

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
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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, 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.

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.

21 a. If the sexual predator's place of residence is a
22 motor vehicle, trailer, mobile home, or manufactured home, as
23 defined in chapter 320, the sexual predator shall also provide
24 to the 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.

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

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

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

1 absconds from custody or supervision or if the sexual predator
2 dies.

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

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

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

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

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

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

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

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

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

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

1 Law Enforcement for purposes of public notification of sexual
2 predators as provided in this section.

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

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

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

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

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

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

31

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. 847.0145; or any similar offense committed in this state
14 which has been redesignated from a former statute number to
15 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. 847.0145; or any similar offense
12 committed in this state which has been redesignated from a
13 former statute number to one of those listed in this
14 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, 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.

30 (2) A sexual offender shall:

31

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;

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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. 847.0145; or any
21 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. 847.0145; or any
14 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, 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.

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

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

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

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

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HOUSE SUMMARY

Revises provisions of law governing sexual predators and sexual offenders to provide consistent language with respect to sexual predators and sexual offenders. Defines the terms "institution of higher education" and "change in enrollment or employment status" with respect to sexual predators and sexual offenders and provides additional registration requirements with respect to sexual predators and sexual offenders who are enrolled, employed, or carrying on a vocation at an institution of higher education. Provides requirements with respect to changes in the name or residence of the sexual predator or sexual offender. See bill for details.