

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; amending
18 s. 960.003; providing for the testing of
19 certain persons for HIV under certain
20 circumstances; requiring the disclosure of the
21 results of such a test within a proscribed time
22 period; providing an effective date.

23

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

25

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

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

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

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

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

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

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

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

22 (f) "Permanent residence" means a place where the
23 person abides, lodges, or resides for 14 or more consecutive
24 days.

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

1 the person routinely abides, lodges, or resides for a period
2 of 4 or more consecutive or nonconsecutive days in any month
3 and which is not the person's permanent residence, including
4 any out-of-state address.

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

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

11 (6) REGISTRATION.--

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

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

24 a. If the sexual predator's place of residence is a
25 motor vehicle, trailer, mobile home, or manufactured home, as
26 defined in chapter 320, the sexual predator 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 a sexual
31 predator's place of residence is a vessel, live-aboard vessel,

1 or houseboat, as defined in chapter 327, the sexual predator
 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 b. If the sexual predator is enrolled, employed, or
 8 carrying on a vocation at an institution of higher education
 9 in this state, the sexual predator shall also provide to the
 10 department the name, address, and county of each institution,
 11 including each campus attended, and the sexual predator's
 12 enrollment or employment status. Each change in enrollment or
 13 employment status shall be reported in person at the sheriff's
 14 office, or the Department of Corrections if the sexual
 15 predator is in the custody or control of or under the
 16 supervision of the Department of Corrections, within 48 hours
 17 after any change in status. The sheriff or the Department of
 18 Corrections shall promptly notify each institution of the
 19 sexual predator's presence and any change in the sexual
 20 predator's enrollment or employment status.

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

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

1 Corrections office that is responsible for supervising the
2 sexual predator. In addition, the Department of Corrections
3 shall notify the department if the sexual predator escapes or
4 absconds from custody or supervision or if the sexual predator
5 dies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 whichever agency is the agency to which the sexual predator
2 reported the intended change of residence, of his or her
3 intent to remain in this state. If the sheriff is notified by
4 the sexual predator that he or she intends to remain in this
5 state, the sheriff shall promptly report this information to
6 the department. A sexual predator who reports his or her
7 intent to reside in another state or jurisdiction, but who
8 remains in this state without reporting to the sheriff or the
9 department in the manner required by this paragraph, commits a
10 felony of the second degree, punishable as provided in s.
11 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

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

24

25 The sheriff shall promptly provide to the department the
 26 information received from the sexual predator.

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

29 775.24 Duty of the court to uphold laws governing
 30 sexual predators and sexual offenders.--

31

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

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

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

18 (c) Jurisdiction may not be conferred by consent of
19 the parties.

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

25 (e) The injunction affects the public interest and
26 would cause injury to the public.

27 (f) The order creates an unenforceable, perpetual
28 injunction.

29 (g) The order seeks to restrict the agency in the
30 performance of its duties outside the court's territorial
31 jurisdiction.

1 Section 3. Section 943.0435, Florida Statutes, is
2 amended to read:

3 943.0435 Sexual offenders required to register with
4 the department; penalty.--

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

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

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

18 2. Has been released on or after October 1, 1997, from
19 the sanction imposed for any conviction of an offense
20 described in subparagraph 1. For purposes of subparagraph 1.,
21 a sanction imposed in this state or in any other jurisdiction
22 includes, but is not limited to, a fine, probation, community
23 control, parole, conditional release, control release, or
24 incarceration in a state prison, federal prison, private
25 correctional facility, or local detention facility; ~~or-~~

26 3. Establishes or maintains a residence in this state
27 and who has not been designated as a sexual predator by a
28 court of this state but who has been designated as a sexual
29 predator, as a sexually violent predator, or by another sexual
30 offender designation in another state or jurisdiction and was,
31 as a result of such designation, subjected to registration or

1 community or public notification, or both, or would be if the
2 person were a resident of that state or jurisdiction; or
3 4. Establishes or maintains a residence in this state
4 who is in the custody or control of, or under the supervision
5 of, any other state or jurisdiction 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 or similar offense in another
9 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the
10 victim is a minor and the defendant is not the victim's
11 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;
12 s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
13 847.0135; s. 847.0137; s. 847.0138; 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 subparagraph.

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

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

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

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1 (e) "Change in enrollment or employment status" means
2 the commencement or termination of enrollment or employment or
3 a change in location of enrollment or employment.

4 (2) A sexual offender shall:

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

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

28 1. If the sexual offender's place of residence is a
29 motor vehicle, trailer, mobile home, or manufactured home, as
30 defined in chapter 320, the sexual offender shall also provide
31 to the department written notice of the vehicle identification

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

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

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

30 (3) Within 48 hours after the report required under
 31 subsection (2), a sexual offender shall report in person at a

1 driver's license office of the Department of Highway Safety
2 and Motor Vehicles, unless a driver's license or
3 identification card was previously secured or updated under s.
4 944.607(9). At the driver's license office the sexual offender
5 shall:

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

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

22 (c) Provide, upon request, any additional information
23 necessary to confirm the identity of the sexual offender,
24 including a set of fingerprints.

25 (4) Each time a sexual offender's driver's license or
26 identification card is subject to renewal, and within 48 hours
27 after any change in the offender's permanent or temporary
28 residence or change in the offender's name by reason of
29 marriage or other legal process, the offender shall report in
30 person to a driver's license office, and shall be subject to
31 the requirements specified in subsection (3). The Department

1 of Highway Safety and Motor Vehicles shall forward to the
2 department all photographs and information provided by sexual
3 offenders. Notwithstanding the restrictions set forth in s.
4 322.142, the Department of Highway Safety and Motor Vehicles
5 is authorized to release a reproduction of a color-photograph
6 or digital-image license to the Department of Law Enforcement
7 for purposes of public notification of sexual offenders as
8 provided in ss. 943.043, 943.0435, and 944.606.

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

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

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

1 residence. The failure of a sexual offender to provide his or
2 her intended place of residence is punishable as provided in
3 subsection (9).

4 (8) A sexual offender who indicates his or her intent
5 to reside in another state or jurisdiction and later decides
6 to remain in this state shall, within 48 hours after the date
7 upon which the sexual offender indicated he or she would leave
8 this state, report in person to the sheriff or department,
9 whichever agency is the agency to which the sexual offender
10 reported the intended change of residence, of his or her
11 intent to remain in this state. If the sheriff is notified by
12 the sexual offender that he or she intends to remain in this
13 state, the sheriff shall promptly report this information to
14 the department. A sexual offender who reports his or her
15 intent to reside in another state or jurisdiction but who
16 remains in this state without reporting to the sheriff or the
17 department in the manner required by this subsection commits a
18 felony of the second degree, punishable as provided in s.
19 775.082, s. 775.083, or s. 775.084.

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

24 (10) The department, the Department of Highway Safety
25 and Motor Vehicles, the Department of Corrections, any law
26 enforcement agency in this state, and the personnel of those
27 departments; an elected or appointed official, public
28 employee, or school administrator; or an employee, agency, or
29 any individual or entity acting at the request or upon the
30 direction of any law enforcement agency is immune from civil
31 liability for damages for good faith compliance with the

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

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

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

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

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

29 (c) As defined in subparagraph (1)(a)3. must maintain
30 registration with the department for the duration of his or
31 her life until the person provides the department with an

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

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

27 Section 4. Section 943.0436, Florida Statutes, is
 28 created to read:

29 943.0436 Duty of the court to uphold laws governing
 30 sexual predators and sexual offenders.--

31

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

22 (2) If a person meets the criteria in chapter 775 for
 23 designation as a sexual predator or meets the criteria in s.
 24 943.0435, s. 944.606, s. 944.607, or any other law for
 25 classification as a sexual offender, the court may not enter
 26 an order, for the purpose of approving a plea agreement or for
 27 any other reason, which:

28 (a) Exempts a person who meets the criteria for
 29 designation as a sexual predator or classification as a sexual
 30 offender from such designation or classification, or exempts
 31 such person from the requirements for registration or

1 community and public notification imposed upon sexual
2 predators and sexual offenders;

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

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

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

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

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

27 (c) Jurisdiction may not be conferred by consent of
28 the parties.

29 (d) To the extent that the order is based upon actions
30 the agency might take, the court's order is premature and, if
31 and when such actions are taken, these actions may be

1 challenged in appropriate proceedings to determine their
2 enforceability.

3 (e) The injunction affects the public interest and
4 would cause injury to the public.

5 (f) The order creates an unenforceable, perpetual
6 injunction.

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

10 Section 5. Paragraph (b) of subsection (1) of section
11 944.606, Florida Statutes, is amended to read:

12 944.606 Sexual offenders; notification upon release.--

13 (1) As used in this section:

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

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

31

1 944.607 Notification to Department of Law Enforcement
2 of information on sexual offenders.--

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

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

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

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

28 (b) "Conviction" means a determination of guilt which
29 is the result of a trial or the entry of a plea of guilty or
30 nolo contendere, regardless of whether adjudication is
31 withheld. Conviction of a similar offense includes, but is not

1 limited to, a conviction by a federal or military tribunal,
2 including courts-martial conducted by the Armed Forces of the
3 United States, and includes a conviction in any state of the
4 United States or other jurisdiction.

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

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

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

15 (a) Name; date of birth; social security number; race;
16 sex; height; weight; hair and eye color; tattoos or other
17 identifying marks; and permanent or legal residence and
18 address of temporary residence within the state or out of
19 state while the sexual offender is under supervision in this
20 state, including any rural route address or post office box.
21 The Department of Corrections shall verify the address of each
22 sexual offender in the manner described in ss. 775.21 and
23 943.0435.

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

1 institution of the sexual offender's presence and any change
2 in the sexual offender's enrollment or employment status.

3 Section 7. Section 960.003, of the Florida Statutes,
4 is amended to read:

5 960.003 Human immunodeficiency virus testing for
6 persons charged with or alleged by petition for delinquency to
7 have committed certain offenses; disclosure of results to
8 victims.--

9 (1) LEGISLATIVE INTENT.--The Legislature finds that a
10 victim of a criminal offense which involves the transmission
11 of body fluids, or which involves certain sexual offenses in
12 which the victim is a minor, disabled adult, or elderly
13 person, is entitled to know at the earliest possible
14 opportunity whether the person charged with or alleged by
15 petition for delinquency to have committed the offense has
16 tested positive for human immunodeficiency virus (HIV)
17 infection. The Legislature finds that to deny victims access
18 to HIV test results causes unnecessary mental anguish in
19 persons who have already suffered trauma. The Legislature
20 further finds that since medical science now recognizes that
21 early diagnosis is a critical factor in the treatment of HIV
22 infection, both the victim and the person charged with or
23 alleged by petition for delinquency to have committed the
24 offense benefit from prompt disclosure of HIV test results.

25 (2) TESTING OF PERSON CHARGED WITH OR ALLEGED BY
26 PETITION FOR DELINQUENCY TO HAVE COMMITTED CERTAIN OFFENSES.--

27 (a) In any case in which a person has been charged by
28 information or indictment with or alleged by petition for
29 delinquency to have committed any offense enumerated in s.
30 775.0877(1)(a)-(n), which involves the transmission of body
31 fluids from one person to another, upon request of the victim

1 or the victim's legal guardian, or of the parent or legal
 2 guardian of the victim if the victim is a minor, the court
 3 shall order such person to undergo HIV testing.

4 (b) However, when a victim of any sexual offense
 5 enumerated in s. 775.0877(1)(a)-(n) is under the age of 18 at
 6 the time the offense was committed or when a victim of any
 7 sexual offense enumerated in s. 775.0877(1)(a)-(n) or s.
 8 825.1025 is a disabled adult or elderly person as defined in
 9 s. 825.1025 regardless of whether the offense involves the
 10 transmission of bodily fluids from one person to another, then
 11 upon the request of the victim or the victim's legal guardian,
 12 or of the parent or legal guardian, the court shall order such
 13 person to undergo HIV testing.The testing shall be performed
 14 under the direction of the Department of Health in accordance
 15 with s. 381.004. The results of an HIV test performed on a
 16 defendant or juvenile offender pursuant to this subsection
 17 shall not be admissible in any criminal or juvenile proceeding
 18 arising out of the alleged offense.

19 (3) DISCLOSURE OF RESULTS.--

20 (a) The results of the test shall be disclosed no
 21 later than two weeks after the court receives such results,
 22 under the direction of the Department of Health, to the person
 23 charged with or alleged by petition for delinquency to have
 24 committed or to the person convicted of or adjudicated
 25 delinquent for any offense enumerated in s.
 26 775.0877(1)(a)-(n), which involves the transmission of body
 27 fluids from one person to another, and, upon request, to the
 28 victim or the victim's legal guardian, or the parent or legal
 29 guardian of the victim if the victim is a minor, and to public
 30 health agencies pursuant to s. 775.0877. If the alleged
 31 offender is a juvenile, the test results shall also be

1 disclosed to the parent or guardian. When the victim is a
2 victim as described in (2)(b), the test results must also be
3 disclosed no later than two weeks after the court receives
4 such results, to the person charged with or alleged by
5 petition for delinquency to have committed or to the person
6 convicted of or adjudicated delinquent for any offense
7 enumerated in s. 775.0877(1)(a)-(n), or s. 825.1025 regardless
8 of whether the offense involves the transmission of bodily
9 fluids from one person to another, and, upon request, to the
10 victim or the victim's legal guardian, or the parent or legal
11 guardian of the victim, and to public health agencies pursuant
12 to s. 775.0877. Otherwise, HIV test results obtained pursuant
13 to this section are confidential and exempt from the
14 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
15 Constitution and shall not be disclosed to any other person
16 except as expressly authorized by law or court order.

17 (b) At the time that the results are disclosed to the
18 victim or the victim's legal guardian, or to the parent or
19 legal guardian of a victim if the victim is a minor, the same
20 immediate opportunity for face-to-face counseling which must
21 be made available under s. 381.004(3)(e) to those who undergo
22 HIV testing shall also be afforded to the victim or the
23 victim's legal guardian, or to the parent or legal guardian of
24 the victim if the victim is a minor.

25 (4) POSTCONVICTION TESTING.--If, for any reason, the
26 testing requested under subsection (2) has not been
27 undertaken, then upon request of the victim or the victim's
28 legal guardian, or the parent or legal guardian of the victim
29 if the victim is a minor, the court shall order the offender
30 to undergo HIV testing following conviction or delinquency
31 adjudication. The testing shall be performed under the

1 direction of the Department of Health, and the results shall
2 be disclosed in accordance with the provisions of subsection
3 (3).

4 (5) EXCEPTIONS.--The provisions of subsections (2) and
5 (4) do not apply if:

6 (a) The person charged with or convicted of or alleged
7 by petition for delinquency to have committed or been
8 adjudicated delinquent for an offense described in subsection
9 (2) has undergone HIV testing voluntarily or pursuant to
10 procedures established in s. 381.004(3)(h)6. or s. 951.27, or
11 any other applicable law or rule providing for HIV testing of
12 criminal defendants, inmates, or juvenile offenders,
13 subsequent to his or her arrest, conviction, or delinquency
14 adjudication for the offense for which he or she was charged
15 or alleged by petition for delinquency to have committed; and

16 (b) The results of such HIV testing have been
17 furnished to the victim or the victim's legal guardian, or the
18 parent or legal guardian of the victim if the victim is a
19 minor.

20 (6) TESTING DURING INCARCERATION, DETENTION, OR
21 PLACEMENT; DISCLOSURE.--In any case in which a person
22 convicted of or adjudicated delinquent for an offense
23 described in subsection (2) has not been tested under
24 subsection (2), but undergoes HIV testing during his or her
25 incarceration, detention, or placement, the results of the
26 initial HIV testing shall be disclosed in accordance with the
27 provisions of subsection (3). Except as otherwise requested by
28 the victim or the victim's legal guardian, or the parent or
29 guardian of the victim if the victim is a minor, if the
30 initial test is conducted within the first year of the
31 imprisonment, detention, or placement, the request for

1 disclosure shall be considered a standing request for any
 2 subsequent HIV test results obtained within 1 year after the
 3 initial HIV test performed, and need not be repeated for each
 4 test administration. Where the inmate or juvenile offender has
 5 previously been tested pursuant to subsection (2) the request
 6 for disclosure under this subsection shall be considered a
 7 standing request for subsequent HIV results conducted within 1
 8 year of the test performed pursuant to subsection (2). If the
 9 HIV testing is performed by an agency other than the
 10 Department of Health, that agency shall be responsible for
 11 forwarding the test results to the Department of Health for
 12 disclosure in accordance with the provisions of subsection
 13 (3). This subsection shall not be limited to results of HIV
 14 tests administered subsequent to June 27, 1990, but shall also
 15 apply to the results of all HIV tests performed on inmates
 16 convicted of or juvenile offenders adjudicated delinquent for
 17 sex offenses as described in subsection (2) during their
 18 incarceration, detention, or placement prior to June 27, 1990.

19 Section 8. This act shall take effect July 1, 2002.
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