

STORAGE NAME: h3189.cor

DATE: March 16, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CORRECTIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3189

RELATING TO: Parole

SPONSOR(S): Rep. Sembler and others

COMPANION BILL(S): SB 310 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CORRECTIONS
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill will require sex offenders and murderers, as a condition of parole, to apply to the Department of Highway Safety and Motor Vehicles (DHSMV) for a special identification card or driver license and, if subject to motor vehicle registration requirements, a special col-coded license tag. It also requires the DHSMV, in cooperation with the Department of Law Enforcement, to provide for a special designation of a sex offender or murderer on any driver's license, identification card, or license tag issued to a paroled offender.

The bill will have an estimated fiscal impact of \$38,505 in non-recurring costs and \$2,250 in recurring costs.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Department of Highway Safety and Motor Vehicles (DHSMV) currently issues identification cards and driver licenses under the authority of Chapter 322, and also registers motor vehicles under the authority of Chapter 320. Currently, driver licenses, identification cards and license plates do not specifically reference the parole or sentencing status of certain offenders. However, §775.21(7), F.S., provides for the Florida Department of Law Enforcement (FDLE) and DHSMV to consult about the feasibility of requiring sexual predators to have a special designated license plate, driver license or identification card. In considering such feasibility, FDLE received statements of concern regarding the concept of a special license plate because, in many cases, innocent parties may also have to use a car that is registered to a sex offender or murderer. Therefore, the agencies did not go forward with the development of special license plates, although they did continue to consider driver's licenses and identification cards. There is no date specified for the completion of such consultation.

Parole is an act of grace exercised by the Parole Commission. For parole-eligible inmates, the Parole Commission may choose to grant parole release supervision subject to certain conditions. The Legislature abolished parole in 1983 for all offenders who were sentenced pursuant to the sentencing guidelines, which were enacted the same year. Pursuant to this change in law in 1983, parole is no longer available for offenders sentenced pursuant to the Florida sentencing guidelines. *Gale v. State*, 483 So.2d 53 (Fla. 1st DCA 1986), rev. den. 492 So.2d 1332 (1986); *Hawkins v. State*, 463 So.2d 480 (Fla. 2nd DCA 1985). However, there are offenders who are "parole-eligible" in the prison system because they committed their crime prior to October 1, 1983. According to the department, there are currently 6,036 Florida inmates still eligible for parole.

Although parole is no longer available to inmates sentenced for crimes committed since 1983, such inmates may still have their court-imposed sentence reduced by an award of gaintime for good behavior. However, when certain offenders (such as inmates sentenced for murder, sexual offenses, or violent personal crimes) reach their release date due to accrued gaintime, they are placed on conditional release to serve the remainder of the court-imposed length of sentence. Offenders released on conditional release are required to comply with terms and conditions as determined by the Parole Commission. As of June 30, 1997, there were 3,758 offenders on conditional release supervision in Florida.

Sex Offenders and Murderers Released and Under Supervision in FY 1996-97			
		Sex Offenders	Murderers[†]
Total Within the Inmate Population		6,705	8,366
On Parole	Paroled in 96-97	38	50
	Total Under Supervision	167	487

Sex Offenders and Murderers Released and Under Supervision in FY 1996-97			
On Conditional Release	Conditionally Released in 96-97	155	55
	Total Under Supervision	185	69

Source: Florida Department of Corrections Annual Report, 1996-97

† Includes offenders convicted of first, second and third degree murder.

An inmate released on parole or placed on conditional release is supervised in the community by the Department of Corrections' Division of Probation and Parole Services for the remainder of the sentence. While on community supervision, department staff remain in contact with the offender and monitor compliance with the terms and conditions of the supervision agreement.

Sex offenders who committed crimes after October 1, 1997, in particular, have a more intensive form of supervision, including submission to polygraph exams, keeping vehicle driving logs, and prior approval for driving alone or obtaining a post office box. Also, §948.09, F.S., requires that persons placed on parole or conditional release supervision must pay the department the cost of supervision. The community supervision funds collected from offenders may be used by the department to offset costs associated with community supervision programs, subject to appropriation by the Legislature.

Current Registration Requirements of Sexual Offenders and Murderers

In 1997, the Legislature passed Ch.97-299, Florida Laws, which simplified sexual predator community notification standards, expanded registration obligations to sexual offenders as well as sexual predators, and revitalized Florida's general felon registration system. In addition, section 943.046 confirms that any state or local law enforcement agency may release to the public any public information regarding any criminal offender unless the information is otherwise confidential or exempt.

Murderers: All convicted felons are required to register with the sheriff within 48 hours upon entering any county in Florida. § 775.13, F.S. Additionally, all felons in any Florida county, as of October 1, 1997, were required to register with the sheriff by no later than December 1, 1997 in order to "refresh" the felony registration records. However, a felon is excused from continuing to register after five years from the release from supervision if the felon is not convicted of any offense in that period. Failure to register under this section is a second degree misdemeanor.

The general public may also retrieve information about murderers released into their community on the Corrections Offender Network maintained by the Department of Corrections (DOC) on the Internet. The site is: "<http://www.dc.state.fl.us/>".

Sexual Offenders: The registration of sexual offenders, including the more dangerous subset classified as sexual predators, is a joint undertaking between the DOC, FDLE, and DHSMV.

1. *Offenders in the custody, control or supervision of the DOC or private facilities:*

The DOC must register with FDLE all sexual offenders currently under the custody, control or supervision of the DOC or private facilities. Upon receiving this information, FDLE sends the records via file transfer to DHSMV for comparison with their records. If DHSMV is able to match a driver license, identification or car tag with an offender file, the license, identification or tag is flagged appropriately. Once flagged in the database, law enforcement officers in the field accessing DHSMV records can then immediately discover a person's sex offender status. However, because all offenders do not possess a driver license or identification card upon incarceration, and because some may be licensed or registered under an unknown name, the DHSMV records are not necessarily complete.

Six months prior to the release of a sexual offender from incarceration, the DOC must notify the FDLE, the sheriff of the sentencing county, the sheriff of the proposed residential county, and anyone else who requests information. Upon receiving such notice, the local agencies may notify the community of sexual offenders and must notify the community of sexual predators.

2. Offenders released from the custody, control or supervision of DOC:

a. Upon release from the custody, control or supervision of DOC, offenders must initially register in person with either the FDLE or the sheriff in the county of residence "within 48 hours after establishing permanent or temporary residence in this state." § 775.21(6)(b), F.S. In registering, offenders must provide information such as a social security number, physical description, date of birth, address of legal residence or temporary residence, date and place of any employment, date and place of each conviction, brief description of the crime, genetic markers, a photograph, fingerprints, and any other information determined necessary by FDLE. §775.21(6), F.S.

b. Upon registration, the sheriff or police chief must then notify the community and the public of the presence of sexual predators, or may notify the community of sexual offenders. The notification must include the name, current address, the circumstances of the offense and whether the victim was a minor. The notice must also include a photograph.

c. After the initial registration, offenders must also register in person at a driver's license office "within 48 hours after any change in the permanent or temporary residence." §775.21(6)(c), F.S. At the driver license office, the offender must identify their status as a "sex offender subject to registration requirements" and must secure or renew a Florida's driver license or identification card. At each renewal appearance, DHSMV must photograph the offender and forward a copy of the photo, along with all the information provided by the offender, to FDLE and DOC. The offender bears the cost of this process.

Failure to register with FDLE or maintain a current driver's license or identification card is a third degree felony. See §943.0435(6), F.S.

These registration obligations continue for life unless the offender's civil rights are restored or the offender receives a full pardon or has the conviction set aside. However, ten years after release, if an offender has no arrests for felonies or misdemeanors, the

offender may petition the criminal division of the circuit court to remove his or her predator designation. The court may grant or deny the petition.

FDLE maintains a toll-free sexual offender hotline for the public to access information about sexual predators and offenders. The number is: 1-888-FL-PREDATOR (1-888-357-7332). In addition, FDLE is responsible for the on-line maintenance of current information regarding each registered sexual predator. The site is "<http://www.fdle.state.fl.us/>".

B. EFFECT OF PROPOSED CHANGES:

The bill will require sex offenders or murderers, as a condition of parole, to be issued a special color-coded license plate designating the offender's status as a sex offender or murderer if they are subject to motor vehicle registration requirements. It also requires that offenders, as a condition of parole, be issued a special identification card, or driver license if qualified, designating their status as a "sex offender" or a "murderer". The bill will require the DHSMV to issue the driver licenses, identification cards and license tags.

The bill defines "murderer" to include people who have been convicted of committing, attempting, soliciting, or conspiring to commit first degree murder, second degree murder and third degree murder as defined in section 782.04, in this state or another jurisdiction. This includes felony-murder. The bill does not distinguish murderers with a history of predatory behavior or with a risk of reoffending.

The bill defines "sex offender" to include people convicted, in this state or another jurisdiction, of committing, attempting, soliciting or conspiring to commit any of the offenses in the following statutes:

1. Luring or enticing a child (787.025)
2. Sexual battery (Chapter 794)
3. Procuring a person under age 18 for prostitution (796.03)
4. Lewd, lascivious or indecent assault or act upon or in presence of child. (800.04)
5. Using, promoting or possession of sexual performance by a child (827.071)
6. Transfer of obscene material to a child (847.0133)
7. Computer pornography (847.0135)
8. Selling or buying of minors for sexual depiction (847.0145)

The bill defines "convicted" to include people who have been determined guilty as a result of a plea or trial, regardless of whether adjudication is withheld.

The bill also will continue the requirement that the DHSMV, in conjunction with the FDLE, determine the feasibility of requiring sexual predators to have a special designated license plate and a special designation on any Florida driver license or identification card.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. DHSMV will be required to issue special driver licenses, identification cards, and vehicle registration tags to certain convicted murderers and sex offenders.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

The bill creates §947.182, F.S. The bill amends §775.21(7), F.S.

E. SECTION-BY-SECTION RESEARCH:

None.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The DHSMV has estimated a start up cost of \$22,500 for the purchase of license plates and \$16,005 in data processing costs, for a total of \$38,505. This total reflects 513 hours of programming at \$31.20 per hour for modifications to the DHSMV Software systems. Also reflected is the cost to manufacture an initial inventory of 10,000 license plates at \$2.25 per plate.

2. Recurring Effects:

The DHSMV has estimated recurring costs of \$2,250, reflecting a recurring estimated issuance of 1,000 license plates annually at a cost of \$2.25 a plate. (Cost for a non-specialty plate is \$1.50).

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

DHSMV has estimated a total of \$38,505 in non-recurring costs and \$2,250 in recurring costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Parole Commission and FDLE have stated that non-recurring and recurring effects would be minimal.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

The DHSMV has determined that the current driver license and identification card format includes sufficient space in the lower right hand section to include the proposed designations. The DHSMV proposes to include the designation of "SO" for sexual offenders and "MR" for murderers. According to DHSMV, this is more cost effective than using a color strip indicator on the license or identification card. The designation would be located in a corner of the card as the current programming mechanism would not allow for encoding the designation within the license or identification number.

The DHSMV has noted that the bill does not specifically state whether the special license plates are to be a different color from the standard license plate. The bill does not currently state whether the offender designation must be obvious to the general public, or whether such designation should only be recognizable to law enforcement. The bill does not

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specifically state that "sex offender" or "murderer" needs to be embossed at the bottom of the license plate. The DHSMV has also suggested an amendment to Chapter 320 which provides for all license plates issued by the state of Florida.

The DHSMV has suggested that an implementation date of January 1, 1999 would allow for the time needed to design, produce and ship new license plates and modify programming.

The bill does not make special distinctions between sexual predators and sexual offenders.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

Prepared by:

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