

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Justice Appropriations
2 Subcommittee

3 Representative Fitzenhagen offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraphs (k), (n), and (o) of subsection (2)
8 and paragraphs (c), (d), (e), (f), and (g) of subsection (10) of
9 section 775.21, Florida Statutes, are amended to read:

10 775.21 The Florida Sexual Predators Act.—

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

12 (k) "Permanent residence" means a place where the person
13 abides, lodges, or resides for 3 ~~5~~ or more consecutive days.

14 (n) "Temporary residence" means a place where the person
15 abides, lodges, or resides, including, but not limited to,
16 vacation, business, or personal travel destinations in or out of

Amendment No. 1

17 | this state, for a period of 3 5 or more days in the aggregate
18 | during any calendar year and which is not the person's permanent
19 | address or, for a person whose permanent residence is not in
20 | this state, a place where the person is employed, practices a
21 | vocation, or is enrolled as a student for any period of time in
22 | this state.

23 | (o) "Transient residence" means a county where a person
24 | lives, remains, or is located for a period of 3 5 or more days
25 | in the aggregate during a calendar year and which is not the
26 | person's permanent or temporary address. The term includes, but
27 | is not limited to, a place where the person sleeps or seeks
28 | shelter and a location that has no specific street address.

29 | (10) PENALTIES.—

30 | (c) For a felony violation of this section, excluding
31 | paragraph (10)(g), committed on or after July 1, 2018, if the
32 | court does not impose a prison sentence, the court shall impose
33 | as part of the sentence a term of community control, as defined
34 | in s. 948.001, as follows:

35 | 1. For a first offense, a mandatory minimum term of 6
36 | months with electronic monitoring.

37 | 2. For a second offense, a mandatory minimum term of 1 year
38 | with electronic monitoring.

39 | 3. For a third or subsequent offense, a mandatory minimum
40 | term of 2 years with electronic monitoring.

Amendment No. 1

41 (d) Any person who misuses public records information
42 relating to a sexual predator, as defined in this section, or a
43 sexual offender, as defined in s. 943.0435 or s. 944.607, to
44 secure a payment from such a predator or offender; who knowingly
45 distributes or publishes false information relating to such a
46 predator or offender which the person misrepresents as being
47 public records information; or who materially alters public
48 records information with the intent to misrepresent the
49 information, including documents, summaries of public records
50 information provided by law enforcement agencies, or public
51 records information displayed by law enforcement agencies on
52 websites or provided through other means of communication,
53 commits a misdemeanor of the first degree, punishable as
54 provided in s. 775.082 or s. 775.083.

55 (e)~~(d)~~ A sexual predator who commits any act or omission
56 in violation of this section may be prosecuted for the act or
57 omission in the county in which the act or omission was
58 committed, in the county of the last registered address of the
59 sexual predator, in the county in which the conviction occurred
60 for the offense or offenses that meet the criteria for
61 designating a person as a sexual predator, in the county where
62 the sexual predator was released from incarceration, or in the
63 county of the intended address of the sexual predator as
64 reported by the predator prior to his or her release from
65 incarceration. In addition, a sexual predator may be prosecuted

Amendment No. 1

66 for any such act or omission in the county in which he or she
67 was designated a sexual predator.

68 ~~(f)(e)~~ An arrest on charges of failure to register, the
69 service of an information or a complaint for a violation of this
70 section, or an arraignment on charges for a violation of this
71 section constitutes actual notice of the duty to register when
72 the predator has been provided and advised of his or her
73 statutory obligation to register under subsection (6). A sexual
74 predator's failure to immediately register as required by this
75 section following such arrest, service, or arraignment
76 constitutes grounds for a subsequent charge of failure to
77 register. A sexual predator charged with the crime of failure to
78 register who asserts, or intends to assert, a lack of notice of
79 the duty to register as a defense to a charge of failure to
80 register shall immediately register as required by this section.
81 A sexual predator who is charged with a subsequent failure to
82 register may not assert the defense of a lack of notice of the
83 duty to register.

84 ~~(f)~~ Registration following such arrest, service, or
85 arraignment is not a defense and does not relieve the sexual
86 predator of criminal liability for the failure to register.

87 (g) Any person who has reason to believe that a sexual
88 predator is not complying, or has not complied, with the
89 requirements of this section and who, with the intent to assist
90 the sexual predator in eluding a law enforcement agency that is

Amendment No. 1

91 seeking to find the sexual predator to question the sexual
92 predator about, or to arrest the sexual predator for, his or her
93 noncompliance with the requirements of this section:

94 1. Withholds information from, or does not notify, the law
95 enforcement agency about the sexual predator's noncompliance
96 with the requirements of this section, and, if known, the
97 whereabouts of the sexual predator;

98 2. Harbors, or attempts to harbor, or assists another
99 person in harboring or attempting to harbor, the sexual
100 predator;

101 3. Conceals or attempts to conceal, or assists another
102 person in concealing or attempting to conceal, the sexual
103 predator; or

104 4. Provides information to the law enforcement agency
105 regarding the sexual predator which the person knows to be false
106 information,

107
108 commits a felony of the third degree, punishable as provided in
109 s. 775.082, s. 775.083, or s. 775.084. This paragraph does not
110 apply if the sexual predator is incarcerated in or is in the
111 custody of a state correctional facility, a private correctional
112 facility, a local jail, or a federal correctional facility.

113 Section 2. Subsection (9) of section 943.0435, Florida
114 Statutes, is amended to read:

Amendment No. 1

115 943.0435 Sexual offenders required to register with the
116 department; penalty.—

117 (9) (a) A sexual offender who does not comply with the
118 requirements of this section commits a felony of the third
119 degree, punishable as provided in s. 775.082, s. 775.083, or s.
120 775.084.

121 (b) For a felony violation of this section, excluding
122 subsection (13), committed on or after July 1, 2018, if the
123 court does not impose a prison sentence, the court shall impose
124 as part of the sentence a term of community control, as defined
125 in s. 948.001, as follows:

126 1. For a first offense, a mandatory term of 6 months with
127 electronic monitoring.

128 2. For a second offense, a mandatory term of 1 year with
129 electronic monitoring.

130 3. For a third or subsequent offense, a mandatory minimum
131 term of 2 years with electronic monitoring.

132 (c) A sexual offender who commits any act or omission in
133 violation of this section may be prosecuted for the act or
134 omission in the county in which the act or omission was
135 committed, in the county of the last registered address of the
136 sexual offender, in the county in which the conviction occurred
137 for the offense or offenses that meet the criteria for
138 designating a person as a sexual offender, in the county where
139 the sexual offender was released from incarceration, or in the

Amendment No. 1

140 county of the intended address of the sexual offender as
141 reported by the offender prior to his or her release from
142 incarceration.

143 ~~(d)~~ (e) An arrest on charges of failure to register when
144 the offender has been provided and advised of his or her
145 statutory obligations to register under subsection (2), the
146 service of an information or a complaint for a violation of this
147 section, or an arraignment on charges for a violation of this
148 section constitutes actual notice of the duty to register. A
149 sexual offender's failure to immediately register as required by
150 this section following such arrest, service, or arraignment
151 constitutes grounds for a subsequent charge of failure to
152 register. A sexual offender charged with the crime of failure to
153 register who asserts, or intends to assert, a lack of notice of
154 the duty to register as a defense to a charge of failure to
155 register shall immediately register as required by this section.
156 A sexual offender who is charged with a subsequent failure to
157 register may not assert the defense of a lack of notice of the
158 duty to register.

159 ~~(d)~~ Registration following such arrest, service, or
160 arraignment is not a defense and does not relieve the sexual
161 offender of criminal liability for the failure to register.

162 Section 3. This act shall take effect July 1, 2018.

163

164

Amendment No. 1

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to sexual offenders and predators;
amending s. 775.21, F.S.; reducing the aggregate and
consecutive number of days used to determine residency
for purposes of sexual predator or sexual offender
registration; providing for a mandatory minimum
sentence of community control with electronic
monitoring for certain offenses committed by sexual
predators if the court does not impose a prison
sentence; amending s. 943.0435, F.S.; providing for a
mandatory minimum sentence of community control with
electronic monitoring for certain offenses committed
by sexual offenders if the court does not impose a
prison sentence; providing an effective date.