

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1387 CS Career Offender and Murderer Registration
SPONSOR(S): Rice
TIED BILLS: **IDEN./SIM. BILLS:** SB 2056

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	5 Y, 0 N, w/CS	Kramer	Kramer
2) Justice Appropriations Committee			
3) Justice Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1387 with committee substitute adds convicted murderers to The Florida Career Offender Registration Act and mandates that they comply with the registration requirements of that statute. Failure to comply with the registration requirements is punishable as a second or a third degree felony depending on the violation.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited government: This expands the current registration for career offenders to include the registration of murderers.

Promote personal responsibility: The bill will require a murderer to register with law enforcement.

B. EFFECT OF PROPOSED CHANGES:

In 2002, the Legislature passed the Career Offender Registration Act requiring career offenders who were released on or after January 1, 2003, to register with FDLE or the sheriff's office where he or she resides. The Career Offender Registration Act mirrored the registration and public notification requirements of the Sexual Predator Act, s. 775.21, F.S., which was passed in 1993. FDLE serves as the central repository for the registration information.

A career offender is defined as any person who is designated as a habitual violent felony offender, a violent career criminal, a three-time violent felony offender or a prison releasee reoffender.¹ Section 775.261, F.S., establishes that a career offender released from sanction must register with FDLE by providing information to FDLE or the sheriff's office in the county where he or she establishes a permanent or temporary residence. This registration must occur within 2 working days after the offender establishes residence in Florida or within 2 working days after being released from the Department of Corrections or a private correctional facility.

The offender must provide his or her name, social security number, age, race, gender, date of birth, height, weight, hair and eye color, photograph, address, date and place of employment, date and place of each conviction, fingerprints, and a description of the crime(s) committed. If the offender lives in a motor vehicle or similar dwelling, or a vessel or similar abode, specific information must be provided so that the residence might be easily identified and located. If FDLE determines that other information such as criminal records or genetic markers are necessary, it must be provided.

If the offender registers with the sheriff's office, the sheriff must take a photo and set of fingerprints and forward them to FDLE with the information that the offender is required to provide by statute. Within 2 days of registration as a career offender, the offender is also required to register in person at a driver's license office and present proof of that registration. If qualified, the offender must obtain or renew a Florida driver's license or an identification card. The offender must identify himself or herself as a career offender and provide detailed information noting his or her address and have his or her photo taken and pay the necessary fees. Whenever the driver's license or identification card needs to be renewed or there is a change of residence or name, the offender must appear in person for the necessary changes. The photo taken at that time and all pertinent information given by the offender must be forwarded to FDLE and the Department of Corrections by the Department of Highway Safety and Motor Vehicles.

If the offender registers with FDLE, the department must notify the sheriff and, if applicable, the police chief where the offender resides within 48 hours of registration with FDLE. Should the career offender intend to move to another state or jurisdiction, he or she must report personally to the sheriff where he or she resides at least 2 days before the intended move. The offender must then provide the sheriff or FDLE the address of the intended new residence. The sheriff is required to provide that information to FDLE. Failure to provide this information is a third degree felony. If the offender decides not to move as originally intended, he or she has 2 days from the day the intention to move was given to report to the

¹ See s. 775.084(1)(b), (c),(d) and 775.082(9),

sheriff or FDLE that he or she will remain in the state. This information must be promptly reported to FDLE. Failure to report that the offender will actually be remaining in Florida after expressing the intent to move is a second degree felony.

FLDE is required under the statute to maintain on-line access to the current information for each offender. This is necessary so that state, local, and federal law enforcement agencies may have instantaneous access on each offender to better monitor them. This public information may be disseminated by any means that the department deems necessary.

Unless an offender receives a full pardon or has had the underlying conviction set aside, he or she must maintain the registration requirements of this statute for the duration of his or her life. However, an offender may petition the circuit court where he or she resides for removal of the registration requirements of a career offender if, after release, there has been no felony or misdemeanor arrest for 20 years since release from confinement, supervision, or sanction. The state attorney must be given at least 3 weeks' notice before the matter is heard. If the petition is denied, the offender may petition the court again at a later date. If the offender prevails with his or her petition and provides FDLE with a certified copy of the court's findings and order, FDLE shall remove the person from the career offender classification and its reporting requirements.

Law enforcement agencies may inform the public of the presence of a career offender in their community. The sheriff or chief of police may notify the community in any manner they deem appropriate and statewide notification is authorized.

FDLE and the Department of Corrections are required to implement a system for verifying career offenders' addresses. The county sheriff must annually verify the addresses and provide that information to FDLE electronically. A broad grant of civil immunity from damages is given to law enforcement agencies and employees who act in good faith to comply with the reporting and information requirements of the Career Offender Act.

Failure by a career offender to register or provide information that is required under this statute is a third degree felony. It is a first degree misdemeanor to misuse these public records to gain payment from a career offender, or knowingly distribute or publish false information which is presented as being public records information, or materially alter this information with an intention to misrepresent the information. If a career offender violates this act, the offender may be prosecuted in the county where the act or omission occurred, at the offender's last registered address, the county where the underlying offense which designated them as a career offender was committed, or where the offender was designated as a career offender.

HB 1387 amends the Florida Career Offender Registration Act to require a person who has been convicted of murder to register in the same manner as a career offender. The requirement will apply to a convicted murderer released on or after January 1, 2006 from a sanction in this state or any other jurisdiction. The term "murder" is defined as the unlawful killing of a human being under s. 782.04 or in any comparable law of any other jurisdiction. The bill defines the term "conviction" to include a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. As written, it does not appear to apply to a person who is convicted of attempted murder or of manslaughter.

C. SECTION DIRECTORY:

Section 1. Amends s. 775.13, F.S. relating to registration of conviction felons; excluding registered murderer.

Section 2. Amends s. 775.26, F.S. amending legislative findings relating to career offenders to include murderers.

Section 3. Amends s. 775.261, F.S. providing for registration of murderers.

Section 4. Amends s. 944.608, F.S. relating to notification to FDLE of information on career offenders.

Section 5. Amends s. 944.609, F.S. to require DOC to provide information regarding murderer to law enforcement.

Section 6. Provides effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The following information was received from the Department of Corrections relating to the fiscal impact of this bill on the department:

This bill will have some workload involved with correctional probation officers monitoring registration requirements. In Fiscal Year 03-04, there were 255 admissions for 782.04 offenses (murders) to community supervision. Due to the low number of supervised offenders meeting the criteria of "murderer", this workload will be minimal.

This bill would appear to require that the department share data with the FDLE, and that additional murder offense codes will need to be added. This would require one-time programming which would be a minimal cost, provided the department follows the same function or process as with the sex offender registration information the currently provided to FDLE.

This bill also adds s. 775.261(9)(b), F.S., "A murderer who fails to register, or who otherwise fails, by act or omission, to comply with the requirements of this section, commits a felony of the third degree." Since the legislature did not classify this offense in a specific severity level, it automatically defaults to a level 1. The department anticipates a minimal impact on its supervision and prison population due to this provision.

FDLE has indicated that the bill will require an expenditure of \$84,000 for computer programming changes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

This bill may have a fiscal impact on sheriff's offices who will be responsible for registering murderers and conducting yearly address verification.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may have an indeterminate fiscal impact on a person who is required to register under the provisions of the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

It is anticipated that any fiscal impact on local law enforcement who will have to process registration of murderers and conduct yearly address verification will be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Criminal Justice Committee adopted an amendment made several changes to more closely model the murderer registration requirements on the current career offender registration requirements. The amendment also defined the term "conviction" .