

Bill No. SB 1728

Barcode 871766

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Klein) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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1 public notification under subsection (7) if:

2 1. The felony is:

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

8 b. Any felony violation, or any attempt thereof, of s.
 9 787.01, s. 787.02, or s. 787.025, where the victim is a minor
 10 and the defendant is not the victim's parent; chapter 794,
 11 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035;
 12 s. 800.04; s. 825.1025(2)(b); s. 827.071; ~~or~~ s. 847.0145; or
 13 s. 985.4045(1); or a violation of a similar law of another
 14 jurisdiction, and the offender has previously been convicted
 15 of or found to have committed, or has pled nolo contendere or
 16 guilty to, regardless of adjudication, any violation of s.
 17 787.01, s. 787.02, or s. 787.025, where the victim is a minor
 18 and the defendant is not the victim's parent; s. 794.011(2),
 19 (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 796.035; s.
 20 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; ~~or~~
 21 s. 847.0145; ~~or~~ s. 985.4045(1); or a violation of a similar
 22 law of another jurisdiction;

23 2. The offender has not received a pardon for any
 24 felony or similar law of another jurisdiction that is
 25 necessary for the operation of this paragraph; and

26 3. A conviction of a felony or similar law of another
 27 jurisdiction necessary to the operation of this paragraph has
 28 not been set aside in any postconviction proceeding.

29 (b) In order to be counted as a prior felony for
 30 purposes of this subsection, the felony must have resulted in
 31 a conviction sentenced separately, or an adjudication of

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1 delinquency entered separately, prior to the current offense
 2 and sentenced or adjudicated separately from any other felony
 3 conviction that is to be counted as a prior felony regardless
 4 of the date of offense of the prior felony. If the offender's
 5 prior enumerated felony was committed more than 10 years
 6 before the primary offense, it shall not be considered a prior
 7 felony under this subsection if the offender has not been
 8 convicted of any other crime for a period of 10 consecutive
 9 years from the most recent date of release from confinement,
 10 supervision, or sanction, whichever is later.

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

13 (d) A person who establishes or maintains a residence
 14 in this state and who has not been designated as a sexual
 15 predator by a court of this state but who has been designated
 16 as a sexual predator, as a sexually violent predator, or by
 17 another sexual offender designation in another state or
 18 jurisdiction and was, as a result of such designation,
 19 subjected to registration or community or public notification,
 20 or both, or would be if the person was a resident of that
 21 state or jurisdiction, without regard to whether the person
 22 otherwise meets the criteria for registration as a sexual
 23 offender in this state, shall register in the manner provided
 24 in s. 943.0435 or s. 944.607 and shall be subject to community
 25 and public notification as provided in s. 943.0435 or s.
 26 944.607. A person who meets the criteria of this section is
 27 subject to the requirements and penalty provisions of s.
 28 943.0435 or s. 944.607 until the person provides the
 29 department with an order issued by the court that designated
 30 the person as a sexual predator, as a sexually violent
 31 predator, or by another sexual offender designation in the

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

9 (10) PENALTIES.--

10 (b) A sexual predator who has been convicted of or
 11 found to have committed, or has pled nolo contendere or guilty
 12 to, regardless of adjudication, any violation, or attempted
 13 violation, of s. 787.01, s. 787.02, or s. 787.025, where the
 14 victim is a minor and the defendant is not the victim's
 15 parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.
 16 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; ~~or~~ s.
 17 847.0145; or s. 985.4045(1); or a violation of a similar law
 18 of another jurisdiction, when the victim of the offense was a
 19 minor, and who works, whether for compensation or as a
 20 volunteer, at any business, school, day care center, park,
 21 playground, or other place where children regularly
 22 congregate, commits a felony of the third degree, punishable
 23 as provided in s. 775.082, s. 775.083, or s. 775.084.

24 Section 2. Paragraph (a) of subsection (3) of section
 25 775.261, Florida Statutes, is amended to read:

26 775.261 The Florida Career Offender Registration
 27 Act.--

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

29 (a) A career offender released on or after July 1,
 30 2002 ~~January 1, 2003~~, from a sanction imposed in this state
 31 ~~for a designation as a habitual violent felony offender, a~~

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1 ~~violent career criminal, or a three-time violent felony~~
 2 ~~offender under s. 775.084 or as a prison releasee reoffender~~
 3 ~~under s. 775.082(9)~~ must register as required under subsection
 4 (4) and is subject to community and public notification as
 5 provided under subsection (5). For purposes of this section, a
 6 sanction imposed in this state includes, but is not limited
 7 to, a fine, probation, community control, parole, conditional
 8 release, control release, or incarceration in a state prison,
 9 private correctional facility, or local detention facility,
 10 and:

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

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

17 Section 3. Paragraphs (a) and (d) of subsection (1)
 18 and paragraph (a) of subsection (4) of section 943.0435,
 19 Florida Statutes, are amended to read:

20 943.0435 Sexual offenders required to register with
 21 the department; penalty.--

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

23 (a) "Sexual offender" means a person who meets the
 24 criteria in both subparagraphs 1. and 2., or who meets the
 25 criteria in either subparagraph 3. or subparagraph 4.:

26 1. Has been convicted of committing, or attempting,
 27 soliciting, or conspiring to commit, any of the criminal
 28 offenses proscribed in the following statutes in this state or
 29 similar offenses in another jurisdiction: s. 787.01, s.
 30 787.02, or s. 787.025, where the victim is a minor and the
 31 defendant is not the victim's parent; chapter 794, excluding

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1 ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s.
 2 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s.
 3 847.0137; s. 847.0138; s. 847.0145; s. 985.4045(1); or any
 4 similar offense committed in this state which has been
 5 redesignated from a former statute number to one of those
 6 listed in this subparagraph; and

7 2. Has been released on or after October 1, 1997, from
 8 the sanction imposed for any conviction of an offense
 9 described in subparagraph 1. For purposes of subparagraph 1.,
 10 a sanction imposed in this state or in any other jurisdiction
 11 includes, but is not limited to, a fine, probation, community
 12 control, parole, conditional release, control release, or
 13 incarceration in a state prison, federal prison, private
 14 correctional facility, or local detention facility; or

15 3. Establishes or maintains a residence in this state
 16 and who has not been designated as a sexual predator by a
 17 court of this state but who has been designated as a sexual
 18 predator, as a sexually violent predator, or by another sexual
 19 offender designation in another state or jurisdiction and was,
 20 as a result of such designation, subjected to registration or
 21 community or public notification, or both, or would be if the
 22 person were a resident of that state or jurisdiction, without
 23 regard to whether the person otherwise meets the criteria for
 24 registration as a sexual offender in this state; or

25 4. Establishes or maintains a residence in this state
 26 who is in the custody or control of, or under the supervision
 27 of, any other state or jurisdiction as a result of a
 28 conviction for committing, or attempting, soliciting, or
 29 conspiring to commit, any of the criminal offenses proscribed
 30 in the following statutes or similar offense in another
 31 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the

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1 victim is a minor and the defendant is not the victim's
 2 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;
 3 s. 796.03; s. 796.035 s. 800.04; s. 825.1025; s. 827.071; s.
 4 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;
 5 s. 985.4045(1); or any similar offense committed in this state
 6 which has been redesignated from a former statute number to
 7 one of those listed in this subparagraph.

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

11 (4)(a) Each time a sexual offender's driver's license
 12 or identification card is subject to renewal, and, without
 13 regard to the status of the offender's ~~predator's~~ driver's
 14 license or identification card, within 48 hours after any
 15 change in the offender's permanent or temporary residence or
 16 change in the offender's name by reason of marriage or other
 17 legal process, the offender shall report in person to a
 18 driver's license office, and shall be subject to the
 19 requirements specified in subsection (3). The Department of
 20 Highway Safety and Motor Vehicles shall forward to the
 21 department all photographs and information provided by sexual
 22 offenders. Notwithstanding the restrictions set forth in s.
 23 322.142, the Department of Highway Safety and Motor Vehicles
 24 is authorized to release a reproduction of a color-photograph
 25 or digital-image license to the Department of Law Enforcement
 26 for purposes of public notification of sexual offenders as
 27 provided in ss. 943.043, 943.0435, and 944.606.

28 Section 4. Paragraph (b) of subsection (1) of section
 29 944.606, Florida Statutes, is amended to read:

30 944.606 Sexual offenders; notification upon release.--

31 (1) As used in this section:

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1 (b) "Sexual offender" means a person who has been
2 convicted of committing, or attempting, soliciting, or
3 conspiring to commit, any of the criminal offenses proscribed
4 in the following statutes in this state or similar offenses in
5 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
6 where the victim is a minor and the defendant is not the
7 victim's parent; chapter 794, excluding ss. 794.011(10) and
8 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
9 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138;
10 s. 847.0145; s. 985.4045(1); or any similar offense committed
11 in this state which has been redesignated from a former
12 statute number to one of those listed in this subsection, when
13 the department has received verified information regarding
14 such conviction; an offender's computerized criminal history
15 record is not, in and of itself, verified information.

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

18 944.607 Notification to Department of Law Enforcement
19 of information on sexual offenders.--

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

21 (a) "Sexual offender" means a person who is in the
22 custody or control of, or under the supervision of, the
23 department or is in the custody of a private correctional
24 facility:

25 1. On or after October 1, 1997, as a result of a
26 conviction for committing, or attempting, soliciting, or
27 conspiring to commit, any of the criminal offenses proscribed
28 in the following statutes in this state or similar offenses in
29 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
30 where the victim is a minor and the defendant is not the
31 victim's parent; chapter 794, excluding ss. 794.011(10) and

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1 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
 2 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138;
 3 s. 847.0145; s. 985.4045(1); or any similar offense committed
 4 in this state which has been redesignated from a former
 5 statute number to one of those listed in this paragraph; or

6 2. Who establishes or maintains a residence in this
 7 state and who has not been designated as a sexual predator by
 8 a court of this state but who has been designated as a sexual
 9 predator, as a sexually violent predator, or by another sexual
 10 offender designation in another state or jurisdiction and was,
 11 as a result of such designation, subjected to registration or
 12 community or public notification, or both, or would be if the
 13 person were a resident of that state or jurisdiction, without
 14 regard to whether the person otherwise meets the criteria for
 15 registration as a sexual offender in this state.

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

19 Section 6. This act shall take effect July 1, 2005.

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 21

22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete everything before the enacting clause

25

26 and insert:

27 A bill to be entitled
 28 An act relating to sexual and career offenders;
 29 amending s. 775.21, F.S.; redefining the term
 30 "institution of higher education" to include a
 31 career center; revising provisions relating to

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1 use of prior felonies for sexual predator
2 determination; amending s. 775.261, F.S.;
3 revising an operational date used for career
4 offender registration; requiring all career
5 offenders released after a specified date to
6 register and be subject to community and public
7 notification; amending s. 943.0435, F.S.;
8 revising provisions relating to the definition
9 of "sexual offender"; redefining the term
10 "institution of higher education" to include a
11 career center; amending s. 944.606, F.S.;
12 redefining the term "sexual offender" to
13 include offenders who have committed certain
14 additional acts; amending s. 944.607, F.S.;
15 revising provisions relating to the definition
16 of "sexual offender"; redefining the term
17 "institution of higher education" to include a
18 career center; providing an effective date.

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