

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

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

775.21 The Florida Sexual Predators Act.--

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

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

(4) SEXUAL PREDATOR CRITERIA.--

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

1. The felony is:

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

b. Any felony violation, or any attempt thereof, of s. 787.01, s. 787.02, or s. 787.025, where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; 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 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. If the~~  
 79 ~~offender's prior enumerated felony was committed more than 10~~  
 80 ~~years before the primary offense, it shall not be considered a~~  
 81 ~~prior felony under this subsection if the offender has not been~~  
 82 ~~convicted of any other crime for a period of 10 consecutive~~  
 83 ~~years from the most recent date of release from confinement,~~  
 84 ~~supervision, or sanction, whichever is later.~~

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

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

112 (10) PENALTIES.--

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

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

129 775.261 The Florida Career Offender Registration Act.--

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

131 (a) A career offender released on or after July 1, 2002  
 132 ~~January 1, 2003~~, from a sanction imposed in this state ~~for a~~  
 133 ~~designation as a habitual violent felony offender, a violent~~  
 134 ~~career criminal, or a three-time violent felony offender under~~  
 135 ~~s. 775.084 or as a prison releasee reoffender under s.~~  
 136 ~~775.082(9)~~ must register as required under subsection (4) and is  
 137 subject to community and public notification as provided under  
 138 subsection (5). For purposes of this section, a sanction imposed  
 139 in this state includes, but is not limited to, a fine,  
 140 probation, community control, parole, conditional release,

141 control release, or incarceration in a state prison, private  
 142 correctional facility, or local detention facility, and:

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

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

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

152 943.0435 Sexual offenders required to register with the  
 153 department; penalty.--

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

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

158 1.a. Has been convicted of committing, or attempting,  
 159 soliciting, or conspiring to commit, any of the criminal  
 160 offenses proscribed in the following statutes in this state or  
 161 similar offenses in another jurisdiction: s. 787.01, s. 787.02,  
 162 or s. 787.025, where the victim is a minor and the defendant is  
 163 not the victim's parent; chapter 794, excluding ss. 794.011(10)  
 164 and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.  
 165 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.  
 166 847.0145; s. 985.4045(1); or any similar offense committed in  
 167 this state which has been redesignated from a former statute

168 number to one of those listed in this sub-subparagraph  
169 ~~subparagraph~~; and

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

179 2.3- Establishes or maintains a residence in this state  
180 and who has not been designated as a sexual predator by a court  
181 of this state but who has been designated as a sexual predator,  
182 as a sexually violent predator, or by another sexual offender  
183 designation in another state or jurisdiction and was, as a  
184 result of such designation, subjected to registration or  
185 community or public notification, or both, or would be if the  
186 person were a resident of that state or jurisdiction, without  
187 regard to whether the person otherwise meets the criteria for  
188 registration as a sexual offender; or

189 3.4- Establishes or maintains a residence in this state  
190 who is in the custody or control of, or under the supervision  
191 of, any other state or jurisdiction as a result of a conviction  
192 for committing, or attempting, soliciting, or conspiring to  
193 commit, any of the criminal offenses proscribed in the following  
194 statutes or similar offense in another jurisdiction: s. 787.01,  
195 s. 787.02, or s. 787.025, where the victim is a minor and the

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

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

206 (4) (a) Each time a sexual offender's driver's license or  
207 identification card is subject to renewal, and, without regard  
208 to the status of the offender's ~~predator's~~ driver's license or  
209 identification card, within 48 hours after any change in the  
210 offender's permanent or temporary residence or change in the  
211 offender's name by reason of marriage or other legal process,  
212 the offender shall report in person to a driver's license  
213 office, and shall be subject to the requirements specified in  
214 subsection (3). The Department of Highway Safety and Motor  
215 Vehicles shall forward to the department all photographs and  
216 information provided by sexual offenders. Notwithstanding the  
217 restrictions set forth in s. 322.142, the Department of Highway  
218 Safety and Motor Vehicles is authorized to release a  
219 reproduction of a color-photograph or digital-image license to  
220 the Department of Law Enforcement for purposes of public  
221 notification of sexual offenders as provided in ss. 943.043,  
222 943.0435, and 944.606.



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

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

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

245 944.606 Sexual offenders; notification upon release.--

246 (1) As used in this section:

247 (b) "Sexual offender" means a person who has been  
 248 convicted of committing, or attempting, soliciting, or  
 249 conspiring to commit, any of the criminal offenses proscribed in  
 250 the following statutes in this state or similar offenses in

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

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

264 944.607 Notification to Department of Law Enforcement of  
 265 information on sexual offenders.--

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

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

270 1. On or after October 1, 1997, as a result of a  
 271 conviction for committing, or attempting, soliciting, or  
 272 conspiring to commit, any of the criminal offenses proscribed in  
 273 the following statutes in this state or similar offenses in  
 274 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where  
 275 the victim is a minor and the defendant is not the victim's  
 276 parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.  
 277 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.  
 278 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; s.

279 985.4045(1); or any similar offense committed in this state  
 280 which has been redesignated from a former statute number to one  
 281 of those listed in this paragraph; or

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

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

295  
 296 Section 6. Section 794.065, Florida Statutes, is amended  
 297 to read:

298 794.065 Unlawful place of residence for persons convicted  
 299 of certain sex offenses.--

300 (1) As used in this section, the term "convicted" or  
 301 "conviction" means there has been a determination of guilt as a  
 302 result of a trial or the entry of a plea of guilty or nolo  
 303 contendere, regardless of whether adjudication was withheld. A  
 304 conviction for a similar offense includes, but is not limited  
 305 to, a conviction by a state or federal court or military  
 306 tribunal, including a court-martial conducted by the Armed

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

314 (2)~~(1)~~ It is unlawful for any person who has been  
315 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,  
316 or s. 847.0145, or a similar offense in another jurisdiction  
317 ~~regardless of whether adjudication has been withheld~~, in which  
318 the victim of the offense was less than 16 years of age, to  
319 reside within 1,000 feet of any school, day care center, park,  
320 or playground. A person who violates this section and whose  
321 conviction under s. 794.011, s. 800.04, s. 827.071, or s.  
322 847.0145, or whose conviction of a similar offense in another  
323 jurisdiction, was classified as a felony of the first degree or  
324 higher commits a felony of the third degree, punishable as  
325 provided in s. 775.082 or s. 775.083. A person who violates this  
326 section and whose conviction under s. 794.011, s. 800.04, s.  
327 827.071, or s. 847.0145, or whose conviction of a similar  
328 offense in another jurisdiction, was classified as a felony of  
329 the second or third degree commits a misdemeanor of the first  
330 degree, punishable as provided in s. 775.082 or s. 775.083.

331 (3)~~(2)~~ This section applies to any person convicted of a  
332 violation of s. 794.011, s. 800.04, s. 827.071, or s. 847.0145  
333 for offenses that occur on or after October 1, 2004, and, for

HB 1599, Engrossed 2

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

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