

By the Committee on Criminal Justice; and Senator Burt

307-1900-02

1                                   A bill to be entitled  
2           An act relating to sexual predators and sexual  
3           offenders; amending s. 775.21, F.S.; defining  
4           the terms "institution of higher education" and  
5           "change in enrollment or employment status" for  
6           the purposes of the Florida Sexual Predators  
7           Act; providing additional registration  
8           requirements with respect to sexual predators  
9           who are enrolled, employed, or carrying on a  
10          vocation at an institution of higher education;  
11          providing requirements with respect to changes  
12          in the name or residence of a sexual predator;  
13          requiring the sheriff to promptly provide to  
14          the Department of Law Enforcement certain  
15          information received from the sexual predator;  
16          amending s. 775.24, F.S.; increasing a time  
17          period for an agency to move to modify or set  
18          aside certain orders or injunctions with  
19          respect to an agency's performance of a duty  
20          imposed under the laws governing sexual  
21          predators or sexual offenders; amending s.  
22          943.0435, F.S.; redefining the term "sexual  
23          offender"; defining the terms "institution of  
24          higher education" and "change in enrollment or  
25          employment status"; providing requirements with  
26          respect to changes in the sexual offender's  
27          residence or name; providing additional  
28          registration requirements with respect to  
29          sexual offenders who are enrolled, employed, or  
30          carrying on a vocation at an institution of  
31          higher education; requiring the sheriff to

1 provide certain information; revising  
2 provisions relating to sexual offenders who may  
3 petition for removal of registration  
4 requirements; providing legislative findings;  
5 creating s. 943.0436, F.S.; providing for the  
6 duty of the court to uphold laws governing  
7 sexual predators and sexual offenders; amending  
8 s. 944.606, F.S.; including a cross reference  
9 within the definition of the term "sexual  
10 offender"; amending s. 944.607, F.S.;  
11 redefining the term "sexual offender"; defining  
12 the terms "institution of higher education" and  
13 "change in enrollment or employment status";  
14 providing additional registration requirements  
15 with respect to sexual offenders who are  
16 enrolled, employed, or carrying on a vocation  
17 at an institution of higher education;  
18 providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Subsections (2) and (6) of section 775.21,  
23 Florida Statutes, are amended to read:

24 775.21 The Florida Sexual Predators Act; definitions;  
25 legislative findings, purpose, and intent; criteria;  
26 designation; registration; community and public notification;  
27 immunity; penalties.--

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

29 (a) "Chief of police" means the chief law enforcement  
30 officer of a municipality.

31

1           (b) "Community" means any county where the sexual  
2 predator lives or otherwise establishes or maintains a  
3 temporary or permanent residence.

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

12           (d) "Department" means the Department of Law  
13 Enforcement.

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

19           (f) "Permanent residence" means a place where the  
20 person abides, lodges, or resides for 14 or more consecutive  
21 days.

22           (g) "Temporary residence" means a place where the  
23 person abides, lodges, or resides for a period of 14 or more  
24 days in the aggregate during any calendar year and which is  
25 not the person's permanent address; for a person whose  
26 permanent residence is not in this state, a place where the  
27 person is employed, practices a vocation, or is enrolled as a  
28 student for any period of time in this state; or a place where  
29 the person routinely abides, lodges, or resides for a period  
30 of 4 or more consecutive or nonconsecutive days in any month  
31

1 and which is not the person's permanent residence, including  
2 any out-of-state address.

3 (h) "Institution of higher education" means a  
4 community college, college, state university, or independent  
5 postsecondary institution.

6 (i) "Change in enrollment or employment status" means  
7 the commencement or termination of enrollment or employment or  
8 a change in location of enrollment or employment.

9 (6) REGISTRATION.--

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

13 1. Name, social security number, age, race, sex, date  
14 of birth, height, weight, hair and eye color, photograph,  
15 address of legal residence and address of any current  
16 temporary residence, within the state or out of state,  
17 including a rural route address and a post office box, date  
18 and place of any employment, date and place of each  
19 conviction, fingerprints, and a brief description of the crime  
20 or crimes committed by the offender. A post office box shall  
21 not be provided in lieu of a physical residential address.

22 a. If the sexual predator's place of residence is a  
23 motor vehicle, trailer, mobile home, or manufactured home, as  
24 defined in chapter 320, the sexual predator shall also provide  
25 to the department written notice of the vehicle identification  
26 number; the license tag number; the registration number; and a  
27 description, including color scheme, of the motor vehicle,  
28 trailer, mobile home, or manufactured home. If a sexual  
29 predator's place of residence is a vessel, live-aboard vessel,  
30 or houseboat, as defined in chapter 327, the sexual predator  
31 shall also provide to the department written notice of the

1 hull identification number; the manufacturer's serial number;  
2 the name of the vessel, live-aboard vessel, or houseboat; the  
3 registration number; and a description, including color  
4 scheme, of the vessel, live-aboard vessel, or houseboat.

5 b. If the sexual predator is enrolled, employed, or  
6 carrying on a vocation at an institution of higher education  
7 in this state, the sexual predator shall also provide to the  
8 department the name, address, and county of each institution,  
9 including each campus attended, and the sexual predator's  
10 enrollment or employment status. Each change in enrollment or  
11 employment status shall be reported in person at the sheriff's  
12 office, or the Department of Corrections if the sexual  
13 predator is in the custody or control of or under the  
14 supervision of the Department of Corrections, within 48 hours  
15 after any change in status. The sheriff or the Department of  
16 Corrections shall promptly notify each institution of the  
17 sexual predator's presence and any change in the sexual  
18 predator's enrollment or employment status.

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. Any change in  
31 the sexual predator's permanent or temporary residence or

1 name, after the sexual predator registers in person at an  
2 office of the department or at the sheriff's office, shall be  
3 accomplished in the manner provided in paragraphs (g), (i),  
4 and (j). If a sexual predator registers with the sheriff's  
5 office, the sheriff shall take a photograph and a set of  
6 fingerprints of the predator and forward the photographs and  
7 fingerprints to the department, along with the information  
8 that the predator is required to provide pursuant to this  
9 section.

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

18 1. If otherwise qualified, secure a Florida driver's  
19 license, renew a Florida driver's license, or secure an  
20 identification card. The sexual predator shall identify  
21 himself or herself as a sexual predator who is required to  
22 comply with this section, provide his or her place of  
23 permanent or temporary residence, including a rural route  
24 address and a post office box, and submit to the taking of a  
25 photograph for use in issuing a driver's license, renewed  
26 license, or identification card, and for use by the department  
27 in maintaining current records of sexual predators. A post  
28 office box shall not be provided in lieu of a physical  
29 residential address. If the sexual predator's place of  
30 residence is a motor vehicle, trailer, mobile home, or  
31 manufactured home, as defined in chapter 320, the sexual

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

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

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

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



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

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

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

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

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

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

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

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

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

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

22  
23 The sheriff shall promptly provide to the department the  
24 information received from the sexual predator.

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

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

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

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

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

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

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

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

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

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

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

29 Section 3. Section 943.0435, Florida Statutes, is  
30 amended to read:

31

1           943.0435 Sexual offenders required to register with  
2 the department; penalty.--  
3           (1) As used in this section, the term:  
4           (a) "Sexual offender" means a person who ~~has been~~:  
5           1. Has been convicted of committing, or attempting,  
6 soliciting, or conspiring to commit, any of the criminal  
7 offenses proscribed in the following statutes in this state or  
8 similar offenses in another jurisdiction: s. 787.01, s.  
9 787.02, or s. 787.025, where the victim is a minor and the  
10 defendant is not the victim's parent; chapter 794, excluding  
11 ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.  
12 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137;  
13 s. 847.0138;s. 847.0145; or any similar offense committed in  
14 this state which has been redesignated from a former statute  
15 number to one of those listed in this subparagraph; ~~and~~-.  
16           2. Has been released on or after October 1, 1997, from  
17 the sanction imposed for any conviction of an offense  
18 described in subparagraph 1. For purposes of subparagraph 1.,  
19 a sanction imposed in this state or in any other jurisdiction  
20 includes, but is not limited to, a fine, probation, community  
21 control, parole, conditional release, control release, or  
22 incarceration in a state prison, federal prison, private  
23 correctional facility, or local detention facility; ~~or~~-.  
24           3. Establishes or maintains a residence in this state  
25 and who has not been designated as a sexual predator by a  
26 court of this state but who has been designated as a sexual  
27 predator, as a sexually violent predator, or by another sexual  
28 offender designation in another state or jurisdiction and was,  
29 as a result of such designation, subjected to registration or  
30 community or public notification, or both, or would be if the  
31 person were a resident of that state or jurisdiction; or

1           4. Establishes or maintains a residence in this state  
2 who is in the custody or control of, or under the supervision  
3 of, any other state or jurisdiction as a result of a  
4 conviction for committing, or attempting, soliciting, or  
5 conspiring to commit, any of the criminal offenses proscribed  
6 in the following statutes or similar offense in another  
7 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the  
8 victim is a minor and the defendant is not the victim's  
9 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;  
10 s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.  
11 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or any  
12 similar offense committed in this state which has been  
13 redesignated from a former statute number to one of those  
14 listed in this subparagraph.

15           (b) "Convicted" means that there has been a  
16 determination of guilt as a result of a trial or the entry of  
17 a plea of guilty or nolo contendere, regardless of whether  
18 adjudication is withheld. Conviction of a similar offense  
19 includes, but is not limited to, a conviction by a federal or  
20 military tribunal, including courts-martial conducted by the  
21 Armed Forces of the United States, and includes a conviction  
22 in any state of the United States or other jurisdiction.

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

25           (d) "Institution of higher education" means a  
26 community college, college, state university, or independent  
27 postsecondary institution.

28           (e) "Change in enrollment or employment status" means  
29 the commencement or termination of enrollment or employment or  
30 a change in location of enrollment or employment.

31           (2) A sexual offender shall:

1           (a) Report in person at an office of the department,  
2 or at the sheriff's office in the county in which the offender  
3 establishes or maintains a permanent or temporary residence,  
4 within 48 hours after establishing permanent or temporary  
5 residence in this state or within 48 hours after being  
6 released from the custody, control, or supervision of the  
7 Department of Corrections or from the custody of a private  
8 correctional facility. Any change in the sexual offender's  
9 permanent or temporary residence or name, after the sexual  
10 offender reports in person at an office of the department or  
11 at the sheriff's office, shall be accomplished in the manner  
12 provided in subsections (4), (7), and (8).

13           (b) ~~The sexual offender shall~~ Provide his or her name,  
14 date of birth, social security number, race, sex, height,  
15 weight, hair and eye color, tattoos or other identifying  
16 marks, occupation and place of employment, address of  
17 permanent or legal residence or address of any current  
18 temporary residence, within the state and out of state,  
19 including a rural route address and a post office box, date  
20 and place of each conviction, and a brief description of the  
21 crime or crimes committed by the offender. A post office box  
22 shall not be provided in lieu of a physical residential  
23 address.

24           1. If the sexual offender's place of residence is a  
25 motor vehicle, trailer, mobile home, or manufactured home, as  
26 defined in chapter 320, the sexual offender shall also provide  
27 to the department written notice of the vehicle identification  
28 number; the license tag number; the registration number; and a  
29 description, including color scheme, of the motor vehicle,  
30 trailer, mobile home, or manufactured home. If the sexual  
31 offender's place of residence is a vessel, live-aboard vessel,



1 or houseboat, as defined in chapter 327, the sexual offender  
2 shall also provide to the department written notice of the  
3 hull identification number; the manufacturer's serial number;  
4 the name of the vessel, live-aboard vessel, or houseboat; the  
5 registration number; and a description, including color  
6 scheme, of the vessel, live-aboard vessel, or houseboat.

7 2. If the sexual offender is enrolled, employed, or  
8 carrying on a vocation at an institution of higher education  
9 in this state, the sexual offender shall also provide to the  
10 department the name, address, and county of each institution,  
11 including each campus attended, and the sexual offender's  
12 enrollment or employment status. Each change in enrollment or  
13 employment status shall be reported in person at an office of  
14 the department, or at the sheriff's office, within 48 hours  
15 after any change in status. The sheriff shall promptly notify  
16 each institution of the sexual offender's presence and any  
17 change in the sexual offender's enrollment or employment  
18 status.

19  
20 If a sexual offender reports at the sheriff's office, the  
21 sheriff shall take a photograph and a set of fingerprints of  
22 the offender and forward the photographs and fingerprints to  
23 the department, along with the information provided by the  
24 sexual offender. The sheriff shall promptly provide to the  
25 department the information received from the sexual offender.

26 (3) Within 48 hours after the report required under  
27 subsection (2), a sexual offender shall report in person at a  
28 driver's license office of the Department of Highway Safety  
29 and Motor Vehicles, unless a driver's license or  
30 identification card was previously secured or updated under s.  
31

1 944.607(9). At the driver's license office the sexual offender  
2 shall:

3 (a) If otherwise qualified, secure a Florida driver's  
4 license, renew a Florida driver's license, or secure an  
5 identification card. The sexual offender shall identify  
6 himself or herself as a sexual offender who is required to  
7 comply with this section and shall provide proof that the  
8 sexual offender reported as required in subsection (2). The  
9 sexual offender shall provide any of the information specified  
10 in subsection (2), if requested. The sexual offender shall  
11 submit to the taking of a photograph for use in issuing a  
12 driver's license, renewed license, or identification card, and  
13 for use by the department in maintaining current records of  
14 sexual offenders.

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

19 (c) Provide, upon request, any additional information  
20 necessary to confirm the identity of the sexual offender,  
21 including a set of fingerprints.

22 (4) Each time a sexual offender's driver's license or  
23 identification card is subject to renewal, and within 48 hours  
24 after any change in the offender's permanent or temporary  
25 residence or change in the offender's name by reason of  
26 marriage or other legal process, the offender shall report in  
27 person to a driver's license office, and shall be subject to  
28 the requirements specified in subsection (3). The Department  
29 of Highway Safety and Motor Vehicles shall forward to the  
30 department all photographs and information provided by sexual  
31 offenders. Notwithstanding the restrictions set forth in s.

1 322.142, the Department of Highway Safety and Motor Vehicles  
2 is authorized to release a reproduction of a color-photograph  
3 or digital-image license to the Department of Law Enforcement  
4 for purposes of public notification of sexual offenders as  
5 provided in ss. 943.043, 943.0435, and 944.606.

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

9 (6) County and local law enforcement agencies, in  
10 conjunction with the department, shall verify the addresses of  
11 sexual offenders who are not under the care, custody, control,  
12 or supervision of the Department of Corrections in a manner  
13 that is consistent with the provisions of the federal Jacob  
14 Wetterling Act, as amended, and any other federal standards  
15 applicable to such verification or required to be met as a  
16 condition for the receipt of federal funds by the state.

17 (7) A sexual offender who intends to establish  
18 residence in another state or jurisdiction shall report in  
19 person to the sheriff of the county of current residence or  
20 the department within 48 hours before the date he or she  
21 intends to leave this state to establish residence in another  
22 state or jurisdiction. The notification must include the  
23 address, municipality, county, and state of intended  
24 residence. The sheriff shall promptly provide to the  
25 department the information received from the sexual offender.  
26 The department shall notify the statewide law enforcement  
27 agency, or a comparable agency, in the intended state or  
28 jurisdiction of residence of the sexual offender's intended  
29 residence. The failure of a sexual offender to provide his or  
30 her intended place of residence is punishable as provided in  
31 subsection (9).

1           (8) A sexual offender who indicates his or her intent  
2 to reside in another state or jurisdiction and later decides  
3 to remain in this state shall, within 48 hours after the date  
4 upon which the sexual offender indicated he or she would leave  
5 this state, report in person to the sheriff or department,  
6 whichever agency is the agency to which the sexual offender  
7 reported the intended change of residence, of his or her  
8 intent to remain in this state. If the sheriff is notified by  
9 the sexual offender that he or she intends to remain in this  
10 state, the sheriff shall promptly report this information to  
11 the department. A sexual offender who reports his or her  
12 intent to reside in another state or jurisdiction but who  
13 remains in this state without reporting to the sheriff or the  
14 department in the manner required by this subsection commits a  
15 felony of the second degree, punishable as provided in s.  
16 775.082, s. 775.083, or s. 775.084.

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

21           (10) The department, the Department of Highway Safety  
22 and Motor Vehicles, the Department of Corrections, any law  
23 enforcement agency in this state, and the personnel of those  
24 departments; an elected or appointed official, public  
25 employee, or school administrator; or an employee, agency, or  
26 any individual or entity acting at the request or upon the  
27 direction of any law enforcement agency is immune from civil  
28 liability for damages for good faith compliance with the  
29 requirements of this section or for the release of information  
30 under this section, and shall be presumed to have acted in  
31 good faith in compiling, recording, reporting, or releasing

1 the information. The presumption of good faith is not overcome  
2 if a technical or clerical error is made by the department,  
3 the Department of Highway Safety and Motor Vehicles, the  
4 Department of Corrections, the personnel of those departments,  
5 or any individual or entity acting at the request or upon the  
6 direction of any of those departments in compiling or  
7 providing information, or if information is incomplete or  
8 incorrect because a sexual offender fails to report or falsely  
9 reports his or her current place of permanent or temporary  
10 residence.

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

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

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

29  
30 may petition the criminal division of the circuit court of the  
31 circuit in which the sexual offender resides for the purpose

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

26 (c) As defined in subparagraph (1)(a)3. must maintain  
27 registration with the department for the duration of his or  
28 her life until the person provides the department with an  
29 order issued by the court that designated the person as a  
30 sexual predator, as a sexually violent predator, or by another  
31 sexual offender designation in the state or jurisdiction in

1 which the order was issued which states that such designation  
2 has been removed or demonstrates to the department that such  
3 designation, if not imposed by a court, has been removed by  
4 operation of law or court order in the state or jurisdiction  
5 in which the designation was made, and provided such person no  
6 longer meets the criteria for registration as a sexual  
7 offender under the laws of this state.

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

24 Section 4. Section 943.0436, Florida Statutes, is  
25 created to read:

26 943.0436 Duty of the court to uphold laws governing  
27 sexual predators and sexual offenders.--

28 (1) The Legislature finds that, for the purpose of  
29 approving a plea agreement or for other reasons, certain  
30 courts enter orders that effectively limit or nullify  
31 requirements imposed upon sexual predators and sexual

1 offenders pursuant to the laws of this state and prevent  
2 persons or entities from carrying out the duties imposed, or  
3 exercising the authority conferred, by such laws. The laws  
4 relating to sexual predators and sexual offenders are  
5 substantive law. Furthermore, the Congress of the United  
6 States has expressly encouraged every state to enact such  
7 laws, and has provided that, to the extent that a state's laws  
8 do not meet certain federal requirements, the state will lose  
9 significant federal funding provided to the state for law  
10 enforcement and public safety programs. Unless a court that  
11 enters such an order determines that a person or entity is not  
12 operating in accordance with the laws governing sexual  
13 predators or sexual offenders, or that such laws or any part  
14 of such laws are unconstitutional or unconstitutionally  
15 applied, the court unlawfully encroaches on the Legislature's  
16 exclusive power to make laws and places at risk significant  
17 public interests of the state.

18 (2) If a person meets the criteria in chapter 775 for  
19 designation as a sexual predator or meets the criteria in s.  
20 943.0435, s. 944.606, s. 944.607, or any other law for  
21 classification as a sexual offender, the court may not enter  
22 an order, for the purpose of approving a plea agreement or for  
23 any other reason, which:

24 (a) Exempts a person who meets the criteria for  
25 designation as a sexual predator or classification as a sexual  
26 offender from such designation or classification, or exempts  
27 such person from the requirements for registration or  
28 community and public notification imposed upon sexual  
29 predators and sexual offenders;

30  
31



1           (b) Restricts the compiling, reporting, or release of  
2 public records information that relates to sexual predators or  
3 sexual offenders; or

4           (c) Prevents any person or entity from performing its  
5 duties or operating within its statutorily conferred authority  
6 as such duty or authority relates to sexual predators or  
7 sexual offenders.

8           (3) If the court enters an order that affects an  
9 agency's performance of a duty imposed under the laws  
10 governing sexual predators or sexual offenders, or that limits  
11 the agency's exercise of authority conferred under such laws,  
12 the Legislature strongly encourages the affected agency to  
13 file a motion in the court that entered such order. The  
14 affected agency may, within 1 year after the receipt of any  
15 such order, move to modify or set aside the order or, if such  
16 order is in the nature of an injunction, move to dissolve the  
17 injunction. Grounds for granting any such motion include, but  
18 need not be limited to:

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

20           (b) The court is not authorized to enjoin the  
21 operation of a statute that has been duly adjudged  
22 constitutional and operative unless the statute is illegally  
23 applied or unless the statute or the challenged part of it is  
24 unconstitutional on adjudicated grounds.

25           (c) Jurisdiction may not be conferred by consent of  
26 the parties.

27           (d) To the extent that the order is based upon actions  
28 the agency might take, the court's order is premature and, if  
29 and when such actions are taken, these actions may be  
30 challenged in appropriate proceedings to determine their  
31 enforceability.

1           (e) The injunction affects the public interest and  
2 would cause injury to the public.

3           (f) The order creates an unenforceable, perpetual  
4 injunction.

5           (g) The order seeks to restrict the agency in the  
6 performance of its duties outside the court's territorial  
7 jurisdiction.

8           Section 5. Paragraph (b) of subsection (1) of section  
9 944.606, Florida Statutes, is amended to read:

10           944.606 Sexual offenders; notification upon release.--

11           (1) As used in this section:

12           (b) "Sexual offender" means a person who has been  
13 convicted of committing, or attempting, soliciting, or  
14 conspiring to commit, any of the criminal offenses proscribed  
15 in the following statutes in this state or similar offenses in  
16 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
17 where the victim is a minor and the defendant is not the  
18 victim's parent; chapter 794, excluding ss. 794.011(10) and  
19 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
20 847.0133; s. 847.0135; s. 847.0137; s. 847.0138;s. 847.0145;  
21 or any similar offense committed in this state which has been  
22 redesignated from a former statute number to one of those  
23 listed in this subsection, when the department has received  
24 verified information regarding such conviction; an offender's  
25 computerized criminal history record is not, in and of itself,  
26 verified information.

27           Section 6. Subsections (1) and (4) of section 944.607,  
28 Florida Statutes, are amended to read:

29           944.607 Notification to Department of Law Enforcement  
30 of information on sexual offenders.--

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

1 (a) "Sexual offender" means a person who is in the  
2 custody or control of, or under the supervision of, the  
3 department or is in the custody of a private correctional  
4 facility:

5 1. On or after October 1, 1997, as a result of a  
6 conviction for committing, or attempting, soliciting, or  
7 conspiring to commit, any of the criminal offenses proscribed  
8 in the following statutes in this state or similar offenses in  
9 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,  
10 where the victim is a minor and the defendant is not the  
11 victim's parent; chapter 794, excluding ss. 794.011(10) and  
12 794.0235; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s.  
13 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;  
14 or any similar offense committed in this state which has been  
15 redesignated from a former statute number to one of those  
16 listed in this paragraph; or

17 2. Who establishes or maintains a residence in this  
18 state and who has not been designated as a sexual predator by  
19 a court of this state but who has been designated as a sexual  
20 predator, as a sexually violent predator, or by another sexual  
21 offender designation in another state or jurisdiction and was,  
22 as a result of such designation, subjected to registration or  
23 community or public notification, or both, or would be if the  
24 person were a resident of that state or jurisdiction.

25 (b) "Conviction" means a determination of guilt which  
26 is the result of a trial or the entry of a plea of guilty or  
27 nolo contendere, regardless of whether adjudication is  
28 withheld. Conviction of a similar offense includes, but is not  
29 limited to, a conviction by a federal or military tribunal,  
30 including courts-martial conducted by the Armed Forces of the  
31

1 United States, and includes a conviction in any state of the  
2 United States or other jurisdiction.

3 (c) "Institution of higher education" means a  
4 community college, college, state university, or independent  
5 postsecondary institution.

6 (d) "Change in enrollment or employment status" means  
7 the commencement or termination of enrollment or employment or  
8 a change in location of enrollment or employment.

9 (4) A sexual offender, as described in this section,  
10 who is under the supervision of the Department of Corrections  
11 but is not incarcerated must register with the Department of  
12 Corrections and provide the following information:

13 (a) Name; date of birth; social security number; race;  
14 sex; height; weight; hair and eye color; tattoos or other  
15 identifying marks; and permanent or legal residence and  
16 address of temporary residence within the state or out of  
17 state while the sexual offender is under supervision in this  
18 state, including any rural route address or post office box.  
19 The Department of Corrections shall verify the address of each  
20 sexual offender in the manner described in ss. 775.21 and  
21 943.0435.

22 (b) If the sexual offender is enrolled, employed, or  
23 carrying on a vocation at an institution of higher education  
24 in this state, the name, address, and county of each  
25 institution, including each campus attended, and the sexual  
26 offender's enrollment or employment status. Each change in  
27 enrollment or employment status shall be reported to the  
28 department within 48 hours after the change in status. The  
29 Department of Corrections shall promptly notify each  
30 institution of the sexual offender's presence and any change  
31 in the sexual offender's enrollment or employment status.

1           Section 7. This act shall take effect July 1, 2002.

2

3                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
4                                   COMMITTEE SUBSTITUTE FOR  
5   Senate Bill 1510

6

-       Revises definition of "institution of higher education"  
to include colleges.

7

-       Defines "change in enrollment or employment status."

8

-       Amends various definitions of "sexual offender"  
(relevant to sexual offender registration/notification)  
to add new criteria offenses created by the 2001 Florida  
Legislature: transmission of pornography by electronic  
device or equipment; and transmission of material  
harmful to a minor by electronic device or equipment.

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