

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to sexual and career offenders; amending  
7 s. 775.21, F.S.; revising the definition of "institution  
8 of higher education" to include a career center; revising  
9 provisions relating to use of prior felonies for sexual  
10 predator determination; revising a reporting requirement  
11 for sexual predators who vacate a permanent residence and  
12 fail to establish or maintain another permanent or  
13 temporary residence; amending s. 775.261, F.S.; revising  
14 an operational date used for career offender registration;  
15 amending s. 943.0435, F.S.; revising language relating to  
16 the definition of "sexual offender"; revising the  
17 definition of "institution of higher education" to include  
18 a career center; revising a provision relating to offender  
19 driver's license or identification card renewal; revising  
20 a reporting requirement for sexual offenders who vacate a  
21 permanent residence and fail to establish or maintain  
22 another permanent or temporary residence; amending s.  
23 944.606, F.S.; revising language relating to the

HB 847

2005  
CS

24 definition of "sexual offender"; amending s. 944.607,  
25 F.S.; revising language relating to the definition of  
26 "sexual offender"; revising the definition of "institution  
27 of higher education" to include a career center; providing  
28 an effective date.

29

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

31

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

36 775.21 The Florida Sexual Predators Act.--

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

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

41 (4) SEXUAL PREDATOR CRITERIA.--

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

47 1. The felony is:

48 a. A capital, life, or first-degree felony violation, or  
49 any attempt thereof, of s. 787.01 or s. 787.02, where the victim  
50 is a minor and the defendant is not the victim's parent, or of

HB 847

2005  
CS

51 chapter 794, s. 800.04, or s. 847.0145, or a violation of a  
52 similar law of another jurisdiction; or

53 b. Any felony violation, or any attempt thereof, of s.  
54 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
55 and the defendant is not the victim's parent; chapter 794,  
56 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035;  
57 s. 800.04; s. 825.1025(2)(b); s. 827.071; ~~or s. 847.0145~~; or s.  
58 985.4045(1); or a violation of a similar law of another  
59 jurisdiction, and the offender has previously been convicted of  
60 or found to have committed, or has pled nolo contendere or  
61 guilty to, regardless of adjudication, any violation of s.  
62 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
63 and the defendant is not the victim's parent; s. 794.011(2),  
64 (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 796.035; s.  
65 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; ~~or s.~~  
66 ~~847.0145~~; or s. 985.4045(1); ~~or~~ or a violation of a similar law of  
67 another jurisdiction;

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

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

74 (b) In order to be counted as a prior felony for purposes  
75 of this subsection, the felony must have resulted in a  
76 conviction sentenced separately, or an adjudication of  
77 delinquency entered separately, prior to the current offense and  
78 sentenced or adjudicated separately from any other felony

HB 847

2005  
CS

79 conviction that is to be counted as a prior felony regardless of  
 80 the date of offense of the prior felony. If the offender's prior  
 81 enumerated felony was committed more than 10 years before the  
 82 primary offense, it shall not be considered a prior felony under  
 83 this subsection if the offender has not been convicted of any  
 84 other crime for a period of 10 consecutive years from the most  
 85 recent date of release from confinement, supervision, or  
 86 sanction, whichever is later.

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

89 (d) A person who establishes or maintains a residence in  
 90 this state and who has not been designated as a sexual predator  
 91 by a court of this state but who has been designated as a sexual  
 92 predator, as a sexually violent predator, or by another sexual  
 93 offender designation in another state or jurisdiction and was,  
 94 as a result of such designation, subjected to registration or  
 95 community or public notification, or both, or would be if the  
 96 person was a resident of that state or jurisdiction, without  
 97 regard to whether the person otherwise meets the criteria for  
 98 registration as a sexual offender, shall register in the manner  
 99 provided in s. 943.0435 or s. 944.607 and shall be subject to  
 100 community and public notification as provided in s. 943.0435 or  
 101 s. 944.607. A person who meets the criteria of this section is  
 102 subject to the requirements and penalty provisions of s.  
 103 943.0435 or s. 944.607 until the person provides the department  
 104 with an order issued by the court that designated the person as  
 105 a sexual predator, as a sexually violent predator, or by another  
 106 sexual offender designation in the state or jurisdiction in

HB 847

2005  
CS

107 | which the order was issued which states that such designation  
108 | has been removed or demonstrates to the department that such  
109 | designation, if not imposed by a court, has been removed by  
110 | operation of law or court order in the state or jurisdiction in  
111 | which the designation was made, and provided such person no  
112 | longer meets the criteria for registration as a sexual offender  
113 | under the laws of this state.

114 | (6) REGISTRATION.--

115 | (g)1. Each time a sexual predator's driver's license or  
116 | identification card is subject to renewal, and, without regard  
117 | to the status of the predator's driver's license or  
118 | identification card, within 48 hours after any change of the  
119 | predator's residence or change in the predator's name by reason  
120 | of marriage or other legal process, the predator shall report in  
121 | person to a driver's license office and shall be subject to the  
122 | requirements specified in paragraph (f). The Department of  
123 | Highway Safety and Motor Vehicles shall forward to the  
124 | department and to the Department of Corrections all photographs  
125 | and information provided by sexual predators. Notwithstanding  
126 | the restrictions set forth in s. 322.142, the Department of  
127 | Highway Safety and Motor Vehicles is authorized to release a  
128 | reproduction of a color-photograph or digital-image license to  
129 | the Department of Law Enforcement for purposes of public  
130 | notification of sexual predators as provided in this section.

131 | 2. A sexual predator who vacates a permanent residence and  
132 | fails to establish or maintain another permanent or temporary  
133 | residence shall, within 6 days ~~48 hours~~ after vacating the  
134 | permanent residence, report in person to the department or the

Page 5 of 14

HB 847

2005  
CS

135 | sheriff's office of the county in which he or she is located.  
 136 | The sexual predator shall specify the date upon which he or she  
 137 | intends to or did vacate such residence. The sexual predator  
 138 | must provide or update all of the registration information  
 139 | required under paragraph (a). The sexual predator must provide  
 140 | an address for the residence or other location that he or she is  
 141 | or will be occupying during the time in which he or she fails to  
 142 | establish or maintain a permanent or temporary residence.

143 |         3. A sexual predator who remains at a permanent residence  
 144 | after reporting his or her intent to vacate such residence  
 145 | shall, within 48 hours after the date upon which the predator  
 146 | indicated he or she would or did vacate such residence, report  
 147 | in person to the agency to which he or she reported pursuant to  
 148 | subparagraph 2. for the purpose of reporting his or her address  
 149 | at such residence. If the sheriff receives the report, the  
 150 | sheriff shall promptly convey the information to the department.  
 151 | An offender who makes a report as required under subparagraph 2.  
 152 | but fails to make a report as required under this subparagraph  
 153 | commits a felony of the second degree, punishable as provided in  
 154 | s. 775.082, s. 775.083, or s. 775.084.

155 |  
 156 | The sheriff shall promptly provide to the department the  
 157 | information received from the sexual predator.

158 |         (10) PENALTIES.--

159 |         (b) A sexual predator who has been convicted of or found  
 160 | to have committed, or has pled nolo contendere or guilty to,  
 161 | regardless of adjudication, any violation, or attempted  
 162 | violation, of s. 787.01, s. 787.02, or s. 787.025, where the

HB847

2005  
CS

163 | victim is a minor and the defendant is not the victim's parent;  
 164 | s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.  
 165 | 796.035; s. 800.04; s. 827.071; s. 847.0133; ~~or~~ s. 847.0145; or  
 166 | s. 985.4045(1); ~~or~~ or a violation of a similar law of another  
 167 | jurisdiction, when the victim of the offense was a minor, and  
 168 | who works, whether for compensation or as a volunteer, at any  
 169 | business, school, day care center, park, playground, or other  
 170 | place where children regularly congregate, commits a felony of  
 171 | the third degree, punishable as provided in s. 775.082, s.  
 172 | 775.083, or s. 775.084.

173 |         Section 2. Paragraph (a) of subsection (3) of section  
 174 | 775.261, Florida Statutes, is amended to read:

175 |         775.261 The Florida Career Offender Registration Act.--

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

177 |         (a) A career offender released on or after July 1, 2002  
 178 | ~~January 1, 2003~~, from a sanction imposed in this state for a  
 179 | designation as a habitual violent felony offender, a violent  
 180 | career criminal, or a three-time violent felony offender under  
 181 | s. 775.084 or as a prison releasee reoffender under s.  
 182 | 775.082(9) must register as required under subsection (4) and is  
 183 | subject to community and public notification as provided under  
 184 | subsection (5). For purposes of this section, a sanction imposed  
 185 | in this state includes, but is not limited to, a fine,  
 186 | probation, community control, parole, conditional release,  
 187 | control release, or incarceration in a state prison, private  
 188 | correctional facility, or local detention facility, and:

HB 847

2005  
CS

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

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

195 Section 3. Paragraphs (a) and (d) of subsection (1),  
196 paragraphs (a) and (b) of subsection (4), and paragraph (c) of  
197 subsection (11) of section 943.0435, Florida Statutes, are  
198 amended to read:

199 943.0435 Sexual offenders required to register with the  
200 department; penalty.--

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

202 (a) "Sexual offender" means a person who meets the  
203 criteria in subparagraph 1., subparagraph 2., or subparagraph  
204 3.:

205 1.a. Has been convicted of committing, or attempting,  
206 soliciting, or conspiring to commit, any of the criminal  
207 offenses proscribed in the following statutes in this state or  
208 similar offenses in another jurisdiction: s. 787.01, s. 787.02,  
209 or s. 787.025, where the victim is a minor and the defendant is  
210 not the victim's parent; chapter 794, excluding ss. 794.011(10)  
211 and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.  
212 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.  
213 847.0145; s. 985.4045(1); or any similar offense committed in  
214 this state which has been redesignated from a former statute  
215 number to one of those listed in this sub-subparagraph  
216 subparagraph; and



HB 847

2005  
CS

217           ~~b.2.~~ Has been released on or after October 1, 1997, from  
 218 the sanction imposed for any conviction of an offense described  
 219 in sub-subparagraph a. ~~subparagraph 1.~~ For purposes of sub-  
 220 subparagraph a. ~~subparagraph 1.~~, a sanction imposed in this  
 221 state or in any other jurisdiction includes, but is not limited  
 222 to, a fine, probation, community control, parole, conditional  
 223 release, control release, or incarceration in a state prison,  
 224 federal prison, private correctional facility, or local  
 225 detention facility; ~~or~~

226           ~~2.3.~~ Establishes or maintains a residence in this state  
 227 and who has not been designated as a sexual predator by a court  
 228 of this state but who has been designated as a sexual predator,  
 229 as a sexually violent predator, or by another sexual offender  
 230 designation in another state or jurisdiction and was, as a  
 231 result of such designation, subjected to registration or  
 232 community or public notification, or both, or would be if the  
 233 person were a resident of that state or jurisdiction, without  
 234 regard to whether the person otherwise meets the criteria for  
 235 registration as a sexual offender; or

236           ~~3.4.~~ Establishes or maintains a residence in this state  
 237 who is in the custody or control of, or under the supervision  
 238 of, any other state or jurisdiction as a result of a conviction  
 239 for committing, or attempting, soliciting, or conspiring to  
 240 commit, any of the criminal offenses proscribed in the following  
 241 statutes or similar offense in another jurisdiction: s. 787.01,  
 242 s. 787.02, or s. 787.025, where the victim is a minor and the  
 243 defendant is not the victim's parent; chapter 794, excluding ss.  
 244 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s.

HB 847

2005  
CS

245 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s.  
246 847.0138; s. 847.0145; s. 985.4045(1); or any similar offense  
247 committed in this state which has been redesignated from a  
248 former statute number to one of those listed in this  
249 subparagraph.

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

253 (4)(a) Each time a sexual offender's driver's license or  
254 identification card is subject to renewal, and, without regard  
255 to the status of the offender's ~~predator's~~ driver's license or  
256 identification card, within 48 hours after any change in the  
257 offender's permanent or temporary residence or change in the  
258 offender's name by reason of marriage or other legal process,  
259 the offender shall report in person to a driver's license  
260 office, and shall be subject to the requirements specified in  
261 subsection (3). The Department of Highway Safety and Motor  
262 Vehicles shall forward to the department all photographs and  
263 information provided by sexual offenders. Notwithstanding the  
264 restrictions set forth in s. 322.142, the Department of Highway  
265 Safety and Motor Vehicles is authorized to release a  
266 reproduction of a color-photograph or digital-image license to  
267 the Department of Law Enforcement for purposes of public  
268 notification of sexual offenders as provided in ss. 943.043,  
269 943.0435, and 944.606.

270 (b) A sexual offender who vacates a permanent residence  
271 and fails to establish or maintain another permanent or  
272 temporary residence shall, within 6 days ~~48 hours~~ after vacating

HB 847

2005  
CS

273 the permanent residence, report in person to the department or  
274 the sheriff's office of the county in which he or she is  
275 located. The sexual offender shall specify the date upon which  
276 he or she intends to or did vacate such residence. The sexual  
277 offender must provide or update all of the registration  
278 information required under paragraph (2)(b). The sexual offender  
279 must provide an address for the residence or other location that  
280 he or she is or will be occupying during the time in which he or  
281 she fails to establish or maintain a permanent or temporary  
282 residence.

283 (11) A sexual offender must maintain registration with the  
284 department for the duration of his or her life, unless the  
285 sexual offender has received a full pardon or has had a  
286 conviction set aside in a postconviction proceeding for any  
287 offense that meets the criteria for classifying the person as a  
288 sexual offender for purposes of registration. However, a sexual  
289 offender:

290 (c) As defined in subparagraph (1)(a)2.3, must maintain  
291 registration with the department for the duration of his or her  
292 life until the person provides the department with an order  
293 issued by the court that designated the person as a sexual  
294 predator, as a sexually violent predator, or by another sexual  
295 offender designation in the state or jurisdiction in which the  
296 order was issued which states that such designation has been  
297 removed or demonstrates to the department that such designation,  
298 if not imposed by a court, has been removed by operation of law  
299 or court order in the state or jurisdiction in which the  
300 designation was made, and provided such person no longer meets

HB 847

2005  
CS

301 the criteria for registration as a sexual offender under the  
302 laws of this state.

303 Section 4. Paragraph (b) of subsection (1) of section  
304 944.606, Florida Statutes, is amended to read:

305 944.606 Sexual offenders; notification upon release.--

306 (1) As used in this section:

307 (b) "Sexual offender" means a person who has been  
308 convicted of committing, or attempting, soliciting, or  
309 conspiring to commit, any of the criminal offenses proscribed in  
310 the following statutes in this state or similar offenses in  
311 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where  
312 the victim is a minor and the defendant is not the victim's  
313 parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.  
314 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.  
315 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; s.  
316 985.4045(1); or any similar offense committed in this state  
317 which has been redesignated from a former statute number to one  
318 of those listed in this subsection, when the department has  
319 received verified information regarding such conviction; an  
320 offender's computerized criminal history record is not, in and  
321 of itself, verified information.

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

324 944.607 Notification to Department of Law Enforcement of  
325 information on sexual offenders.--

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

HB 847

2005  
CS

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

330 1. On or after October 1, 1997, as a result of a  
331 conviction for committing, or attempting, soliciting, or  
332 conspiring to commit, any of the criminal offenses proscribed in  
333 the following statutes in this state or similar offenses in  
334 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where  
335 the victim is a minor and the defendant is not the victim's  
336 parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.  
337 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.  
338 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; s.  
339 985.4045(1); or any similar offense committed in this state  
340 which has been redesignated from a former statute number to one  
341 of those listed in this paragraph; or

342 2. Who establishes or maintains a residence in this state  
343 and who has not been designated as a sexual predator by a court  
344 of this state but who has been designated as a sexual predator,  
345 as a sexually violent predator, or by another sexual offender  
346 designation in another state or jurisdiction and was, as a  
347 result of such designation, subjected to registration or  
348 community or public notification, or both, or would be if the  
349 person were a resident of that state or jurisdiction, without  
350 regard as to whether the person otherwise meets the criteria for  
351 registration as a sexual offender.

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

HB 847

2005  
CS

355

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