

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 17, 1998 Revised: _____

Subject: Sexual Predators/Notifying the Public

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Erickson</u>	<u>Miller</u>	<u>CJ</u>	<u>Fav/2 amendments</u>
2.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 1776 provides that, within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality wherein the sexual predator temporarily or permanently resides, shall notify each public and private day care center, elementary school, middle school, and high school within the proximity of the temporary or permanent residence of the sexual predator of the presence of the sexual predator.

This bill substantially amends section 775.21 of the Florida Statutes.

II. Present Situation:

Section 775.21, F.S., the Florida Sexual Predator Act, requires a person designated by a court as a sexual predator pursuant to criteria, to register as a sexual predator, and requires law enforcement agencies to notify the community and the public of the presence of the sexual predator.

Subsection (7) provides that, upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality wherein the sexual predator resides, shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Notification provided to the community and the public regarding a sexual predator must include the following information: the name of the sexual predator; a description of the sexual predator, including a photograph; the sexual predator's current address, including the name of the county or municipality, if known; the circumstances of the sexual predator's offense or offenses; and whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult. The victim's name may not be released.

This subsection further provides that the sheriff or police chief may coordinate the community and public notification efforts with the Florida Department of Law Enforcement (FDLE). Statewide public notification is authorized, as deemed appropriate by local law enforcement personnel and the FDLE. The FDLE is required to notify the public of all designated sexual predators through the Internet.

III. Effect of Proposed Changes:

Section 1 amends s. 775.21, F.S., to require that, within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality wherein the sexual predator temporarily or permanently resides, notify each public and private day care center, elementary school, middle school, and high school within the proximity of the temporary or permanent residence of the sexual predator of the presence of the sexual predator.

Section 2 provides an effective date of July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Senate Bill 1776 initially falls within the purview of s.18, Art. VII of the State Constitution, which provides that counties and municipalities are not bound by certain types of general laws unless the legislature takes specific action. Because the bill requires a county sheriff's office or municipal police department to provide notice to specific institutions within 48 hours of receipt of notice that a sexual predator has located within the community, the bill probably falls within paragraph (a), which requires special action by the legislature to bind local governments to general law requiring them to take actions which require an expenditure of funds. However, the bill is exempt from these requirements under paragraph (d) because it is a proposed law having an insignificant fiscal impact.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

During April of 1988, the Senate Criminal Justice Committee voted favorably on CS/SB 1992. The primary purpose of the CS is to bring Florida's laws relating to registration and community notification of sexual predators and sexual offenders into compliance with federal standards, and to correct deficiencies in the current registration and notification systems.

Additionally, the CS addresses concerns expressed or raised by school administrators that pertain to perceived deficiencies in local law enforcement agencies' efforts to notify their communities of the presence of sexual predators in these communities. Their concerns were that they be shielded from civil liability for damages for good-faith compliance with the laws authorizing the release of public records information relating to sexual predators and sexual offenders.

The current law permits local law enforcement agencies to determine how to best notify their communities of the presence of sexual predators and sexual offenders. Senate Bill 1776 essentially creates notification "zones." The local law enforcement agency must alert each day care center and school "within the proximity" of a sexual predator's residence of the predator's presence. "Within the proximity" has no commonly accepted meaning. In a small town it may mean notifying each day care center and school within the town. In Miami, Tampa, St. Petersburg, Orlando, Jacksonville, and Pensacola it may mean something completely different. Day care centers and schools that are not within the "zone" will probably contest their exclusion. The bill does not link day care centers or private schools to any statutory definition of these terms nor does it create definitions of these terms, so each local law enforcement agency will have to determine what entities are covered by these terms and defend the agency from attacks by entities excluded from such coverage as a result of the agency's definitions. Further, people in the community-at-large may contest this "zone" notification, believing, rightly or wrongly, that the

local law enforcement agency's notification efforts are focused primarily or exclusively upon notifying entities in these "zones."

VIII. Amendments:

#1 by Criminal Justice:

Specifies that the sheriff or police chief must notify "licensed" day care centers of a sexual predator's presence.

#2 by Criminal Justice:

Provides that the sheriff must notify each day care center, elementary school, middle school, and high school, within "a 1 mile radius" of a sexual predator's residence, of the sexual predator's presence.