendency of any such cause of action shall be alleged in the petition.
  - (c) In the event a subsequent cause of action is filed under chapter 61, any orders entered therein shall take precedence over any inconsistent provisions of an injunction issued under this section which addresses matters governed by chapter 61.
  - (d) A person's right to petition for an injunction shall not be affected by such person having left a residence or household to avoid domestic violence.
  - (e) This cause of action for an injunction may be sought by family or household members. No person shall be precluded from seeking injunctive relief pursuant to this chapter solely on the basis that such person is not a spouse.
  - (f) This cause of action for an injunction shall not require that either party be represented by an attorney.
  - (g) Notwithstanding any other law, attorney fees may not be awarded in any proceeding under this section.
  - (h) Any person, including an officer of the court, who offers evidence or recommendations relating to the cause of action must either present the evidence or recommendations in writing to the court with copies to each party and their attorney, or must present the evidence under oath at a hearing at which all parties are present.
  - (i) Nothing in this section shall affect the title to any real estate.
  - (j) The court is prohibited from issuing mutual orders of protection. This does not preclude the court from issuing separate injunctions for protection against domestic violence where each party has complied with the provisions of this section. Compliance with the provisions of this section cannot be waived.
  - (k) Notwithstanding any provision of chapter 47, a petition for an injunction for protection against domestic violence may be filed in the circuit where the petitioner currently or temporarily resides, where the respondent resides, or where the domestic violence occurred. There is no minimum requirement of residency to petition for an injunction for protection.
- (2)(a) Notwithstanding any other provision of law, the assessment of a filing fee for a petition for protection against domestic violence is prohibited effective October 1, 2002. However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection against domestic violence issued by the court, at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay any law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee shall not exceed \$20.
  - (b) No bond shall be required by the court for the entry of an injunction.
  - (c)1. The clerk of the court shall assist petitioners in seeking both injunctions for protection against domestic violence and enforcement for a violation thereof as specified in this section.
    2. All clerks' offices shall provide simplified petition forms for the injunction, any modifications, and the enforcement thereof, including instructions for completion.
    3. The clerk of the court shall advise petitioners of the opportunity to apply for a certificate of indigence in lieu of prepayment for the cost of the filing fee, as provided in paragraph (a).
    4. The clerk of the court shall ensure the petitioner's privacy to the extent practical while completing the forms for injunctions for protection against domestic violence.
    5. The clerk of the court shall provide petitioners with a minimum of two certified copies of the order of injunction, one of which is serviceable and will inform the petitioner of the process for service and enforcement.
    6. Clerks of court and appropriate staff in each county shall receive training in the effective assistance of petitioners as provided or approved by the Florida Association of Court Clerks.
    7. The clerk of the court in each county shall make available informational brochures on domestic violence when such brochures are provided by local certified domestic violence centers.

8. The clerk of the court in each county shall distribute a statewide uniform informational brochure to petitioners at the time of filing for an injunction for protection against domestic or repeat violence when such brochures become available. The brochure must include information about the effect of giving the court false information about domestic violence.

(3)(a) The sworn petition shall allege the existence of such domestic violence and shall include the specific facts and circumstances upon the basis of which relief is sought.

(b) The sworn petition shall be in substantially the following form:

PETITION FOR  
INJUNCTION FOR PROTECTION  
AGAINST DOMESTIC VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner (Name), who has been sworn and says that the following statements are true:

(a) Petitioner resides at: (address)

(Petitioner may furnish address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of the current residence to be confidential.)

(b) Respondent resides at: (last known address)

(c) Respondent's last known place of employment: (name of business and address)

(d) Physical description of respondent:

Race

Sex

Date of birth

Height

Weight

Eye color

Hair color

Distinguishing marks or scars

(e) Aliases of respondent:

(f) Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.

(g) The following describes any other cause of action currently pending between the petitioner and respondent:

The petitioner should also describe any previous or pending attempts by the petitioner to obtain an injunction for protection against domestic violence in this or any other circuit, and the results of that attempt

Case numbers should be included if available.

(h) Petitioner is either a victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence because respondent has (mark all sections that apply and describe in the spaces below the incidents of violence or threats of violence, specifying when and where they occurred, including, but not limited to, locations such as a home, school, place of employment, or visitation exchange) :

committed or threatened to commit domestic violence defined in s. 741.28, Florida Statutes, as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another. With the exception of persons who are parents of a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

previously threatened, harassed, stalked, or physically abused the petitioner.

attempted to harm the petitioner or family members or individuals closely associated with the petitioner.

threatened to conceal, kidnap, or harm the petitioner's child or children.

intentionally injured or killed a family pet.

used, or has threatened to use, against the petitioner any weapons such as guns or knives.

physically restrained the petitioner from leaving the home or calling law enforcement.

a criminal history involving violence or the threat of violence (if known).

another order of protection issued against him or her previously or from another jurisdiction (if known).

destroyed personal property, including, but not limited to, telephones or other communication equipment, clothing, or other items belonging to the petitioner.

engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence.

(i) Petitioner alleges the following additional specific facts: (mark appropriate sections)

A minor child or minor children reside with the petitioner whose names and ages are as follows:

Petitioner needs the exclusive use and possession of the dwelling that the parties share.

Petitioner is unable to obtain safe alternative housing because:

Petitioner genuinely fears that respondent imminently will abuse, remove, or hide the minor child or children from petitioner because:

(j) Petitioner genuinely fears imminent domestic violence by respondent.

(k) Petitioner seeks an injunction: (mark appropriate section or sections)

Immediately restraining the respondent from committing any acts of domestic violence.

Restraining the respondent from committing any acts of domestic violence.

Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

Providing a temporary parenting plan, including a temporary time-sharing schedule, with regard to the minor child or children of the parties which might involve prohibiting or limiting time-sharing or requiring that it be supervised by a third party.

Establishing temporary support for the minor child or children or the petitioner.

Directing the respondent to participate in a batterers' intervention program or other treatment pursuant to s. **39.901**, Florida Statutes.

Providing any terms the court deems necessary for the protection of a victim of domestic violence, or any minor children of the victim, including any injunctions or directives to law enforcement agencies.

(c) Every petition for an injunction against domestic violence shall contain, directly above the signature line, a statement in all capital letters and bold type not smaller than the surrounding text, as follows:

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN SECTION 837.02, FLORIDA STATUTES.

(initials)

(d) If the sworn petition seeks to determine a parenting plan and time-sharing schedule with regard to the minor child or children of the parties, the sworn petition shall be accompanied by or shall incorporate the allegations required by s. **61.522** of the Uniform Child Custody Jurisdiction and Enforcement Act.

(4) Upon the filing of the petition, the court shall set a hearing to be held at the earliest possible time. The respondent shall be personally served with a copy of the petition, financial affidavit, Uniform Child Custody Jurisdiction and Enforcement Act affidavit, if any, notice of hearing, and temporary injunction, if any, prior to the hearing.

(5)(a) If it appears to the court that an immediate and present danger of domestic violence exists, the court may grant a temporary injunction ex parte, pending a full hearing, and may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.

2. Awarding to the petitioner the temporary exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

3. On the same basis as provided in s. **61.13**, providing the petitioner a temporary parenting plan, including a time-sharing schedule, which may award the petitioner up to 100 percent of the time-sharing. The temporary parenting plan remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child.

(b) Except as provided in s. **90.204**, in a hearing ex parte for the purpose of obtaining such ex parte temporary injunction, no evidence other than verified pleadings or affidavits shall be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. When the only ground for denial is no appearance of an immediate and present danger of domestic violence, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. Nothing herein affects a petitioner's right to promptly amend any petition, or otherwise be heard in person on any petition consistent with the Florida Rules of Civil Procedure.

(c) Any such ex parte temporary injunction shall be effective for a fixed period not to exceed 15 days. A full hearing, as provided by this section, shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the hearing before or during a hearing for good cause shown by any party, which shall include a continuance to obtain service of process. Any injunction shall be extended if necessary to remain in full force and effect during any period of continuance.

(6)(a) Upon notice and hearing, when it appears to the court that the petitioner is either the victim of domestic violence as defined by s. **741.28** or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.

2. Awarding to the petitioner the exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

3. On the same basis as provided in chapter 61, providing the petitioner with 100 percent of the time-sharing in a temporary parenting plan that remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child.

4. On the same basis as provided in chapter 61, establishing temporary support for a minor child or children or the petitioner. An order of temporary support remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting child support.

5. Ordering the respondent to participate in treatment, intervention, or counseling services to be paid for by the respondent. When the court orders the respondent to participate in a batterers' intervention program, the court, or any entity designated by the court, must provide the respondent with a list of batterers' intervention programs from which the respondent must choose a program in which to participate.

6. Referring a petitioner to a certified domestic violence center. The court must provide the petitioner with a list of certified domestic violence centers in the circuit which the petitioner may contact.

7. Ordering such other relief as the court deems necessary for the protection of a victim of domestic violence, including injunctions or directives to law enforcement agencies, as provided in this section.

(b) In determining whether a petitioner has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court shall consider and evaluate all relevant factors alleged in the petition, including, but not limited to:

1. The history between the petitioner and the respondent, including threats, harassment, stalking, and physical abuse.
2. Whether the respondent has attempted to harm the petitioner or family members or individuals closely associated with the petitioner.
3. Whether the respondent has threatened to conceal, kidnap, or harm the petitioner's child or children.
4. Whether the respondent has intentionally injured or killed a family pet.
5. Whether the respondent has used, or has threatened to use, against the petitioner any weapons such as guns or knives.
6. Whether the respondent has physically restrained the petitioner from leaving the home or calling law enforcement.
7. Whether the respondent has a criminal history involving violence or the threat of violence.
8. The existence of a verifiable order of protection issued previously or from another jurisdiction.
9. Whether the respondent has destroyed personal property, including, but not limited to, telephones or other communications equipment, clothing, or other items belonging to the petitioner.
10. Whether the respondent engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence.

In making its determination under this paragraph, the court is not limited to those factors enumerated in subparagraphs 1.-10.

(c) The terms of an injunction restraining the respondent under subparagraph (a)1. or ordering other relief for the protection of the victim under subparagraph (a)7. shall remain in effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. No specific allegations are required. Such relief may be granted in addition to other civil or criminal remedies.

(d) A temporary or final judgment on injunction for protection against domestic violence entered pursuant to this section shall, on its face, indicate that:

1. The injunction is valid and enforceable in all counties of the State of Florida.
2. Law enforcement officers may use their arrest powers pursuant to s. 901.15(6) to enforce the terms of the injunction.
3. The court had jurisdiction over the parties and matter under the laws of Florida and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's right to due process.
4. The date respondent was served with the temporary or final order, if obtainable.

(e) An injunction for protection against domestic violence entered pursuant to this section, on its face, may order that the respondent attend a batterers' intervention program as a condition of the injunction. Unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why batterers' intervention programs would be inappropriate, the court shall order the respondent to attend a batterers' intervention program if:

1. It finds that the respondent willfully violated the ex parte injunction;
2. The respondent, in this state or any other state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence; or
3. The respondent, in this state or any other state, has had at any time a prior injunction for protection entered against the respondent after a hearing with notice.

(f) The fact that a separate order of protection is granted to each opposing party shall not be legally sufficient to deny any remedy to either party or to prove that the parties are equally at fault or equally endangered.

(g) A final judgment on injunction for protection against domestic violence entered pursuant to this section must, on its face, indicate that it is a violation of s. 790.233, and a first degree misdemeanor, for the respondent to have in his or her care, custody, possession, or control any firearm or ammunition.

(h) All proceedings under this subsection shall be recorded. Recording may be by electronic means as provided by the Rules of Judicial Administration.

(7) The court shall allow an advocate from a state attorney's office, an advocate from a law enforcement agency, or an advocate from a certified domestic violence center who is registered under s. 39.905 to be present with the petitioner or respondent during any court proceedings or hearings related to the injunction for protection, provided the petitioner or respondent has made such a request and the advocate is able to be present.

(8)(a)1. The clerk of the court shall furnish a copy of the petition, financial affidavit, Uniform Child Custody Jurisdiction and Enforcement

Act affidavit, if any, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. When requested by the sheriff, the clerk of the court may transmit a facsimile copy of an injunction that has been certified by the clerk of the court, and this facsimile copy may be served in the same manner as a certified copy. Upon receiving a facsimile copy, the sheriff must verify receipt with the sender before attempting to serve it upon the respondent. In addition, if the sheriff is in possession of an injunction for protection that has been certified by the clerk of the court, the sheriff may transmit a facsimile copy of that injunction to a law enforcement officer who shall serve it in the same manner as a certified copy. The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section. Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. A law enforcement agency serving injunctions pursuant to this section shall use service and verification procedures consistent with those of the sheriff.

2. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against domestic violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

3. All orders issued, changed, continued, extended, or vacated subsequent to the original service of documents enumerated under subparagraph 1., shall be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. In the event a party fails or refuses to acknowledge the receipt of a certified copy of an order, the clerk shall note on the original order that service was effected. If delivery at the hearing is not possible, the clerk shall mail certified copies of the order to the parties at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subsection, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.

If the respondent has been served previously with the temporary injunction and has failed to appear at the initial hearing on the temporary injunction, any subsequent petition for injunction seeking an extension of time may be served on the respondent by the clerk of the court by certified mail in lieu of personal service by a law enforcement officer.

(b) There shall be created a Domestic and Repeat Violence Injunction Statewide Verification System within the Department of Law Enforcement. The department shall establish, implement, and maintain a statewide communication system capable of electronically transmitting information to and between criminal justice agencies relating to domestic violence injunctions and repeat violence injunctions issued by the courts throughout the state. Such information must include, but is not limited to, information as to the existence and status of any injunction for verification purposes.

(c)1. Within 24 hours after the court issues an injunction for protection against domestic violence or changes, continues, extends, or vacates an injunction for protection against domestic violence, the clerk of the court must forward a certified copy of the injunction for service to the sheriff with jurisdiction over the residence of the petitioner. The injunction must be served in accordance with this subsection.

2. Within 24 hours after service of process of an injunction for protection against domestic violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives a certified copy of the injunction for protection against domestic violence, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the department.

5.a. Subject to available funding, the Florida Association of Court Clerks and Comptrollers shall develop an automated process by which a petitioner may request notification of service of the injunction for protection against domestic violence and other court actions related to the injunction for protection. The automated notice shall be made within 12 hours after the sheriff or other law enforcement officer serves the injunction upon the respondent. The notification must include, at a minimum, the date, time, and location where the injunction for protection against domestic violence was served. When a petitioner makes a request for notification, the clerk must apprise the petitioner of her or his right to request in writing that the information specified in sub-subparagraph b. be held exempt from public records requirements for 5 years. The Florida Association of Court Clerks and Comptrollers may apply for any available grants to fund the development of the automated process.

b. Upon implementation of the automated process, information held by clerks and law enforcement agencies in conjunction with the automated process developed under sub-subparagraph a. which reveals the home or employment telephone number, cellular telephone number, home or employment address, electronic mail address, or other electronic means of identification of a petitioner requesting notification of service of an injunction for protection against domestic violence and other court actions related to the injunction for protection is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the petitioner. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this sub-subparagraph. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

6. Within 24 hours after an injunction for protection against domestic violence is vacated, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

(9)(a) The court may enforce a violation of an injunction for protection against domestic violence through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a criminal violation under s. **741.31**. The court may enforce the respondent's compliance with the injunction through any appropriate civil and criminal remedies, including, but not limited to, a monetary assessment or a fine. The clerk of the court shall collect and receive such assessments or fines. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Domestic Violence Trust Fund established in s. **741.01**.

(b) If the respondent is arrested by a law enforcement officer under s. **901.15**(6) or for a violation of s. **741.31**, the respondent shall be held in custody until brought before the court as expeditiously as possible for the purpose of enforcing the injunction and for admittance to bail in accordance with chapter 903 and the applicable rules of criminal procedure, pending a hearing.

(10) The petitioner or the respondent may move the court to modify or dissolve an injunction at any time.

#### **741.31 Violation of an injunction for protection against domestic violence.—**

(1) In the event of a violation of the injunction for protection against domestic violence when there has not been an arrest, the petitioner may contact the clerk of the circuit court of the county in which the violation is alleged to have occurred. The clerk shall either assist the petitioner in the preparation of an affidavit in support of the violation or direct the petitioner to the office operated by the court within the circuit that has been designated by the chief judge of that circuit as the central intake point for injunction violations and where the petitioner can receive assistance in the preparation of the affidavit in support of the violation.

(2) The affidavit shall be immediately forwarded by the office assisting the petitioner to the state attorney of that circuit and to such court or judge as the chief judge of that circuit determines to be the recipient of affidavits of violation. If the affidavit alleges a crime has been committed, the office assisting the petitioner shall also forward a copy of the petitioner's affidavit to the appropriate law enforcement agency for investigation. No later than 20 days after receiving the initial report, the local law enforcement agency shall complete their investigation and forward the report to the state attorney. The policy adopted by the state attorney in each circuit under s. **741.2901**(2), shall include a policy regarding intake of alleged violations of injunctions for protection against domestic violence under this section. The intake shall be supervised by a prosecutor who, pursuant to s. **741.2901**(1), has been designated and assigned to handle domestic violence cases. The state attorney shall determine within 30 working days whether its office will proceed to file criminal charges, or prepare a motion for an order to show cause as to why the respondent should not be held in criminal contempt, or prepare both as alternative findings, or file notice that the case remains under investigation or is pending subject to some other action.

(3) If the court has knowledge, based on its familiarity with the case, that the petitioner, the children of the petitioner, or another person is in immediate danger if the court fails to act prior to the decision of the state attorney to prosecute, it should immediately issue an order of appointment of the state attorney to file a motion for an order to show cause as to why the respondent should not be held in contempt. If the court does not issue an order of appointment of the state attorney, it shall immediately notify the state attorney that the court is proceeding to enforce the violation through criminal contempt.

(4)(a) A person who willfully violates an injunction for protection against domestic violence issued pursuant to s. **741.30**, or a foreign protection order accorded full faith and credit pursuant to s. **741.315**, by:

1. Refusing to vacate the dwelling that the parties share;
2. Going to, or being within 500 feet of, the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
3. Committing an act of domestic violence against the petitioner;
4. Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;
5. Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
6. Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;
7. Defacing or destroying the petitioner's personal property, including the petitioner's motor vehicle; or
8. Refusing to surrender firearms or ammunition if ordered to do so by the court

commits a misdemeanor of the first degree, punishable as provided in s. **775.082** or s. **775.083**, except as provided in paragraph (c).

(b)1. It is a violation of s. **790.233**, and a misdemeanor of the first degree, punishable as provided in s. **775.082** or s. **775.083**, for a person to violate a final injunction for protection against domestic violence by having in his or her care, custody, possession, or control any firearm or ammunition.

2. It is the intent of the Legislature that the disabilities regarding possession of firearms and ammunition are consistent with federal law. Accordingly, this paragraph shall not apply to a state or local officer as defined in s. **943.10**(14), holding an active certification, who receives or possesses a firearm or ammunition for use in performing official duties on behalf of the officer's employing agency, unless otherwise prohibited by the employing agency.

(c) A person who has two or more prior convictions for violation of an injunction or foreign protection order against the same victim, commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083** or s. **775.084**. For purposes of this paragraph, the term "conviction" means a determination of guilt which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

(5) Whether or not there is a criminal prosecution under subsection (4), the court shall order the respondent to attend a batterers' intervention program if it finds a willful violation of a domestic violence injunction, unless the court makes written factual findings in its judgment or order which are based on substantial evidence, stating why a batterers' intervention program would be inappropriate.

(6) Any person who suffers an injury and/or loss as a result of a violation of an injunction for protection against domestic violence may be awarded economic damages for that injury and/or loss by the court issuing the injunction. Damages includes costs and attorneys' fees for enforcement of the injunction.

**775.082 Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison.—**

(1)(a) Except as provided in paragraph (b), a person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. **921.141** results in a determination that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(b)1. A person who actually killed, intended to kill, or attempted to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age shall be punished by a term of imprisonment for life if, after a sentencing hearing conducted by the court in accordance with s. **921.1401**, the court finds that life imprisonment is an appropriate sentence. If the court finds that life imprisonment is not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years. A person sentenced pursuant to this subparagraph is entitled to a review of his or her sentence in accordance with s. **921.1402**(2)(a).

2. A person who did not actually kill, intend to kill, or attempt to kill the victim and who is convicted under s. 782.04 of a capital felony, or an offense that was reclassified as a capital felony, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life if, after a sentencing hearing conducted by the court in accordance with s. **921.1401**, the court finds that life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. **921.1402**(2)(c).

3. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. **921.1402**(2)(a) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1). No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

(3) A person who has been convicted of any other designated felony may be punished as follows:

(a)1. For a life felony committed before October 1, 1983, by a term of imprisonment for life or for a term of at least 30 years.

2. For a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years.

3. Except as provided in subparagraph 4., for a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

4.a. Except as provided in sub-subparagraph b., for a life felony committed on or after September 1, 2005, which is a violation of s. **800.04**(5)(b), by:

(I) A term of imprisonment for life; or

(II) A split sentence that is a term of at least 25 years' imprisonment and not exceeding life imprisonment, followed by probation or community control for the remainder of the person's natural life, as provided in s. **948.012**(4).

b. For a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. **800.04**(5)(b), by a term of imprisonment for life.

5. Notwithstanding subparagraphs 1.-4., a person who is convicted under s. **782.04** of an offense that was reclassified as a life felony which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. **921.1401** and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence.

a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. **921.1402**(2)(b).

b. A person who did not actually kill, intend to kill, or attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. **921.1402**(2)(c).

c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. **921.1402**(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may find that multiple defendants killed, intended to kill, or attempted to kill the victim.

6. For a life felony committed on or after October 1, 2014, which is a violation of s. **787.06**(3)(g), by a term of imprisonment for life.

(b)1. For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

2. Notwithstanding subparagraph 1., a person convicted under s. **782.04** of a first degree felony punishable by a term of years not exceeding life imprisonment, or an offense that was reclassified as a first degree felony punishable by a term of years not exceeding life, which was committed before the person attained 18 years of age may be punished by a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. **921.1401** and finds that a term of years equal to life imprisonment is an appropriate sentence.

a. A person who actually killed, intended to kill, or attempted to kill the victim and is sentenced to a term of imprisonment of more than 25 years is entitled to a review of his or her sentence in accordance with s. **921.1402**(2)(b).

b. A person who did not actually kill, intend to kill, or attempt to kill the victim and is sentenced to a term of imprisonment of more than 15 years is entitled to a review of his or her sentence in accordance with s. **921.1402**(2)(c).

c. The court shall make a written finding as to whether a person is eligible for a sentence review hearing under s. **921.1402**(2)(b) or (c). Such a finding shall be based upon whether the person actually killed, intended to kill, or attempted to kill the victim. The court may

find that multiple defendants killed, intended to kill, or attempted to kill the victim.

(c) Notwithstanding paragraphs (a) and (b), a person convicted of an offense that is not included in s. **782.04** but that is an offense that is a life felony or is punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, or an offense that was reclassified as a life felony or an offense punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. **921.1401** and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 20 years is entitled to a review of his or her sentence in accordance with s. **921.1402(2)(d)**.

(d) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.

(e) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

(5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

(7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

(8)(a) The sentencing guidelines that were effective October 1, 1983, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1983, and before January 1, 1994, and to all felonies, except capital felonies and life felonies, committed before October 1, 1983, when the defendant affirmatively selects to be sentenced pursuant to such provisions.

(b) The 1994 sentencing guidelines, that were effective January 1, 1994, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after January 1, 1994, and before October 1, 1995.

(c) The 1995 sentencing guidelines that were effective October 1, 1995, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1995, and before October 1, 1998.

(d) The Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision.

(e) Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the sentencing guidelines or the Criminal Punishment Code in effect on the beginning date of the criminal activity.

(9)(a)1. "Prison releasee reoffender" means any defendant who commits, or attempts to commit:

a. Treason;

b. Murder;

c. Manslaughter;

d. Sexual battery;

e. Carjacking;

f. Home-invasion robbery;

g. Robbery;

h. Arson;

i. Kidnapping;

j. Aggravated assault with a deadly weapon;

k. Aggravated battery;

l. Aggravated stalking;

m. Aircraft piracy;

n. Unlawful throwing, placing, or discharging of a destructive device or bomb;

o. Any felony that involves the use or threat of physical force or violence against an individual;

p. Armed burglary;

q. Burglary of a dwelling or burglary of an occupied structure; or

r. Any felony violation of s. **790.07**, s. **800.04**, s. **827.03**, s. **827.071**, or s. **847.0135(5)**;

within 3 years after being released from a state correctional facility operated by the Department of Corrections or a private vendor or within 3 years after being released from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

2. "Prison releasee reoffender" also means any defendant who commits or attempts to commit any offense listed in sub-subparagraphs (a)1.a.-r. while the defendant was serving a prison sentence or on escape status from a state correctional facility operated by the Department of Corrections or a private vendor or while the defendant was on escape status from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

3. If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

- a. For a felony punishable by life, by a term of imprisonment for life;
- b. For a felony of the first degree, by a term of imprisonment of 30 years;
- c. For a felony of the second degree, by a term of imprisonment of 15 years; and
- d. For a felony of the third degree, by a term of imprisonment of 5 years.

(b) A person sentenced under paragraph (a) shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Any person sentenced under paragraph (a) must serve 100 percent of the court-imposed sentence.

(c) Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. **775.084** or any other provision of law.

(d)1. It is the intent of the Legislature that offenders previously released from prison who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this subsection, unless the state attorney determines that extenuating circumstances exist which preclude the just prosecution of the offender, including whether the victim recommends that the offender not be sentenced as provided in this subsection.

2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney.

(10) If a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony as defined in s. **776.08**, and excluding any third degree felony violation under chapter 810, and if the total sentence points pursuant to s. **921.0024** are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.

(11) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

#### **775.083 Fines.—**

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. **775.082**; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. **775.082**. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

- (a) \$15,000, when the conviction is of a life felony.
- (b) \$10,000, when the conviction is of a felony of the first or second degree.
- (c) \$5,000, when the conviction is of a felony of the third degree.
- (d) \$1,000, when the conviction is of a misdemeanor of the first degree.
- (e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
- (g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. **142.01**. If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain. As used in this subsection, the term "convicted" or "conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(2) In addition to the fines set forth in subsection (1), court costs shall be assessed and collected in each instance a defendant pleads nolo contendere to, or is convicted of, or adjudicated delinquent for, a felony, a misdemeanor, or a criminal traffic offense under state law, or a violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law. The court costs imposed by this section shall be \$50 for a felony and \$20 for any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. A county shall account for the funds separately from other county funds as crime prevention funds. The county, in consultation with the sheriff, must expend such funds for crime prevention programs in the county, including safe neighborhood programs under ss. **163.501-163.523**.

(3) The purpose of this section is to provide uniform penalty authorization for criminal offenses and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.



- e. Aggravated child abuse;
- f. Aggravated abuse of an elderly person or disabled adult;
- g. Aggravated assault with a deadly weapon;
- h. Murder;
- i. Manslaughter;
- j. Aggravated manslaughter of an elderly person or disabled adult;
- k. Aggravated manslaughter of a child;
- l. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- m. Armed burglary;
- n. Aggravated battery;
- o. Aggravated stalking;
- p. Home invasion/robbery;
- q. Carjacking; or
- r. An offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to the elements of any felony offense enumerated in sub-subparagraphs a.-q., or an attempt to commit any such felony offense.

2. The felony for which the defendant is to be sentenced is one of the felonies enumerated in sub-subparagraphs 1.a.-q. and was committed:

- a. While the defendant was serving a prison sentence or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a.-r.; or
  - b. Within 5 years after the date of the conviction of the last prior offense enumerated in sub-subparagraphs 1.a.-r., or within 5 years after the defendant's release from a prison sentence, probation, community control, or other sentence imposed as a result of a prior conviction for any offense enumerated in sub-subparagraphs 1.a.-r., whichever is later.
3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this paragraph.
4. A conviction of a crime necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

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

- 1. The defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is:
  - a. Any forcible felony, as described in s. **776.08**;
  - b. Aggravated stalking, as described in s. **784.048**(3) and (4);
  - c. Aggravated child abuse, as described in s. **827.03**(2)(a);
  - d. Aggravated abuse of an elderly person or disabled adult, as described in s. **825.102**(2);
  - e. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, as described in s. **800.04** or s. **847.0135**(5);
  - f. Escape, as described in s. **944.40**; or
  - g. A felony violation of chapter 790 involving the use or possession of a firearm.
- 2. The defendant has been incarcerated in a state prison or a federal prison.
- 3. The primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1. and was committed on or after October 1, 1995, and:
  - a. While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or
  - b. Within 5 years after the conviction of the last prior enumerated felony, or within 5 years after the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.
- 4. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this paragraph.
- 5. A conviction of a felony or other qualified offense necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(e) "Qualified offense" means any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.

(2) For the purposes of this section, the placing of a person on probation or community control without an adjudication of guilt shall be treated as a prior conviction.

(3)(a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony

offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.
2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.
3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.
4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.
5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. **921.241**.
6. For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony offender or a habitual violent felony offender, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a habitual felony offender or a habitual violent felony offender as provided in this subparagraph.

(b) In a separate proceeding, the court shall determine if the defendant is a three-time violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a three-time violent felony offender.
2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.
3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.
4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.
5. For the purpose of identification of a three-time violent felony offender, the court shall fingerprint the defendant pursuant to s. **921.241**.
6. For an offense committed on or after the effective date of this act, if the state attorney pursues a three-time violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a three-time violent felony offender, subject to imprisonment pursuant to this section as provided in paragraph (4)(c).

(c) In a separate proceeding, the court shall determine whether the defendant is a violent career criminal with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.
2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.
3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (d).
4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. **921.241**.
5. For an offense committed on or after October 1, 1995, if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a violent career criminal, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a violent career criminal, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. Each month, the court shall submit to the Office of Economic and Demographic Research of the Legislature the written reasons or transcripts in each case in which the court determines not to sentence a defendant as a violent career criminal as provided in this subparagraph.

(d)1. A person sentenced under paragraph (4)(d) as a violent career criminal has the right of direct appeal, and either the state or the defendant may petition the trial court to vacate an illegal sentence at any time. However, the determination of the trial court to impose or not to impose a violent career criminal sentence is presumed appropriate and no petition or motion for collateral or other postconviction relief may be considered based on an allegation either by the state or the defendant that such sentence is inappropriate, inadequate, or excessive.

2. It is the intent of the Legislature that, with respect to both direct appeal and collateral review of violent career criminal sentences, all claims of error or illegality be raised at the first opportunity and that no claim should be filed more than 2 years after the judgment and sentence became final, unless it is established that the basis for the claim could not have been ascertained at the time by the exercise of

due diligence. Technical violations and mistakes at trials and sentencing proceedings involving violent career criminals that do not affect due process or fundamental fairness are not appealable by either the state or the defendant.

3. It is the intent of the Legislature that no funds, resources, or employees of the state or its political subdivisions be used, directly or indirectly, in appellate or collateral proceedings based on violent career criminal sentencing, except when such use is constitutionally or statutorily mandated.

(4)(a) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life.
2. In the case of a felony of the second degree, for a term of years not exceeding 30.
3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in paragraph (3)(a), may sentence the habitual violent felony offender as follows:

1. In the case of a life felony or a felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.
2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.
3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c)1. The court, in conformity with the procedure established in paragraph (3)(b), must sentence the three-time violent felony offender to a mandatory minimum term of imprisonment, as follows:

- a. In the case of a felony punishable by life, to a term of imprisonment for life;
- b. In the case of a felony of the first degree, to a term of imprisonment of 30 years;
- c. In the case of a felony of the second degree, to a term of imprisonment of 15 years; or
- d. In the case of a felony of the third degree, to a term of imprisonment of 5 years.

2. Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

(d) The court, in conformity with the procedure established in paragraph (3)(c), shall sentence the violent career criminal as follows:

1. In the case of a life felony or a felony of the first degree, for life.
2. In the case of a felony of the second degree, for a term of years not exceeding 40, with a mandatory minimum term of 30 years' imprisonment.
3. In the case of a felony of the third degree, for a term of years not exceeding 15, with a mandatory minimum term of 10 years' imprisonment.

(e) If the court finds, pursuant to paragraph (3)(a) or paragraph (3)(c), that it is not necessary for the protection of the public to sentence a defendant who meets the criteria for sentencing as a habitual felony offender, a habitual violent felony offender, or a violent career criminal, with respect to an offense committed on or after October 1, 1995, sentence shall be imposed without regard to this section.

(f) At any time when it appears to the court that the defendant is eligible for sentencing under this section, the court shall make that determination as provided in paragraph (3)(a), paragraph (3)(b), or paragraph (3)(c).

(g) A sentence imposed under this section shall not be increased after such imposition.

(h) A sentence imposed under this section is not subject to s. **921.002**.

(i) The provisions of this section do not apply to capital felonies, and a sentence authorized under this section does not preclude the imposition of the death penalty for a capital felony.

(j) The provisions of s. **947.1405** shall apply to persons sentenced as habitual felony offenders and persons sentenced as habitual violent felony offenders.

(k)1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in s. **944.275**(4)(b).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. **947.149**.

3. For an offense committed on or after July 1, 1999, a defendant sentenced under this section as a three-time violent felony offender shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release.

(5) In order to be counted as a prior felony for purposes of sentencing under this section, the felony must have resulted in a conviction sentenced separately prior to the current offense and sentenced separately from any other felony conviction that is to be counted as a prior felony.

(6) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section, and to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

**784.046 Action by victim of repeat violence, sexual violence, or dating violence for protective injunction; dating violence investigations, notice to victims, and reporting; pretrial release violations; public records exemption.—**

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

(a) “Violence” means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person.

(b) “Repeat violence” means two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner’s immediate family member.

(c) “Sexual violence” means any one incident of:

1. Sexual battery, as defined in chapter 794;
  2. A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age;
  3. Luring or enticing a child, as described in chapter 787;
  4. Sexual performance by a child, as described in chapter 827; or
  5. Any other forcible felony wherein a sexual act is committed or attempted,
- regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

(d) “Dating violence” means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past 6 months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

(2) There is created a cause of action for an injunction for protection in cases of repeat violence, there is created a separate cause of action for an injunction for protection in cases of dating violence, and there is created a separate cause of action for an injunction for protection in cases of sexual violence.

(a) Any person who is the victim of repeat violence or the parent or legal guardian of any minor child who is living at home and who seeks an injunction for protection against repeat violence on behalf of the minor child has standing in the circuit court to file a sworn petition for an injunction for protection against repeat violence.

(b) Any person who is the victim of dating violence and has reasonable cause to believe he or she is in imminent danger of becoming the victim of another act of dating violence, or any person who has reasonable cause to believe he or she is in imminent danger of becoming the victim of an act of dating violence, or the parent or legal guardian of any minor child who is living at home and who seeks an injunction for protection against dating violence on behalf of that minor child, has standing in the circuit court to file a sworn petition for an injunction for protection against dating violence.

(c) A person who is the victim of sexual violence or the parent or legal guardian of a minor child who is living at home who is the victim of sexual violence has standing in the circuit court to file a sworn petition for an injunction for protection against sexual violence on his or her own behalf or on behalf of the minor child if:

1. The person has reported the sexual violence to a law enforcement agency and is cooperating in any criminal proceeding against the respondent, regardless of whether criminal charges based on the sexual violence have been filed, reduced, or dismissed by the state attorney; or
2. The respondent who committed the sexual violence against the victim or minor child was sentenced to a term of imprisonment in state prison for the sexual violence and the respondent’s term of imprisonment has expired or is due to expire within 90 days following the date the petition is filed.

(d) A cause of action for an injunction may be sought whether or not any other petition, complaint, or cause of action is currently available or pending between the parties.

(e) A cause of action for an injunction does not require that the petitioner be represented by an attorney.

(3)(a) The clerk of the court shall provide a copy of this section, simplified forms, and clerical assistance for the preparation and filing of such a petition by any person who is not represented by counsel.

(b) Notwithstanding any other law, the clerk of the court may not assess a fee for filing a petition for protection against repeat violence, sexual violence, or dating violence. However, subject to legislative appropriation, the clerk of the court may, each quarter, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection issued by the court under this section at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay the law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee may not exceed \$20.

(c) No bond shall be required by the court for the entry of an injunction.

(d) The clerk of the court shall provide the petitioner with a certified copy of any injunction for protection against repeat violence, sexual violence, or dating violence entered by the court.

(4)(a) The sworn petition shall allege the incidents of repeat violence, sexual violence, or dating violence and shall include the specific

facts and circumstances that form the basis upon which relief is sought. With respect to a minor child who is living at home, the parent or legal guardian seeking the protective injunction on behalf of the minor child must:

1. Have been an eyewitness to, or have direct physical evidence or affidavits from eyewitnesses of, the specific facts and circumstances that form the basis upon which relief is sought, if the party against whom the protective injunction is sought is also a parent, stepparent, or legal guardian of the minor child; or
2. Have reasonable cause to believe that the minor child is a victim of repeat sexual or dating violence to form the basis upon which relief is sought, if the party against whom the protective injunction is sought is a person other than a parent, stepparent, or legal guardian of the minor child.

(b) The sworn petition must be in substantially the following form:

PETITION FOR INJUNCTION FOR PROTECTION  
AGAINST REPEAT VIOLENCE, SEXUAL  
VIOLENCE, OR DATING VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner (Name), who has been sworn and says that the following statements are true:

1. Petitioner resides at (address) (A petitioner for an injunction for protection against sexual violence may furnish an address to the court in a separate confidential filing if, for safety reasons, the petitioner requires the location of his or her current residence to be confidential pursuant to s. **119.071**(2)(j), Florida Statutes.)

2. Respondent resides at (address).

3.a. Petitioner has suffered repeat violence as demonstrated by the fact that the respondent has:

(enumerate incidents of violence)

b. Petitioner has suffered sexual violence as demonstrated by the fact that the respondent has: (enumerate incident of violence and include incident report number from law enforcement agency or attach notice of inmate release.)

c. Petitioner is a victim of dating violence and has reasonable cause to believe that he or she is in imminent danger of becoming the victim of another act of dating violence or has reasonable cause to believe that he or she is in imminent danger of becoming a victim of dating violence, as demonstrated by the fact that the respondent has: (list the specific incident or incidents of violence and describe the length of time of the relationship, whether it has been in existence during the last 6 months, the nature of the relationship of a romantic or intimate nature, the frequency and type of interaction, and any other facts that characterize the relationship.)

4. Petitioner genuinely fears repeat violence by the respondent.

5. Petitioner seeks: an immediate injunction against the respondent, enjoining him or her from committing any further acts of violence; an injunction enjoining the respondent from committing any further acts of violence; and an injunction providing any terms the court deems necessary for the protection of the petitioner and the petitioner's immediate family, including any injunctions or directives to law enforcement agencies.

(5) Upon the filing of the petition, the court shall set a hearing to be held at the earliest possible time. The respondent shall be personally served with a copy of the petition, notice of hearing, and temporary injunction, if any, prior to the hearing.

(6)(a) When it appears to the court that an immediate and present danger of violence exists, the court may grant a temporary injunction which may be granted in an ex parte hearing, pending a full hearing, and may grant such relief as the court deems proper, including an injunction enjoining the respondent from committing any acts of violence.

(b) Except as provided in s. **90.204**, in a hearing ex parte for the purpose of obtaining such temporary injunction, no evidence other than the verified pleading or affidavit shall be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing.

(c) Any such ex parte temporary injunction shall be effective for a fixed period not to exceed 15 days. However, an ex parte temporary injunction granted under subparagraph (2)(c)2. is effective for 15 days following the date the respondent is released from incarceration. A full hearing, as provided by this section, shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the ex parte injunction and the full hearing before or during a hearing, for good cause shown by any party.

(7) Upon notice and hearing, the court may grant such relief as the court deems proper, including an injunction:

(a) Enjoining the respondent from committing any acts of violence.

(b) Ordering such other relief as the court deems necessary for the protection of the petitioner, including injunctions or directives to law enforcement agencies, as provided in this section.

(c) The terms of the injunction shall remain in full force and effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. Such relief may be granted in addition to other civil or criminal remedies.

(d) A temporary or final judgment on injunction for protection against repeat violence, sexual violence, or dating violence entered pursuant to this section shall, on its face, indicate that:

1. The injunction is valid and enforceable in all counties of the State of Florida.

2. Law enforcement officers may use their arrest powers pursuant to s. **901.15**(6) to enforce the terms of the injunction.

3. The court had jurisdiction over the parties and matter under the laws of Florida and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's right to due process.

4. The date that the respondent was served with the temporary or final order, if obtainable.

(8)(a)1. The clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a

law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. When requested by the sheriff, the clerk of the court may transmit a facsimile copy of an injunction that has been certified by the clerk of the court, and this facsimile copy may be served in the same manner as a certified copy. Upon receiving a facsimile copy, the sheriff must verify receipt with the sender before attempting to serve it upon the respondent. In addition, if the sheriff is in possession of an injunction for protection that has been certified by the clerk of the court, the sheriff may transmit a facsimile copy of that injunction to a law enforcement officer who shall serve it in the same manner as a certified copy. The clerk of the court shall be responsible for furnishing to the sheriff such information on the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section. Notwithstanding any other provision of law to the contrary, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the chief judge's jurisdiction to effect this type of service and to receive a portion of the service fee. No person shall be authorized or permitted to serve or execute an injunction issued under this section unless the person is a law enforcement officer as defined in chapter 943.

2. When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against repeat violence, sexual violence, or dating violence, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

(b) There shall be created a Domestic, Dating, Sexual, and Repeat Violence Injunction Statewide Verification System within the Department of Law Enforcement. The department shall establish, implement, and maintain a statewide communication system capable of electronically transmitting information to and between criminal justice agencies relating to domestic violence injunctions, dating violence injunctions, sexual violence injunctions, and repeat violence injunctions issued by the courts throughout the state. Such information must include, but is not limited to, information as to the existence and status of any injunction for verification purposes.

(c)1. Within 24 hours after the court issues an injunction for protection against repeat violence, sexual violence, or dating violence or changes or vacates an injunction for protection against repeat violence, sexual violence, or dating violence, the clerk of the court must forward a copy of the injunction to the sheriff with jurisdiction over the residence of the petitioner.

2. Within 24 hours after service of process of an injunction for protection against repeat violence, sexual violence, or dating violence upon a respondent, the law enforcement officer must forward the written proof of service of process to the sheriff with jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives a certified copy of the injunction for protection against repeat violence, sexual violence, or dating violence, the sheriff must make information relating to the injunction available to other law enforcement agencies by electronically transmitting such information to the department.

4. Within 24 hours after the sheriff or other law enforcement officer has made service upon the respondent and the sheriff has been so notified, the sheriff must make information relating to the service available to other law enforcement agencies by electronically transmitting such information to the department.

5.a. Subject to available funding, the Florida Association of Court Clerks and Comptrollers shall develop an automated process by which a petitioner may request notification of service of the injunction for protection against repeat violence, sexual violence, or dating violence and other court actions related to the injunction for protection. The automated notice shall be made within 12 hours after the sheriff or other law enforcement officer serves the injunction upon the respondent. The notification must include, at a minimum, the date, time, and location where the injunction for protection against repeat violence, sexual violence, or dating violence was served. When a petitioner makes a request for notification, the clerk must apprise the petitioner of her or his right to request in writing that the information specified in sub-subparagraph b. be held exempt from public records requirements for 5 years. The Florida Association of Court Clerks and Comptrollers may apply for any available grants to fund the development of the automated process.

b. Upon implementation of the automated process, information held by clerks and law enforcement agencies in conjunction with the automated process developed under sub-subparagraph a. which reveals the home or employment telephone number, cellular telephone number, home or employment address, electronic mail address, or other electronic means of identification of a petitioner requesting notification of service of an injunction for protection against repeat violence, sexual violence, or dating violence and other court actions related to the injunction for protection is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, upon written request by the petitioner. Such information shall cease to be exempt 5 years after the receipt of the written request. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in the furtherance of such agency's statutory duties, notwithstanding this sub-subparagraph. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

6. Within 24 hours after an injunction for protection against repeat violence, sexual violence, or dating violence is lifted, terminated, or otherwise rendered no longer effective by ruling of the court, the clerk of the court must notify the sheriff or local law enforcement agency receiving original notification of the injunction as provided in subparagraph 2. That agency shall, within 24 hours after receiving such notification from the clerk of the court, notify the department of such action of the court.

(9)(a) The court shall enforce, through a civil or criminal contempt proceeding, a violation of an injunction for protection. The court may enforce the respondent's compliance with the injunction by imposing a monetary assessment. The clerk of the court shall collect and receive such assessments. On a monthly basis, the clerk shall transfer the moneys collected pursuant to this paragraph to the State Treasury for deposit in the Crimes Compensation Trust Fund established in s. 960.21.

(b) If the respondent is arrested by a law enforcement officer under s. 901.15(6) for committing an act of repeat violence, sexual violence, or dating violence in violation of an injunction for protection, the respondent shall be held in custody until brought before the court as expeditiously as possible for the purpose of enforcing the injunction and for admittance to bail in accordance with chapter 903 and the applicable rules of criminal procedure, pending a hearing.

(10) The petitioner or the respondent may move the court to modify or dissolve an injunction at any time.

(11) Any law enforcement officer who investigates an alleged incident of dating violence shall assist the victim to obtain medical

treatment if such is required as a result of the alleged incident to which the officer responds. Any law enforcement officer who investigates an alleged incident of dating violence shall advise the victim of such violence that there is a domestic violence center from which the victim may receive services. The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available on a standard form developed and distributed by the Department of Law Enforcement. As necessary, the Department of Law Enforcement shall revise the Legal Rights and Remedies Notice to Victims to include a general summary of this section, using simple English as well as Spanish, and shall distribute the notice as a model form to be used by all law enforcement agencies throughout the state. The notice shall include:

(a) The resource listing, including telephone number, for the area domestic violence center designated by the Department of Children and Families; and

(b) A copy of the following statement: "IF YOU ARE THE VICTIM OF DATING VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from dating violence which may include, but need not be limited to, provisions that restrain the abuser from further acts of abuse; direct the abuser to leave your household; and prevent the abuser from entering your residence, school, business, or place of employment."

(12) When a law enforcement officer investigates an allegation that an incident of dating violence has occurred, the officer shall handle the incident pursuant to the arrest policy provided in s. 901.15(7), and as developed in accordance with subsections (13), (14), and (16). Whether or not an arrest is made, the officer shall make a written police report that is complete and clearly indicates that the alleged offense was an incident of dating violence. Such report shall be given to the officer's supervisor and filed with the law enforcement agency in a manner that will permit data on dating violence cases to be compiled. Such report must include:

(a) A description of physical injuries observed, if any.

(b) If a law enforcement officer decides not to make an arrest or decides to arrest two or more parties, the grounds for not arresting anyone or for arresting two or more parties.

(c) A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.

Whenever possible, the law enforcement officer shall obtain a written statement from the victim and witnesses concerning the alleged dating violence. The officer shall submit the report to the supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made. The law enforcement agency shall, without charge, send a copy of the initial police report, as well as any subsequent, supplemental, or related report, which excludes victim or witness statements or other materials that are part of an active criminal investigation and are exempt from disclosure under chapter 119, to the nearest locally certified domestic violence center within 24 hours after the agency's receipt of the report. The report furnished to the domestic violence center must include a narrative description of the dating violence incident.

(13) Whenever a law enforcement officer determines upon probable cause that an act of dating violence has been committed within the jurisdiction, or that a person has violated a condition of pretrial release as provided in s. 903.047 and the original arrest was for an act of dating violence, the officer may arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not require consent of the victim or consideration of the relationship of the parties.

(14)(a) When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for arrest.

(b) If a law enforcement officer has probable cause to believe that two or more persons have committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend himself or herself or another family or household member from dating violence.

(15) A person who willfully violates a condition of pretrial release provided in s. 903.047, when the original arrest was for an act of dating violence as defined in this section, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be held in custody until his or her first appearance.

(16) A law enforcement officer acting in good faith under this section and the officer's employing agency shall be immune from all liability, civil or criminal, that might otherwise be incurred or imposed by reason of the officer's or agency's actions in carrying out the provisions of this section.

#### **784.048 Stalking; definitions; penalties.—**

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

(a) "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

(b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.

(c) "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.

(d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

(2) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to

that person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(4) A person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. **784.046**, or an injunction for protection against domestic violence pursuant to s. **741.30**, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(5) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child under 16 years of age commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(6) A law enforcement officer may arrest, without a warrant, any person that he or she has probable cause to believe has violated this section.

(7) A person who, after having been sentenced for a violation of s. **794.011**, s. **800.04**, or s. **847.0135**(5) and prohibited from contacting the victim of the offense under s. **921.244**, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the victim commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(8) The punishment imposed under this section shall run consecutive to any former sentence imposed for a conviction for any offense under s. **794.011**, s. **800.04**, or s. **847.0135**(5).

(9)(a) The sentencing court shall consider, as a part of any sentence, issuing an order restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any such order be based upon the seriousness of the facts before the court, the probability of future violations by the perpetrator, and the safety of the victim and his or her family members or individuals closely associated with the victim.

(b) The order may be issued by the court even if the defendant is sentenced to a state prison or a county jail or even if the imposition of the sentence is suspended and the defendant is placed on probation.

#### **787.01 Kidnapping; kidnapping of child under age 13, aggravating circumstances.—**

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

1. Hold for ransom or reward or as a shield or hostage.
2. Commit or facilitate commission of any felony.
3. Inflict bodily harm upon or to terrorize the victim or another person.
4. Interfere with the performance of any governmental or political function.

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

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

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

1. Aggravated child abuse, as defined in s. **827.03**;
  2. Sexual battery, as defined in chapter 794, against the child;
  3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. **800.04** or s. **847.0135**(5);
  4. A violation of former s. **796.03** or s. **796.04**, relating to prostitution, upon the child;
  5. Exploitation of the child or allowing the child to be exploited, in violation of s. **450.151**; or
  6. A violation of s. **787.06**(3)(g), relating to human trafficking,
- commits a life felony, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(b) Pursuant to s. **775.021**(4), nothing contained herein shall be construed to prohibit the imposition of separate judgments and sentences for the life felony described in paragraph (a) and for each separate offense enumerated in subparagraphs (a)1.-5.

#### **787.02 False imprisonment; false imprisonment of child under age 13, aggravating circumstances.—**

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

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

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

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

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

3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. **800.04** or s. **847.0135(5)**;
4. A violation of former s. **796.03** or s. **796.04**, relating to prostitution, upon the child;
5. Exploitation of the child or allowing the child to be exploited, in violation of s. **450.151**; or
6. A violation of s. **787.06(3)(g)** relating to human trafficking.

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

#### **787.025 Luring or enticing a child.—**

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

- (a) “Structure” means a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof.
- (b) “Dwelling” means a building or conveyance of any kind, either temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging together therein at night, together with the curtilage thereof.
- (c) “Conveyance” means any motor vehicle, ship, vessel, railroad car, trailer, aircraft, or sleeping car.
- (d) “Convicted” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(2)(a) A person 18 years of age or older who intentionally lures or entices, or attempts to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose commits a misdemeanor of the first degree, punishable as provided in s. **775.082** or s. **775.083**.

(b) A person 18 years of age or older who, having been previously convicted of a violation of paragraph (a), intentionally lures or entices, or attempts to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(c) A person 18 years of age or older who, having been previously convicted of a violation of chapter 794, s. **800.04**, or s. **847.0135(5)**, or a violation of a similar law of another jurisdiction, intentionally lures or entices, or attempts to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

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

- (a) The person reasonably believed that his or her action was necessary to prevent the child from being seriously injured.
- (b) The person lured or enticed, or attempted to lure or entice, the child under the age of 12 into a structure, dwelling, or conveyance for a lawful purpose.
- (c) The person’s actions were reasonable under the circumstances and the defendant did not have any intent to harm the health, safety, or welfare of the child.

#### **794.011 Sexual battery.—**

(1) As used in this chapter:

- (a) “Consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. “Consent” shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.
- (b) “Mentally defective” means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.
- (c) “Mentally incapacitated” means temporarily incapable of appraising or controlling a person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.
- (d) “Offender” means a person accused of a sexual offense in violation of a provision of this chapter.
- (e) “Physically helpless” means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.
- (f) “Retaliation” includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.
- (g) “Serious personal injury” means great bodily harm or pain, permanent disability, or permanent disfigurement.
- (h) “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.
- (i) “Victim” means a person who has been the object of a sexual offense.
- (j) “Physically incapacitated” means bodily impaired or handicapped and substantially limited in ability to resist or flee.

(2)(a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in ss. **775.082** and **921.141**.

(b) A person less than 18 years of age who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a life felony, punishable as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115**.

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person’s consent, and in the process

thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115**.

(4)(a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115**.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115**.

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115**.

(d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115** if the person commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), and such person was previously convicted of a violation of:

1. Section **787.01(2)** or s. **787.02(2)** when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. **800.04** or s. **847.0135(5)**;

2. Section **787.01(3)(a)2.** or 3.;

3. Section **787.02(3)(a)2.** or 3.;

4. Section **800.04**;

5. Section **825.1025**;

6. Section **847.0135(5)**; or

7. This chapter, excluding subsection (10) of this section.

(e) The following circumstances apply to paragraphs (a)-(d):

1. The victim is physically helpless to resist.

2. The offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.

3. The offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.

4. The offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim.

5. The victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact.

6. The victim is physically incapacitated.

7. The offender is a law enforcement officer, correctional officer, or correctional probation officer as defined in s. **943.10(1)**, (2), (3), (6), (7), (8), or (9), who is certified under s. **943.1395** or is an elected official exempt from such certification by virtue of s. **943.253**, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.

(5)(a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the first degree, punishable as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115**.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115**.

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115**.

(d) A person commits a felony of the first degree, punishable as provided in s. **775.082**, s. **775.083**, s. **775.084**, or s. **794.0115** if the person commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of a violation of:

1. Section **787.01(2)** or s. **787.02(2)** when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. **800.04** or s. **847.0135(5)**;

2. Section **787.01(3)(a)2.** or 3.;

3. Section **787.02(3)(a)2.** or 3.;

4. Section **800.04**;

5. Section **825.1025**;

6. Section **847.0135(5)**; or

7. This chapter, excluding subsection (10) of this section.

(6)(a) The offenses described in paragraphs (5)(a)-(c) are included in any sexual battery offense charged under subsection (3).

(b) The offense described in paragraph (5)(a) is included in an offense charged under paragraph (4)(a).

(c) The offense described in paragraph (5)(b) is included in an offense charged under paragraph (4)(b).

(d) The offense described in paragraph (5)(c) is included in an offense charged under paragraph (4)(c).

(e) The offense described in paragraph (5)(d) is included in an offense charged under paragraph (4)(d).

(7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for basic gain-time under s. **944.275**. This subsection may be cited as the “Junny Rios-Martinez, Jr. Act of 1992.”

(8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:

(a) Solicits that person to engage in any act which would constitute sexual battery under paragraph (1)(h) commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(b) Engages in any act with that person while the person is 12 years of age or older but younger than 18 years of age which constitutes sexual battery under paragraph (1)(h) commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(c) Engages in any act with that person while the person is less than 12 years of age which constitutes sexual battery under paragraph (1)(h), or in an attempt to commit sexual battery injures the sexual organs of such person commits a capital or life felony, punishable pursuant to subsection (2).

(9) For prosecution under paragraph (4)(a), paragraph (4)(b), paragraph (4)(c), or paragraph (4)(d) which involves an offense committed under any of the circumstances listed in subparagraph (4)(e)7., acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.

(10) A person who falsely accuses a person listed in subparagraph (4)(e)7. or other person in a position of control or authority as an agent or employee of government of violating paragraph (4)(a), paragraph (4)(b), paragraph (4)(c), or paragraph (4)(d) commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

#### **794.0115 Dangerous sexual felony offender; mandatory sentencing.—**

(1) This section may be cited as the “Dangerous Sexual Felony Offender Act.”

(2) Any person who is convicted of a violation of s. **787.025**(2)(c); s. **794.011**(2), (3), (4), (5), or (8); s. **800.04**(4) or (5); s. **825.1025**(2) or (3); s. **827.071**(2), (3), or (4); or s. **847.0145**; or of any similar offense under a former designation, which offense the person committed when he or she was 18 years of age or older, and the person:

(a) Caused serious personal injury to the victim as a result of the commission of the offense;

(b) Used or threatened to use a deadly weapon during the commission of the offense;

(c) Victimized more than one person during the course of the criminal episode applicable to the offense;

(d) Committed the offense while under the jurisdiction of a court for a felony offense under the laws of this state, for an offense that is a felony in another jurisdiction, or for an offense that would be a felony if that offense were committed in this state; or

(e) Has previously been convicted of a violation of s. **787.025**(2)(c); s. **794.011**(2), (3), (4), (5), or (8); s. **800.04**(4) or (5); s. **825.1025**(2) or (3); s. **827.071**(2), (3), or (4); s. **847.0145**; of any offense under a former statutory designation which is similar in elements to an offense described in this paragraph; or of any offense that is a felony in another jurisdiction, or would be a felony if that offense were committed in this state, and which is similar in elements to an offense described in this paragraph,

is a dangerous sexual felony offender, who must be sentenced to a mandatory minimum term of 25 years imprisonment up to, and including, life imprisonment. If the offense described in this subsection was committed on or after October 1, 2014, a person who qualifies as a dangerous sexual felony offender pursuant to this subsection must be sentenced to a mandatory minimum term of 50 years imprisonment up to, and including, life imprisonment.

(3) “Serious personal injury” means great bodily harm or pain, permanent disability, or permanent disfigurement.

(4) The offense described in subsection (2) which is being charged must have been committed after the date of commission of the last prior conviction for an offense that is a prior conviction described in paragraph (2)(e).

(5) It is irrelevant that a factor listed in subsection (2) is an element of an offense described in that subsection. It is also irrelevant that such an offense was reclassified to a higher felony degree under s. **794.023** or any other law.

(6) Notwithstanding s. **775.082**(3), chapter 958, any other law, or any interpretation or construction thereof, a person subject to sentencing under this section must be sentenced to the mandatory term of imprisonment provided under this section. If the mandatory minimum term of imprisonment imposed under this section exceeds the maximum sentence authorized under s. **775.082**, s. **775.084**, or chapter 921, the mandatory minimum term of imprisonment under this section must be imposed. If the mandatory minimum term of imprisonment under this section is less than the sentence that could be imposed under s. **775.082**, s. **775.084**, or chapter 921, the sentence imposed must include the mandatory minimum term of imprisonment under this section.

(7) A defendant sentenced to a mandatory minimum term of imprisonment under this section is not eligible for statutory gain-time under s. **944.275** or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. **947.149**, before serving the minimum sentence.

#### **794.02 Common-law presumption relating to age abolished.—**

The common-law rule “that a boy under 14 years of age is conclusively presumed to be incapable of committing the crime of rape” shall not be in force in this state.

**794.021 Ignorance or belief as to victim's age no defense.—**

When, in this chapter, the criminality of conduct depends upon the victim's being below a certain specified age, ignorance of the age is no defense. Neither shall misrepresentation of age by such person nor a bona fide belief that such person is over the specified age be a defense.

**794.023 Sexual battery by multiple perpetrators; reclassification of offenses.—**

(1) The Legislature finds that an act of sexual battery, when committed by more than one person, presents a great danger to the public and is extremely offensive to civilized society. It is therefore the intent of the Legislature to reclassify offenses for acts of sexual battery committed by more than one person.

(2) A violation of s. **794.011** shall be reclassified as provided in this subsection if it is charged and proven by the prosecution that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

(a) A felony of the second degree is reclassified to a felony of the first degree.

(b) A felony of the first degree is reclassified to a life felony.

This subsection does not apply to life felonies or capital felonies. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. **921.0022** or s. **921.0023** of the offense committed.

**794.05 Unlawful sexual activity with certain minors.—**

(1) A person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**. As used in this section, "sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

(2) The provisions of this section do not apply to a person 16 or 17 years of age who has had the disabilities of nonage removed under chapter 743.

(3) The victim's prior sexual conduct is not a relevant issue in a prosecution under this section.

(4) If an offense under this section directly results in the victim giving birth to a child, paternity of that child shall be established as described in chapter 742. If it is determined that the offender is the father of the child, the offender must pay child support pursuant to the child support guidelines described in chapter 61.

**800.04 Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.—**

(1) DEFINITIONS.—As used in this section:

(a) "Sexual activity" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

(b) "Consent" means intelligent, knowing, and voluntary consent, and does not include submission by coercion.

(c) "Coercion" means the use of exploitation, bribes, threats of force, or intimidation to gain cooperation or compliance.

(d) "Victim" means a person upon whom an offense described in this section was committed or attempted or a person who has reported a violation of this section to a law enforcement officer.

(2) PROHIBITED DEFENSES.—Neither the victim's lack of chastity nor the victim's consent is a defense to the crimes proscribed by this section.

(3) IGNORANCE OR BELIEF OF VICTIM'S AGE.—The perpetrator's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the perpetrator's bona fide belief of the victim's age cannot be raised as a defense in a prosecution under this section.

(4) LEWD OR LASCIVIOUS BATTERY.—

(a) A person commits lewd or lascivious battery by:

1. Engaging in sexual activity with a person 12 years of age or older but less than 16 years of age; or

2. Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.

(b) Except as provided in paragraph (c), an offender who commits lewd or lascivious battery commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(c) A person commits a felony of the first degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084** if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of:

1. Section **787.01(2)** or s. **787.02(2)** when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. **847.0135(5)**;

2. Section **787.01(3)(a)2.** or 3.;

3. Section **787.02(3)(a)2.** or 3.;

4. Chapter 794, excluding s. **794.011(10)**;

5. Section **825.1025**;

6. Section **847.0135(5)**; or

7. This section.

(5) LEWD OR LASCIVIOUS MOLESTATION.—

(a) A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

(b) An offender 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 years of age commits a life felony, punishable as provided in s. **775.082**(3)(a)4.

(c)1. An offender less than 18 years of age who commits lewd or lascivious molestation against a victim less than 12 years of age; or  
2. An offender 18 years of age or older who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age

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

(d) An offender less than 18 years of age who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(e) A person commits a felony of the first degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084** if the person is 18 years of age or older and commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age and the person was previously convicted of a violation of:

1. Section **787.01**(2) or s. **787.02**(2) when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. **847.0135**(5);

2. Section **787.01**(3)(a)2. or 3.;

3. Section **787.02**(3)(a)2. or 3.;

4. Chapter 794, excluding s. **794.011**(10);

5. Section **825.1025**;

6. Section **847.0135**(5); or

7. This section.

(6) LEWD OR LASCIVIOUS CONDUCT.—

(a) A person who:

1. Intentionally touches a person under 16 years of age in a lewd or lascivious manner; or

2. Solicits a person under 16 years of age to commit a lewd or lascivious act

commits lewd or lascivious conduct.

(b) An offender 18 years of age or older who commits lewd or lascivious conduct commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(c) An offender less than 18 years of age who commits lewd or lascivious conduct commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(7) LEWD OR LASCIVIOUS EXHIBITION.—

(a) A person who:

1. Intentionally masturbates;

2. Intentionally exposes the genitals in a lewd or lascivious manner; or

3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity

in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition.

(b) An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(c) An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(8) EXCEPTION.—A mother's breastfeeding of her baby does not under any circumstance constitute a violation of this section.

**825.1025 Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.—**

(1) As used in this section, "sexual activity" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

(2)(a) "Lewd or lascivious battery upon an elderly person or disabled person" occurs when a person encourages, forces, or entices an elderly person or disabled person to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.

(b) A person who commits lewd or lascivious battery upon an elderly person or disabled person commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(3)(a) "Lewd or lascivious molestation of an elderly person or disabled person" occurs when a person intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of an elderly person or disabled person when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.

(b) A person who commits lewd or lascivious molestation of an elderly person or disabled person commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(4)(a) "Lewd or lascivious exhibition in the presence of an elderly person or disabled person" occurs when a person, in the presence of an elderly person or disabled person:

1. Intentionally masturbates;
2. Intentionally exposes his or her genitals in a lewd or lascivious manner; or
3. Intentionally commits any other lewd or lascivious act that does not involve actual physical or sexual contact with the elderly person or disabled person, including but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity,

when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent to having such act committed in his or her presence.

(b) A person who commits a lewd or lascivious exhibition in the presence of an elderly person or disabled person commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

#### **827.071 Sexual performance by a child; penalties.—**

(1) As used in this section, the following definitions shall apply:

(a) "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(b) "Intentionally view" means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time.

(c) "Performance" means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

(d) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

(e) "Sadomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(f) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, "sexual battery" does not include an act done for a bona fide medical purpose.

(g) "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(h) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(i) "Sexual performance" means any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

(j) "Simulated" means the explicit depiction of conduct set forth in paragraph (h) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(4) It is unlawful for any person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(5)(a) It is unlawful for any person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. If such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation includes sexual conduct by more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(b) This subsection does not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

(6) Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this state for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

**847.0135 Computer pornography; prohibited computer usage; traveling to meet minor; penalties.—**

(1) SHORT TITLE.—This section shall be known and may be cited as the “Computer Pornography and Child Exploitation Prevention Act.”

(2) COMPUTER PORNOGRAPHY.—A person who:

- (a) Knowingly compiles, enters into, or transmits by use of computer;
- (b) Makes, prints, publishes, or reproduces by other computerized means;
- (c) Knowingly causes or allows to be entered into or transmitted by use of computer; or
- (d) Buys, sells, receives, exchanges, or disseminates, any notice, statement, or advertisement of any minor’s name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct, commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES PROHIBITED.—Any person who knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- (a) Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or
- (b) Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct, commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**. Any person who, in violating this subsection, misrepresents his or her age, commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**. Each separate use of a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission wherein an offense described in this section is committed may be charged as a separate offense.

(4) TRAVELING TO MEET A MINOR.—Any person who travels any distance either within this state, to this state, or from this state by any means, who attempts to do so, or who causes another to do so or to attempt to do so for the purpose of engaging in any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- (a) Seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in other unlawful sexual conduct with a child; or
- (b) Solicit, lure, or entice or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct,

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

(5) CERTAIN COMPUTER TRANSMISSIONS PROHIBITED.—

(a) A person who:

- 1. Intentionally masturbates;
- 2. Intentionally exposes the genitals in a lewd or lascivious manner; or
- 3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity live over a computer online service, Internet service, or local bulletin board service and who knows or should know or has reason to believe that the transmission is viewed on a computer or television monitor by a victim who is less than 16 years of age, commits lewd or lascivious exhibition in violation of this subsection. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this subsection shall not constitute a defense to a prosecution under this subsection.

(b) An offender 18 years of age or older who commits a lewd or lascivious exhibition using a computer commits a felony of the second degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(c) An offender less than 18 years of age who commits a lewd or lascivious exhibition using a computer commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(d) A mother’s breastfeeding of her baby does not under any circumstance constitute a violation of this subsection.

(6) OWNERS OR OPERATORS OF COMPUTER SERVICES LIABLE.—It is unlawful for any owner or operator of a computer online service, Internet service, or local bulletin board service knowingly to permit a subscriber to use the service to commit a violation of this section. Any person who violates this section commits a misdemeanor of the first degree, punishable by a fine not exceeding \$2,000.

(7) STATE CRIMINAL JURISDICTION.—A person is subject to prosecution in this state pursuant to chapter 910 for any conduct proscribed by this section which the person engages in, while either within or outside this state, if by such conduct the person commits a violation of this section involving a child, a child’s guardian, or another person believed by the person to be a child or a child’s guardian.

(8) EFFECT OF PROSECUTION.—Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

**847.0145 Selling or buying of minors; penalties.—**

(1) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, either:

(a) With knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(b) With intent to promote either:

1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or
2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be guilty of a felony of the first degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(2) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor, either:

(a) With knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct;

(b) With intent to promote either:

1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or
2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be guilty of a felony of the first degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

**921.0022 Criminal Punishment Code; offense severity ranking chart.—**

(1) The offense severity ranking chart must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe, which are level 1 offenses, to most severe, which are level 10 offenses, and each felony offense is assigned to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. **775.0845**, s. **775.085**, s. **775.0861**, s. **775.0862**, s. **775.0863**, s. **775.087**, s. **775.0875**, s. **794.023**, or any other law that provides an enhanced penalty for a felony offense, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. **921.0023**.

**921.0023 Criminal Punishment Code; ranking unlisted felony offenses.—**

A felony offense committed on or after October 1, 1998, that is not listed in s. **921.0022** is ranked with respect to offense severity level by the Legislature, commensurate with the harm or potential harm that is caused by the offense to the community. Until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- (1) A felony of the third degree within offense level 1.
- (2) A felony of the second degree within offense level 4.
- (3) A felony of the first degree within offense level 7.
- (4) A felony of the first degree punishable by life within offense level 9.
- (5) A life felony within offense level 10.

**921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—**

(1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. **775.082**. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating factors enumerated in subsection (6) and for which notice has been provided pursuant to s. **782.04**(1)(b) or mitigating circumstances enumerated in subsection (7). Any such evidence that the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the Constitution of the State of Florida. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against sentence of death.

(2) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This subsection applies only if the defendant has not waived his or her right to a sentencing proceeding by a jury.

(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and

determine if the state has proven, beyond a reasonable doubt, the existence of at least one aggravating factor set forth in subsection (6).

(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that an aggravating factor exists must be unanimous. If the jury:

1. Does not unanimously find at least one aggravating factor, the defendant is ineligible for a sentence of death.
2. Unanimously finds at least one aggravating factor, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:
  - a. Whether sufficient aggravating factors exist.
  - b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.
  - c. Based on the considerations in sub-subparagraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.

(c) If a unanimous jury determines that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If a unanimous jury does not determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.

### (3) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

(a) If the jury has recommended a sentence of:

1. Life imprisonment without the possibility of parole, the court shall impose the recommended sentence.
2. Death, the court, after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury.

(b) If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds that at least one aggravating factor has been proven to exist beyond a reasonable doubt.

(4) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF DEATH.—In each case in which the court imposes a sentence of death, the court shall, considering the records of the trial and the sentencing proceedings, enter a written order addressing the aggravating factors set forth in subsection (6) found to exist, the mitigating circumstances in subsection (7) reasonably established by the evidence, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence. If the court does not issue its order requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose a sentence of life imprisonment without the possibility of parole in accordance with s. **775.082**.

(5) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida and disposition rendered within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules adopted by the Supreme Court.

(6) AGGRAVATING FACTORS.—Aggravating factors shall be limited to the following:

- (a) The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.
- (b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.
- (c) The defendant knowingly created a great risk of death to many persons.
- (d) The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.
- (e) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- (f) The capital felony was committed for pecuniary gain.
- (g) The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- (h) The capital felony was especially heinous, atrocious, or cruel.
- (i) The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.
- (j) The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.
- (k) The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.
- (l) The victim of the capital felony was a person less than 12 years of age.
- (m) The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.
- (n) The capital felony was committed by a criminal gang member, as defined in s. **874.03**.
- (o) The capital felony was committed by a person designated as a sexual predator pursuant to s. **775.21** or a person previously

designated as a sexual predator who had the sexual predator designation removed.

(p) The capital felony was committed by a person subject to an injunction issued pursuant to s. **741.30** or s. **784.046**, or a foreign protection order accorded full faith and credit pursuant to s. **741.315**, and was committed against the petitioner who obtained the injunction or protection order or any spouse, child, sibling, or parent of the petitioner.

(7) MITIGATING CIRCUMSTANCES.—Mitigating circumstances shall be the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The victim was a participant in the defendant's conduct or consented to the act.

(d) The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.

(e) The defendant acted under extreme duress or under the substantial domination of another person.

(f) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.

(g) The age of the defendant at the time of the crime.

(h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

(8) VICTIM IMPACT EVIDENCE.—Once the prosecution has provided evidence of the existence of one or more aggravating factors as described in subsection (6), the prosecution may introduce, and subsequently argue, victim impact evidence to the jury. Such evidence shall be designed to demonstrate the victim's uniqueness as an individual human being and the resultant loss to the community's members by the victim's death. Characterizations and opinions about the crime, the defendant, and the appropriate sentence shall not be permitted as a part of victim impact evidence.

(9) APPLICABILITY.—This section does not apply to a person convicted or adjudicated guilty of a capital drug trafficking felony under s. **893.135**.

#### **921.244 Order of no contact; penalties.—**

(1) At the time of sentencing an offender convicted of a violation of s. **794.011**, s. **800.04**, s. **847.0135**(5), or any offense in s. **775.084**(1)(b)1.a.-o., the court shall order that the offender be prohibited from having any contact with the victim, directly or indirectly, including through a third person, for the duration of the sentence imposed. The court may reconsider the order upon the request of the victim if the request is made at any time after the victim has attained 18 years of age. In considering the request, the court shall conduct an evidentiary hearing to determine whether a change of circumstances has occurred which warrants a change in the court order prohibiting contact and whether it is in the best interest of the victim that the court order be modified or rescinded.

(2) Any offender who violates a court order issued under this section commits a felony of the third degree, punishable as provided in s. **775.082**, s. **775.083**, or s. **775.084**.

(3) The punishment imposed under this section shall run consecutive to any former sentence imposed for a conviction for any offense under s. **794.011**, s. **800.04**, s. **847.0135**(5), or any offense in s. **775.084**(1)(b)1.a.-o.

#### **943.10 Definitions; ss. 943.085-943.255.—**

The following words and phrases as used in ss. **943.085-943.255** are defined as follows:

(1) "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

(2) "Correctional officer" means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.

(3) "Correctional probation officer" means a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level.

(4) "Employing agency" means any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility.

(5) "Commission" means the Criminal Justice Standards and Training Commission.

(6) "Part-time law enforcement officer" means any person employed or appointed less than full time, as defined by an employing agency, with or without compensation, who is vested with authority to bear arms and make arrests and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

(7) "Part-time correctional officer" means any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.

(8) "Auxiliary law enforcement officer" means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time law enforcement officer and who, while under the direct supervision of a full-time or part-time law enforcement officer, has the authority to arrest and perform law enforcement functions.

(9) "Auxiliary correctional officer" means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

(10) "Private criminal justice training school" means any private school, corporation, or institution, for profit or not for profit, devoted wholly or in part to instruction, by correspondence or otherwise, in criminal justice services, administration, training, and education, which awards any type of certificate, diploma, degree, or recognition for attendance, graduation, study, or participation to students, enrollees, or participants. This definition applies to all such schools operating wholly or in part within the state, including those chartered, incorporated, or formed outside the state.

(11) "Support personnel" means any person employed or appointed by an employing agency who is not an officer or, as specified by the commission, other professional employee in the criminal justice system.

(12) "Program" means the Criminal Justice Professionalism Program of the Department of Law Enforcement.

(13) "Head of the department" means the Governor and Cabinet, as provided for in ss. **20.201** and **20.03**(4).

(14) "Officer" means any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer.

(15) "Public criminal justice training school" means any academy operated by an employing agency that is certified by the commission to conduct criminal justice training courses.

(16) "Criminal justice training school" means any private or public criminal justice training school certified by the commission.

(17) "Training center director" means a full-time salaried employee of a criminal justice training school who is responsible for the scheduling and general management of criminal justice courses and supervision and evaluation of criminal justice instructors.

(18) "Auxiliary correctional probation officer" means any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional probation officer and who, while under the supervision of a full-time or part-time correctional probation officer, has the same authority as a full-time or part-time correctional probation officer for the purpose of providing supervision of offenders in the community.

(19) "Part-time correctional probation officer" means a person who is employed less than full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or in the community.

(20) "Diverse population" means members of a cultural group with common origins, customs, and styles of living. This definition includes both ethnic and religious minorities.

(21) "Criminal justice executive" includes executives of law enforcement, correctional, and correctional probation agencies.

(22) "Special operations forces" means those active and reserve component forces of the military services designated by the Secretary of Defense and specifically organized, trained, and equipped to conduct and support special operations. The term includes, but is not limited to, servicemembers of the United States Army Special Forces and the United States Army 75th Ranger Regiment; the United States Navy SEALs and Special Warfare Combatant-Craft Crewmen; the United States Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists; the United States Marine Corps Critical Skills Operators; and any other component of the United States Special Operations Command approved by the commission.

### **943.13 Officers' minimum qualifications for employment or appointment.—**

On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections, to a county commission, or to the Department of Management Services shall:

(1) Be at least 19 years of age.

(2) Be a citizen of the United States, notwithstanding any law of the state to the contrary.

(3) Be a high school graduate or its "equivalent" as the commission has defined the term by rule.

(4) Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication. Notwithstanding this subsection, any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

(5) Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections or the Criminal Justice Standards and Training Commission. The department shall retain and enter into the statewide automated biometric identification system authorized by s. **943.05** all fingerprints submitted to the department as required by this section. Thereafter, the fingerprints shall be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. **943.051**. The department shall search all arrest fingerprints received pursuant to s. **943.051** against the fingerprints retained in the statewide automated biometric identification system pursuant to this section and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the department for processing and retention.

(6) Have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse, based on specifications established by the commission. In order to be eligible for the presumption set forth in s. **112.18** while employed with an employing agency, a law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical examination required by this subsection upon entering into service as a law enforcement officer, correctional officer, or correctional probation officer with the employing agency, which examination must have failed to reveal any evidence of tuberculosis, heart disease, or hypertension. A law enforcement officer, correctional officer, or correctional probation officer may not use a physical examination from a former employing agency for purposes of claiming the presumption set forth in s. **112.18** against the current employing agency.

(7) Have a good moral character as determined by a background investigation under procedures established by the commission.

(8) Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with subsections (1)-(7). The affidavit shall be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit shall include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The affidavit shall be retained by the employing agency.

(9) Complete a commission-approved basic recruit training program for the applicable criminal justice discipline, unless exempt under this subsection. An applicant who has:

(a) Completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year, provided there is no more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application for an exemption under this subsection is submitted; or

(b) Served in the special operations forces for a minimum of 5 years, provided there is no more than a 4-year break from the applicant's special operations forces experience, as measured from the separation date from the special operations forces to the time a complete application for an exemption under this subsection is submitted,

is exempt in accordance with s. **943.131**(2) from completing the commission-approved basic recruit training program.

(10) Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

(11) Comply with the continuing training or education requirements of s. **943.135**.

**943.1395 Certification for employment or appointment; concurrent certification; reemployment or reappointment; inactive status; revocation; suspension; investigation.—**

(1) The commission shall certify, under procedures established by rule, any person for employment or appointment as an officer if:

(a) The person complies with s. **943.13**(1)-(10); and

(b) The employing agency complies with s. **943.133**(2) and (3).

(2) An officer who is certified in one discipline and who complies with s. **943.13** in another discipline shall hold concurrent certification and may be assigned in either discipline within his or her employing agency.

(3) Any certified officer who has separated from employment or appointment and who is not reemployed or reappointed by an employing agency within 4 years after the date of separation must meet the minimum qualifications described in s. **943.13**, except for the requirement found in s. **943.13**(9). Further, such officer must complete any training required by the commission by rule in compliance with s. **943.131**(2). Any such officer who fails to comply with the requirements provided in s. **943.131**(2) must meet the minimum qualifications described in s. **943.13**, to include the requirement of s. **943.13**(9).

(4) The certification of an officer who fails to comply with s. **943.135**(1) shall be inactive, and the officer may not be employed or appointed as an officer until he or she complies with the provisions of s. **943.135**(1).

(5) The employing agency must conduct an internal investigation if it has cause to suspect that an officer is not in compliance with, or has failed to maintain compliance with, s. **943.13**(4) or (7). If an officer is not in compliance with, or has failed to maintain compliance with, s. **943.13**(4) or (7), the employing agency must submit the investigative findings and supporting information and documentation to the commission in accordance with rules adopted by the commission. The commission may inspect and copy an employing agency's records to ensure compliance with this subsection.

(6) The commission shall revoke the certification of any officer who is not in compliance with the provisions of s. **943.13**(4) or who intentionally executes a false affidavit established in s. **943.13**(8), s. **943.133**(2), or s. **943.139**(2).

(a) The commission shall cause to be investigated any ground for revocation from the employing agency pursuant to s. **943.139** or from the Governor, and the commission may cause verifiable complaints to be investigated. Any investigation initiated by the commission pursuant to this section must be completed within 6 months after receipt of the completed report of the disciplinary or internal affairs investigation from the employing agency or Governor's office. A verifiable complaint shall be completed within 1 year after receipt of the complaint. An investigation shall be considered completed upon a finding by a probable cause panel of the commission. These time periods shall be tolled during the appeal of a termination or other disciplinary action through the administrative or judicial process or during the period of any criminal prosecution of the officer.

(b)1. The report of misconduct and all records or information provided to or developed by the commission during the course of an investigation conducted by the commission are exempt from the provisions of s. **119.07**(1) and s. **24**(a), Art. I of the State Constitution and, except as otherwise provided by law, such information shall be subject to public disclosure only after a determination as to probable cause has been made or until the investigation becomes inactive.

2. However, not more than 30 days before the results of an investigation are to be presented to a probable cause panel, an officer who is being investigated, or the officer's attorney, may review any documents or other information regarding the investigation which was developed by or provided to the commission.

(c) When an officer's certification is revoked in any discipline, his or her certification in any other discipline shall simultaneously be revoked.

(7) Upon a finding by the commission that a certified officer has not maintained good moral character, the definition of which has been adopted by rule and is established as a statewide standard, as required by s. 943.13(7), the commission may enter an order imposing one or more of the following penalties:

(a) Revocation of certification.

(b) Suspension of certification for a period not to exceed 2 years.

(c) Placement on a probationary status for a period not to exceed 2 years, subject to terms and conditions imposed by the commission. Upon the violation of such terms and conditions, the commission may revoke certification or impose additional penalties as enumerated in this subsection.

(d) Successful completion by the officer of any basic recruit, advanced, or career development training or such retraining deemed appropriate by the commission.

(e) Issuance of a reprimand.

(8)(a) The commission shall, by rule, adopt disciplinary guidelines and procedures to administer the penalties provided in subsections (6) and (7). The commission may, by rule, prescribe penalties for certain offenses. The commission shall, by rule, set forth aggravating and mitigating circumstances to be considered when imposing the penalties provided in subsection (7).

(b)1. The disciplinary guidelines and prescribed penalties must be based upon the severity of specific offenses. The guidelines must provide reasonable and meaningful notice to officers and to the public of penalties that may be imposed for prohibited conduct. The penalties must be consistently applied by the commission.

2. On or before July 1 of each odd-numbered year, the commission shall conduct a workshop to receive public comment and evaluate disciplinary guidelines and penalties. The commission chair shall appoint a 12-member advisory panel, composed of six officers and six representatives of criminal justice management positions, to make recommendations to the commission concerning disciplinary guidelines.

(c) For the purpose of implementing the penalties provided in subsections (6) and (7), the chair of the commission may appoint one or more panels of three commissioners each to determine probable cause. In lieu of a finding of probable cause, the probable cause panel may issue a letter of guidance to the officer.

(d) When an employing agency disciplines an officer and the officer's employment is continued or reinstated by the agency, the Criminal Justice Professionalism Program shall review the sustained disciplinary charges and disciplinary penalty to determine whether the penalty conforms to the disciplinary penalties prescribed by commission rule, and, in writing, notify the employing agency and officer of the results of the review. If the penalty conforms to the disciplinary penalty provided by rule, the officer and employing agency shall be notified, by a letter of acknowledgment, that no further action shall be taken. If the penalty does not conform to such disciplinary penalty prescribed by rule, the officer and employer shall be notified, in writing, of further action to be taken. The commission shall adopt rules establishing procedures for administering this subsection.

(e) An administrative law judge assigned to conduct a hearing under ss. 120.569 and 120.57(1) regarding allegations that an officer is not in compliance with, or has failed to maintain compliance with, s. 943.13(4) or (7) must, in his or her recommended order:

1. Adhere to the disciplinary guidelines and penalties set forth in subsections (6) and (7) and the rules adopted by the commission for the type of offense committed.

2. Specify, in writing, any aggravating or mitigating circumstance that he or she considered in determining the recommended penalty.

Any deviation from the disciplinary guidelines or prescribed penalty must be based upon circumstances or factors that reasonably justify the aggravation or mitigation of the penalty. Any deviation from the disciplinary guidelines or prescribed penalty must be explained, in writing, by the administrative law judge.

(9) Each person employed pursuant to s. 943.131 is subject to discipline by the commission. Persons who have been subject to disciplinary action pursuant to this subsection are ineligible for employment or appointment under s. 943.131.

(a) The commission shall cause to be investigated any conduct defined in subsection (6) or subsection (7) by a person employed under s. 943.131 and shall set disciplinary guidelines and penalties prescribed in rules applicable to such noncertified persons.

(b) The disciplinary guidelines and prescribed penalties must be based upon the severity of specific offenses. The guidelines must provide reasonable and meaningful notice to officers and to the public of penalties that may be imposed for prohibited conduct. The penalties must be consistently applied by the commission.

(c) In addition, the commission may establish violations and disciplinary penalties for intentional abuse of the employment option provided by s. 943.131 by an individual or employing agency.

(10) An officer whose certification has been revoked pursuant to this section shall be ineligible for employment or appointment under s. 943.131.

**943.1395 Certification for employment or appointment; concurrent certification; reemployment or reappointment; inactive status; revocation; suspension; investigation.—**

(1) The commission shall certify, under procedures established by rule, any person for employment or appointment as an officer if:

(a) The person complies with s. 943.13(1)-(10); and

(b) The employing agency complies with s. 943.133(2) and (3).

(2) An officer who is certified in one discipline and who complies with s. 943.13 in another discipline shall hold concurrent certification and may be assigned in either discipline within his or her employing agency.

(3) Any certified officer who has separated from employment or appointment and who is not reemployed or reappointed by an employing agency within 4 years after the date of separation must meet the minimum qualifications described in s. 943.13, except for the requirement found in s. 943.13(9). Further, such officer must complete any training required by the commission by rule in

compliance with s. **943.131**(2). Any such officer who fails to comply with the requirements provided in s. **943.131**(2) must meet the minimum qualifications described in s. **943.13**, to include the requirement of s. **943.13**(9).

(4) The certification of an officer who fails to comply with s. **943.135**(1) shall be inactive, and the officer may not be employed or appointed as an officer until he or she complies with the provisions of s. **943.135**(1).

(5) The employing agency must conduct an internal investigation if it has cause to suspect that an officer is not in compliance with, or has failed to maintain compliance with, s. **943.13**(4) or (7). If an officer is not in compliance with, or has failed to maintain compliance with, s. **943.13**(4) or (7), the employing agency must submit the investigative findings and supporting information and documentation to the commission in accordance with rules adopted by the commission. The commission may inspect and copy an employing agency's records to ensure compliance with this subsection.

(6) The commission shall revoke the certification of any officer who is not in compliance with the provisions of s. **943.13**(4) or who intentionally executes a false affidavit established in s. **943.13**(8), s. **943.133**(2), or s. **943.139**(2).

(a) The commission shall cause to be investigated any ground for revocation from the employing agency pursuant to s. **943.139** or from the Governor, and the commission may cause verifiable complaints to be investigated. Any investigation initiated by the commission pursuant to this section must be completed within 6 months after receipt of the completed report of the disciplinary or internal affairs investigation from the employing agency or Governor's office. A verifiable complaint shall be completed within 1 year after receipt of the complaint. An investigation shall be considered completed upon a finding by a probable cause panel of the commission. These time periods shall be tolled during the appeal of a termination or other disciplinary action through the administrative or judicial process or during the period of any criminal prosecution of the officer.

(b)1. The report of misconduct and all records or information provided to or developed by the commission during the course of an investigation conducted by the commission are exempt from the provisions of s. **119.07**(1) and s. 24(a), Art. I of the State Constitution and, except as otherwise provided by law, such information shall be subject to public disclosure only after a determination as to probable cause has been made or until the investigation becomes inactive.

2. However, not more than 30 days before the results of an investigation are to be presented to a probable cause panel, an officer who is being investigated, or the officer's attorney, may review any documents or other information regarding the investigation which was developed by or provided to the commission.

(c) When an officer's certification is revoked in any discipline, his or her certification in any other discipline shall simultaneously be revoked.

(7) Upon a finding by the commission that a certified officer has not maintained good moral character, the definition of which has been adopted by rule and is established as a statewide standard, as required by s. **943.13**(7), the commission may enter an order imposing one or more of the following penalties:

(a) Revocation of certification.

(b) Suspension of certification for a period not to exceed 2 years.

(c) Placement on a probationary status for a period not to exceed 2 years, subject to terms and conditions imposed by the commission. Upon the violation of such terms and conditions, the commission may revoke certification or impose additional penalties as enumerated in this subsection.

(d) Successful completion by the officer of any basic recruit, advanced, or career development training or such retraining deemed appropriate by the commission.

(e) Issuance of a reprimand.

(8)(a) The commission shall, by rule, adopt disciplinary guidelines and procedures to administer the penalties provided in subsections (6) and (7). The commission may, by rule, prescribe penalties for certain offenses. The commission shall, by rule, set forth aggravating and mitigating circumstances to be considered when imposing the penalties provided in subsection (7).

(b)1. The disciplinary guidelines and prescribed penalties must be based upon the severity of specific offenses. The guidelines must provide reasonable and meaningful notice to officers and to the public of penalties that may be imposed for prohibited conduct. The penalties must be consistently applied by the commission.

2. On or before July 1 of each odd-numbered year, the commission shall conduct a workshop to receive public comment and evaluate disciplinary guidelines and penalties. The commission chair shall appoint a 12-member advisory panel, composed of six officers and six representatives of criminal justice management positions, to make recommendations to the commission concerning disciplinary guidelines.

(c) For the purpose of implementing the penalties provided in subsections (6) and (7), the chair of the commission may appoint one or more panels of three commissioners each to determine probable cause. In lieu of a finding of probable cause, the probable cause panel may issue a letter of guidance to the officer.

(d) When an employing agency disciplines an officer and the officer's employment is continued or reinstated by the agency, the Criminal Justice Professionalism Program shall review the sustained disciplinary charges and disciplinary penalty to determine whether the penalty conforms to the disciplinary penalties prescribed by commission rule, and, in writing, notify the employing agency and officer of the results of the review. If the penalty conforms to the disciplinary penalty provided by rule, the officer and employing agency shall be notified, by a letter of acknowledgment, that no further action shall be taken. If the penalty does not conform to such disciplinary penalty prescribed by rule, the officer and employer shall be notified, in writing, of further action to be taken. The commission shall adopt rules establishing procedures for administering this subsection.

(e) An administrative law judge assigned to conduct a hearing under ss. **120.569** and **120.57**(1) regarding allegations that an officer is not in compliance with, or has failed to maintain compliance with, s. **943.13**(4) or (7) must, in his or her recommended order:

1. Adhere to the disciplinary guidelines and penalties set forth in subsections (6) and (7) and the rules adopted by the commission for the type of offense committed.

2. Specify, in writing, any aggravating or mitigating circumstance that he or she considered in determining the recommended penalty. Any deviation from the disciplinary guidelines or prescribed penalty must be based upon circumstances or factors that reasonably justify the aggravation or mitigation of the penalty. Any deviation from the disciplinary guidelines or prescribed penalty must be explained, in writing, by the administrative law judge.

(9) Each person employed pursuant to s. **943.131** is subject to discipline by the commission. Persons who have been subject to disciplinary action pursuant to this subsection are ineligible for employment or appointment under s. **943.131**.

(a) The commission shall cause to be investigated any conduct defined in subsection (6) or subsection (7) by a person employed under s. **943.131** and shall set disciplinary guidelines and penalties prescribed in rules applicable to such noncertified persons.

(b) The disciplinary guidelines and prescribed penalties must be based upon the severity of specific offenses. The guidelines must provide reasonable and meaningful notice to officers and to the public of penalties that may be imposed for prohibited conduct. The penalties must be consistently applied by the commission.

(c) In addition, the commission may establish violations and disciplinary penalties for intentional abuse of the employment option provided by s. **943.131** by an individual or employing agency.

(10) An officer whose certification has been revoked pursuant to this section shall be ineligible for employment or appointment under s. **943.131**

#### **943.253 Exemption; elected officers.—**

Elected officers are exempt from the requirements of ss. **943.085-943.25**. However, an elected officer may participate in the programs and benefits under ss. **943.085-943.25** if he or she complies with s. **943.13(1)-(7)**.

#### **944.275 Gain-time.—**

(1) The department is authorized to grant deductions from sentences in the form of gain-time in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services.

(2)(a) The department shall establish for each prisoner sentenced to a term of years a “maximum sentence expiration date,” which shall be the date when the sentence or combined sentences imposed on a prisoner will expire. In establishing this date, the department shall reduce the total time to be served by any time lawfully credited.

(b) When a prisoner with an established maximum sentence expiration date is sentenced to an additional term or terms without having been released from custody, the department shall extend the maximum sentence expiration date by the length of time imposed in the new sentence or sentences, less lawful credits.

(c) When an escaped prisoner or a parole violator is returned to the custody of the department, the maximum sentence expiration date in effect when the escape occurred or the parole was effective shall be extended by the amount of time the prisoner was not in custody plus the time imposed in any new sentence or sentences, but reduced by any lawful credits.

(3)(a) The department shall also establish for each prisoner sentenced to a term of years a “tentative release date” which shall be the date projected for the prisoner’s release from custody by virtue of gain-time granted or forfeited as described in this section. The initial tentative release date shall be determined by deducting basic gain-time granted from the maximum sentence expiration date. Other gain-time shall be applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, shall be applied to make the tentative release date proportionately later.

(b) When an initial tentative release date is reestablished because of additional sentences imposed before the prisoner has completely served all prior sentences, any gain-time granted during service of a prior sentence and not forfeited shall be applied.

(c) The tentative release date may not be later than the maximum sentence expiration date.

(4)(a) As a means of encouraging satisfactory behavior, the department shall grant basic gain-time at the rate of 10 days for each month of each sentence imposed on a prisoner, subject to the following:

1. Portions of any sentences to be served concurrently shall be treated as a single sentence when determining basic gain-time.

2. Basic gain-time for a partial month shall be prorated on the basis of a 30-day month.

3. When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time shall be granted for the amount of time the maximum sentence expiration date was extended.

(b) For each month in which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant incentive gain-time in accordance with this paragraph. The rate of incentive gain-time in effect on the date the inmate committed the offense which resulted in his or her incarceration shall be the inmate’s rate of eligibility to earn incentive gain-time throughout the period of incarceration and shall not be altered by a subsequent change in the severity level of the offense for which the inmate was sentenced.

1. For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under former s. **921.0012** or former s. **921.0013**, up to 25 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under former s. **921.0012** or former s. **921.0013**, up to 20 days of incentive gain-time may be granted. If granted, such gain-time shall be credited and applied monthly.

3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time.

(c) An inmate who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence may be granted meritorious gain-time of from 1 to 60 days.

(d) Notwithstanding the monthly maximum awards of incentive gain-time under subparagraphs (b)1., 2., and 3., the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is, or has been during the current commitment, awarded a high school equivalency diploma or vocational certificate. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section.

(e) Notwithstanding subparagraph (b)3., for sentences imposed for offenses committed on or after October 1, 2014, the department may not grant incentive gain-time if the offense is a violation of s. **782.04**(1)(a)2.c.; s. **787.01**(3)(a)2. or 3.; s. **787.02**(3)(a)2. or 3.; s. **794.011**, excluding s. **794.011**(10); s. **800.04**; s. **825.1025**; or s. **847.0135**(5).

(f) An inmate who is subject to subparagraph (b)3. is not eligible to earn or receive gain-time under paragraph (a), paragraph (b), paragraph (c), or paragraph (d) or any other type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. For purposes of this paragraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by this section, a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

(5) When a prisoner is found guilty of an infraction of the laws of this state or the rules of the department, gain-time may be forfeited according to law.

(6)(a) Basic gain-time under this section shall be computed on and applied to all sentences imposed for offenses committed on or after July 1, 1978, and before January 1, 1994.

(b) All incentive and meritorious gain-time is granted according to this section.

(c) All additional gain-time previously awarded under former subsections (2) and (3) and all forfeitures ordered prior to the effective date of the act that created this section shall remain in effect and be applied in establishing an initial tentative release date.

(7) The department shall adopt rules to implement the granting, forfeiture, restoration, and deletion of gain-time.

#### **947.149 Conditional medical release.—**

(1) The commission shall, in conjunction with the department, establish the conditional medical release program. An inmate is eligible for consideration for release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(a) "Permanently incapacitated inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others.

(b) "Terminally ill inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.

(2) Notwithstanding any provision to the contrary, any person determined eligible under this section and sentenced to the custody of the department may, upon referral by the department, be considered for conditional medical release by the commission, in addition to any parole consideration for which the inmate may be considered, except that conditional medical release is not authorized for an inmate who is under sentence of death. No inmate has a right to conditional medical release or to a medical evaluation to determine eligibility for such release.

(3) The authority and whether or not to grant conditional medical release and establish additional conditions of conditional medical release rests solely within the discretion of the commission, in accordance with the provisions of this section, together with the authority to approve the release plan to include necessary medical care and attention. The department shall identify inmates who may be eligible for conditional medical release based upon available medical information and shall refer them to the commission for consideration. In considering an inmate for conditional medical release, the commission may require that additional medical evidence be produced or that additional medical examinations be conducted, and may require such other investigations to be made as may be warranted.

(4) The conditional medical release term of an inmate released on conditional medical release is for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the medical releasee must include periodic medical evaluations at intervals determined by the commission at the time of release.

(5)(a) If it is discovered during the conditional medical release that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for conditional medical release under this section, the commission may order that the releasee be returned to the custody of the department for a conditional medical release revocation hearing, in accordance with s. **947.141**. If conditional medical release is revoked due to improvement in the medical or physical condition of the releasee, she or he shall serve the balance of her or his sentence with credit for the time served on conditional medical release and without forfeiture of any gain-time accrued prior to conditional medical release. If the person whose conditional medical release is revoked due to an improvement in medical or physical condition would otherwise be eligible for parole or any other release program, the person may be considered for such release program pursuant to law.

(b) In addition to revocation of conditional medical release pursuant to paragraph (a), conditional medical release may also be revoked for violation of any condition of the release established by the commission, in accordance with s. **947.141**, and the releasee's gain-time may be forfeited pursuant to s. **944.28**(1).

(6) The department and the commission shall adopt rules as necessary to implement the conditional medical release program.