

1 A bill to be entitled

2 An act relating to sexual and career offenders; amending  
3 s. 775.21, F.S.; revising the definition of "institution  
4 of higher education" to include a career center; revising  
5 provisions relating to use of prior felonies for sexual  
6 predator determination; amending s. 775.261, F.S.;  
7 revising an operational date used for career offender  
8 registration; expanding applicability of registration  
9 requirements; amending s. 943.0435, F.S.; revising  
10 language relating to the definition of "sexual offender";  
11 revising the definition of "institution of higher  
12 education" to include a career center; revising a  
13 provision relating to offender driver's license or  
14 identification card renewal; amending s. 944.606, F.S.;  
15 revising language relating to the definition of "sexual  
16 offender"; amending s. 944.607, F.S.; revising language  
17 relating to the definition of "sexual offender"; revising  
18 the definition of "institution of higher education" to  
19 include a career center; amending s. 794.065, F.S.;  
20 defining the terms "convicted" and "conviction" to include  
21 a conviction in another state or in a federal  
22 jurisdiction; prohibiting a person who has been convicted  
23 of certain sexual offenses in another state or federal  
24 jurisdiction from residing within 1,000 feet of certain  
25 specified locations if the victim was younger than 16  
26 years of age; providing penalties; providing an effective  
27 date.  
28

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

30

31 Section 1. Paragraph (h) of subsection (2), paragraphs (a)  
 32 and (b) of subsection (4), paragraph (d) of subsection (5), and  
 33 paragraph (b) of subsection (10) of section 775.21, Florida  
 34 Statutes, are amended to read:

35 775.21 The Florida Sexual Predators Act.--

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

37 (h) "Institution of higher education" means a career  
 38 center, community college, college, state university, or  
 39 independent postsecondary institution.

40 (4) SEXUAL PREDATOR CRITERIA.--

41 (a) For a current offense committed on or after October 1,  
 42 1993, upon conviction, an offender shall be designated as a  
 43 "sexual predator" under subsection (5), and subject to  
 44 registration under subsection (6) and community and public  
 45 notification under subsection (7) if:

46 1. The felony is:

47 a. A capital, life, or first-degree felony violation, or  
 48 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
 49 is a minor and the defendant is not the victim's parent, or of  
 50 chapter 794, s. 800.04, or s. 847.0145, or a violation of a  
 51 similar law of another jurisdiction; or

52 b. Any felony violation, or any attempt thereof, of s.  
 53 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
 54 and the defendant is not the victim's parent; chapter 794,  
 55 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035;  
 56 s. 800.04; s. 825.1025(2)(b); s. 827.071; ~~or~~ s. 847.0145; or s.

57 | 985.4045(1); or a violation of a similar law of another  
 58 | jurisdiction, and the offender has previously been convicted of  
 59 | or found to have committed, or has pled nolo contendere or  
 60 | guilty to, regardless of adjudication, any violation of s.  
 61 | 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
 62 | and the defendant is not the victim's parent; s. 794.011(2),  
 63 | (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 796.035; s.  
 64 | 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; ~~or~~ s.  
 65 | 847.0145; or s. 985.4045(1); ~~or~~ or a violation of a similar law of  
 66 | another jurisdiction;

67 |         2. The offender has not received a pardon for any felony  
 68 | or similar law of another jurisdiction that is necessary for the  
 69 | operation of this paragraph; and

70 |         3. A conviction of a felony or similar law of another  
 71 | jurisdiction necessary to the operation of this paragraph has  
 72 | not been set aside in any postconviction proceeding.

73 |         (b) In order to be counted as a prior felony for purposes  
 74 | of this subsection, the felony must have resulted in a  
 75 | conviction sentenced separately, or an adjudication of  
 76 | delinquency entered separately, prior to the current offense and  
 77 | sentenced or adjudicated separately from any other felony  
 78 | conviction that is to be counted as a prior felony regardless of  
 79 | the date of offense of the prior felony. If the offender's prior  
 80 | enumerated felony was committed more than 10 years before the  
 81 | primary offense, it shall not be considered a prior felony under  
 82 | this subsection if the offender has not been convicted of any  
 83 | other crime for a period of 10 consecutive years from the most

84 recent date of release from confinement, supervision, or  
85 sanction, whichever is later.

86 (5) SEXUAL PREDATOR DESIGNATION.--An offender is  
87 designated as a sexual predator as follows:

88 (d) A person who establishes or maintains a residence in  
89 this state and who has not been designated as a sexual predator  
90 by a court of this state but who has been designated as a sexual  
91 predator, as a sexually violent predator, or by another sexual  
92 offender designation in another state or jurisdiction and was,  
93 as a result of such designation, subjected to registration or  
94 community or public notification, or both, or would be if the  
95 person was a resident of that state or jurisdiction, without  
96 regard to whether the person otherwise meets the criteria for  
97 registration as a sexual offender, shall register in the manner  
98 provided in s. 943.0435 or s. 944.607 and shall be subject to  
99 community and public notification as provided in s. 943.0435 or  
100 s. 944.607. A person who meets the criteria of this section is  
101 subject to the requirements and penalty provisions of s.  
102 943.0435 or s. 944.607 until the person provides the department  
103 with an order issued by the court that designated the person as  
104 a sexual predator, as a sexually violent predator, or by another  
105 sexual offender designation in the state or jurisdiction in  
106 which the order was issued which states that such designation  
107 has been removed or demonstrates to the department that such  
108 designation, if not imposed by a court, has been removed by  
109 operation of law or court order in the state or jurisdiction in  
110 which the designation was made, and provided such person no

111 | longer meets the criteria for registration as a sexual offender  
 112 | under the laws of this state.

113 | (10) PENALTIES.--

114 | (b) A sexual predator who has been convicted of or found  
 115 | to have committed, or has pled nolo contendere or guilty to,  
 116 | regardless of adjudication, any violation, or attempted  
 117 | violation, of s. 787.01, s. 787.02, or s. 787.025, where the  
 118 | victim is a minor and the defendant is not the victim's parent;  
 119 | s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.  
 120 | 796.035; s. 800.04; s. 827.071; s. 847.0133; ~~or~~ s. 847.0145; or  
 121 | s. 985.4045(1); ~~;~~ or a violation of a similar law of another  
 122 | jurisdiction, when the victim of the offense was a minor, and  
 123 | who works, whether for compensation or as a volunteer, at any  
 124 | business, school, day care center, park, playground, or other  
 125 | place where children regularly congregate, commits a felony of  
 126 | the third degree, punishable as provided in s. 775.082, s.  
 127 | 775.083, or s. 775.084.

128 | Section 2. Paragraph (a) of subsection (3) of section  
 129 | 775.261, Florida Statutes, is amended to read:

130 | 775.261 The Florida Career Offender Registration Act.--

131 | (3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.--

132 | (a) A career offender released on or after July 1, 2002  
 133 | ~~January 1, 2003~~, from a sanction imposed in this state ~~for a~~  
 134 | ~~designation as a habitual violent felony offender, a violent~~  
 135 | ~~career criminal, or a three-time violent felony offender under~~  
 136 | ~~s. 775.084 or as a prison releasee reoffender under s.~~  
 137 | ~~775.082(9)~~ must register as required under subsection (4) and is  
 138 | subject to community and public notification as provided under

139 subsection (5). For purposes of this section, a sanction imposed  
 140 in this state includes, but is not limited to, a fine,  
 141 probation, community control, parole, conditional release,  
 142 control release, or incarceration in a state prison, private  
 143 correctional facility, or local detention facility, and:

144 1. The career offender has not received a pardon for any  
 145 felony or other qualified offense that is necessary for the  
 146 operation of this paragraph; or

147 2. A conviction of a felony or other qualified offense  
 148 necessary to the operation of this paragraph has not been set  
 149 aside in any postconviction proceeding.

150 Section 3. Paragraphs (a) and (d) of subsection (1),  
 151 paragraph (a) of subsection (4), and paragraph (c) of subsection  
 152 (11) of section 943.0435, Florida Statutes, are amended to read:

153 943.0435 Sexual offenders required to register with the  
 154 department; penalty.--

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

156 (a) "Sexual offender" means a person who meets the  
 157 criteria in subparagraph 1., subparagraph 2., or subparagraph  
 158 3.:

159 1.a. Has been convicted of committing, or attempting,  
 160 soliciting, or conspiring to commit, any of the criminal  
 161 offenses proscribed in the following statutes in this state or  
 162 similar offenses in another jurisdiction: s. 787.01, s. 787.02,  
 163 or s. 787.025, where the victim is a minor and the defendant is  
 164 not the victim's parent; chapter 794, excluding ss. 794.011(10)  
 165 and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.  
 166 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.

167 847.0145; s. 985.4045(1); or any similar offense committed in  
 168 this state which has been redesignated from a former statute  
 169 number to one of those listed in this sub-subparagraph  
 170 ~~subparagraph~~; and

171 ~~b.2.~~ Has been released on or after October 1, 1997, from  
 172 the sanction imposed for any conviction of an offense described  
 173 in sub-subparagraph a. subparagraph 1. For purposes of sub-  
 174 subparagraph a. subparagraph 1., a sanction imposed in this  
 175 state or in any other jurisdiction includes, but is not limited  
 176 to, a fine, probation, community control, parole, conditional  
 177 release, control release, or incarceration in a state prison,  
 178 federal prison, private correctional facility, or local  
 179 detention facility; ~~or~~

180 ~~2.3.~~ Establishes or maintains a residence in this state  
 181 and who has not been designated as a sexual predator by a court  
 182 of this state but who has been designated as a sexual predator,  
 183 as a sexually violent predator, or by another sexual offender  
 184 designation in another state or jurisdiction and was, as a  
 185 result of such designation, subjected to registration or  
 186 community or public notification, or both, or would be if the  
 187 person were a resident of that state or jurisdiction, without  
 188 regard to whether the person otherwise meets the criteria for  
 189 registration as a sexual offender; or

190 ~~3.4.~~ Establishes or maintains a residence in this state  
 191 who is in the custody or control of, or under the supervision  
 192 of, any other state or jurisdiction as a result of a conviction  
 193 for committing, or attempting, soliciting, or conspiring to  
 194 commit, any of the criminal offenses proscribed in the following

195 statutes or similar offense in another jurisdiction: s. 787.01,  
196 s. 787.02, or s. 787.025, where the victim is a minor and the  
197 defendant is not the victim's parent; chapter 794, excluding ss.  
198 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s.  
199 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s.  
200 847.0138; s. 847.0145; s. 985.4045(1); or any similar offense  
201 committed in this state which has been redesignated from a  
202 former statute number to one of those listed in this  
203 subparagraph.

204 (d) "Institution of higher education" means a career  
205 center, community college, college, state university, or  
206 independent postsecondary institution.

207 (4) (a) Each time a sexual offender's driver's license or  
208 identification card is subject to renewal, and, without regard  
209 to the status of the offender's ~~predator's~~ driver's license or  
210 identification card, within 48 hours after any change in the  
211 offender's permanent or temporary residence or change in the  
212 offender's name by reason of marriage or other legal process,  
213 the offender shall report in person to a driver's license  
214 office, and shall be subject to the requirements specified in  
215 subsection (3). The Department of Highway Safety and Motor  
216 Vehicles shall forward to the department all photographs and  
217 information provided by sexual offenders. Notwithstanding the  
218 restrictions set forth in s. 322.142, the Department of Highway  
219 Safety and Motor Vehicles is authorized to release a  
220 reproduction of a color-photograph or digital-image license to  
221 the Department of Law Enforcement for purposes of public



222 notification of sexual offenders as provided in ss. 943.043,  
 223 943.0435, and 944.606.

224 (11) A sexual offender must maintain registration with the  
 225 department for the duration of his or her life, unless the  
 226 sexual offender has received a full pardon or has had a  
 227 conviction set aside in a postconviction proceeding for any  
 228 offense that meets the criteria for classifying the person as a  
 229 sexual offender for purposes of registration. However, a sexual  
 230 offender:

231 (c) As defined in subparagraph (1) (a) ~~2.3-~~ must maintain  
 232 registration with the department for the duration of his or her  
 233 life until the person provides the department with an order  
 234 issued by the court that designated the person as a sexual  
 235 predator, as a sexually violent predator, or by another sexual  
 236 offender designation in the state or jurisdiction in which the  
 237 order was issued which states that such designation has been  
 238 removed or demonstrates to the department that such designation,  
 239 if not imposed by a court, has been removed by operation of law  
 240 or court order in the state or jurisdiction in which the  
 241 designation was made, and provided such person no longer meets  
 242 the criteria for registration as a sexual offender under the  
 243 laws of this state.

244 Section 4. Paragraph (b) of subsection (1) of section  
 245 944.606, Florida Statutes, is amended to read:

246 944.606 Sexual offenders; notification upon release.--

247 (1) As used in this section:

248 (b) "Sexual offender" means a person who has been  
 249 convicted of committing, or attempting, soliciting, or

250 | conspiring to commit, any of the criminal offenses proscribed in  
 251 | the following statutes in this state or similar offenses in  
 252 | another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where  
 253 | the victim is a minor and the defendant is not the victim's  
 254 | parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.  
 255 | 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.  
 256 | 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; s.  
 257 | 985.4045(1); or any similar offense committed in this state  
 258 | which has been redesignated from a former statute number to one  
 259 | of those listed in this subsection, when the department has  
 260 | received verified information regarding such conviction; an  
 261 | offender's computerized criminal history record is not, in and  
 262 | of itself, verified information.

263 |         Section 5. Paragraphs (a) and (c) of subsection (1) of  
 264 | section 944.607, Florida Statutes, are amended to read:

265 |         944.607 Notification to Department of Law Enforcement of  
 266 | information on sexual offenders.--

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

268 |         (a) "Sexual offender" means a person who is in the custody  
 269 | or control of, or under the supervision of, the department or is  
 270 | in the custody of a private correctional facility:

271 |         1. On or after October 1, 1997, as a result of a  
 272 | conviction for committing, or attempting, soliciting, or  
 273 | conspiring to commit, any of the criminal offenses proscribed in  
 274 | the following statutes in this state or similar offenses in  
 275 | another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where  
 276 | the victim is a minor and the defendant is not the victim's  
 277 | parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.

278 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.  
 279 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; s.  
 280 985.4045(1); or any similar offense committed in this state  
 281 which has been redesignated from a former statute number to one  
 282 of those listed in this paragraph; or

283 2. Who establishes or maintains a residence in this state  
 284 and who has not been designated as a sexual predator by a court  
 285 of this state but who has been designated as a sexual predator,  
 286 as a sexually violent predator, or by another sexual offender  
 287 designation in another state or jurisdiction and was, as a  
 288 result of such designation, subjected to registration or  
 289 community or public notification, or both, or would be if the  
 290 person were a resident of that state or jurisdiction, without  
 291 regard as to whether the person otherwise meets the criteria for  
 292 registration as a sexual offender.

293 (c) "Institution of higher education" means a career  
 294 center, community college, college, state university, or  
 295 independent postsecondary institution.

297 Section 6. Section 794.065, Florida Statutes, is amended  
 298 to read:

299 794.065 Unlawful place of residence for persons convicted  
 300 of certain sex offenses.--

301 (1) As used in this section, the term "convicted" or  
 302 "conviction" means there has been a determination of guilt as a  
 303 result of a trial or the entry of a plea of guilty or nolo  
 304 contendere, regardless of whether adjudication was withheld. A  
 305 conviction for a similar offense includes, but is not limited

306 to, a conviction by a state or federal court or military  
307 tribunal, including a court-martial conducted by the Armed  
308 Forces of the United States, and includes a conviction or entry  
309 of a plea of guilty or nolo contendere resulting in a sanction  
310 in any state of the United States or other jurisdiction. A  
311 sanction includes, but is not limited to, a fine; probation;  
312 community control; parole; conditional release; control release;  
313 or incarceration in a state prison, federal prison, private  
314 correctional facility, or local detention facility.

315 ~~(2)(1)~~ It is unlawful for any person who has been  
316 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,  
317 or s. 847.0145, or a similar offense in another jurisdiction  
318 ~~regardless of whether adjudication has been withheld~~, in which  
319 the victim of the offense was less than 16 years of age, to  
320 reside within 1,000 feet of any school, day care center, park,  
321 or playground. A person who violates this section and whose  
322 conviction under s. 794.011, s. 800.04, s. 827.071, or s.  
323 847.0145, or whose conviction of a similar offense in another  
324 jurisdiction, was classified as a felony of the first degree or  
325 higher commits a felony of the third degree, punishable as  
326 provided in s. 775.082 or s. 775.083. A person who violates this  
327 section and whose conviction under s. 794.011, s. 800.04, s.  
328 827.071, or s. 847.0145, or whose conviction of a similar  
329 offense in another jurisdiction, was classified as a felony of  
330 the second or third degree commits a misdemeanor of the first  
331 degree, punishable as provided in s. 775.082 or s. 775.083.

332 ~~(3)(2)~~ This section applies to any person convicted of a  
333 violation of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145

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334 | for offenses that occur on or after October 1, 2004, and, for  
335 | offenses that occur on or after July 1, 2005, to any person  
336 | convicted of a similar offense in another jurisdiction.

337 |       Section 7. This act shall take effect July 1, 2005.