

**STORAGE NAME:** h3737a.leps

**DATE:** March 25, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
LAW ENFORCEMENT AND PUBLIC SAFETY  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3737

**RELATING TO:** Sexual Predators/ Notifying Public

**SPONSOR(S):** Representative Hill

**COMPANION BILL(S):** SB 1776 (I)

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

(1) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 7 NAYS 0

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I. SUMMARY:

House Bill 3737 revises the notification requirements of the Florida Sexual Predators Act, set forth in section 775.21, F.S. The statute currently requires that the sheriff or chief of police notify the community and the public of the presence of sexual predators. This bill specifies that within 48 hours after receiving notification of the presence of a sexual predator, the sheriff or chief of police must notify each public or private day care center, elementary school, middle school, and high school of the presence of this sexual predator in the community.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**Florida's Sexual Predator Act**

Florida's Sexual Predator Act, s. 775.21, F.S. (1997), designates offenders as "sexual predators" where the current offense is a:

- 1) capital, life or first-degree felony violation of Chapter 794, or s. 847.0145, F.S.; OR
- 2) any second-degree felony violation of Chapter 794, s. 800.04, 827.071 or 847.0145, F.S.; AND
- 3) the offender has previously been convicted of any violation of s. 794.011(2), (3), (4), (5) or (8), s. 794.023, s. 800.04, s. 827.071, s. 847.0133, or s. 847.0145, F.S.

The sexual predator is required to register directly with the Florida Department of Law Enforcement (FDLE), provide certain information, and be fingerprinted. Each sexual predator who is residing permanently or temporarily in the state outside a correctional facility, jail, or secure treatment facility must register or be registered within 48 hours after entering the county of permanent or temporary residence. Any change in temporary or permanent address, also, must be provided within 48 hours. Typically, a designated sexual predator must maintain registration with the FDLE for the duration of the offender's life.

Law enforcement must inform the community and the public of a sexual predator's presence "in a manner deemed appropriate" by the sheriff or police chief. A sexual predator who fails to register or be registered, or who fails, after registration, to provide location information, commits a third degree felony.

**Sexual Offender Information**

Section 944.606, F.S. (1997), requires the Department of Corrections to provide certain descriptive information, such as criminal history, fingerprints, and a photograph taken within 90 days of release to the sheriff of the county where a sexual offender is sentenced; the sheriff or the police chief, as appropriate, where the sexual offender plans to reside; and any person requesting such information. The term "sexual offender" is defined to include a person who has been convicted of sexual battery and other designated sexual offenses. The sheriff or police chief is required to provide this information to any individual who requests it.

**Notification of Inmate Release**

Sections 944.605 and 947.177, F.S. (1997), provide that within 6 months before the release of an inmate, the Department of Correction's shall notify the sentencing judge, the appropriate state attorney, the original arresting law enforcement agency, the sheriff of the county where the inmate plans to reside, and the victim or the victim's representative. An exit photograph will be placed in the inmate's file within 120 days of release. Additional information is required for the release of inmates convicted of enumerated violent offenses, including an exit photograph taken within 90 days of release.

**Registration Procedures**

Section 775.21, F.S. (1997), further provides that sexual predators already in custody must register with the Department of Corrections. Sexual predators who are not in custody must register at an office of the Florida Department of Law Enforcement (FDLE), or at the sheriff's office within 48 hours of establishing permanent residence. The Sexual Predator's fingerprints and photograph will be forwarded to the Florida Department of Law Enforcement.

Any change in permanent or temporary residence must be accompanied by an additional registration with the Department of Highway Safety and Motor Vehicles. The sexual predator must obtain a current Florida driver's licence or identification card with each registration, and renewal, and bear all costs thereof. Any failure to register or to renew license or identification constitutes a third-degree felony.

### **Reporting Requirements for Sex Offenders**

A "**Sex Offender**" is defined as anyone convicted of:

(1) Luring or enticing a child, any sexual battery offense; procuring a child under age 18 for prostitution; lewd or lascivious assault; promoting a sexual performance by a child; certain acts in connection with obscenity; computer pornography; selling or transferring custody or control of a minor to promote porn films involving the minor; or any similar offense from this or any other state, or

(2) Released on or after October 1, 1997, from a sanction imposed for the aforementioned offenses.

The requirements for reporting are essentially the same as the registration requirements for a sexual predator. Initial reporting is made to the FDLE or the sheriff of the county where the offender resides. Subsequent reporting is made to the DHSMV which information is forwarded to the FDLE. A sex offender who does not comply with the requirements of the new section commits a third-degree felony. Similarly, this section expressly provides immunity from civil liability for good-faith compliance.

### **Reporting requirements for the Department of Corrections**

The DOC is required to report to the FDLE certain information regarding sex offenders who are in DOC custody, control or supervision on or after October 1, 1997. The qualifying offenses are the same as those offenses described which would qualify a releasee as a sex offender. In addition to the usual information, DOC must provide a **digitized photograph** of the inmate, taken within 60 days of release. This information, also, must be made available in an electronic format compatible with the Florida Crime Information Center. Similarly, DOC is expressly provided with immunity from civil liability in conjunction with these duties.

**B. EFFECT OF PROPOSED CHANGES:**

House Bill 3737 revises the notification requirements of the Florida Sexual Predators Act, set forth in section 775.21, F.S. The statute currently requires that the sheriff or chief of police notify the community and the public of the presence of sexual predators. The information provided must include:

- (1) the name of the sexual predator;
- (2) a description and photograph of the sexual predator;
- (3) the sexual predator's current address;
- (4) the circumstances of the prior offenses; and
- (5) whether the victim was a minor or an adult.

The Florida Department of Law Enforcement currently provides this information to the public through the Internet.

However, under HB 3737, either the sheriff of the county, or the chief of police in any municipality, would have 48 hours after notification of the presence of a sexual predator to specifically notify the following institutions:

- (1) each public and private day care center;
- (2) elementary schools;
- (3) middle schools; and
- (4) high schools.

In summary, HB 3737 specifies that within 48 hours after receiving notification of the presence of a sexual predator, the sheriff or chief of police must notify each public or private day care center, elementary school, middle school, and high school of the presence of this sexual predator in the community.

**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?

N/A

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

N/A

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

N/A

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:

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- 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

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(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:

Section 775.21(7), F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

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3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate

2. Recurring Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A



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B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

Prepared by:

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