

By Senator Brown-Waite

10-1221-99

1 A bill to be entitled
2 An act relating to sexual predators and sexual
3 offenders; amending s. 775.21, F.S.; revising
4 criteria for registration as a sexual predator
5 under the Florida Sexual Predators Act;
6 deleting requirements that an offender register
7 if found by the court to be a sexual predator
8 under certain former laws; providing
9 requirements for establishing whether an
10 offender is a sexual predator if the court did
11 not make such a finding at the time of
12 sentencing or if the offender was
13 administratively registered based on a
14 violation of a similar law in another
15 jurisdiction; requiring that the Department of
16 Corrections or custodian of a local jail notify
17 the Department of Law Enforcement if a sexual
18 predator escapes from custody, absconds from
19 supervision, or dies; amending s. 943.0435,
20 F.S.; requiring that a sexual offender report
21 any temporary residence within or outside the
22 state to the Department of Law Enforcement or
23 to the sheriff; amending s. 944.606, F.S.,
24 relating to reporting requirements for sexual
25 offenders upon release; conforming a
26 cross-reference; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Section 775.21, Florida Statutes, 1998
31 Supplement, is amended to read:

1 775.21 The Florida Sexual Predators Act; definitions;
2 legislative findings, purpose, and intent; criteria;
3 designation; registration; community and public notification;
4 immunity; penalties.--

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

7 (2) DEFINITIONS.--As used in this section, the term:

8 (a) "Chief of police" means the chief law enforcement
9 officer of a municipality.

10 (b) "Community" means any county where the sexual
11 predator lives or otherwise establishes or maintains a
12 temporary or permanent residence.

13 (c) "Conviction" means a determination of guilt which
14 is the result of a trial or the entry of a plea of guilty or
15 nolo contendere, regardless of whether adjudication is
16 withheld. A conviction for a similar offense includes, but is
17 not limited to, a conviction by a federal or military
18 tribunal, including courts-martial conducted by the Armed
19 Forces of the United States, and includes a conviction in any
20 state of the United States.

21 (d) "Department" means the Department of Law
22 Enforcement.

23 (e) "Entering the county" includes being discharged
24 from a correctional facility or jail or secure treatment
25 facility within the county or being under supervision within
26 the county for the commission of a violation enumerated in
27 subsection (4).

28 (f) "Permanent residence" means a place where the
29 person abides, lodges, or resides for 14 or more consecutive
30 days.

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1 (g) "Temporary residence" means a place where the
2 person abides, lodges, or resides for a period of 14 or more
3 days in the aggregate during any calendar year and which is
4 not the person's permanent address; for a person whose
5 permanent residence is not in this state, a place where the
6 person is employed, practices a vocation, or is enrolled as a
7 student for any period of time in this state; or a place where
8 the person routinely abides, lodges, or resides for a period
9 of 4 or more consecutive or nonconsecutive days in any month
10 and which is not the person's permanent residence.

11 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE
12 INTENT.--

13 (a) Repeat sexual offenders, sexual offenders who use
14 physical violence, and sexual offenders who prey on children
15 are sexual predators who present an extreme threat to the
16 public safety. Sexual offenders are extremely likely to use
17 physical violence and to repeat their offenses, and most
18 sexual offenders commit many offenses, have many more victims
19 than are ever reported, and are prosecuted for only a fraction
20 of their crimes. This makes the cost of sexual offender
21 victimization to society at large, while incalculable, clearly
22 exorbitant.

23 (b) The high level of threat that a sexual predator
24 presents to the public safety, and the long-term effects
25 suffered by victims of sex offenses, provide the state with
26 sufficient justification to implement a strategy that
27 includes:

28 1. Incarcerating sexual predators and maintaining
29 adequate facilities to ensure that decisions to release sexual
30 predators into the community are not made on the basis of
31 inadequate space.

1 2. Providing for specialized supervision of sexual
2 predators who are in the community by specially trained
3 probation officers with low caseloads, as described in ss.
4 947.1405(7) and 948.03(5). The sexual predator is subject to
5 specified terms and conditions implemented at sentencing or at
6 the time of release from incarceration, with a requirement
7 that those who are financially able must pay all or part of
8 the costs of supervision.

9 3. Requiring the registration of sexual predators,
10 with a requirement that complete and accurate information be
11 maintained and accessible for use by law enforcement
12 authorities, communities, and the public.

13 4. Providing for community and public notification
14 concerning the presence of sexual predators.

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

17 (c) The state has a compelling interest in protecting
18 the public from sexual predators and in protecting children
19 from predatory sexual activity, and there is sufficient
20 justification for requiring sexual predators to register and
21 for requiring community and public notification of the
22 presence of sexual predators.

23 (d) It is the purpose of the Legislature that, upon
24 the court's written finding that an offender is a sexual
25 predator, in order to protect the public, it is necessary that
26 the sexual predator be registered with the department and that
27 members of the community and the public be notified of the
28 sexual predator's presence. The designation of a person as a
29 sexual predator is neither a sentence nor a punishment but
30 simply a status resulting from the conviction of certain
31 crimes.

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

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

6 2. Requiring sexual predators to register with the
7 Florida Department of Law Enforcement, as provided in this
8 section; and

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

11 (4) SEXUAL PREDATOR CRITERIA.--

12 ~~(a) For a current offense committed on or after~~
13 ~~October 1, 1993, and before October 1, 1995:~~

14 1. ~~An offender who was found by the court under former~~
15 ~~s. 775.22 or former s. 775.23 to be a sexual predator is a~~
16 ~~"sexual predator" if the court made a written finding that the~~
17 ~~offender was a sexual predator at the time of sentencing, as~~
18 ~~required by former s. 775.23. Such sexual predator must~~
19 ~~register or be registered as a sexual predator with the~~
20 ~~department as provided in subsection (6), and is subject to~~
21 ~~community and public notification as provided in subsection~~
22 ~~(7). Upon notification of the presence of a sexual predator,~~
23 ~~the sheriff of the county or the chief of police of the~~
24 ~~municipality where the sexual predator establishes or~~
25 ~~maintains a permanent or temporary residence shall notify~~
26 ~~members of the community and the public of the presence of the~~
27 ~~sexual predator in a manner deemed appropriate by the sheriff~~
28 ~~or the chief of police.~~

29 2. ~~If an offender has been registered as a sexual~~
30 ~~predator by the Department of Corrections, the department, or~~
31 ~~any other law enforcement agency and:~~

1 ~~a. The court did not, for whatever reason, make a~~
2 ~~written finding at the time of sentencing that the offender~~
3 ~~was a sexual predator, or~~

4 ~~b. The offender was administratively registered as a~~
5 ~~sexual predator because the Department of Corrections, the~~
6 ~~department, or any other law enforcement agency obtained~~
7 ~~information which indicated that the offender met the sexual~~
8 ~~predator criteria based on a violation of a similar law in~~
9 ~~another jurisdiction,~~

10
11 ~~the department shall remove that offender from the~~
12 ~~department's sexual predator list, and shall notify the state~~
13 ~~attorney who prosecuted the offense that triggered the~~
14 ~~administrative sexual predator designation for offenders~~
15 ~~described in sub-subparagraph a., or the state attorney of the~~
16 ~~county where the offender establishes or maintains a permanent~~
17 ~~or temporary residence on October 1, 1996, for offenders~~
18 ~~described in sub-subparagraph b. The state attorney may bring~~
19 ~~the matter to the court's attention in order to establish that~~
20 ~~the offender meets the sexual predator criteria. If the court~~
21 ~~then makes a written finding that the offender is a sexual~~
22 ~~predator, the offender is designated as a sexual predator,~~
23 ~~must register or be registered as a sexual predator with the~~
24 ~~department as provided in subsection (6), and is subject to~~
25 ~~community and public notification requirements as provided in~~
26 ~~subsection (7). If the court does not make a written finding~~
27 ~~that the offender is a sexual predator, the offender is not~~
28 ~~designated as a sexual predator with respect to that offense,~~
29 ~~is not required to register or be registered as a sexual~~
30 ~~predator with the department, and is not subject to the~~

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1 ~~requirements for community and public notification as a sexual~~
2 ~~predator.~~

3 ~~(b) For a current offense committed on or after~~
4 ~~October 1, 1995, and before October 1, 1996:~~

5 ~~1. An offender who was found by the court under former~~
6 ~~s. 775.22 or former s. 775.23 to be a sexual predator is a~~
7 ~~"sexual predator" if the court made a written finding that the~~
8 ~~offender was a sexual predator at the time of sentencing, as~~
9 ~~required by former s. 775.23. Such sexual predator must~~
10 ~~register or be registered with the department as provided in~~
11 ~~subsection (6), and is subject to community and public~~
12 ~~notification as provided in subsection (7). Upon notification~~
13 ~~of the presence of a sexual predator, the sheriff of the~~
14 ~~county or the chief of police of the municipality where the~~
15 ~~sexual predator establishes or maintains a permanent or~~
16 ~~temporary residence 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,~~

31

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 establishes or maintains a permanent~~
7 ~~or temporary residence on October 1, 1996, for offenders~~
8 ~~described in sub-subparagraph b. The state attorney may bring~~
9 ~~the matter to the court's attention in order to establish that~~
10 ~~the offender meets the sexual predator criteria. If the court~~
11 ~~makes a written finding that the offender is a sexual~~
12 ~~predator, the offender is designated as a sexual predator,~~
13 ~~must register or be registered as a sexual predator with the~~
14 ~~department as provided in subsection (6), and is subject to~~
15 ~~the community and public notification as provided in~~
16 ~~subsection (7). If the court does not make a written finding~~
17 ~~that the offender is a sexual predator, the offender is not~~
18 ~~designated as a sexual predator with respect to that offense~~
19 ~~and is not required to register or be registered as a sexual~~
20 ~~predator with the department.~~

21 (a)(c) For a current offense committed on or after
22 October 1, 1993 ~~1996~~, upon conviction, an offender shall be
23 designated as a "sexual predator" under subsection (5), and
24 subject to registration under subsection (6) and community and
25 public notification under subsection (7) if:

26 1. ~~The felony meets the criteria of former ss.~~
27 ~~775.22(2) and 775.23(2), specifically,~~The felony is:

28 a. A capital, life, or first-degree felony violation
29 of s. 787.01 or s. 787.02, where the victim is a minor and the
30 defendant is not the victim's parent, or of chapter 794 or s.

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1 847.0145, or a violation of a similar law of another
2 jurisdiction;

3 b. An attempt to commit a capital, life, or
4 first-degree felony violation of chapter 794, where the victim
5 is a minor, or a violation of a similar law of another
6 jurisdiction; or

7 c. Any second-degree or greater felony violation of s.
8 787.01 or s. 787.02, where the victim is a minor and the
9 defendant is not the victim's parent; chapter 794; s. 796.03;
10 s. 800.04; s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a
11 violation of a similar law of another jurisdiction, and the
12 offender has previously been convicted of or found to have
13 committed, or has pled nolo contendere or guilty to,
14 regardless of adjudication, any violation of s. 787.01 or s.
15 787.02, where the victim is a minor and the defendant is not
16 the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s.
17 794.023; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.
18 847.0133; s. 847.0135; or s. 847.0145, or a violation of a
19 similar law of another jurisdiction;

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

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

26 **(b)(d)** In order to be counted as a prior felony for
27 purposes of this subsection, the felony must have resulted in
28 a conviction sentenced separately, or an adjudication of
29 delinquency entered separately, prior to the current offense
30 and sentenced or adjudicated separately from any other felony
31 conviction that is to be counted as a prior felony. If the

1 offender's prior enumerated felony was committed more than 10
2 years before the primary offense, it shall not be considered a
3 prior felony under this subsection if the offender has not
4 been convicted of any other crime for a period of 10
5 consecutive years from the most recent date of release from
6 confinement, supervision, or sanction, whichever is later.

7 (c) If an offender has been registered as a sexual
8 predator by the Department of Corrections, the department, or
9 any other law enforcement agency and if:

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

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

19
20 the department shall remove that offender from the
21 department's list of sexual predators and, for an offender
22 described under subparagraph 1., shall notify the state
23 attorney who prosecuted the offense that met the criteria for
24 administrative designation as a sexual predator, and, for an
25 offender described under subparagraph 2., shall notify the
26 state attorney of the county where the offender establishes or
27 maintains a permanent or temporary residence. The state
28 attorney may bring the matter to the court's attention in
29 order to establish that the offender meets the criteria for
30 designation as a sexual predator. If the court makes a written
31 finding that the offender is a sexual predator, the offender

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

10 (5) SEXUAL PREDATOR DESIGNATION.--For a current
11 offense committed on or after October 1, 1993 ~~1996~~, an
12 offender is designated as a sexual predator as follows:

13 (a)1. An offender who meets the sexual predator
14 criteria described in paragraph(4)(a)~~(4)(c)~~who is before
15 the court for sentencing for a current offense committed on or
16 after October 1, 1993 ~~1996~~, is a sexual predator, and the
17 sentencing court must make a written finding at the time of
18 sentencing that the offender is a sexual predator, and the
19 clerk of the court shall transmit a copy of the order
20 containing the written finding to the department within 48
21 hours after the entry of the order; or

22 2. If the Department of Corrections, the department,
23 or any other law enforcement agency obtains information which
24 indicates that an offender who establishes or maintains a
25 permanent or temporary residence in this state meets the
26 sexual predator criteria described in paragraph(4)(a)~~(4)(c)~~
27 because the offender committed a similar violation in another
28 jurisdiction on or after October 1, 1993 ~~1996~~, the Department
29 of Corrections, the department, or the law enforcement agency
30 shall notify the state attorney of the county where the
31 offender establishes or maintains a permanent or temporary

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

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

21 (b) If a sexual predator is not sentenced to a term of
22 imprisonment, the clerk of the court shall ensure that the
23 sexual predator's fingerprints are taken and forwarded to the
24 department within 48 hours after the court renders its written
25 sexual predator finding. The fingerprint card shall be clearly
26 marked, "Sexual Predator Registration Card." The clerk of the
27 court that convicts and sentences the sexual predator for the
28 offense or offenses described in subsection (4) shall forward
29 to the department and to the Department of Corrections a
30 certified copy of any order entered by the court imposing any
31 special condition or restriction on the sexual predator which

1 restricts or prohibits access to the victim, if the victim is
2 a minor, or to other minors.

3 (c) If the Department of Corrections, the department,
4 or any other law enforcement agency obtains information which
5 indicates that an offender meets the sexual predator criteria
6 but the court did not make a written finding that the offender
7 is a sexual predator as required in paragraph (a), the
8 Department of Corrections, the department, or the law
9 enforcement agency shall notify the state attorney who
10 prosecuted the offense for offenders described in subparagraph
11 (a)1., or the state attorney of the county where the offender
12 establishes or maintains a residence upon first entering the
13 state for offenders described in subparagraph (a)2. The state
14 attorney shall bring the matter to the court's attention in
15 order to establish that the offender meets the sexual predator
16 criteria. If the state attorney fails to establish that an
17 offender meets the sexual predator criteria and the court does
18 not make a written finding that an offender is a sexual
19 predator, the offender is not required to register with the
20 department as a sexual predator. The Department of
21 Corrections, the department, or any other law enforcement
22 agency shall not administratively designate an offender as a
23 sexual predator without a written finding from the court that
24 the offender is a sexual predator.

25 (d) A person who establishes or maintains a residence
26 in this state and who has not been designated as a sexual
27 predator by a court of this state but who has been designated
28 as a sexual predator, as a sexually violent predator, or by
29 another sexual offender designation in another state or
30 jurisdiction and was, as a result of such designation,
31 subjected to registration or community or public notification,

1 or both, shall register in the manner provided in s. 943.0435
2 or s. 944.607 and shall be subject to community and public
3 notification as provided in s. 943.0435 or s. 944.607. A
4 person who meets the criteria of this section is subject to
5 the requirements and penalty provisions of s. 943.0435 or s.
6 944.607 until the person provides the department with an order
7 issued by the court that designated the person as a sexual
8 predator, as a sexually violent predator, or by another sexual
9 offender designation in another state or jurisdiction in which
10 the order was issued which states that such designation has
11 been removed, and provided such person no longer meets the
12 criteria for registration as a sexual offender under the laws
13 of this state.

14 (6) REGISTRATION.--

15 (a) A sexual predator must register with the
16 department by providing the following information to the
17 department:

18 1. Name, social security number, age, race, sex, date
19 of birth, height, weight, hair and eye color, photograph,
20 address of legal residence and address of any current
21 temporary residence within or outside the state, including a
22 rural route address and a post office box, date and place of
23 any employment, date and place of each conviction,
24 fingerprints, and a brief description of the crime or crimes
25 committed by the offender. A post office box shall not be
26 provided in lieu of a physical residential address. If the
27 sexual predator's place of residence is a motor vehicle,
28 trailer, mobile home, or manufactured home, as defined in
29 chapter 320, the sexual predator shall also provide to the
30 department written notice of the vehicle identification
31 number; the license tag number; the registration number; and a

1 description, including color scheme, of the motor vehicle,
2 trailer, mobile home, or manufactured home. If a sexual
3 predator's place of residence is a vessel, live-aboard vessel,
4 or houseboat, as defined in chapter 327, the sexual predator
5 shall also provide to the department written notice of the
6 hull identification number; the manufacturer's serial number;
7 the name of the vessel, live-aboard vessel, or houseboat; the
8 registration number; and a description, including color
9 scheme, of the vessel, live-aboard vessel, or houseboat.

10 2. Any other information determined necessary by the
11 department, including criminal and corrections records;
12 nonprivileged personnel, treatment, and abuse registry
13 records; and evidentiary genetic markers when available.

14 (b) If the sexual predator is in the custody or
15 control of, or under the supervision of, the Department of
16 Corrections, or is in the custody of a private correctional
17 facility, the sexual predator must register with the
18 Department of Corrections. The Department of Corrections shall
19 provide to the department registration information and the
20 location of, and local telephone number for, any Department of
21 Corrections office that is responsible for supervising the
22 sexual predator. In addition, the Department of Corrections
23 shall notify the department if the sexual predator escapes or
24 absconds from custody or supervision or if the sexual predator
25 dies.

26 (c) If the sexual predator is in the custody of a
27 local jail, the custodian of the local jail shall register the
28 sexual predator and forward the registration information to
29 the department. The custodian of the local jail shall also
30 take a digitized photograph of the sexual predator while the
31 sexual predator remains in custody and shall provide the

1 digitized photograph to the department. The custodian shall
2 notify the department if the sexual predator escapes from
3 custody or dies.

4 (d) If the sexual predator is under federal
5 supervision, the federal agency responsible for supervising
6 the sexual predator may forward to the department any
7 information regarding the sexual predator which is consistent
8 with the information provided by the Department of Corrections
9 under this section, and may indicate whether use of the
10 information is restricted to law enforcement purposes only or
11 may be used by the department for purposes of public
12 notification.

13 (e) If the sexual predator is not in the custody or
14 control of, or under the supervision of, the Department of
15 Corrections, or is not in the custody of a private
16 correctional facility, and establishes or maintains a
17 residence in the state, the sexual predator shall initially
18 register in person at an office of the department, or at the
19 sheriff's office in the county in which the predator
20 establishes or maintains a residence, within 48 hours after
21 establishing permanent or temporary residence in this state.
22 If a sexual predator registers with the sheriff's office, the
23 sheriff shall take a photograph and a set of fingerprints of
24 the predator and forward the photographs and fingerprints to
25 the department, along with the information that the predator
26 is required to provide pursuant to this section.

27 (f) Within 48 hours after the initial registration
28 required under paragraph (a) or paragraph (e), a sexual
29 predator who is not incarcerated and who resides in the
30 community, including a sexual predator under the supervision
31 of the Department of Corrections, shall register in person at

1 a driver's license office of the Department of Highway Safety
2 and Motor Vehicles and shall present proof of initial
3 registration. At the driver's license office the sexual
4 predator shall:

5 1. If otherwise qualified, secure a Florida driver's
6 license, renew a Florida driver's license, or secure an
7 identification card. The sexual predator shall identify
8 himself or herself as a sexual predator who is required to
9 comply with this section, provide his or her place of
10 permanent or temporary residence, including a rural route
11 address and a post office box, and submit to the taking of a
12 photograph for use in issuing a driver's license, renewed
13 license, or identification card, and for use by the department
14 in maintaining current records of sexual predators. A post
15 office box shall not be provided in lieu of a physical
16 residential address. If the sexual predator's place of
17 residence is a motor vehicle, trailer, mobile home, or
18 manufactured home, as defined in chapter 320, the sexual
19 predator shall also provide to the Department of Highway
20 Safety and Motor Vehicles the vehicle identification number;
21 the license tag number; the registration number; and a
22 description, including color scheme, of the motor vehicle,
23 trailer, mobile home, or manufactured home. If a sexual
24 predator's place of residence is a vessel, live-aboard vessel,
25 or houseboat, as defined in chapter 327, the sexual predator
26 shall also provide to the Department of Highway Safety and
27 Motor Vehicles the hull identification number; the
28 manufacturer's serial number; the name of the vessel,
29 live-aboard vessel, or houseboat; the registration number; and
30 a description, including color scheme, of the vessel,
31 live-aboard vessel, or houseboat.

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

4 3. Provide, upon request, any additional information
5 necessary to confirm the identity of the sexual predator,
6 including a set of fingerprints.

7 (g) Each time a sexual predator's driver's license or
8 identification card is subject to renewal, and within 48 hours
9 after any change of the predator's residence, the predator
10 shall report in person to a driver's license office, and shall
11 be subject to the requirements specified in paragraph (f). The
12 Department of Highway Safety and Motor Vehicles shall forward
13 to the department and to the Department of Corrections all
14 photographs and information provided by sexual predators.

15 Notwithstanding the restrictions set forth in s. 322.142, the
16 Department of Highway Safety and Motor Vehicles is authorized
17 to release a reproduction of a color-photograph or
18 digital-image license to the Department of Law Enforcement for
19 purposes of public notification of sexual predators as
20 provided in this section.

21 (h) If the sexual predator initially registers at an
22 office of the department, the department must notify the
23 sheriff and the state attorney of the county and, if
24 applicable, the police chief of the municipality, where the
25 sexual predator maintains a residence within 48 hours after
26 the sexual predator registers with the department.

27 (i) A sexual predator who intends to establish
28 residence in another state or jurisdiction shall notify the
29 sheriff of the county of current residence or the department
30 within 48 hours before the date he or she intends to leave
31 this state to establish residence in another state or

1 jurisdiction. The notification must include the address,
2 municipality, county, and state of intended residence. The
3 sheriff shall promptly provide to the department the
4 information received from the sexual predator. The department
5 shall notify the statewide law enforcement agency, or a
6 comparable agency, in the intended state or jurisdiction of
7 residence of the sexual predator's intended residence. The
8 failure of a sexual predator to provide his or her intended
9 place of residence is punishable as provided in subsection
10 (10).

11 (j) A sexual predator who indicates his or her intent
12 to reside in another state or jurisdiction and later decides
13 to remain in this state shall, within 48 hours after the date
14 upon which the sexual predator indicated he or she would leave
15 this state, notify the sheriff or the department, whichever
16 agency is the agency to which the sexual predator reported the
17 intended change of residence, of his or her intent to remain
18 in this state. If the sheriff is notified by the sexual
19 predator that he or she intends to remain in this state, the
20 sheriff shall promptly report this information to the
21 department. A sexual predator who reports his or her intent to
22 reside in another state or jurisdiction, but who remains in
23 this state without reporting to the sheriff or the department
24 in the manner required by this paragraph, commits a felony of
25 the second degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084.

27 (k)1. The department is responsible for the on-line
28 maintenance of current information regarding each registered
29 sexual predator. The department must maintain hotline access
30 for state, local, and federal law enforcement agencies to
31 obtain instantaneous locator file and offender characteristics

1 information on all released registered sexual predators for
2 purposes of monitoring, tracking, and prosecution. The
3 photograph and fingerprints do not have to be stored in a
4 computerized format.

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

18 3. The department shall adopt guidelines as necessary
19 regarding the registration of sexual predators and the
20 dissemination of information regarding sexual predators as
21 required by this section.

22 (1) A sexual predator must maintain registration with
23 the department for the duration of his or her life, unless the
24 sexual predator ~~has had his or her civil rights restored, or~~
25 has received a full pardon or has had a conviction set aside
26 in a postconviction proceeding for any felony sex offense that
27 met the criteria for the sexual predator designation. However,
28 a sexual predator who was designated as a sexual predator by a
29 court before October 1, 1998, and who has been lawfully
30 released from confinement, supervision, or sanction, whichever
31 is later, for at least 10 years and has not been arrested for

1 any felony or misdemeanor offense since release, may petition
2 the criminal division of the circuit court in the circuit in
3 which the sexual predator resides for the purpose of removing
4 the sexual predator designation. A sexual predator who was
5 designated a sexual predator by a court on or after October 1,
6 1998, who has been lawfully released from confinement,
7 supervision, or sanction, whichever is later, for at least 20
8 years, and who has not been arrested for any felony or
9 misdemeanor offense since release may petition the criminal
10 division of the circuit court in the circuit in which the
11 sexual predator resides for the purpose of removing the sexual
12 predator designation. The court may grant or deny such relief
13 if the petitioner demonstrates to the court that he or she has
14 not been arrested for any crime since release, the requested
15 relief complies with federal standards applicable to the
16 removal of the designation as a sexual predator, and the court
17 is otherwise satisfied that the petitioner is not a current or
18 potential threat to public safety. The state attorney in the
19 circuit in which the petition is filed must be given notice of
20 the petition at least 3 weeks before the hearing on the
21 matter. The state attorney may present evidence in opposition
22 to the requested relief or may otherwise demonstrate the
23 reasons why the petition should be denied. If the court denies
24 the petition, the court may set a future date at which the
25 sexual predator may again petition the court for relief,
26 subject to the standards for relief provided in this
27 paragraph. Unless specified in the order, a sexual predator
28 who is granted relief under this paragraph must comply with
29 the requirements for registration as a sexual offender and
30 other requirements provided under s. 943.0435 or s. 944.607.
31 If a petitioner obtains an order from the court that imposed

1 the order designating the petitioner as a sexual predator
2 which removes such designation, the petitioner shall forward a
3 certified copy of the written findings or order to the
4 department in order to have the sexual predator designation
5 removed from the sexual predator registry.

6 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

7 (a) Law enforcement agencies must inform members of
8 the community and the public of a sexual predator's presence.
9 Upon notification of the presence of a sexual predator, the
10 sheriff of the county or the chief of police of the
11 municipality where the sexual predator establishes or
12 maintains a permanent or temporary residence shall notify
13 members of the community and the public of the presence of the
14 sexual predator in a manner deemed appropriate by the sheriff
15 or the chief of police. Within 48 hours after receiving
16 notification of the presence of a sexual predator, the sheriff
17 of the county or the chief of police of the municipality where
18 the sexual predator temporarily or permanently resides shall
19 notify each licensed day care center, elementary school,
20 middle school, and high school within a 1-mile radius of the
21 temporary or permanent residence of the sexual predator of the
22 presence of the sexual predator. Information provided to
23 members of the community and the public regarding a sexual
24 predator must include:

- 25 1. The name of the sexual predator;
- 26 2. A description of the sexual predator, including a
27 photograph;
- 28 3. The sexual predator's current address, including
29 the name of the county or municipality if known;
- 30 4. The circumstances of the sexual predator's offense
31 or offenses; and

1 5. Whether the victim of the sexual predator's offense
2 or offenses was, at the time of the offense, a minor or an
3 adult.

4
5 This paragraph does not authorize the release of the name of
6 any victim of the sexual predator.

7 (b) The sheriff or the police chief may coordinate the
8 community and public notification efforts with the department.
9 Statewide notification to the public is authorized, as deemed
10 appropriate by local law enforcement personnel and the
11 department.

12 (c) The department shall notify the public of all
13 designated sexual predators through the Internet. The
14 Internet notice shall include the information required by
15 paragraph (a).

16 (d) The department shall adopt a protocol to assist
17 law enforcement agencies in their efforts to notify the
18 community and the public of the presence of sexual predators.

19 (8) VERIFICATION.--The department and the Department
20 of Corrections shall implement a system for verifying the
21 addresses of sexual predators. The system must be consistent
22 with federal requirements that apply to the laws of this state
23 governing sexual predators. The Department of Corrections
24 shall verify the addresses of sexual predators who are not
25 incarcerated but who reside in the community under the
26 supervision of the Department of Corrections. The department
27 shall verify the addresses of sexual predators who are not
28 under the care, custody, control, or supervision of the
29 Department of Corrections.

30 (9) IMMUNITY.--When the court has made a written
31 finding that an offender is a sexual predator, an elected or

1 appointed official, public employee, school administrator or
2 employee, agency, or any individual or entity acting at the
3 request or upon the direction of any law enforcement agency is
4 immune from civil liability for damages resulting from the
5 release of information under this section.

6 (10) PENALTIES.--

7 (a) Except as otherwise specifically provided, a
8 sexual predator who fails to register or who fails, after
9 registration, to maintain, acquire, or renew a driver's
10 license or identification card or provide required location
11 information, or who otherwise fails, by act or omission, to
12 comply with the requirements of this section, commits a felony
13 of the third degree, punishable as provided in s. 775.082, s.
14 775.083, 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 a violation of a
20 similar law of another jurisdiction, when the victim of the
21 offense was a minor, and who works, whether for compensation
22 or as a volunteer, at any business, school, day care center,
23 park, 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 (c) Any person who misuses public records information
27 relating to a sexual predator, as defined in this section, or
28 a sexual offender, as defined in s. 943.0435 or s. 944.607, to
29 secure a payment from such a predator or offender; who
30 knowingly distributes or publishes false information relating
31 to such a predator or offender which the person misrepresents

1 as being public records information; or who materially alters
2 public records information with the intent to misrepresent the
3 information, including documents, summaries of public records
4 information provided by law enforcement agencies, or public
5 records information displayed by law enforcement agencies on
6 web sites or provided through other means of communication,
7 commits a misdemeanor of the first degree, punishable as
8 provided in s. 775.082 or s. 775.083.

9 Section 2. Section 943.0435, Florida Statutes, 1998
10 Supplement, is amended to read:

11 943.0435 Sexual offenders required to register with
12 the department; penalty.--

13 (1) As used in this section, the term:

14 (a) "Sexual offender" means a person who has been:

15 1. Convicted of committing, or attempting, soliciting,
16 or conspiring to commit, any of the criminal offenses
17 proscribed in the following statutes in this state or similar
18 offenses in another jurisdiction: s. 787.01 or s. 787.02,
19 where the victim is a minor and the defendant is not the
20 victim's parent; s. 787.025; chapter 794; s. 796.03; s.
21 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s.
22 847.0145; or any similar offense committed in this state which
23 has been redesignated from a former statute number to one of
24 those listed in this subparagraph.

25 2. Released on or after October 1, 1997, from the
26 sanction imposed for any conviction of an offense described in
27 subparagraph 1. For purposes of subparagraph 1., a sanction
28 imposed in this state or in any other jurisdiction includes,
29 but is not limited to, a fine, probation, community control,
30 parole, conditional release, control release, or incarceration

31

1 in a state prison, federal prison, private correctional
2 facility, or local detention facility.

3 (b) "Convicted" means that, regarding the person's
4 offense, there has been a determination of guilt as a result
5 of a trial or the entry of a plea of guilty or nolo
6 contendere, regardless of whether adjudication is withheld.
7 Conviction of a similar offense includes, but is not limited
8 to, a conviction by a federal or military tribunal, including
9 courts-martial conducted by the Armed Forces of the United
10 States, and includes a conviction in any state of the United
11 States.

12 (c) "Permanent residence" and "temporary residence"
13 have the same meaning ascribed in s. 775.21.

14 (2) A sexual offender shall initially report in person
15 at an office of the department, or at the sheriff's office in
16 the county in which the offender establishes or maintains a
17 permanent or temporary residence, within 48 hours after
18 establishing permanent or temporary residence in this state.
19 The sexual offender shall provide his or her name, date of
20 birth, social security number, race, sex, height, weight, hair
21 and eye color, tattoos or other identifying marks, occupation
22 and place of employment, address of permanent or legal
23 residence or address of any current temporary residence within
24 or outside the state, including a rural route address and a
25 post office box, date and place of each conviction, and a
26 brief description of the crime or crimes committed by the
27 offender. A post office box shall not be provided in lieu of a
28 physical residential address. If the sexual offender's place
29 of residence is a motor vehicle, trailer, mobile home, or
30 manufactured home, as defined in chapter 320, the sexual
31 offender shall also provide to the department written notice

1 of the vehicle identification number; the license tag number;
2 the registration number; and a description, including color
3 scheme, of the motor vehicle, trailer, mobile home, or
4 manufactured home. If the sexual offender's place of residence
5 is a vessel, live-aboard vessel, or houseboat, as defined in
6 chapter 327, the sexual offender shall also provide to the
7 department written notice of the hull identification number;
8 the manufacturer's serial number; the name of the vessel,
9 live-aboard vessel, or houseboat; the registration number; and
10 a description, including color scheme, of the vessel,
11 live-aboard vessel, or houseboat. If a sexual offender reports
12 at the sheriff's office, the sheriff shall take a photograph
13 and a set of fingerprints of the offender and forward the
14 photographs and fingerprints to the department, along with the
15 information provided by the sexual offender.

16 (3) Within 48 hours after the initial report required
17 under subsection (2), a sexual offender shall report in person
18 at a driver's license office of the Department of Highway
19 Safety and Motor Vehicles. At the driver's license office the
20 sexual offender shall:

21 (a) If otherwise qualified, secure a Florida driver's
22 license, renew a Florida driver's license, or secure an
23 identification card. The sexual offender shall identify
24 himself or herself as a sexual offender who is required to
25 comply with this section and shall provide proof that the
26 sexual offender initially reported as required in subsection
27 (2). The sexual offender shall provide any of the information
28 specified in subsection (2), if requested. The sexual offender
29 shall submit to the taking of a photograph for use in issuing
30 a driver's license, renewed license, or identification card,

31

1 and for use by the department in maintaining current records
2 of sexual offenders.

3 (b) Pay the costs assessed by the Department of
4 Highway Safety and Motor Vehicles for issuing or renewing a
5 driver's license or identification card as required by this
6 section.

7 (c) Provide, upon request, any additional information
8 necessary to confirm the identity of the sexual offender,
9 including a set of fingerprints.

10 (4) Each time a sexual offender's driver's license or
11 identification card is subject to renewal, and within 48 hours
12 after any change in the offender's permanent or temporary
13 residence, the offender shall report in person to a driver's
14 license office, and shall be subject to the requirements
15 specified in subsection (3). The Department of Highway Safety
16 and Motor Vehicles shall forward to the department all
17 photographs and information provided by sexual offenders.
18 Notwithstanding the restrictions set forth in s. 322.142, the
19 Department of Highway Safety and Motor Vehicles is authorized
20 to release a reproduction of a color-photograph or
21 digital-image license to the Department of Law Enforcement for
22 purposes of public notification of sexual offenders as
23 provided in ss. 943.043, 943.0435, and 944.606.

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

27 (6) The department shall verify the addresses of
28 sexual offenders who are not under the care, custody, control,
29 or supervision of the Department of Corrections in a manner
30 that is consistent with federal requirements.

31

1 (7) A sexual offender who intends to establish
2 residence in another state or jurisdiction shall notify the
3 sheriff of the county of current residence or the department
4 within 48 hours before the date he or she intends to leave
5 this state to establish residence in another state or
6 jurisdiction. The notification must include the address,
7 municipality, county, and state of intended residence. The
8 sheriff shall promptly provide to the department the
9 information received from the sexual offender. The department
10 shall notify the statewide law enforcement agency, or a
11 comparable agency, in the intended state or jurisdiction of
12 residence of the sexual offender's intended residence. The
13 failure of a sexual offender to provide his or her intended
14 place of residence is punishable as provided in subsection
15 (9).

16 (8) A sexual offender who indicates his or her intent
17 to reside in another state or jurisdiction and later decides
18 to remain in this state shall, within 48 hours after the date
19 upon which the sexual offender indicated he or she would leave
20 this state, notify the sheriff or department, whichever agency
21 is the agency to which the sexual offender reported the
22 intended change of residence, of his or her intent to remain
23 in this state. If the sheriff is notified by the sexual
24 offender that he or she intends to remain in this state, the
25 sheriff shall promptly report this information to the
26 department. A sexual offender who reports his or her intent to
27 reside in another state or jurisdiction but who remains in
28 this state without reporting to the sheriff or the department
29 in the manner required by this subsection commits a felony of
30 the second degree, punishable as provided in s. 775.082, s.
31 775.083, or s. 775.084.

1 (9) A sexual offender who does not comply with the
2 requirements of this section commits a felony of the third
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084.

5 (10) The department, the Department of Highway Safety
6 and Motor Vehicles, the Department of Corrections, the
7 personnel of those departments, and any individual or entity
8 acting at the request or upon the direction of any of those
9 departments are immune from civil liability for damages for
10 good faith compliance with the requirements of this section,
11 and shall be presumed to have acted in good faith in
12 compiling, recording, and reporting information. The
13 presumption of good faith is not overcome if a technical or
14 clerical error is made by the department, the Department of
15 Highway Safety and Motor Vehicles, the Department of
16 Corrections, the personnel of those departments, or any
17 individual or entity acting at the request or upon the
18 direction of any of those departments in compiling or
19 providing information, or if information is incomplete or
20 incorrect because a sexual offender fails to report or falsely
21 reports his or her current place of permanent or temporary
22 residence.

23 (11) A sexual offender must maintain registration with
24 the department for the duration of his or her life, unless the
25 sexual offender ~~has had his or her civil rights restored or~~
26 has received a full pardon or has had a conviction set aside
27 in a postconviction proceeding for any felony sex offense that
28 meets the criteria for classifying the person as a sexual
29 offender for purposes of registration. However, a sexual
30 offender who has been lawfully released from confinement,
31 supervision, or sanction, whichever is later, for at least 20

1 years and has not been arrested for any felony or misdemeanor
2 offense since release may petition the criminal division of
3 the circuit court of the circuit in which the sexual offender
4 resides for the purpose of removing the requirement for
5 registration as a sexual offender. The court may grant or deny
6 such relief if the offender demonstrates to the court that he
7 or she has not been arrested for any crime since release, the
8 requested relief complies with federal standards applicable to
9 the removal of registration requirements for a sexual
10 offender, and the court is otherwise satisfied that the
11 offender is not a current or potential threat to public
12 safety. The state attorney in the circuit in which the
13 petition is filed must be given notice of the petition at
14 least 3 weeks before the hearing on the matter. The state
15 attorney may present evidence in opposition to the requested
16 relief or may otherwise demonstrate the reasons why the
17 petition should be denied. If the court denies the petition,
18 the court may set a future date at which the sexual offender
19 may again petition the court for relief, subject to the
20 standards for relief provided in this subsection. The
21 department shall remove an offender from classification as a
22 sexual offender for purposes of registration if the offender
23 provides to the department a certified copy of the court's
24 written findings or order that indicates that the offender is
25 no longer required to comply with the requirements for
26 registration as a sexual offender.

27 Section 3. Paragraph (b) of subsection (1) of section
28 944.606, Florida Statutes, 1998 Supplement, is amended to
29 read:

30 944.606 Sexual offenders; notification upon release.--

31 (1) As used in this section:

1 (b) "Sexual offender" means a person who has been
2 convicted of committing, or attempting, soliciting, or
3 conspiring to commit, any of the criminal offenses proscribed
4 in the following statutes in this state or similar offenses in
5 another jurisdiction: s. 787.01 or s. 787.02 ~~s. 782.02~~, where
6 the victim is a minor and the defendant is not the victim's
7 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
8 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145;
9 or any similar offense committed in this state which has been
10 redesignated from a former statute number to one of those
11 listed in this subsection, when the department has received
12 verified information regarding such conviction; an offender's
13 computerized criminal history record is not, in and of itself,
14 verified information.

15 Section 4. This act shall take effect upon becoming a
16 law.

17 *****
18 *****

19 SENATE SUMMARY

20 Revises the Florida Sexual Predators Act to delete
21 certain requirements that an offender register with the
22 Department of Law Enforcement if found by the court to be
23 a sexual predator under former s. 775.22 or former s.
24 775.23, F.S. Provides a procedure for establishing
25 whether an offender is a sexual predator if the court did
26 not make such a finding at the time of sentencing or if
27 the offender was administratively registered based on a
28 violation of a similar law in another jurisdiction.
29 Requires that the Department of Corrections or the
30 sheriff notify the Department of Law Enforcement if a
31 sexual predator escapes from custody, absconds from
supervision, or dies. Requires a sexual offender to
report any temporary residence within or outside the
state to the Department of Law Enforcement or to the
sheriff.