

CHAMBER ACTION

1 The Community Colleges & Workforce Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to sexual and career offenders; amending
8 s. 775.21, F.S.; revising the definition of "institution
9 of higher education" to include a career center; revising
10 provisions relating to use of prior felonies for sexual
11 predator determination; amending s. 775.261, F.S.;
12 revising an operational date used for career offender
13 registration; expanding applicability of registration
14 requirements; amending s. 943.0435, F.S.; revising
15 language relating to the definition of "sexual offender";
16 revising the definition of "institution of higher
17 education" to include a career center; revising a
18 provision relating to offender driver's license or
19 identification card renewal; amending s. 944.606, F.S.;
20 revising language relating to the definition of "sexual
21 offender"; amending s. 944.607, F.S.; revising language
22 relating to the definition of "sexual offender"; revising

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23 | the definition of "institution of higher education" to
24 | include a career center; providing an effective date.

25 |

26 | Be It Enacted by the Legislature of the State of Florida:

27 |

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

32 | 775.21 The Florida Sexual Predators Act.--

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

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

37 | (4) SEXUAL PREDATOR CRITERIA.--

38 | (a) For a current offense committed on or after October 1,
39 | 1993, upon conviction, an offender shall be designated as a
40 | "sexual predator" under subsection (5), and subject to
41 | registration under subsection (6) and community and public
42 | notification under subsection (7) if:

43 | 1. The felony is:

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

49 | b. Any felony violation, or any attempt thereof, of s.
50 | 787.01, s. 787.02, or s. 787.025, where the victim is a minor

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

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

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

70 (b) In order to be counted as a prior felony for purposes
 71 of this subsection, the felony must have resulted in a
 72 conviction sentenced separately, or an adjudication of
 73 delinquency entered separately, prior to the current offense and
 74 sentenced or adjudicated separately from any other felony
 75 conviction that is to be counted as a prior felony regardless of
 76 the date of offense of the prior felony. If the offender's prior
 77 enumerated felony was committed more than 10 years before the
 78 primary offense, it shall not be considered a prior felony under

79 | this subsection if the offender has not been convicted of any
 80 | other crime for a period of 10 consecutive years from the most
 81 | recent date of release from confinement, supervision, or
 82 | sanction, whichever is later.

83 | (5) SEXUAL PREDATOR DESIGNATION.--An offender is
 84 | designated as a sexual predator as follows:

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

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107 | which the designation was made, and provided such person no
108 | longer meets the criteria for registration as a sexual offender
109 | under the laws of this state.

110 | (10) PENALTIES.--

111 | (b) A sexual predator who has been convicted of or found
112 | to have committed, or has pled nolo contendere or guilty to,
113 | regardless of adjudication, any violation, or attempted
114 | violation, of s. 787.01, s. 787.02, or s. 787.025, where the
115 | victim is a minor and the defendant is not the victim's parent;
116 | s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.
117 | 796.035; s. 800.04; s. 827.071; s. 847.0133; ~~ex~~ s. 847.0145; or
118 | s. 985.4045(1); ~~7~~ or a violation of a similar law of another
119 | jurisdiction, when the victim of the offense was a minor, and
120 | who works, whether for compensation or as a volunteer, at any
121 | business, school, day care center, park, playground, or other
122 | place where children regularly congregate, commits a felony of
123 | the third degree, punishable as provided in s. 775.082, s.
124 | 775.083, or s. 775.084.

125 | Section 2. Paragraph (a) of subsection (3) of section
126 | 775.261, Florida Statutes, is amended to read:

127 | 775.261 The Florida Career Offender Registration Act.--

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

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

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135 subject to community and public notification as provided under
 136 subsection (5). For purposes of this section, a sanction imposed
 137 in this state includes, but is not limited to, a fine,
 138 probation, community control, parole, conditional release,
 139 control release, or incarceration in a state prison, private
 140 correctional facility, or local detention facility, and:

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

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

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

150 943.0435 Sexual offenders required to register with the
 151 department; penalty.--

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

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

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

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163 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.
164 847.0145; s. 985.4045(1); or any similar offense committed in
165 this state which has been redesignated from a former statute
166 number to one of those listed in this sub-subparagraph
167 ~~subparagraph~~; and

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

177 ~~2.3-~~ Establishes or maintains a residence in this state
178 and who has not been designated as a sexual predator by a court
179 of this state but who has been designated as a sexual predator,
180 as a sexually violent predator, or by another sexual offender
181 designation in another state or jurisdiction and was, as a
182 result of such designation, subjected to registration or
183 community or public notification, or both, or would be if the
184 person were a resident of that state or jurisdiction, without
185 regard to whether the person otherwise meets the criteria for
186 registration as a sexual offender; or

187 ~~3.4-~~ Establishes or maintains a residence in this state
188 who is in the custody or control of, or under the supervision
189 of, any other state or jurisdiction as a result of a conviction
190 for committing, or attempting, soliciting, or conspiring to

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

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

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

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219 notification of sexual offenders as provided in ss. 943.043,
220 943.0435, and 944.606.

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

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

241 Section 4. Paragraph (b) of subsection (1) of section
242 944.606, Florida Statutes, is amended to read:

243 944.606 Sexual offenders; notification upon release.--

244 (1) As used in this section:

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

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

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

262 | 944.607 Notification to Department of Law Enforcement of
 263 | information on sexual offenders.--

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

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

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

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275 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
276 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; s.
277 985.4045(1); or any similar offense committed in this state
278 which has been redesignated from a former statute number to one
279 of those listed in this paragraph; or

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

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

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