

By Senator Campbell

32-342-06

See HB

1 A bill to be entitled

2 An act relating to sexual and career offenders;

3 amending s. 775.21, F.S.; revising the

4 definition of "institution of higher education"

5 to include a career center; revising provisions

6 relating to use of prior felonies for sexual

7 predator determination; amending s. 775.261,

8 F.S.; revising an operational date used for

9 career offender registration; expanding

10 applicability of registration requirements;

11 amending s. 943.0435, F.S.; revising provisions

12 relating to the definition of "sexual

13 offender"; revising the definition of

14 "institution of higher education" to include a

15 career center; revising a provision relating to

16 an offender's driver's license or

17 identification card renewal; amending s.

18 944.606, F.S.; revising language relating to

19 the definition of "sexual offender"; amending

20 s. 944.607, F.S.; revising language relating to

21 the definition of "sexual offender"; revising

22 the definition of "institution of higher

23 education" to include a career center;

24 providing an effective date.

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

28 Section 1. Paragraph (h) of subsection (2), paragraphs

29 (a) and (b) of subsection (4), paragraph (d) of subsection

30 (5), and paragraph (b) of subsection (10) of section 775.21,

31 Florida Statutes, are amended to read:

1 775.21 The Florida Sexual Predators Act.--
2 (2) DEFINITIONS.--As used in this section, the term:
3 (h) "Institution of higher education" means a career
4 center, community college, college, state university, or
5 independent postsecondary institution.
6 (4) SEXUAL PREDATOR CRITERIA.--
7 (a) For a current offense committed on or after
8 October 1, 1993, upon conviction, an offender shall be
9 designated as a "sexual predator" under subsection (5), and
10 subject to registration under subsection (6) and community and
11 public notification under subsection (7) if:
12 1. The felony is:
13 a. A capital, life, or first-degree felony violation,
14 or any attempt thereof, of s. 787.01 or s. 787.02, where the
15 victim is a minor and the defendant is not the victim's
16 parent, or of chapter 794, s. 800.04, or s. 847.0145, or a
17 violation of a similar law of another jurisdiction; or
18 b. Any felony violation, or any attempt thereof, of s.
19 787.01, s. 787.02, or s. 787.025, where the victim is a minor
20 and the defendant is not the victim's parent; chapter 794,
21 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035;
22 s. 800.04; s. 825.1025(2)(b); s. 827.071; ~~or~~ s. 847.0145; or
23 s. 985.4045(1); or a violation of a similar law of another
24 jurisdiction, and the offender has previously been convicted
25 of or found to have committed, or has pled nolo contendere or
26 guilty to, regardless of adjudication, any violation of s.
27 787.01, s. 787.02, or s. 787.025, where the victim is a minor
28 and the defendant is not the victim's parent; s. 794.011(2),
29 (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 796.035; s.
30 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; ~~or~~
31

1 s. 847.0145; or ~~s. 985.4045(1);~~ or a violation of a similar
2 law of another jurisdiction;

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

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

9 (b) In order to be counted as a prior felony for
10 purposes of this subsection, the felony must have resulted in
11 a conviction sentenced separately, or an adjudication of
12 delinquency entered separately, prior to the current offense
13 and sentenced or adjudicated separately from any other felony
14 conviction that is to be counted as a prior felony regardless
15 of the date of offense of the prior felony.

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

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

1 the requirements and penalty provisions of s. 943.0435 or s.
2 944.607 until the person provides the department with an order
3 issued by the court that designated the person as a sexual
4 predator, as a sexually violent predator, or by another sexual
5 offender designation in the state or jurisdiction in which the
6 order was issued which states that such designation has been
7 removed or demonstrates to the department that such
8 designation, if not imposed by a court, has been removed by
9 operation of law or court order in the state or jurisdiction
10 in which the designation was made, and provided such person no
11 longer meets the criteria for registration as a sexual
12 offender under the laws of this state.

13 (10) PENALTIES.--

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

28 Section 2. Paragraph (a) of subsection (3) of section
29 775.261, Florida Statutes, is amended to read:

30 775.261 The Florida Career Offender Registration
31 Act.--

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

2 (a) A career offender released on or after July 1,
3 2002 ~~January 1, 2003,~~ from a sanction imposed in this state
4 ~~for a designation as a habitual violent felony offender, a~~
5 ~~violent career criminal, or a three time violent felony~~
6 ~~offender under s. 775.084 or as a prison releasee reoffender~~
7 ~~under s. 775.082(9)~~ must register as required under subsection
8 (4) and is subject to community and public notification as
9 provided under subsection (5). For purposes of this section, a
10 sanction imposed in this state includes, but is not limited
11 to, a fine, probation, community control, parole, conditional
12 release, control release, or incarceration in a state prison,
13 private correctional facility, or local detention facility,
14 and:

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

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

21 Section 3. Paragraphs (a) and (d) of subsection (1),
22 paragraph (a) of subsection (4), and paragraph (c) of
23 subsection (11) of section 943.0435, Florida Statutes, are
24 amended to read:

25 943.0435 Sexual offenders required to register with
26 the department; penalty.--

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

28 (a) "Sexual offender" means a person who meets the
29 criteria in subparagraph 1., subparagraph 2., or subparagraph
30 3., as follows:

31

1 1.a. Has been convicted of committing, or attempting,
2 soliciting, or conspiring to commit, any of the criminal
3 offenses proscribed in the following statutes in this state or
4 similar offenses in another jurisdiction: s. 787.01, s.
5 787.02, or s. 787.025, where the victim is a minor and the
6 defendant is not the victim's parent; chapter 794, excluding
7 ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035; s.
8 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s.
9 847.0137; s. 847.0138; s. 847.0145; or s. 985.4045(1); or any
10 similar offense committed in this state which has been
11 redesignated from a former statute number to one of those
12 listed in this ~~sub-subparagraph~~ subparagraph; and
13 **~~b.2-~~** Has been released on or after October 1, 1997,
14 from the sanction imposed for any conviction of an offense
15 described in ~~sub-subparagraph a. subparagraph 1-~~ subparagraph a. For purposes
16 of ~~sub-subparagraph a. subparagraph 1-~~ subparagraph a., a sanction imposed in
17 this state or in any other jurisdiction includes, but is not
18 limited to, a fine, probation, community control, parole,
19 conditional release, control release, or incarceration in a
20 state prison, federal prison, private correctional facility,
21 or local detention facility; ~~or~~
22 **~~2.3-~~** Establishes or maintains a residence in this
23 state and who has not been designated as a sexual predator by
24 a court of this state but who has been designated as a sexual
25 predator, as a sexually violent predator, or by another sexual
26 offender designation in another state or jurisdiction and was,
27 as a result of such designation, subjected to registration or
28 community or public notification, or both, or would be if the
29 person were a resident of that state or jurisdiction, without
30 regard to whether the person otherwise meets the criteria for
31 registration as a sexual offender; or

1 ~~3.4.~~ Establishes or maintains a residence in this
2 state who is in the custody or control of, or under the
3 supervision of, any other state or jurisdiction as a result of
4 a conviction for committing, or attempting, soliciting, or
5 conspiring to commit, any of the criminal offenses proscribed
6 in the following statutes or similar offense in another
7 jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where the
8 victim is a minor and the defendant is not the victim's
9 parent; chapter 794, excluding ss. 794.011(10) and 794.0235;
10 s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
11 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145;
12 or s. 985.4045(1); or any similar offense committed in this
13 state which has been redesignated from a former statute number
14 to one of those listed in this subparagraph.

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

18 (4)(a) Each time a sexual offender's driver's license
19 or identification card is subject to renewal, and, without
20 regard to the status of the offender's ~~predator's~~ driver's
21 license or identification card, within 48 hours after any
22 change in the offender's permanent or temporary residence or
23 change in the offender's name by reason of marriage or other
24 legal process, the offender shall report in person to a
25 driver's license office, and shall be subject to the
26 requirements specified in subsection (3). The Department of
27 Highway Safety and Motor Vehicles shall forward to the
28 department all photographs and information provided by sexual
29 offenders. Notwithstanding the restrictions set forth in s.
30 322.142, the Department of Highway Safety and Motor Vehicles
31 is authorized to release a reproduction of a color-photograph

1 or digital-image license to the Department of Law Enforcement
2 for purposes of public notification of sexual offenders as
3 provided in ss. 943.043, 943.0435, and 944.606.

4 (11) A sexual offender must maintain registration with
5 the department for the duration of his or her life, unless the
6 sexual offender has received a full pardon or has had a
7 conviction set aside in a postconviction proceeding for any
8 offense that meets the criteria for classifying the person as
9 a sexual offender for purposes of registration. However, a
10 sexual offender:

11 (c) As defined in subparagraph (1)(a)~~2.3~~ must
12 maintain registration with the department for the duration of
13 his or her life until the person provides the department with
14 an order issued by the court that designated the person as a
15 sexual predator, as a sexually violent predator, or by another
16 sexual offender designation in the state or jurisdiction in
17 which the order was issued which states that such designation
18 has been removed or demonstrates to the department that such
19 designation, if not imposed by a court, has been removed by
20 operation of law or court order in the state or jurisdiction
21 in which the designation was made, and provided such person no
22 longer meets the criteria for registration as a sexual
23 offender under the laws of this state.

24 Section 4. Paragraph (b) of subsection (1) of section
25 944.606, Florida Statutes, is amended to read:

26 944.606 Sexual offenders; notification upon release.--

27 (1) As used in this section:

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

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

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

15 944.607 Notification to Department of Law Enforcement
16 of information on sexual offenders.--

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

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

22 1. On or after October 1, 1997, as a result of a
23 conviction for committing, or attempting, soliciting, or
24 conspiring to commit, any of the criminal offenses proscribed
25 in the following statutes in this state or similar offenses in
26 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025,
27 where the victim is a minor and the defendant is not the
28 victim's parent; chapter 794, excluding ss. 794.011(10) and
29 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
30 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138;
31 s. 847.0145; or s. 985.4045(1); or any similar offense

1 committed in this state which has been redesignated from a
2 former statute number to one of those listed in this
3 paragraph; or

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

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

17 Section 6. This act shall take effect July 1, 2006.
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