

By the Committee on Crime & Punishment and Representatives  
Albright, Ball, Brooks, Argenziano and Fasano

1                                   A bill to be entitled  
2           An act relating to sexual predators and  
3           offenders; amending s. 775.21, F.S.; deleting  
4           language prohibiting community and public  
5           notification of certain sexual predators and  
6           authorizing notification in a manner deemed  
7           appropriate by the sheriff and the chief of  
8           police; deleting language providing for  
9           community and public notification under former  
10          s. 775.225 and authorizing notification in a  
11          manner deemed appropriate by the sheriff or  
12          chief of police; deleting requirement that  
13          community and public notice include the age of  
14          the victim and providing instead for  
15          requirement that notice state whether the  
16          victim was a minor or an adult; amending s.  
17          944.606, F.S.; deleting language preventing the  
18          Florida Department of Law Enforcement or any  
19          law enforcement agency from notifying the  
20          community and the general public of a sexual  
21          offender's presence in the community;  
22          permitting agencies to notify the community and  
23          the public of a sexual offender's presence in  
24          the community; providing an effective date.

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

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28           Section 1. Subsections (4) and (7) of section 775.21,  
29 Florida Statutes, 1996 Supplement, are amended to read:

30           775.21 The Florida Sexual Predators Act; definitions;  
31 legislative findings, purpose, and intent; criteria;

1 designation; registration; community and public notification;  
2 immunity; penalties.--  
3 (4) SEXUAL PREDATOR CRITERIA.--  
4 (a) For a current offense committed on or after  
5 October 1, 1993, and before October 1, 1995:  
6 1. An offender who was found by the court under former  
7 s. 775.22 or former s. 775.23 to be a sexual predator is a  
8 "sexual predator" if the court made a written finding that the  
9 offender was a sexual predator at the time of sentencing, as  
10 required by former s. 775.23. Such sexual predator must  
11 register or be registered as a sexual predator with the  
12 department, and ~~but~~ is ~~not~~ subject to community and public  
13 notification. Upon notification of the presence of a sexual  
14 predator, the sheriff of the county or the chief of police of  
15 the municipality where the sexual predator temporarily or  
16 permanently resides shall notify the community and the public  
17 of the presence of the sexual predator in a manner deemed  
18 appropriate by the sheriff or the chief of police.  
19 2. If an offender has been registered as a sexual  
20 predator by the Department of Corrections, the department, or  
21 any other law enforcement agency and:  
22 a. The court did not, for whatever reason, make a  
23 written finding at the time of sentencing that the offender  
24 was a sexual predator, or  
25 b. The offender was administratively registered as a  
26 sexual predator because the Department of Corrections, the  
27 department, or any other law enforcement agency obtained  
28 information which indicated that the offender met the sexual  
29 predator criteria based on a violation of a similar law in  
30 another jurisdiction,  
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1 the department shall remove that offender from the  
2 department's sexual predator list, and shall notify the state  
3 attorney who prosecuted the offense that triggered the  
4 administrative sexual predator designation for offenders  
5 described in sub-subparagraph a., or the state attorney of the  
6 county where the offender permanently or temporarily resides  
7 on October 1, 1996, for offenders described in  
8 sub-subparagraph b. The state attorney may bring the matter to  
9 the court's attention in order to establish that the offender  
10 meets the sexual predator criteria. If the court then makes a  
11 written finding that the offender is a sexual predator, the  
12 offender is designated as a sexual predator and must register  
13 or be registered as a sexual predator with the department, ~~but~~  
14 ~~is not subject to community and public notification.~~ If the  
15 court does not make a written finding that the offender is a  
16 sexual predator, the offender is not designated as a sexual  
17 predator with respect to that offense, is not required to  
18 register or be registered as a sexual predator with the  
19 department, and is not subject to community and public  
20 notification.

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

23 1. An offender who was found by the court under former  
24 s. 775.22 or former s. 775.23 to be a sexual predator is a  
25 "sexual predator" if the court made a written finding that the  
26 offender was a sexual predator at the time of sentencing, as  
27 required by former s. 775.23. Such sexual predator must  
28 register or be registered with the department, and is subject  
29 to ~~the~~ community and public notification ~~provisions of former~~  
30 s. 775.225. Upon notification of the presence of a sexual  
31 predator, the sheriff of the county or the chief of police of

1 the municipality where the sexual predator temporarily or  
2 permanently resides shall notify the community and the public  
3 of the presence of the sexual predator in a manner deemed  
4 appropriate by the sheriff or the chief of police.

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

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

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

17  
18 the department shall remove that offender from the  
19 department's sexual predator list, and shall notify the state  
20 attorney who prosecuted the offense that triggered the  
21 administrative sexual predator designation for offenders  
22 described in sub-subparagraph a., or the state attorney of the  
23 county where the offender permanently or temporarily resides  
24 on October 1, 1996, for offenders described in  
25 sub-subparagraph b. The state attorney may bring the matter to  
26 the court's attention in order to establish that the offender  
27 meets the sexual predator criteria. If the court makes a  
28 written finding that the offender is a sexual predator, the  
29 offender is designated as a sexual predator, must register or  
30 be registered as a sexual predator with the department, and is  
31 subject to the community and public notification provisions

1 under former s. 775.225. If the court does not make a written  
2 finding that the offender is a sexual predator, the offender  
3 is not designated as a sexual predator with respect to that  
4 offense and is not required to register or be registered as a  
5 sexual predator with the department, ~~and is not subject to the~~  
6 ~~community and public notification provisions under former s.~~  
7 ~~775.225.~~

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

13 1. The felony meets the criteria of former ss.  
14 775.22(2) and 775.23(2), specifically, the felony is:

15 a. A capital, life, or first degree felony violation  
16 of chapter 794 or s. 847.0145, or of a similar law of another  
17 jurisdiction; or

18 b. Any second degree or greater felony violation of  
19 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or of a  
20 similar law of another jurisdiction, and the offender has  
21 previously been convicted of or found to have committed, or  
22 has pled nolo contendere or guilty to, regardless of  
23 adjudication, any violation of s. 794.011(2), (3), (4), (5),  
24 or (8), s. 794.023, s. 800.04, s. 827.071, s. 847.0133, or s.  
25 847.0145, or of a similar law of another jurisdiction;

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

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

1           (d) In order to be counted as a prior felony for  
2 purposes of this subsection, the felony must have resulted in  
3 a conviction sentenced separately, or an adjudication of  
4 delinquency entered separately, prior to the current offense  
5 and sentenced or adjudicated separately from any other felony  
6 conviction that is to be counted as a prior felony. If the  
7 offender's prior enumerated felony was committed more than 10  
8 years before the primary offense, it shall not be considered a  
9 prior felony under this subsection if the offender has not  
10 been convicted of any other crime for a period of 10  
11 consecutive years from the most recent date of release from  
12 confinement, supervision, or sanction, whichever is later.

13           (e) "Conviction" means a determination of guilt that  
14 is the result of a plea or a trial, regardless of whether  
15 adjudication is withheld.

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

19           (a)1. An offender who meets the sexual predator  
20 criteria described in paragraph (4)(c) who is before the court  
21 for sentencing for a current offense committed on or after  
22 October 1, 1996, is a sexual predator, and the sentencing  
23 court must make a written finding at the time of sentencing  
24 that the offender is a sexual predator; or

25           2. If the Department of Corrections, the department,  
26 or any other law enforcement agency obtains information which  
27 indicates that an offender who permanently or temporarily  
28 resides in this state meets the sexual predator criteria  
29 described in paragraph (4)(c) because the offender committed a  
30 similar violation in another jurisdiction on or after October  
31 1, 1996, the Department of Corrections, the department, or the

1 law enforcement agency shall notify the state attorney of the  
2 county where the offender permanently or temporarily resides  
3 of the offender's presence in the community. The state  
4 attorney shall file a petition with the criminal division of  
5 the circuit court for the purpose of holding a hearing to  
6 determine if the offender's criminal record from another  
7 jurisdiction meets the sexual predator criteria. If the court  
8 finds that the offender meets the sexual predator criteria  
9 because the offender has violated a similar law or similar  
10 laws in another jurisdiction, the court shall make a written  
11 finding that the offender is a sexual predator.

12  
13 When the court makes a written finding that an offender is a  
14 sexual predator, the court shall inform the sexual predator of  
15 the registration and community and public notification  
16 requirements described in this section. Within 48 hours of the  
17 court designating an offender as a sexual predator, the clerk  
18 of the circuit court shall transmit a copy of the court's  
19 written sexual predator finding to the department. If the  
20 offender is sentenced to a term of imprisonment or  
21 supervision, a copy of the court's written sexual predator  
22 finding must be submitted to the Department of Corrections.

23 (b) If the Department of Corrections, the department,  
24 or any other law enforcement agency obtains information which  
25 indicates that an offender meets the sexual predator criteria  
26 but the court did not make a written finding that the offender  
27 is a sexual predator as required in paragraph (a), the  
28 Department of Corrections, the department, or the law  
29 enforcement agency shall notify the state attorney who  
30 prosecuted the offense for offenders described in subparagraph  
31 (a)1., or the state attorney of the county where the offender

1 temporarily or permanently resides upon first entering the  
2 state for offenders described in subparagraph (a)2. The state  
3 attorney shall bring the matter to the court's attention in  
4 order to establish that the offender meets the sexual predator  
5 criteria. If the state attorney fails to establish that an  
6 offender meets the sexual predator criteria and the court does  
7 not make a written finding that an offender is a sexual  
8 predator, the offender is not required to register with the  
9 department as a sexual predator, and the department and other  
10 law enforcement agencies are not authorized to inform the  
11 community and the public of the offender's presence. The  
12 offender must comply with the convicted felon registration  
13 requirements under s. 775.13. The Department of Corrections,  
14 the department, or any other law enforcement agency shall not  
15 administratively designate an offender as a sexual predator  
16 without a written finding from the court that the offender is  
17 a sexual predator.

18 (6) REGISTRATION.--

19 (a) A sexual predator must register with the  
20 department by providing the following information to the  
21 department:

22 1. Name, social security number, age, race, sex, date  
23 of birth, height, weight, hair and eye color, photograph,  
24 address of legal residence, address of any current temporary  
25 residence, date and place of any employment, date and place of  
26 each conviction, fingerprints, and a brief description of the  
27 crime or crimes committed by the offender.

28 2. Any other information determined necessary by the  
29 department, including criminal and corrections records,  
30 nonprivileged personnel, treatment, and abuse registry  
31 records, and evidentiary genetic markers when available.



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The sexual predator may register directly with the department, or the Department of Corrections or any law enforcement agency may register the sexual predator with the department. The sexual predator is not required to make any further registration as a convicted felony offender in any county.

(b) Each sexual predator who is residing permanently or temporarily in the state outside of a correctional facility, jail, or secure treatment facility must register or be registered with the department within 48 hours after entering the county of permanent or temporary residence. A sexual predator who is registered with the department must provide written notification to the department of any change in permanent or temporary residence within 48 hours after arrival at the new place of permanent or temporary residence.

(c) The department must notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator permanently or temporarily resides within 48 hours after the sexual predator registers with the department or provides change of location information to the department.

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

1           2. The department's sexual predator registration list,  
2 containing the information described in subparagraph (a)1., is  
3 a public record. The department is authorized to disseminate  
4 this public information by any means deemed appropriate,  
5 including operating a "900" telephone number for this purpose.  
6 When the department provides information regarding a  
7 registered sexual predator to the public, department personnel  
8 must advise the person making the inquiry that positive  
9 identification of a person believed to be a sexual predator  
10 cannot be established unless a fingerprint comparison is made,  
11 and that it is illegal to use public information regarding a  
12 registered sexual predator to facilitate the commission of a  
13 crime.

14           3. The department shall adopt guidelines as necessary  
15 regarding the registration of sexual predators and the  
16 dissemination of information regarding sexual predators as  
17 required by this section.

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

31           (7) COMMUNITY AND PUBLIC NOTIFICATION.--

1 (a) Law enforcement agencies must inform the community  
2 and the public of a sexual predator's presence. Upon  
3 notification of the presence of a sexual predator, the sheriff  
4 of the county or the chief of police of the municipality where  
5 the sexual predator temporarily or permanently resides shall  
6 notify the community and the public of the presence of the  
7 sexual predator in a manner deemed appropriate by the sheriff  
8 or the chief of police. Information provided to the community  
9 and the public regarding a sexual predator must include:

- 10 1. The name of the sexual predator;
- 11 2. A description of the sexual predator, including a  
12 photograph;
- 13 3. The sexual predator's current address, including  
14 the name of the county or municipality;
- 15 4. The circumstances of the sexual predator's offense  
16 or offenses; and
- 17 5. Whether ~~The age of~~ the victim of the sexual  
18 predator's offense or offenses was, at the time of the  
19 offense, a minor or an adult.

20  
21 This paragraph does not authorize the release of the name of  
22 any victim of the sexual predator.

23 (b) The sheriff or the police chief may coordinate the  
24 community and public notification efforts with the department.  
25 Statewide notification to the public is authorized, as deemed  
26 appropriate by local law enforcement personnel and the  
27 department.

28 (c) The department shall notify the public of all  
29 designated sexual predators through the Internet. The  
30 Internet notice shall include the information required by  
31 paragraph (a).

1        (d)~~(c)~~ The department shall adopt a protocol to assist  
2 law enforcement agencies in their efforts to notify the  
3 community and the public of the presence of sexual predators.  
4 The department, in consultation and cooperation with the  
5 Department of Highway Safety and Motor Vehicles, shall  
6 determine the feasibility of requiring sexual predators to  
7 have a special designation on any drivers license,  
8 identification card, or license tag issued in this state.

9            Section 2. Section 944.606, Florida Statutes, 1996  
10 Supplement, is amended to read:

11            944.606 Sexual offenders; notification upon release.--

12            (1) As used in this section:

13            (a) "Conviction" means a determination of guilt that  
14 is the result of a plea or a trial, regardless of whether  
15 adjudication is withheld.

16            (b) "Sexual offender" means a person who has been  
17 convicted of a felony violation of chapter 794, s. 800.04, s.  
18 827.071, or s. 847.0145, or a violation of a similar law of  
19 another jurisdiction, when the department has received  
20 verified information regarding such conviction; an offender's  
21 computerized criminal history record is not, in and of itself,  
22 verified information.

23            (2) The Legislature finds that sexual offenders pose a  
24 high risk of engaging in sexual offenses even after being  
25 released from incarceration or commitment and that protection  
26 of the public from sexual offenders is a paramount  
27 governmental interest. Sexual offenders have a reduced  
28 expectation of privacy because of the public's interest in  
29 public safety and in the effective operation of government.  
30 Releasing sexual offender information to law enforcement  
31 agencies, ~~and~~ to persons who request such information, or

1 whenever deemed appropriate by a law enforcement or public  
2 agency to protect the public will further the governmental  
3 interests of public safety.

4 (3)(a) The department must provide information  
5 regarding any sexual offender who is being released after  
6 serving a period of incarceration for any offense, as follows:

7 1. The department must provide: the sexual offender's  
8 name, social security number, race, sex, date of birth,  
9 height, weight, and hair and eye color; date and county of  
10 sentence and each crime for which the offender was sentenced;  
11 a copy of the offender's fingerprints and a photograph taken  
12 within 90 days of release; and the offender's intended  
13 residence address, if known.

14 2. The department may provide any other information  
15 deemed necessary, including criminal and corrections records,  
16 nonprivileged personnel and treatment records, when available.

17 (b) The department must provide the information  
18 described in subparagraph (a)1. to:

19 1. The sheriff of the county from where the sexual  
20 offender was sentenced;

21 2. The sheriff of the county and, if applicable, the  
22 police chief of the municipality, where the sexual offender  
23 plans to reside; and

24 3. Any person who requests such information,

25  
26 either within 6 months prior to the anticipated release of a  
27 sexual offender, or as soon as possible if an offender is  
28 released earlier than anticipated.

29 (c) Upon request, the department must provide the  
30 information described in subparagraph (a)2. to:

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1           1. The sheriff of the county from where the sexual  
2 offender was sentenced; and

3           2. The sheriff of the county and, if applicable, the  
4 police chief of the municipality, where the sexual offender  
5 plans to reside,

6  
7 either within 6 months prior to the anticipated release of a  
8 sexual offender, or as soon as possible if an offender is  
9 released earlier than anticipated.

10           (d) Upon receiving information regarding a sexual  
11 offender from the department, the Department of Law  
12 Enforcement, a sheriff, or the chief of police shall provide  
13 the information described in subparagraph (a)1. to any  
14 individual who requests such information, and may, to promote  
15 or protect public safety, release the information to the  
16 public in any manner deemed appropriate.

17           (4) This section authorizes ~~does not authorize~~ the  
18 department or any law enforcement agency to notify the  
19 community and the public of a sexual offender's presence in  
20 the community in the interest of public safety. However, with  
21 respect to a sexual offender who has been found to be a  
22 "sexual predator" under chapter 775, the Florida Department of  
23 Law Enforcement or any other law enforcement agency must  
24 inform the community and the public of the sexual predator's  
25 presence in the community, as provided in chapter 775.

26           (5) An elected or appointed official, public employee,  
27 or agency is immune from civil liability for damages resulting  
28 from the release of information under this section.

29           Section 3. This act shall take effect upon becoming a  
30 law.

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