

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 115

Sexual Offenders and Predators

SPONSOR(S): Kiar

TIED BILLS:

IDEN./SIM. BILLS: SB 340

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	9 Y, 0 N, As CS	Kramer	Kramer
2)	Criminal & Civil Justice Policy Council			
3)	Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The bill requires that a sexual predator’s or sexual offender’s home telephone number and any cellular telephone number be provided as part of the process of registering and re-registering sexual predators and sexual offenders. Failure to provide this information as part of the registration and re-registration process will be a third degree felony.

The bill also provides that a person who has been convicted of a violation of s. 847.0135(4), F.S. relating to traveling to meet a minor for the purpose of engaging in unlawful sexual activity will be required to register as a sexual predator or offender.

FDLE has indicated that this bill will have a \$49,443 non-recurring impact on the agency for fiscal year 2009-2010. This will include the costs of mailing notification to sexual predators and sexual offenders as well as computer programming changes.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

In very general terms, the distinction between a sexual predator and a sexual offender is based on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense and the date the offense occurred. A sexual predator or sexual offender is required to comply with a number of statutory requirements.<sup>1</sup> Failure to comply with these requirements is a third or second degree felony, depending of the offense.

During initial registration, a sexual predator or sexual offender is required to provide certain information to the sheriff's department who, in turn, provides this information to the Florida Department of Law Enforcement for inclusion in the statewide database. Specifically, a sexual predator or sexual offender is required to provide the following information as part of the initial registration:

- name;
- social security number;
- age;
- race;
- sex;
- date of birth;
- height;
- weight;
- hair and eye color;
- photograph;
- address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box;
- any electronic mail address and any instant message name;
- date and place of any employment;
- date and place of each conviction;
- fingerprints;
- brief description of the crime or crimes committed by the offender.

Sexual predators must re-register every three months and update any information required to be provided. Sexual offenders must re-register every three months or every six months depending on the

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<sup>1</sup> See generally, ss. 775.21, 943.0435 and 944.607, F.S.

offense that they were convicted of. Information collected is a public record; much of the information is posted on a searchable public website. Other information is available upon request.<sup>2</sup>

Currently, information regarding telephone numbers of a sexual predator or sexual offender is collected as part of the process of registration and re-registration. Because it is not statutorily required, a sexual predator or sexual offender could not be prosecuted for failing to give this information.

The bill amends the sexual predator and sexual offender laws to require that home telephone and cellular telephone numbers be provided during the registration and re-registration process. Failure to provide this information as part of the registration and re-registration process will be a third degree felony.

The bill also corrects a reference in the sexual predator and offender statutes to require those convicted of a violation of s. 847.0135(4) to register. During the 2007 session, s. 847.0135, F.S. was amended to make it a crime to travel to meet a minor for the purpose of engaging in unlawful sexual activity.<sup>3</sup> This was made subsection (4). The sexual predator and sexual offender statutes at that time specifically excluded subsection (4) from the requirement to register because previous subsection (4) did not contain a felony offense for which a person would be required to register. The bill moved the language that had previously been in subsection (4) to subsection (6). However, the sexual predator and sexual offender statutes were not amended at the time to change the exception from subsection (4) to subsection (6). As a result, people who travel to meet a minor for the purpose of engaging in unlawful sexual activity (and do not commit any other qualifying offense) are currently not required to register as a sexual predator or offender. The bill would change the reference and require those who travel to meet a minor for the purpose of engaging in unlawful sexual activity to register as a sexual predator or sexual offender.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 775.21, F.S., relating to Florida Sexual Predators Act.

Section 2. Amends s. 943.0435, F.S., relating to sexual offenders required to register with the department; penalty.

Section 3. Amends s. 944.606, F.S., relating to sexual offenders; notification upon release.

Section 4. Amends s. 944.607, F.S., relating to notification to Department of Law Enforcement of information on sexual offenders.

Section 5. Amends s. 985.481, F.S., relating to sexual offenders adjudicated delinquent; notification upon release.

Section 6. Provides effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

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<sup>2</sup> For example, employer information is not posted on FDLE's website but is available upon request. A search of a sexual predator or sexual offender's name on the website does not display that person's email address. However, an email address or instant message name can be entered into FDLE's website to determine if it belongs to a registered sexual predator or sexual offender.

<sup>3</sup> Ch. 2007-143, Laws of Fla.

None.

2. Expenditures:

FDLE has indicated that this bill will have a \$49,443 non-recurring impact on the agency for fiscal year 2009-2010. This will include the costs of mailing notification to sexual predators and sexual offenders as well as computer programming changes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The Public Safety & Domestic Security Committee adopted a strike all amendment which:

- Makes references consistent throughout the bill to require a sexual predator or sexual offender to provide his or her "home telephone number and any cellular telephone number".
- Amends s. 985.481, F.S in order to require juveniles who must register as a sexual offender to provide their home telephone number and any cellular telephone number.
- Requires defendants who have been convicted of traveling to meet a minor for the purpose of engaging in unlawful sexual activity to register as a sexual predator or offender.