

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 7, 1998 Revised: 04/14/98 \_\_\_\_\_

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>_____</u>	<u>_____</u>	<u>CA</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

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 where 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., Florida's Sexual Predator Act, requires a person designated by a court to be a sexual predator pursuant to criteria, to register as a sexual predator and requires law enforcement agencies to notify the community and public of the presence of the sexual predator. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where 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. s. 775.21(7), F.S.

Information provided to the community and the public regarding a sexual predator must include: 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. *Id.*

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. *Id.*

### **III. Effect of Proposed Changes:**

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 where 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.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Senate Bill 1776 provides that, within 48 hours after receiving notification of the presence of a sexual predator, the sheriff or police chief where the sexual predator resides must notify each private and public day care center and school within the proximity of the sexual predator's residence of the sexual predator's presence. If county sheriffs and police chiefs determine that meeting this "48 hour" requirement necessitates hiring additional staff, paying additional overtime, or purchasing additional equipment and materials, the notification mandate contained in this bill may fall under s. 18, Art. VII, Fla. Const., relating to county and municipal mandates.

#### **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.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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