

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Kyle offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 23 and 24 insert:

5 Section 1. Subsection (4) and paragraph (a) of subsection  
6 (5) of section 775.21, Florida Statutes, are amended to read:

7 775.21 The Florida Sexual Predators Act.--

8 (4) SEXUAL PREDATOR CRITERIA.--

9 (a) For a current offense committed on or after October 1,  
10 1993, upon conviction, an offender shall be designated as a  
11 "sexual predator" under subsection (5), and subject to  
12 registration under subsection (6) and community and public  
13 notification under subsection (7) if:

14 1. The felony is:

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

20 b. Any felony violation, or any attempt thereof, of s.  
21 787.01, s. 787.02, or s. 787.025, where the victim is a minor  
22 and the defendant is not the victim's parent; chapter 794,  
23 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s.  
24 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation of a  
25 similar law of another jurisdiction, and the offender has  
26 previously been adjudicated delinquent, or convicted of or found  
27 to have committed, or has pled nolo contendere or guilty to,  
28 regardless of adjudication, any violation of s. 787.01, s.  
29 787.02, or s. 787.025, where the victim is a minor and the  
30 defendant is not the victim's parent; s. 794.011(2), (3), (4),  
31 (5), or (8); s. 794.05; s. 796.03; s. 800.04; s. 825.1025; s.  
32 827.071; s. 847.0133; s. 847.0135; or s. 847.0145, or a  
33 violation of a similar law of another jurisdiction;

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

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

40 ~~(b) In order to be counted as a prior felony for purposes~~  
41 ~~of this subsection, the felony must have resulted in a~~  
42 ~~conviction sentenced separately, or an adjudication of~~  
43 ~~delinquency entered separately, prior to the current offense and~~  
44 ~~sentenced or adjudicated separately from any other felony~~  
45 ~~conviction that is to be counted as a prior felony.~~

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46        ~~(b)(e)~~ If an offender has been registered as a sexual  
47 predator by the Department of Corrections, the department, or  
48 any other law enforcement agency and if:

49            1. The court did not, for whatever reason, make a written  
50 finding at the time of sentencing that the offender was a sexual  
51 predator; or

52            2. The offender was administratively registered as a  
53 sexual predator because the Department of Corrections, the  
54 department, or any other law enforcement agency obtained  
55 information that indicated that the offender met the criteria  
56 for designation as a sexual predator based on a violation of a  
57 similar law in another jurisdiction,

58  
59 the department shall remove that offender from the department's  
60 list of sexual predators and, for an offender described under  
61 subparagraph 1., shall notify the state attorney who prosecuted  
62 the offense that met the criteria for administrative designation  
63 as a sexual predator, and, for an offender described under this  
64 subparagraph, shall notify the state attorney of the county  
65 where the offender establishes or maintains a permanent or  
66 temporary residence. The state attorney shall bring the matter  
67 to the court's attention in order to establish that the offender  
68 meets the criteria for designation as a sexual predator. If the  
69 court makes a written finding that the offender is a sexual  
70 predator, the offender must be designated as a sexual predator,  
71 must register or be registered as a sexual predator with the  
72 department as provided in subsection (6), and is subject to the  
73 community and public notification as provided in subsection (7).

74 If the court does not make a written finding that the offender  
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75 | is a sexual predator, the offender may not be designated as a  
76 | sexual predator with respect to that offense and is not required  
77 | to register or be registered as a sexual predator with the  
78 | department.

79 |        ~~(c)-(d)~~ An offender who has been determined to be a  
80 | sexually violent predator pursuant to a civil commitment  
81 | proceeding under chapter 394 shall be designated as a "sexual  
82 | predator" under subsection (5) and subject to registration under  
83 | subsection (6) and community and public notification under  
84 | subsection (7).

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

87 |        (a)1. An offender who meets the sexual predator criteria  
88 | described in paragraph (4) ~~(c)-(d)~~ is a sexual predator, and the  
89 | court shall make a written finding at the time such offender is  
90 | determined to be a sexually violent predator under chapter 394  
91 | that such person meets the criteria for designation as a sexual  
92 | predator for purposes of this section. The clerk shall transmit  
93 | a copy of the order containing the written finding to the  
94 | department within 48 hours after the entry of the order;

95 |        2. An offender who meets the sexual predator criteria  
96 | described in paragraph (4)(a) who is before the court for  
97 | sentencing for a current offense committed on or after October  
98 | 1, 1993, is a sexual predator, and the sentencing court must  
99 | make a written finding at the time of sentencing that the  
100 | offender is a sexual predator, and the clerk of the court shall  
101 | transmit a copy of the order containing the written finding to  
102 | the department within 48 hours after the entry of the order; or

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103           3. If the Department of Corrections, the department, or  
104 any other law enforcement agency obtains information which  
105 indicates that an offender who establishes or maintains a  
106 permanent or temporary residence in this state meets the sexual  
107 predator criteria described in paragraph (4)(a) or paragraph  
108 (4) (c) ~~(d)~~ because the offender was civilly committed or  
109 committed a similar violation in another jurisdiction on or  
110 after October 1, 1993, the Department of Corrections, the  
111 department, or the law enforcement agency shall notify the state  
112 attorney of the county where the offender establishes or  
113 maintains a permanent or temporary residence of the offender's  
114 presence in the community. The state attorney shall file a  
115 petition with the criminal division of the circuit court for the  
116 purpose of holding a hearing to determine if the offender's  
117 criminal record or record of civil commitment from another  
118 jurisdiction meets the sexual predator criteria. If the court  
119 finds that the offender meets the sexual predator criteria  
120 because the offender has violated a similar law or similar laws  
121 in another jurisdiction, the court shall make a written finding  
122 that the offender is a sexual predator.

123  
124 When the court makes a written finding that an offender is a  
125 sexual predator, the court shall inform the sexual predator of  
126 the registration and community and public notification  
127 requirements described in this section. Within 48 hours after  
128 the court designating an offender as a sexual predator, the  
129 clerk of the circuit court shall transmit a copy of the court's  
130 written sexual predator finding to the department. If the  
131 offender is sentenced to a term of imprisonment or supervision,

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132 | a copy of the court's written sexual predator finding must be  
133 | submitted to the Department of Corrections.

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136 | ===== T I T L E A M E N D M E N T =====

137 | Remove line 1 and insert:

138 | An act relating to criminal justice; amending s.  
139 | 775.21, F.S.; including adjudications of delinquency  
140 | of specified offenses in criteria for determining  
141 | sexual predators; removing the requirement that prior  
142 | felonies be sentenced separately in order to be  
143 | counted for sexual predator designation purposes;  
144 | conforming cross-references; amending s. 921.0022,