

By the Committee on Criminal Justice; and Senator Campbell

591-2181A-05

1 A bill to be entitled
2 An act relating to sexual and career offenders;
3 amending s. 775.21, F.S.; redefining the term
4 "institution of higher education" to include a
5 career center; revising sexual predator
6 criteria to include additional qualifying
7 offenses; revising provisions relating to use
8 of prior felonies for sexual predator
9 determination; revising sexual predator
10 designation provisions relevant to persons
11 living in this state who have received a sexual
12 offender designation in another state; revising
13 a penalty provision relating to an offense
14 involving a sexual predator working where
15 children regularly congregate; amending s.
16 775.261, F.S.; revising an operational date
17 used for career offender registration; amending
18 s. 943.0435, F.S.; revising provisions relating
19 to the definition of "sexual offender";
20 redefining the term "institution of higher
21 education" to include a career center; revising
22 a provision relating to offender driver's
23 license or identification card renewal;
24 amending s. 944.606, F.S.; redefining the term
25 "sexual offender" to include offenders who have
26 committed certain additional acts; amending s.
27 944.607, F.S.; revising provisions relating to
28 the definition of "sexual offender"; redefining
29 the term "institution of higher education" to
30 include a career center; providing an effective
31 date.

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

2

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

7 775.21 The Florida Sexual Predators Act.--

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

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

12 (4) SEXUAL PREDATOR CRITERIA.--

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

18 1. The felony is:

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

24 b. Any felony violation, or any attempt thereof, of s.
25 787.01, s. 787.02, or s. 787.025, where the victim is a minor
26 and the defendant is not the victim's parent; chapter 794,
27 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035;
28 s. 800.04; s. 825.1025(2)(b); s. 827.071; ~~or~~ s. 847.0145; or
29 s. 985.4045(1); or a violation of a similar law of another
30 jurisdiction, and the offender has previously been convicted
31 of or found to have committed, or has pled nolo contendere or

1 guilty to, regardless of adjudication, any violation of s.
2 787.01, s. 787.02, or s. 787.025, where the victim is a minor
3 and the defendant is not the victim's parent; s. 794.011(2),
4 (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 796.035; s.
5 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; ~~or~~
6 s. 847.0145; ~~or~~ s. 985.4045(1); or a violation of a similar
7 law of another jurisdiction;

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

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

14 (b) In order to be counted as a prior felony for
15 purposes of this subsection, the felony must have resulted in
16 a conviction sentenced separately, or an adjudication of
17 delinquency entered separately, prior to the current offense
18 and sentenced or adjudicated separately from any other felony
19 conviction that is to be counted as a prior felony regardless
20 of the date of offense of the prior felony. If the offender's
21 prior enumerated felony was committed more than 10 years
22 before the primary offense, it shall not be considered a prior
23 felony under this subsection if the offender has not been
24 convicted of any other crime for a period of 10 consecutive
25 years from the most recent date of release from confinement,
26 supervision, or sanction, whichever is later.

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

29 (d) A person who establishes or maintains a residence
30 in this state and who has not been designated as a sexual
31 predator by a court of this state but who has been designated

1 | as a sexual predator, as a sexually violent predator, or by
2 | another sexual offender designation in another state or
3 | jurisdiction and was, as a result of such designation,
4 | subjected to registration or community or public notification,
5 | or both, or would be if the person was a resident of that
6 | state or jurisdiction, without regard to whether the person
7 | otherwise meets the criteria for registration as a sexual
8 | offender in this state, shall register in the manner provided
9 | in s. 943.0435 or s. 944.607 and shall be subject to community
10 | and public notification as provided in s. 943.0435 or s.
11 | 944.607. A person who meets the criteria of this section is
12 | subject to the requirements and penalty provisions of s.
13 | 943.0435 or s. 944.607 until the person provides the
14 | department with an order issued by the court that designated
15 | the person as a sexual predator, as a sexually violent
16 | predator, or by another sexual offender designation in the
17 | state or jurisdiction in which the order was issued which
18 | states that such designation has been removed or demonstrates
19 | to the department that such designation, if not imposed by a
20 | court, has been removed by operation of law or court order in
21 | the state or jurisdiction in which the designation was made,
22 | and provided such person no longer meets the criteria for
23 | registration as a sexual offender under the laws of this
24 | state.

25 | (10) PENALTIES.--

26 | (b) A sexual predator who has been convicted of or
27 | found to have committed, or has pled nolo contendere or guilty
28 | to, regardless of adjudication, any violation, or attempted
29 | violation, of s. 787.01, s. 787.02, or s. 787.025, where the
30 | victim is a minor and the defendant is not the victim's
31 | parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s.

1 796.03; s. 796.035; s. 800.04; s. 827.071; s. 847.0133; ~~or s.~~
2 847.0145; or s. 985.4045(1); ~~or a violation of a similar law~~
3 of another jurisdiction, when the victim of the offense was a
4 minor, and who works, whether for compensation or as a
5 volunteer, at any business, school, day care center, park,
6 playground, or other place where children regularly
7 congregate, commits a felony of the third degree, punishable
8 as provided in s. 775.082, s. 775.083, or s. 775.084.

9 Section 2. Paragraph (a) of subsection (3) of section
10 775.261, Florida Statutes, is amended to read:

11 775.261 The Florida Career Offender Registration
12 Act.--

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

14 (a) A career offender released on or after July 1,
15 2002 ~~January 1, 2003~~, from a sanction imposed in this state
16 ~~for a designation as a habitual violent felony offender, a~~
17 ~~violent career criminal, or a three time violent felony~~
18 ~~offender under s. 775.084 or as a prison releasee reoffender~~
19 ~~under s. 775.082(9)~~ must register as required under subsection
20 (4) and is subject to community and public notification as
21 provided under subsection (5). For purposes of this section, a
22 sanction imposed in this state includes, but is not limited
23 to, a fine, probation, community control, parole, conditional
24 release, control release, or incarceration in a state prison,
25 private correctional facility, or local detention facility,
26 and:

27 1. The career offender has not received a pardon for
28 any felony or other qualified offense that is necessary for
29 the operation of this paragraph; or
30
31

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

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

7 943.0435 Sexual offenders required to register with
8 the department; penalty.--

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

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

13 1. Has been convicted of committing, or attempting,
14 soliciting, or conspiring to commit, any of the criminal
15 offenses proscribed in the following statutes in this state or
16 similar offenses in another jurisdiction: s. 787.01, s.
17 787.02, or s. 787.025, where the victim is a minor and the
18 defendant is not the victim's parent; chapter 794, excluding
19 ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s.
20 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s.
21 847.0137; s. 847.0138; s. 847.0145; s. 985.4045(1); or any
22 similar offense committed in this state which has been
23 redesignated from a former statute number to one of those
24 listed in this subparagraph; and

25 2. Has been released on or after October 1, 1997, from
26 the sanction imposed for any conviction of an offense
27 described in subparagraph 1. For purposes of subparagraph 1.,
28 a sanction imposed in this state or in any other jurisdiction
29 includes, but is not limited to, a fine, probation, community
30 control, parole, conditional release, control release, or
31

1 incarceration in a state prison, federal prison, private
2 correctional facility, or local detention facility; or

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

13 4. Establishes or maintains a residence in this state
14 who is in the custody or control of, or under the supervision
15 of, any other state or jurisdiction as a result of a
16 conviction for committing, or attempting, soliciting, or
17 conspiring to commit, any of the criminal offenses proscribed
18 in the following statutes or similar offense in another
19 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the
20 victim is a minor and the defendant is not the victim's
21 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;
22 s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
23 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;
24 s. 985.4045(1); or any similar offense committed in this state
25 which has been redesignated from a former statute number to
26 one of those listed in this subparagraph.

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

30 (4)(a) Each time a sexual offender's driver's license
31 or identification card is subject to renewal, and, without

1 regard to the status of the offender's ~~predator's~~ driver's
2 license or identification card, within 48 hours after any
3 change in the offender's permanent or temporary residence or
4 change in the offender's name by reason of marriage or other
5 legal process, the offender shall report in person to a
6 driver's license office, and shall be subject to the
7 requirements specified in subsection (3). The Department of
8 Highway Safety and Motor Vehicles shall forward to the
9 department all photographs and information provided by sexual
10 offenders. Notwithstanding the restrictions set forth in s.
11 322.142, the Department of Highway Safety and Motor Vehicles
12 is authorized to release a reproduction of a color-photograph
13 or digital-image license to the Department of Law Enforcement
14 for purposes of public notification of sexual offenders as
15 provided in ss. 943.043, 943.0435, and 944.606.

16 Section 4. Paragraph (b) of subsection (1) of section
17 944.606, Florida Statutes, is amended to read:

18 944.606 Sexual offenders; notification upon release.--

19 (1) As used in this section:

20 (b) "Sexual offender" means a person who has been
21 convicted of committing, or attempting, soliciting, or
22 conspiring to commit, any of the criminal offenses proscribed
23 in the following statutes in this state or similar offenses in
24 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
25 where the victim is a minor and the defendant is not the
26 victim's parent; chapter 794, excluding ss. 794.011(10) and
27 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
28 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138;
29 s. 847.0145; s. 985.4045(1); or any similar offense committed
30 in this state which has been redesignated from a former
31 statute number to one of those listed in this subsection, when

1 the department has received verified information regarding
2 such conviction; an offender's computerized criminal history
3 record is not, in and of itself, verified information.

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

6 944.607 Notification to Department of Law Enforcement
7 of information on sexual offenders.--

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

9 (a) "Sexual offender" means a person who is in the
10 custody or control of, or under the supervision of, the
11 department or is in the custody of a private correctional
12 facility:

13 1. On or after October 1, 1997, as a result of a
14 conviction for committing, or attempting, soliciting, or
15 conspiring to commit, any of the criminal offenses proscribed
16 in the following statutes in this state or similar offenses in
17 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
18 where the victim is a minor and the defendant is not the
19 victim's parent; chapter 794, excluding ss. 794.011(10) and
20 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
21 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138;
22 s. 847.0145; s. 985.4045(1); or any similar offense committed
23 in this state which has been redesignated from a former
24 statute number to one of those listed in this paragraph; or

25 2. Who establishes or maintains a residence in this
26 state and who has not been designated as a sexual predator by
27 a court of this state but who has been designated as a sexual
28 predator, as a sexually violent predator, or by another sexual
29 offender designation in another state or jurisdiction and was,
30 as a result of such designation, subjected to registration or
31 community or public notification, or both, or would be if the

1 person were a resident of that state or jurisdiction, without
2 regard to whether the person otherwise meets the criteria for
3 registration as a sexual offender in this state.

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

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

8
9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 1728

- 12 - Adds offense of selling or buying minors into sex
13 trafficking or prostitution to sexual predator
14 registration criteria, a prohibition on sexual predators
15 convicted of certain offenses working where children
16 regularly congregate, and definitions of "sexual
17 offender" in applicable sexual offender registration
18 section.
19 - Clarifies language relating to qualifying prior felonies
20 for the purpose of sexual predator designation.
21 - Clarifies provisions relating to persons required to
22 register as sexual offenders in this state because they
23 reside in this state and have been designated as sexual
24 predators or another sexual offender designation in
25 another state.
26 - Deletes a provision of the bill relating to time
27 requirements for a sexual offender reporting that he or
28 she has vacated a permanent residence and failed to
29 establish or maintain a permanent or temporary residence.
30 - Clarifies registration criteria for career offenders
31 required to register.