

By Senator Burt

16-606-02

1                                   A bill to be entitled  
2           An act relating to sexual offenders and sexual  
3           predators; amending s. 775.21, F.S., the  
4           Florida Sexual Predators Act; defining the term  
5           "institution of higher education"; requiring a  
6           sexual predator who is enrolled at or employed  
7           by an institution of higher education to report  
8           to the Department of Law Enforcement; requiring  
9           the sexual predator to report upon terminating  
10          enrollment or employment; requiring that the  
11          sheriff or the Department of Corrections notify  
12          an institution of higher education where a  
13          sexual predator commences or terminates  
14          enrollment or employment; requiring that a  
15          sexual predator report any change in residence  
16          or name; requiring that a sheriff promptly  
17          report to the Department of Law Enforcement any  
18          information received from a sexual predator;  
19          amending s. 775.24, F.S.; increasing the period  
20          during which a state agency may move the court  
21          to set aside or modify an order or injunction  
22          that affects the agency's performance of a duty  
23          imposed under the laws governing sexual  
24          predators or sexual offenders; creating s.  
25          943.0434, F.S.; providing legislative findings  
26          with respect to designating an offender as a  
27          sexual offender and notifying the public of  
28          such designation; amending s. 943.0435, F.S.;  
29          redefining the term "sexual offender" to  
30          include an offender who has been designated as  
31          a sexual predator or sexual offender in another

1 state or jurisdiction or who is under the  
2 supervision of another state or jurisdiction as  
3 the result of a conviction for certain  
4 specified offenses; requiring a sexual offender  
5 to report any change in residence or name;  
6 requiring a sexual offender who is enrolled at  
7 or employed by an institution of higher  
8 education to report to the Department of Law  
9 Enforcement, the sheriff, or the Department of  
10 Corrections; requiring that the sheriff or the  
11 Department of Corrections notify an institution  
12 of higher education where a sexual predator  
13 commences or terminates enrollment or  
14 employment; revising conditions under which a  
15 sexual offender may petition the court for  
16 removing the requirement for registration;  
17 creating s. 943.0436, F.S.; prohibiting the  
18 court from exempting a person from designation  
19 as a sexual predator or sexual offender or from  
20 registration requirements; prohibiting the  
21 court from taking certain other actions that  
22 restrict the compiling, reporting, or release  
23 of certain information or prevent a person or  
24 entity from performing statutory duties with  
25 respect to sexual offenders; authorizing a  
26 state agency to move the court to set aside or  
27 modify an order or injunction affecting the  
28 agency's performance of a duty imposed under  
29 the laws governing sexual predators or sexual  
30 offenders; specifying grounds for granting such  
31 motion; amending s. 944.606, F.S.; redefining

1 the term "sexual offender" to include a person  
2 convicted of committing, or attempting,  
3 soliciting, or conspiring to commit, the  
4 offense of transmitting pornography by  
5 electronic device or equipment; amending s.  
6 944.607, F.S.; redefining the term "sexual  
7 offender," for purposes of requirements for  
8 notifying the Department of Law Enforcement, to  
9 include an offender who is under the  
10 supervision of the Department of Corrections  
11 and who has been designated as a sexual  
12 predator or sexual offender in another state or  
13 jurisdiction; requiring a sexual offender who  
14 is enrolled at or employed by an institution of  
15 higher education to report to the Department of  
16 Corrections; requiring a sexual predator to  
17 report upon terminating enrollment or  
18 employment; requiring that the Department of  
19 Corrections notify an institution of higher  
20 education where a sexual predator commences or  
21 terminates enrollment or employment; providing  
22 an effective date.

23

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

25

26 Section 1. Subsections (2) and (6) of section 775.21,  
27 Florida Statutes, are amended to read:

28 775.21 The Florida Sexual Predators Act; definitions;  
29 legislative findings, purpose, and intent; criteria;  
30 designation; registration; community and public notification;  
31 immunity; penalties.--

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

2 (a) "Chief of police" means the chief law enforcement  
3 officer of a municipality.

4 (b) "Community" means any county where the sexual  
5 predator lives or otherwise establishes or maintains a  
6 temporary or permanent residence.

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

15 (d) "Department" means the Department of Law  
16 Enforcement.

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

22 (f) "Institution of higher education" means a  
23 community college, state university, or independent  
24 postsecondary institution.

25 (g)~~(f)~~ "Permanent residence" means a place where the  
26 person abides, lodges, or resides for 14 or more consecutive  
27 days.

28 (h)~~(g)~~ "Temporary residence" means a place where the  
29 person abides, lodges, or resides for a period of 14 or more  
30 days in the aggregate during any calendar year and which is  
31 not the person's permanent address; for a person whose

1 permanent residence is not in this state, a place where the  
2 person is employed, practices a vocation, or is enrolled as a  
3 student for any period of time in this state; or a place where  
4 the person routinely abides, lodges, or resides for a period  
5 of 4 or more consecutive or nonconsecutive days in any month  
6 and which is not the person's permanent residence, including  
7 any out-of-state address.

8 (6) REGISTRATION.--

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

12 1. Name, social security number, age, race, sex, date  
13 of birth, height, weight, hair and eye color, photograph,  
14 address of legal residence and address of any current  
15 temporary residence, within the state or out of state,  
16 including a rural route address and a post office box, date  
17 and place of any employment, date and place of each  
18 conviction, fingerprints, and a brief description of the crime  
19 or crimes committed by the offender. A post office box shall  
20 not be provided in lieu of a physical residential address. If  
21 the sexual predator's place of residence is a motor vehicle,  
22 trailer, mobile home, or manufactured home, as defined in  
23 chapter 320, the sexual predator shall also provide to the  
24 department written notice of the vehicle identification  
25 number; the license tag number; the registration number; and a  
26 description, including color scheme, of the motor vehicle,  
27 trailer, mobile home, or manufactured home. If a sexual  
28 predator's place of residence is a vessel, live-aboard vessel,  
29 or houseboat, as defined in chapter 327, the sexual predator  
30 shall also provide to the department written notice of the  
31 hull identification number; the manufacturer's serial number;

1 the name of the vessel, live-aboard vessel, or houseboat; the  
2 registration number; and a description, including color  
3 scheme, of the vessel, live-aboard vessel, or houseboat. If  
4 the sexual predator is enrolled at, employed by, or carries on  
5 a vocation at an institution of higher education in this  
6 state, the sexual predator shall provide to the department the  
7 name, address, and county of the institution, including the  
8 name of the campus, and his or her enrollment status or  
9 employment position. The sexual predator must report in person  
10 to the sheriff's office, or the Department of Corrections if  
11 the sexual predator is in the custody or control of or under  
12 the supervision of the Department of Corrections, within 48  
13 hours after the sexual predator commences or terminates  
14 enrollment or employment at the institution of higher  
15 education. The sheriff or the Department of Corrections shall  
16 promptly notify an institution of higher education if a sexual  
17 predator commences or terminates enrollment or employment at  
18 that institution.

19           2. Any other information determined necessary by the  
20 department, including criminal and corrections records;  
21 nonprivileged personnel and treatment records; and evidentiary  
22 genetic markers when available.

23           (b) If the sexual predator is in the custody or  
24 control of, or under the supervision of, the Department of  
25 Corrections, or is in the custody of a private correctional  
26 facility, the sexual predator must register with the  
27 Department of Corrections. The Department of Corrections shall  
28 provide to the department registration information and the  
29 location of, and local telephone number for, any Department of  
30 Corrections office that is responsible for supervising the  
31 sexual predator. In addition, the Department of Corrections

1 shall notify the department if the sexual predator escapes or  
2 absconds from custody or supervision or if the sexual predator  
3 dies.

4 (c) If the sexual predator is in the custody of a  
5 local jail, the custodian of the local jail shall register the  
6 sexual predator and forward the registration information to  
7 the department. The custodian of the local jail shall also  
8 take a digitized photograph of the sexual predator while the  
9 sexual predator remains in custody and shall provide the  
10 digitized photograph to the department. The custodian shall  
11 notify the department if the sexual predator escapes from  
12 custody or dies.

13 (d) If the sexual predator is under federal  
14 supervision, the federal agency responsible for supervising  
15 the sexual predator may forward to the department any  
16 information regarding the sexual predator which is consistent  
17 with the information provided by the Department of Corrections  
18 under this section, and may indicate whether use of the  
19 information is restricted to law enforcement purposes only or  
20 may be used by the department for purposes of public  
21 notification.

22 (e) If the sexual predator is not in the custody or  
23 control of, or under the supervision of, the Department of  
24 Corrections, or is not in the custody of a private  
25 correctional facility, and establishes or maintains a  
26 residence in the state, the sexual predator shall register in  
27 person at an office of the department, or at the sheriff's  
28 office in the county in which the predator establishes or  
29 maintains a residence, within 48 hours after establishing  
30 permanent or temporary residence in this state. After a sexual  
31 predator has registered in person at an office of the

1 department or a sheriff's office, the sexual predator must  
2 report any change of his or her permanent or temporary place  
3 of residence and any change in his or her name in the manner  
4 provided in paragraph (g), paragraph (i), or paragraph (j).

5 If a sexual predator registers with the sheriff's office, the  
6 sheriff shall take a photograph and a set of fingerprints of  
7 the predator and promptly forward the photographs and  
8 fingerprints to the department, along with the information  
9 that the predator is required to provide pursuant to this  
10 section.

11 (f) Within 48 hours after the registration required  
12 under paragraph (a) or paragraph (e), a sexual predator who is  
13 not incarcerated and who resides in the community, including a  
14 sexual predator under the supervision of the Department of  
15 Corrections, shall register in person at a driver's license  
16 office of the Department of Highway Safety and Motor Vehicles  
17 and shall present proof of registration. At the driver's  
18 license office the sexual predator shall:

19 1. If otherwise qualified, secure a Florida driver's  
20 license, renew a Florida driver's license, or secure an  
21 identification card. The sexual predator shall identify  
22 himself or herself as a sexual predator who is required to  
23 comply with this section, provide his or her place of  
24 permanent or temporary residence, including a rural route  
25 address and a post office box, and submit to the taking of a  
26 photograph for use in issuing a driver's license, renewed  
27 license, or identification card, and for use by the department  
28 in maintaining current records of sexual predators. A post  
29 office box shall not be provided in lieu of a physical  
30 residential address. If the sexual predator's place of  
31 residence is a motor vehicle, trailer, mobile home, or



1 manufactured home, as defined in chapter 320, the sexual  
2 predator shall also provide to the Department of Highway  
3 Safety and Motor Vehicles the vehicle identification number;  
4 the license tag number; the registration number; and a  
5 description, including color scheme, of the motor vehicle,  
6 trailer, mobile home, or manufactured home. If a sexual  
7 predator's place of residence is a vessel, live-aboard vessel,  
8 or houseboat, as defined in chapter 327, the sexual predator  
9 shall also provide to the Department of Highway Safety and  
10 Motor Vehicles the hull identification number; the  
11 manufacturer's serial number; the name of the vessel,  
12 live-aboard vessel, or houseboat; the registration number; and  
13 a description, including color scheme, of the vessel,  
14 live-aboard vessel, or houseboat.

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

18           3. Provide, upon request, any additional information  
19 necessary to confirm the identity of the sexual predator,  
20 including a set of fingerprints.

21           (g) Each time a sexual predator's driver's license or  
22 identification card is subject to renewal, and within 48 hours  
23 after any change of the predator's residence or change in the  
24 predator's name by reason of marriage or other legal process,  
25 the predator shall report in person to a driver's license  
26 office, and shall be subject to the requirements specified in  
27 paragraph (f). The Department of Highway Safety and Motor  
28 Vehicles shall forward to the department and to the Department  
29 of Corrections all photographs and information provided by  
30 sexual predators. Notwithstanding the restrictions set forth  
31 in s. 322.142, the Department of Highway Safety and Motor

1 Vehicles is authorized to release a reproduction of a  
2 color-photograph or digital-image license to the Department of  
3 Law Enforcement for purposes of public notification of sexual  
4 predators as provided in this section.

5 (h) If the sexual predator registers at an office of  
6 the department, the department must notify the sheriff and the  
7 state attorney of the county and, if applicable, the police  
8 chief of the municipality, where the sexual predator maintains  
9 a residence within 48 hours after the sexual predator  
10 registers with the department.

11 (i) A sexual predator who intends to establish  
12 residence in another state or jurisdiction shall report in  
13 person to the sheriff of the county of current residence or  
14 the department within 48 hours before the date he or she  
15 intends to leave this state to establish residence in another  
16 state or jurisdiction. The sexual predator must provide to the  
17 sheriff or department the address, municipality, county, and  
18 state of intended residence. The sheriff shall promptly  
19 provide to the department the information received from the  
20 sexual predator. The department shall notify the statewide law  
21 enforcement agency, or a comparable agency, in the intended  
22 state or jurisdiction of residence of the sexual predator's  
23 intended residence. The failure of a sexual predator to  
24 provide his or her intended place of residence is punishable  
25 as provided in subsection (10).

26 (j) A sexual predator who indicates his or her intent  
27 to reside in another state or jurisdiction and later decides  
28 to remain in this state shall, within 48 hours after the date  
29 upon which the sexual predator indicated he or she would leave  
30 this state, report in person to the sheriff or the department,  
31 whichever agency is the agency to which the sexual predator

1 reported the intended change of residence, of his or her  
2 intent to remain in this state. If the sheriff is notified by  
3 the sexual predator that he or she intends to remain in this  
4 state, the sheriff shall promptly report this information to  
5 the department. A sexual predator who reports his or her  
6 intent to reside in another state or jurisdiction, but who  
7 remains in this state without reporting to the sheriff or the  
8 department in the manner required by this paragraph, commits a  
9 felony of the second degree, punishable as provided in s.  
10 775.082, s. 775.083, or s. 775.084.

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

20 2. The department's sexual predator registration list,  
21 containing the information described in subparagraph (a)1., is  
22 a public record. The department is authorized to disseminate  
23 this public information by any means deemed appropriate,  
24 including operating a toll-free telephone number for this  
25 purpose. When the department provides information regarding a  
26 registered sexual predator to the public, department personnel  
27 must advise the person making the inquiry that positive  
28 identification of a person believed to be a sexual predator  
29 cannot be established unless a fingerprint comparison is made,  
30 and that it is illegal to use public information regarding a  
31

1 registered sexual predator to facilitate the commission of a  
2 crime.

3           3. The department shall adopt guidelines as necessary  
4 regarding the registration of sexual predators and the  
5 dissemination of information regarding sexual predators as  
6 required by this section.

7           (1) A sexual predator must maintain registration with  
8 the department for the duration of his or her life, unless the  
9 sexual predator has received a full pardon or has had a  
10 conviction set aside in a postconviction proceeding for any  
11 offense that met the criteria for the sexual predator  
12 designation. However, a sexual predator who was designated as  
13 a sexual predator by a court before October 1, 1998, and who  
14 has been lawfully released from confinement, supervision, or  
15 sanction, whichever is later, for at least 10 years and has  
16 not been arrested for any felony or misdemeanor offense since  
17 release, may petition the criminal division of the circuit  
18 court in the circuit in which the sexual predator resides for  
19 the purpose of removing the sexual predator designation. A  
20 sexual predator who was designated a sexual predator by a  
21 court on or after October 1, 1998, who has been lawfully  
22 released from confinement, supervision, or sanction, whichever  
23 is later, for at least 20 years, and who has not been arrested  
24 for any felony or misdemeanor offense since release may  
25 petition the criminal division of the circuit court in the  
26 circuit in which the sexual predator resides for the purpose  
27 of removing the sexual predator designation. The court may  
28 grant or deny such relief if the petitioner demonstrates to  
29 the court that he or she has not been arrested for any crime  
30 since release, the requested relief complies with the  
31 provisions of the federal Jacob Wetterling Act, as amended,

1 and any other federal standards applicable to the removal of  
2 the designation as a sexual predator or required to be met as  
3 a condition for the receipt of federal funds by the state, and  
4 the court is otherwise satisfied that the petitioner is not a  
5 current or potential threat to public safety. The state  
6 attorney in the circuit in which the petition is filed must be  
7 given notice of the petition at least 3 weeks before the  
8 hearing on the matter. The state attorney may present evidence  
9 in opposition to the requested relief or may otherwise  
10 demonstrate the reasons why the petition should be denied. If  
11 the court denies the petition, the court may set a future date  
12 at which the sexual predator may again petition the court for  
13 relief, subject to the standards for relief provided in this  
14 paragraph. Unless specified in the order, a sexual predator  
15 who is granted relief under this paragraph must comply with  
16 the requirements for registration as a sexual offender and  
17 other requirements provided under s. 943.0435 or s. 944.607.  
18 If a petitioner obtains an order from the court that imposed  
19 the order designating the petitioner as a sexual predator  
20 which removes such designation, the petitioner shall forward a  
21 certified copy of the written findings or order to the  
22 department in order to have the sexual predator designation  
23 removed from the sexual predator registry.

24 Section 2. Subsection (3) of section 775.24, Florida  
25 Statutes, is amended to read:

26 775.24 Duty of the court to uphold laws governing  
27 sexual predators and sexual offenders.--

28 (3) If the court enters an order that affects an  
29 agency's performance of a duty imposed under the laws  
30 governing sexual predators or sexual offenders, or that limits  
31 the agency's exercise of authority conferred under such laws,

1 the Legislature strongly encourages the affected agency to  
2 file a motion in the court that entered such order. The  
3 affected agency may, within 1 year ~~60 days~~ after the receipt  
4 of any such order, move to modify or set aside the order or,  
5 if such order is in the nature of an injunction, move to  
6 dissolve the injunction. Grounds for granting any such motion  
7 include, but need not be limited to:

8 (a) The affected agency was not properly noticed.

9 (b) The court is not authorized to enjoin the  
10 operation of a statute that has been duly adjudged  
11 constitutional and operative unless the statute is illegally  
12 applied or unless the statute or the challenged part of it is  
13 unconstitutional on adjudicated grounds.

14 (c) Jurisdiction may not be conferred by consent of  
15 the parties.

16 (d) To the extent that the order is based upon actions  
17 the agency might take, the court's order is premature and, if  
18 and when such actions are taken, these actions may be  
19 challenged in appropriate proceedings to determine their  
20 enforceability.

21 (e) The injunction affects the public interest and  
22 would cause injury to the public.

23 (f) The order creates an unenforceable, perpetual  
24 injunction.

25 (g) The order seeks to restrict the agency in the  
26 performance of its duties outside the court's territorial  
27 jurisdiction.

28 Section 3. Section 943.0434, Florida Statutes, is  
29 created to read:

30 943.0434 Legislative findings.--The Legislature finds  
31 that sexual offenders, especially those who have committed

1 their offenses against minors, often pose a high risk of  
2 engaging in sexual offenses, even after being released from  
3 incarceration or commitment, and that protection of the public  
4 from sexual offenders is a paramount government interest.  
5 Sexual offenders have a reduced expectation of privacy because  
6 of the public's interest in public safety and in the effective  
7 operation of government. Releasing information concerning  
8 sexual offenders to law enforcement agencies and to persons  
9 who request such information, and the release of such  
10 information to the public by a law enforcement agency or  
11 public agency, will further the governmental interests of  
12 public safety. The designation of a person as a sexual  
13 offender is not a sentence or a punishment, but is simply the  
14 status of the offender which is the result of a conviction for  
15 having committed certain crimes.

16 Section 4. Subsections (1), (2), and (11) of section  
17 943.0435, Florida Statutes, are amended, and subsection (12)  
18 is added to that section, to read:

19 943.0435 Sexual offenders required to register with  
20 the department; penalty.--

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

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

23 1. Has been convicted of committing, or attempting,  
24 soliciting, or conspiring to commit, any of the criminal  
25 offenses proscribed in the following statutes in this state or  
26 similar offenses in another jurisdiction: s. 787.01, s.  
27 787.02, or s. 787.025, where the victim is a minor and the  
28 defendant is not the victim's parent; chapter 794, excluding  
29 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.  
30 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145;  
31 or any similar offense committed in this state which has been

1 redesignated from a former statute number to one of those  
2 listed in this subparagraph;—

3       2. Has been released on or after October 1, 1997, from  
4 the sanction imposed for any conviction of an offense  
5 described in subparagraph 1. For purposes of subparagraph 1.,  
6 a sanction imposed in this state or in any other jurisdiction  
7 includes, but is not limited to, a fine, probation, community  
8 control, parole, conditional release, control release, or  
9 incarceration in a state prison, federal prison, private  
10 correctional facility, or local detention facility;—

11       3. Establishes or maintains a residence in this state  
12 and has not been designated as a sexual predator by a court of  
13 this state but has been designated as a sexual predator, a  
14 sexually violent predator, or any other type of sexual  
15 offender in another state or jurisdiction and, as a result of  
16 such designation, was subject to registration or community or  
17 public notification, or both, or would be subject to such  
18 registration or public notification if the person were a  
19 resident of that state or jurisdiction; or

20       4. Establishes or maintains a residence in this state  
21 and is under the supervision of any other state or  
22 jurisdiction as a result of a conviction for committing, or  
23 attempting, soliciting, or conspiring to commit, any offense  
24 of the other state or jurisdiction which is similar to: s.  
25 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
26 and the defendant is not the victim's parent; chapter 794,  
27 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04;  
28 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s.  
29 847.0145; or any similar offense that has been redesignated  
30 from a former statute number to one of those listed in this  
31 subparagraph.



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

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

11 (d) "Institution of higher education" means a  
12 community college, state university, or independent  
13 postsecondary institution.

14 (2)(a) A sexual offender shall report in person at an  
15 office of the department, or at the sheriff's office in the  
16 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 or  
19 within 48 hours after being released from the custody,  
20 control, or supervision of the Department of Corrections or  
21 from the custody of a private correctional facility. After a  
22 sexual offender has registered in person at an office of the  
23 department or a sheriff's office, the sexual predator must  
24 report any change of his or her permanent or temporary place  
25 of residence and any change in his or her name in the manner  
26 provided in subsection (4), subsection (7), or subsection (8).

27 (b) The sexual offender shall provide his or her name,  
28 date of birth, social security number, race, sex, height,  
29 weight, hair and eye color, tattoos or other identifying  
30 marks, occupation and place of employment, address of  
31 permanent or legal residence or address of any current

1 temporary residence, within the state and out of state,  
2 including a rural route address and a post office box, date  
3 and place of each conviction, and a brief description of the  
4 crime or crimes committed by the offender. A post office box  
5 shall not be provided in lieu of a physical residential  
6 address.

7       1. If the sexual offender's place of residence is a  
8 motor vehicle, trailer, mobile home, or manufactured home, as  
9 defined in chapter 320, the sexual offender shall also provide  
10 to the department written notice of the vehicle identification  
11 number; the license tag number; the registration number; and a  
12 description, including color scheme, of the motor vehicle,  
13 trailer, mobile home, or manufactured home. If the sexual  
14 offender's place of residence is a vessel, live-aboard vessel,  
15 or houseboat, as defined in chapter 327, the sexual offender  
16 shall also provide to the department written notice of the  
17 hull identification number; the manufacturer's serial number;  
18 the name of the vessel, live-aboard vessel, or houseboat; the  
19 registration number; and a description, including color  
20 scheme, of the vessel, live-aboard vessel, or houseboat.

21       2. If the sexual offender is enrolled at, employed by,  
22 or carries on a vocation at an institution of higher education  
23 in this state, the sexual offender shall provide to the  
24 department the name, address, and county of the institution,  
25 including the name of the campus, and his or her enrollment  
26 status or employment position. The sexual offender must report  
27 in person to the sheriff's office, or the Department of  
28 Corrections if the sexual offender is in the custody or  
29 control of or under the supervision of the Department of  
30 Corrections, within 48 hours after the sexual offender  
31 commences or terminates enrollment or employment at the

1 institution of higher education. The sheriff or the Department  
2 of Corrections shall promptly notify an institution of higher  
3 education if a sexual offender commences or terminates  
4 enrollment or employment at that institution.If a sexual  
5 offender reports at the sheriff's office, the sheriff shall  
6 take a photograph and a set of fingerprints of the offender  
7 and promptly forward the photographs and fingerprints to the  
8 department, along with the information provided by the sexual  
9 offender.

10 (11) A sexual offender must maintain registration with  
11 the department for the duration of his or her life, unless the  
12 sexual offender has received a full pardon or has had a  
13 conviction set aside in a postconviction proceeding for any  
14 offense that meets the criteria for classifying the person as  
15 a sexual offender for purposes of registration. However, a  
16 sexual offender:

17 (a) Who has been lawfully released from confinement,  
18 supervision, or sanction, whichever is later, for at least 20  
19 years and has not been arrested for any felony or misdemeanor  
20 offense since release; or

21 (b) Who was 18 years of age or under at the time the  
22 offense was committed, the victim was 12 years of age or  
23 older, and adjudication was withheld for that offense, who has  
24 been released from all sanctions, who has had 10 years elapse  
25 since having been placed on probation, and who has not been  
26 arrested for any felony or misdemeanor offense since the date  
27 of conviction for the qualifying offense,~~release~~

28  
29 may petition the criminal division of the circuit court of the  
30 circuit in which the sexual offender resides for the purpose  
31 of removing the requirement for registration as a sexual

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

25 (12) A sexual offender, as defined in subparagraph  
26 (1)(a)3., must maintain registration with the department for  
27 the duration of his or her life or, if the offender does not  
28 meet the criteria for registration as a sexual offender under  
29 the laws of this state, until the offender provides the  
30 department with an order issued by the court that designated  
31 the person as a sexual predator, as a sexually violent

1 predator, or by any other type of sexual offender in the state  
2 or jurisdiction in which that order was issued. The order must  
3 state that the offender's designation has been removed or that  
4 such designation, if not imposed by a court, has been removed  
5 by operation of law or court order in the state or  
6 jurisdiction in which the designation was made.

7 Section 5. Section 943.0436, Florida Statutes, is  
8 created to read:

9 943.0436 Duty of the court to uphold laws governing  
10 sexual predators and sexual offenders.--

11 (1) The Legislature finds that, for the purpose of  
12 approving a plea agreement or for other reasons, certain  
13 courts enter orders that effectively limit or nullify  
14 requirements imposed upon sexual predators and sexual  
15 offenders pursuant to the laws of this state and prevent  
16 persons or entities from carrying out the duties imposed, or  
17 exercising the authority conferred, by such laws. The laws  
18 relating to sexual predators and sexual offenders are  
19 substantive laws. Furthermore, the Congress of the United  
20 States has expressly encouraged every state to enact such  
21 laws, and has provided that, to the extent that a state's laws  
22 do not meet certain federal requirements, the state will lose  
23 significant federal funding provided to the state for law  
24 enforcement and public-safety programs. Unless a court that  
25 enters such an order determines that a person or entity is not  
26 operating in accordance with the laws governing sexual  
27 predators or sexual offenders, or that such laws or any part  
28 of such laws are unconstitutional or unconstitutionally  
29 applied, the court unlawfully encroaches on the Legislature's  
30 exclusive power to make laws and places at risk significant  
31 public interests of the state.

1           (2) If a person meets the criteria in chapter 775 for  
2 designation as a sexual predator or meets the criteria in s.  
3 943.0435, s. 944.606, s. 944.607, or any other law for  
4 classification as a sexual offender, the court may not enter  
5 an order, for the purpose of approving a plea agreement or for  
6 any other reason, which:

7           (a) Exempts a person who meets the criteria for  
8 designation as a sexual predator or classification as a sexual  
9 offender from such designation or classification or exempts  
10 such person from the requirements for registration or  
11 community and public notification imposed upon sexual  
12 predators and sexual offenders;

13           (b) Restricts the compiling, reporting, or release of  
14 public records information that relates to sexual predators or  
15 sexual offenders; or

16           (c) Prevents any person or entity from performing its  
17 duties or operating within its statutorily conferred authority  
18 as such duty or authority relates to sexual predators or  
19 sexual offenders.

20           (3) If the court enters an order that affects an  
21 agency's performance of a duty imposed under the laws  
22 governing sexual predators or sexual offenders or that limits  
23 the agency's exercise of authority conferred under such laws,  
24 the Legislature strongly encourages the affected agency to  
25 file a motion in the court that entered such order. The  
26 affected agency may, within 1 year after the receipt of any  
27 such order, move to modify or set aside the order or, if such  
28 order is in the nature of an injunction, move to dissolve the  
29 injunction. Grounds for granting any such motion include, but  
30 need not be limited to:

31           (a) The affected agency was not properly noticed.

1           (b) The court is not authorized to enjoin the  
2 operation of a statute that has been duly adjudged  
3 constitutional and operative unless the statute is illegally  
4 applied or unless the statute or the challenged part of it is  
5 unconstitutional on adjudicated grounds.

6           (c) Jurisdiction may not be conferred by consent of  
7 the parties.

8           (d) To the extent that the order is based upon actions  
9 the agency might take, the court's order is premature and, if  
10 and when such actions are taken, these actions may be  
11 challenged in appropriate proceedings to determine their  
12 enforceability.

13           (e) The injunction affects the public interest and  
14 would cause injury to the public.

15           (f) The order creates an unenforceable, perpetual  
16 injunction.

17           (g) The order seeks to restrict the agency in the  
18 performance of its duties outside the court's territorial  
19 jurisdiction.

20           Section 6. Paragraph (b) of subsection (1) of section  
21 944.606, Florida Statutes, is amended to read:

22           944.606 Sexual offenders; notification upon release.--

23           (1) As used in this section:

24           (b) "Sexual offender" means a person who has been  
25 convicted of committing, or attempting, soliciting, or  
26 conspiring to commit, any of the criminal offenses proscribed  
27 in the following statutes in this state or similar offenses in  
28 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
29 where the victim is a minor and the defendant is not the  
30 victim's parent; chapter 794, excluding ss. 794.011(10) and  
31 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.

1 847.0133; s. 847.0135; s. 847.0137;s. 847.0145; or any  
2 similar offense committed in this state which has been  
3 redesignated from a former statute number to one of those  
4 listed in this subsection, when the department has received  
5 verified information regarding such conviction; an offender's  
6 computerized criminal history record is not, in and of itself,  
7 verified information.

8 Section 7. Subsections (1) and (4) of section 944.607,  
9 Florida Statutes, are amended to read:

10 944.607 Notification to Department of Law Enforcement  
11 of information on sexual offenders.--

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

13 (a) "Sexual offender" means a person who:

14 1. Is in the custody or control of, or under the  
15 supervision of, the department or is in the custody of a  
16 private correctional facility on or after October 1, 1997, as  
17 a result of a conviction for committing, or attempting,  
18 soliciting, or conspiring to commit, any of the criminal  
19 offenses proscribed in the following statutes in this state or  
20 similar offenses in another jurisdiction: s. 787.01, s.  
21 787.02, or s. 787.025, where the victim is a minor and the  
22 defendant is not the victim's parent; chapter 794, excluding  
23 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.  
24 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0145;  
25 or any similar offense committed in this state which has been  
26 redesignated from a former statute number to one of those  
27 listed in this paragraph; or-

28 2. Is under the supervision of the department and who  
29 establishes or maintains a residence in this state and who has  
30 not been designated as a sexual offender or sexual predator by  
31 a court of this state but has been designated as a sexual



1 predator, a sexually violent predator, or any other type of  
2 sexual offender by another state or jurisdiction and, as a  
3 result of such designation, was subject to registration or  
4 community or public notification, or both, or would be subject  
5 to such registration or public notification if the person were  
6 a resident of that state or jurisdiction.

7 (b) "Conviction" means a determination of guilt which  
8 is the result of a trial or the entry of a plea of guilty or  
9 nolo contendere, regardless of whether adjudication is  
10 withheld. Conviction of a similar offense includes, but is not  
11 limited to, a conviction by a federal or military tribunal,  
12 including courts-martial conducted by the Armed Forces of the  
13 United States, and includes a conviction in any state of the  
14 United States or other jurisdiction.

15 (c) "Institution of higher education" means a  
16 community college, state university, or independent  
17 postsecondary institution.

18 (4)(a) A sexual offender, as described in this  
19 section, who is under the supervision of the Department of  
20 Corrections but is not incarcerated must register with the  
21 Department of Corrections and provide the following  
22 information: name; date of birth; social security number;  
23 race; sex; height; weight; hair and eye color; tattoos or  
24 other identifying marks; and permanent or legal residence and  
25 address of temporary residence within the state or out of  
26 state while the sexual offender is under supervision in this  
27 state, including any rural route address or post office box.  
28 The Department of Corrections shall verify the address of each  
29 sexual offender in the manner described in ss. 775.21 and  
30 943.0435.

31

1           (b) If the sexual offender is enrolled at, employed  
2 by, or carries on a vocation at an institution of higher  
3 education in this state, the sexual offender shall provide to  
4 the Department of Corrections the name, address, and county of  
5 the institution, including the name of the campus, and his or  
6 her enrollment status or employment position. The sexual  
7 predator must report to the department within 48 hours after  
8 the sexual offender commences or terminates enrollment or  
9 employment at the institution of higher education. The  
10 department shall promptly notify an institution of higher  
11 education if a sexual offender commences or terminates  
12 enrollment or employment at that institution.

13           Section 8. This act shall take effect October 1, 2002.

14  
15 \*\*\*\*\*

16           SENATE SUMMARY

17           Requires that a sexual predator or sexual offender who is  
18           enrolled at or employed by an institution of higher  
19           education to report to the sheriff, the Department of Law  
20           Enforcement, or the Department of Corrections, as  
21           appropriate. Requires that a sexual predator report upon  
22           terminating enrollment or employment. Requires that the  
23           sheriff or Department of Corrections notify an  
24           institution of higher education where a sexual predator  
25           commences or terminates enrollment or employment.  
26           Increases from 60 days to 1 year the period during which  
27           a state agency may petition the court to set aside or  
28           modify an order or injunction that affects the agency's  
29           performance of a duty imposed under laws governing sexual  
30           predators or sexual offenders. Redefines the term "sexual  
31           offender" to include an offender who has been designated  
as a sexual predator or sexual offender in another state  
or jurisdiction or who is under the supervision of  
another state or jurisdiction as the result of a  
conviction for certain specified offenses. Revises  
conditions under which a sexual offender may petition the  
court for removing the requirement for registration.  
Redefines the term "sexual offender" to include a person  
convicted of committing, or attempting, soliciting, or  
conspiring to commit, the offense of transmitting  
pornography by electronic device or equipment. (See bill  
for details.)