

By Representative Rodriguez-Chomat

1 A bill to be entitled
2 An act relating to sexual predators who commit
3 offenses against children; amending s. 775.21,
4 F.S., the Florida Sexual Predators Act;
5 imposing additional requirements with respect
6 to public notification of the presence of a
7 sexual predator who has committed one or more
8 specified offenses against a child; requiring
9 the Department of Corrections and other
10 governmental or private agencies or entities
11 having custody, control, or supervision over
12 such sexual predator to provide certain advance
13 notification to the local governing body of the
14 community, and chief of police of the
15 municipality or sheriff of the county, where
16 the sexual predator intends to temporarily or
17 permanently reside upon release; requiring the
18 sexual predator to provide certain notice to
19 the local governing body and chief of police of
20 the municipality or sheriff of the county
21 within a specified period after release;
22 requiring a sexual predator entering the state
23 to provide certain notice to the Department of
24 Law Enforcement within a specified period;
25 prohibiting violation of certain notice
26 requirements imposed on such sexual predator;
27 providing penalties; reenacting s. 943.0435(5),
28 F.S., relating to required reports by sex
29 offenders and penalties, to incorporate said
30 amendment in a reference; providing an
31 effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Section 775.21, Florida Statutes, is
4 amended to read:

5 775.21 The Florida Sexual Predators Act; definitions;
6 legislative findings, purpose, and intent; criteria;
7 designation; registration; community and public notification;
8 immunity; penalties.--

9 (1) SHORT TITLE.--This section may be cited as "The
10 Florida Sexual Predators Act."

11 (2) DEFINITIONS.--As used in this section:

12 (a) "Chief of police" means the chief law enforcement
13 officer of a municipality.

14 (b) "Community" means any county where the sexual
15 predator lives or otherwise establishes temporary or permanent
16 residence.

17 (c) "Department" means the Department of Law
18 Enforcement.

19 (d) "Entering the county" includes being discharged
20 from a correctional facility or jail or secure treatment
21 facility within the county or being under supervision within
22 the county for the commission of a violation enumerated in
23 subsection (4).

24 (e) "Temporary residence" means a stay of 2 or more
25 weeks.

26 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE
27 INTENT.--

28 (a) Repeat sex offenders, sex offenders who use
29 physical violence, and sex offenders who prey on children are
30 sexual predators who present an extreme threat to the public
31 safety. Sex offenders are extremely likely to use physical

1 violence and to repeat their offenses, and most sex offenders
2 commit many offenses, have many more victims than are ever
3 reported, and are prosecuted for only a fraction of their
4 crimes. This makes the cost of sex offender victimization to
5 society at large, while incalculable, clearly exorbitant.

6 (b) The high level of threat that a sexual predator
7 presents to the public safety, and the long-term effects
8 suffered by victims of sex offenses, provide the state with
9 sufficient justification to implement a strategy that
10 includes:

11 1. Incarcerating sexual predators and maintaining
12 adequate facilities to ensure that decisions to release sexual
13 predators into the community are not made on the basis of
14 inadequate space.

15 2. Providing for specialized supervision of sexual
16 predators who are in the community by specially trained
17 probation officers with low caseloads, as described in ss.
18 947.1405(7) and 948.03(5). The sexual predator is subject to
19 specified terms and conditions implemented at sentencing or at
20 the time of release from incarceration, with a requirement
21 that those who are financially able must pay all or part of
22 the costs of supervision.

23 3. Requiring the registration of sexual predators,
24 with a requirement that complete and accurate information be
25 maintained and accessible for use by law enforcement
26 authorities, communities, and the public.

27 4. Providing for community and public notification
28 concerning the presence of sexual predators.

29 5. Prohibiting sexual predators from working with
30 children, either for compensation or as a volunteer.

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1 (c) The state has a compelling interest in protecting
2 the public from sexual predators and in protecting children
3 from predatory sexual activity, and there is sufficient
4 justification for requiring sexual predators to register and
5 for requiring community and public notification of the
6 presence of sexual predators.

7 (d) It is the purpose of the Legislature that, upon
8 the court's written finding that an offender is a sexual
9 predator, in order to protect the public, it is necessary that
10 the sexual predator be registered with the department and that
11 the community and the public be notified of the sexual
12 predator's presence.

13 (e) It is the intent of the Legislature to address the
14 problem of sexual predators by:

15 1. Requiring sexual predators supervised in the
16 community to have special conditions of supervision and to be
17 supervised by probation officers with low caseloads;

18 2. Requiring sexual predators to register with the
19 Florida Department of Law Enforcement, as provided in this
20 section; and

21 3. Requiring community and public notification of the
22 presence of a sexual predator, as provided in this section.

23 (4) ~~SEXUAL PREDATOR CRITERIA.--~~

24 (a) For a current offense committed on or after
25 October 1, 1993, and before October 1, 1995:

26 1. An offender who was found by the court under former
27 s. 775.22 or former s. 775.23 to be a sexual predator is a
28 "sexual predator" if the court made a written finding that the
29 offender was a sexual predator at the time of sentencing, as
30 required by former s. 775.23. Such sexual predator must
31 register or be registered as a sexual predator with the

1 department, and is subject to community and public
2 notification. Upon notification of the presence of a sexual
3 predator, the sheriff of the county or the chief of police of
4 the municipality where the sexual predator temporarily or
5 permanently resides shall notify the community and the public
6 of the presence of the sexual predator in a manner deemed
7 appropriate by the sheriff or the chief of police.

8 2. If an offender has been registered as a sexual
9 predator by the Department of Corrections, the department, or
10 any other law enforcement agency and:

11 a. The court did not, for whatever reason, make a
12 written finding at the time of sentencing that the offender
13 was a sexual predator, or

14 b. The offender was administratively registered as a
15 sexual predator because the Department of Corrections, the
16 department, or any other law enforcement agency obtained
17 information which indicated that the offender met the sexual
18 predator criteria based on a violation of a similar law in
19 another jurisdiction,

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21 the department shall remove that offender from the
22 department's sexual predator list, and shall notify the state
23 attorney who prosecuted the offense that triggered the
24 administrative sexual predator designation for offenders
25 described in sub-subparagraph a., or the state attorney of the
26 county where the offender permanently or temporarily resides
27 on October 1, 1996, for offenders described in
28 sub-subparagraph b. The state attorney may bring the matter to
29 the court's attention in order to establish that the offender
30 meets the sexual predator criteria. If the court then makes a
31 written finding that the offender is a sexual predator, the

1 offender is designated as a sexual predator and must register
2 or be registered as a sexual predator with the department. If
3 the court does not make a written finding that the offender is
4 a sexual predator, the offender is not designated as a sexual
5 predator with respect to that offense, is not required to
6 register or be registered as a sexual predator with the
7 department, and is not subject to community and public
8 notification.

9 (b) For a current offense committed on or after
10 October 1, 1995, and before October 1, 1996:

11 1. An offender who was found by the court under former
12 s. 775.22 or former s. 775.23 to be a sexual predator is a
13 "sexual predator" if the court made a written finding that the
14 offender was a sexual predator at the time of sentencing, as
15 required by former s. 775.23. Such sexual predator must
16 register or be registered with the department, and is subject
17 to community and public notification. Upon notification of
18 the presence of a sexual predator, the sheriff of the county
19 or the chief of police of the municipality where the sexual
20 predator temporarily or permanently resides shall notify the
21 community and the public of the presence of the sexual
22 predator in a manner deemed appropriate by the sheriff or the
23 chief of police.

24 2. If an offender has been registered as a sexual
25 predator by the Department of Corrections, the department, or
26 any other law enforcement agency and:

27 a. The court did not, for whatever reason, make a
28 written finding at the time of sentencing that the offender
29 was a sexual predator, or

30 b. The offender was administratively registered as a
31 sexual predator because the Department of Corrections, the

1 department, or any other law enforcement agency obtained
2 information which indicated that the offender met the sexual
3 predator criteria based on a violation of a similar law in
4 another jurisdiction,
5
6 the department shall remove that offender from the
7 department's sexual predator list, and shall notify the state
8 attorney who prosecuted the offense that triggered the
9 administrative sexual predator designation for offenders
10 described in sub-subparagraph a., or the state attorney of the
11 county where the offender permanently or temporarily resides
12 on October 1, 1996, for offenders described in
13 sub-subparagraph b. The state attorney may bring the matter to
14 the court's attention in order to establish that the offender
15 meets the sexual predator criteria. If the court makes a
16 written finding that the offender is a sexual predator, the
17 offender is designated as a sexual predator, must register or
18 be registered as a sexual predator with the department, and is
19 subject to the community and public notification provisions
20 under former s. 775.225. If the court does not make a written
21 finding that the offender is a sexual predator, the offender
22 is not designated as a sexual predator with respect to that
23 offense and is not required to register or be registered as a
24 sexual predator with the department.

25 (c) For a current offense committed on or after
26 October 1, 1996, upon conviction, an offender shall be
27 designated as a "sexual predator" under subsection (5), and
28 subject to registration under subsection (6) and community and
29 public notification under subsection (7) if:

30 1. The felony meets the criteria of former ss.
31 775.22(2) and 775.23(2), specifically, the felony is:

1 a. A capital, life, or first degree felony violation
2 of chapter 794 or s. 847.0145, or of a similar law of another
3 jurisdiction; or

4 b. Any second degree or greater felony violation of
5 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or of a
6 similar law of another jurisdiction, and the offender has
7 previously been convicted of or found to have committed, or
8 has pled nolo contendere or guilty to, regardless of
9 adjudication, any violation of s. 794.011(2), (3), (4), (5),
10 or (8), s. 794.023, s. 800.04, s. 827.071, s. 847.0133, or s.
11 847.0145, or of a similar law of another jurisdiction;

12 2. The offender has not received a pardon for any
13 felony or similar law of another jurisdiction that is
14 necessary for the operation of this paragraph; and

15 3. A conviction of a felony or similar law of another
16 jurisdiction necessary to the operation of this paragraph has
17 not been set aside in any postconviction proceeding.

18 (d) In order to be counted as a prior felony for
19 purposes of this subsection, the felony must have resulted in
20 a conviction sentenced separately, or an adjudication of
21 delinquency entered separately, prior to the current offense
22 and sentenced or adjudicated separately from any other felony
23 conviction that is to be counted as a prior felony. If the
24 offender's prior enumerated felony was committed more than 10
25 years before the primary offense, it shall not be considered a
26 prior felony under this subsection if the offender has not
27 been convicted of any other crime for a period of 10
28 consecutive years from the most recent date of release from
29 confinement, supervision, or sanction, whichever is later.

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1 (e) "Conviction" means a determination of guilt that
2 is the result of a plea or a trial, regardless of whether
3 adjudication is withheld.

4 (5) SEXUAL PREDATOR DESIGNATION.--For a current
5 offense committed on or after October 1, 1996, an offender is
6 designated as a sexual predator as follows:

7 (a)1. An offender who meets the sexual predator
8 criteria described in paragraph (4)(c) who is before the court
9 for sentencing for a current offense committed on or after
10 October 1, 1996, is a sexual predator, and the sentencing
11 court must make a written finding at the time of sentencing
12 that the offender is a sexual predator; or

13 2. If the Department of Corrections, the department,
14 or any other law enforcement agency obtains information which
15 indicates that an offender who permanently or temporarily
16 resides in this state meets the sexual predator criteria
17 described in paragraph (4)(c) because the offender committed a
18 similar violation in another jurisdiction on or after October
19 1, 1996, the Department of Corrections, the department, or the
20 law enforcement agency shall notify the state attorney of the
21 county where the offender permanently or temporarily resides
22 of the offender's presence in the community. The state
23 attorney shall file a petition with the criminal division of
24 the circuit court for the purpose of holding a hearing to
25 determine if the offender's criminal record from another
26 jurisdiction meets the sexual predator criteria. If the court
27 finds that the offender meets the sexual predator criteria
28 because the offender has violated a similar law or similar
29 laws in another jurisdiction, the court shall make a written
30 finding that the offender is a sexual predator.

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1 When the court makes a written finding that an offender is a
2 sexual predator, the court shall inform the sexual predator of
3 the registration and community and public notification
4 requirements described in this section. Within 48 hours of the
5 court designating an offender as a sexual predator, the clerk
6 of the circuit court shall transmit a copy of the court's
7 written sexual predator finding to the department. If the
8 offender is sentenced to a term of imprisonment or
9 supervision, a copy of the court's written sexual predator
10 finding must be submitted to the Department of Corrections.

11 (b) If the Department of Corrections, the department,
12 or any other law enforcement agency obtains information which
13 indicates that an offender meets the sexual predator criteria
14 but the court did not make a written finding that the offender
15 is a sexual predator as required in paragraph (a), the
16 Department of Corrections, the department, or the law
17 enforcement agency shall notify the state attorney who
18 prosecuted the offense for offenders described in subparagraph
19 (a)1., or the state attorney of the county where the offender
20 temporarily or permanently resides upon first entering the
21 state for offenders described in subparagraph (a)2. The state
22 attorney shall bring the matter to the court's attention in
23 order to establish that the offender meets the sexual predator
24 criteria. If the state attorney fails to establish that an
25 offender meets the sexual predator criteria and the court does
26 not make a written finding that an offender is a sexual
27 predator, the offender is not required to register with the
28 department as a sexual predator, and the department and other
29 law enforcement agencies are not authorized to inform the
30 community and the public of the offender's presence. The
31 offender must comply with the convicted felon registration

1 requirements under s. 775.13. The Department of Corrections,
2 the department, or any other law enforcement agency shall not
3 administratively designate an offender as a sexual predator
4 without a written finding from the court that the offender is
5 a sexual predator.

6 (6) REGISTRATION.--

7 (a) A sexual predator must register with the
8 department by providing the following information to the
9 department:

10 1. Name, social security number, age, race, sex, date
11 of birth, height, weight, hair and eye color, photograph,
12 address of legal residence, address of any current temporary
13 residence, date and place of any employment, date and place of
14 each conviction, fingerprints, and a brief description of the
15 crime or crimes committed by the offender.

16 2. Any other information determined necessary by the
17 department, including criminal and corrections records,
18 nonprivileged personnel, treatment, and abuse registry
19 records, and evidentiary genetic markers when available.

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21 If the sexual predator is in the custody or control of, or
22 under the supervision of, the Department of Corrections, or is
23 in the custody of a private correctional facility, the sexual
24 predator must register with the Department of Corrections.

25 (b) If the sexual predator is not in the custody or
26 control of, or under the supervision of, the Department of
27 Corrections, or is not in the custody of a private
28 correctional facility, and permanently or temporarily resides
29 in the state, the sexual predator shall initially register in
30 person at an office of the department, or at the sheriff's
31 office in the county in which the predator permanently or

1 temporarily resides, within 48 hours after establishing
2 permanent or temporary residence in this state. If a sexual
3 predator registers with the sheriff's office, the sheriff
4 shall take a photograph and a set of fingerprints of the
5 predator and forward the photographs and fingerprints to the
6 department, along with the information that the predator is
7 required to provide pursuant to this section.

8 (c) Subsequent to the initial registration required
9 under paragraph (b), a sexual predator shall register in
10 person at a driver's license office of the Department of
11 Highway Safety and Motor Vehicles within 48 hours after any
12 change in the predator's permanent or temporary residence. At
13 the driver's license office the sexual predator shall:

14 1. If otherwise qualified, secure a Florida driver's
15 license, renew a Florida driver's license, or secure an
16 identification card. The sexual predator shall identify
17 himself or herself as a sexual predator who is required to
18 comply with this section, provide his or her place of
19 permanent or temporary residence, and submit to the taking of
20 a photograph for use in issuing a driver's license, renewed
21 license, or identification card, and for use by the department
22 in maintaining current records of sexual predators.

23 2. Pay the costs assessed by the Department of Highway
24 Safety and Motor Vehicles for issuing or renewing a driver's
25 license or identification card as required by this section.

26 3. Provide, upon request, any additional information
27 necessary to confirm the identity of the sexual predator,
28 including a set of fingerprints.

29 (d) Each time a sexual predator's driver's license or
30 identification card is subject to renewal, the predator shall
31 report in person to a driver's license office, regardless of

1 whether the predator's residence has changed, and shall be
2 subject to the requirements specified in paragraph (c). The
3 Department of Highway Safety and Motor Vehicles shall forward
4 to the department and to the Department of Corrections all
5 photographs and information provided by sexual predators.
6 Notwithstanding the restrictions set forth in s. 322.142, the
7 Department of Highway Safety and Motor Vehicles is authorized
8 to release a reproduction of a color-photograph or
9 digital-image license to the Department of Law Enforcement for
10 purposes of public notification of sexual predators as
11 provided in this section.

12 (e) If the sexual predator initially registers at an
13 office of the department, the department must notify the
14 sheriff and the state attorney of the county and, if
15 applicable, the police chief of the municipality, where the
16 sexual predator permanently or temporarily resides within 48
17 hours after the sexual predator registers with the department.

18 (f)1. The department is responsible for the on-line
19 maintenance of current information regarding each registered
20 sexual predator. The department must maintain hotline access
21 for state, local, and federal law enforcement agencies to
22 obtain instantaneous locator file and offender characteristics
23 information on all released registered sexual predators for
24 purposes of monitoring, tracking, and prosecution. The
25 photograph and fingerprints do not have to be stored in a
26 computerized format.

27 2. The department's sexual predator registration list,
28 containing the information described in subparagraph (a)1., is
29 a public record. The department is authorized to disseminate
30 this public information by any means deemed appropriate,
31 including operating a "900" telephone number for this purpose.

1 When the department provides information regarding a
2 registered sexual predator to the public, department personnel
3 must advise the person making the inquiry that positive
4 identification of a person believed to be a sexual predator
5 cannot be established unless a fingerprint comparison is made,
6 and that it is illegal to use public information regarding a
7 registered sexual predator to facilitate the commission of a
8 crime.

9 3. The department shall adopt guidelines as necessary
10 regarding the registration of sexual predators and the
11 dissemination of information regarding sexual predators as
12 required by this section.

13 (g) A sexual predator must maintain registration with
14 the department for the duration of his or her life, unless the
15 sexual predator has had his or her civil rights restored, or
16 has received a full pardon or has had a conviction set aside
17 in a postconviction proceeding for any felony sex offense that
18 met the criteria for the sexual predator designation. However,
19 a sexual predator who has been lawfully released from
20 confinement, supervision, or sanction, whichever is later, for
21 at least 10 years and has not been arrested for any felony or
22 misdemeanor offense since release, may petition the criminal
23 division of the circuit court for the purpose of removing the
24 sexual predator designation. The court has the discretion to
25 grant or deny such relief.

26 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

27 (a) Law enforcement agencies must inform the community
28 and the public of a sexual predator's presence. Upon
29 notification of the presence of a sexual predator, the sheriff
30 of the county or the chief of police of the municipality where
31 the sexual predator temporarily or permanently resides shall

1 notify the community and the public of the presence of the
2 sexual predator in a manner deemed appropriate by the sheriff
3 or the chief of police. Information provided to the community
4 and the public regarding a sexual predator must include:
5 1. The name of the sexual predator;
6 2. A description of the sexual predator, including a
7 photograph;
8 3. The sexual predator's current address, including
9 the name of the county or municipality if known;
10 4. The circumstances of the sexual predator's offense
11 or offenses; and
12 5. Whether the victim of the sexual predator's offense
13 or offenses was, at the time of the offense, a minor or an
14 adult.

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16 This paragraph does not authorize the release of the name of
17 any victim of the sexual predator.

18 (b) The sheriff or the police chief may coordinate the
19 community and public notification efforts with the department.
20 Statewide notification to the public is authorized, as deemed
21 appropriate by local law enforcement personnel and the
22 department.

23 (c) The department shall notify the public of all
24 designated sexual predators through the Internet. The
25 Internet notice shall include the information required by
26 paragraph (a).

27 (d) The department shall adopt a protocol to assist
28 law enforcement agencies in their efforts to notify the
29 community and the public of the presence of sexual predators.
30 The department, in consultation and cooperation with the
31 Department of Highway Safety and Motor Vehicles, shall

1 determine the feasibility of requiring sexual predators to
2 have a special designation on any drivers license,
3 identification card, or license tag issued in this state.

4 (8) IMMUNITY.--When the court has made a written
5 finding that an offender is a sexual predator, an elected or
6 appointed official, public employee, or agency is immune from
7 civil liability for damages resulting from the release of
8 information under this section.

9 (9) PENALTIES.--

10 (a) A sexual predator who fails to register or who
11 fails, after registration, to renew a driver's license or
12 identification card or provide required location information,
13 commits a felony of the third degree, punishable as provided
14 in s. 775.082, s. 775.083, or s. 775.084.

15 (b) A sexual predator who has been convicted of or
16 found to have committed, or has pled nolo contendere or guilty
17 to, regardless of adjudication, any violation of s.
18 794.011(2), (3), (4), (5), or (8), s. 794.023, s. 800.04, s.
19 827.071, s. 847.0133, or s. 847.0145, or of a similar law of
20 another jurisdiction, when the victim of the offense was a
21 minor, and who works, whether for compensation or as a
22 volunteer, at any business, school, day care center, park,
23 playground, or other place where children regularly
24 congregate, commits a felony of the third degree, punishable
25 as provided in s. 775.082, s. 775.083, or s. 775.084.

26 (10) ADDITIONAL REQUIREMENTS WHEN SEXUAL PREDATOR'S
27 VICTIM WAS MINOR.--In addition to any other requirements
28 imposed under this section, the following paragraphs apply to
29 a sexual predator who has been convicted of or found to have
30 committed, or has pled nolo contendere or guilty to,
31 regardless of adjudication, any violation of s. 794.011(2),

1 (3), (4), (5), or (8), s. 794.023, s. 800.04, s. 827.071, s.
2 847.0133, or s. 847.0145, or of a similar law of another
3 jurisdiction, when the victim of the offense was a minor:

4 (a) The Department of Corrections and any governmental
5 or private agency or entity having custody, control, or
6 supervision over the sexual predator, at least 90 days before
7 the sexual predator is released from incarceration, custody,
8 control, or supervision of any correctional institution or
9 facility in the state, shall notify the local governing body
10 of the community, and the chief of police of the municipality
11 or the sheriff of the county, where the sexual predator
12 intends to temporarily or permanently reside upon release.

13 (b) Within 72 hours after arrival in the municipality
14 or county where the sexual predator intends to make his or her
15 temporary or permanent residence upon release, the sexual
16 predator shall notify the local governing body of the
17 community, and the chief of police of the municipality or the
18 sheriff of the county, of the address where he or she is
19 residing.

20 (c) If the sexual predator has been released from
21 incarceration, custody, control, or supervision in a state
22 other than this state, within 24 hours after entering this
23 state, he or she shall notify the Department of Law
24 Enforcement of his or her arrival in this state, and of his or
25 her intended destination.

26 (d) A person who violates paragraph (b) or paragraph
27 (c) commits a felony of the first degree, punishable by a
28 mandatory minimum term of 3 years' imprisonment.

29 Section 2. For the purpose of incorporating the
30 amendment to section 775.21, Florida Statutes, in a reference
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1 thereto, subsection (5) of section 943.0435, Florida Statutes,
2 is reenacted to read:

3 943.0435 Sex offenders required to report to the
4 department; penalty.--

5 (5) This section does not apply to a sex offender who
6 is also a sexual predator, as defined in s. 775.21. A sexual
7 predator must register as required under s. 775.21.

8 Section 3. This act shall take effect July 1 of the
9 year in which enacted.

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HOUSE SUMMARY

Revises the Florida Sexual Predators Act. Imposes additional requirements with respect to public notification of the presence of a sexual predator who has committed one or more specified offenses against a child. Requires the Department of Corrections and other governmental or private agencies or entities having custody, control, or supervision over such sexual predator to provide certain advance notification to the local governing body of the community, and chief of police of the municipality or sheriff of the county, where the sexual predator intends to temporarily or permanently reside upon release. Requires the sexual predator to provide certain notice to the local governing body and chief of police of the municipality or sheriff of the county within a specified period after release. Requires a sexual predator entering the state to provide certain notice to the Department of Law Enforcement within a specified period. Prohibits violation of specified notice requirements imposed upon such sexual predator, and provides penalties.