

By Senator Saunders

37-703-06

See HB 91

1 A bill to be entitled

2 An act relating to residence of sexual

3 offenders and predators; amending s. 775.21,

4 F.S.; prohibiting sexual predators from

5 establishing or maintaining a residence within

6 2,500 feet of specified locations; providing

7 for county or municipal ordinances that

8 restrict the residence of sexual offenders;

9 providing requirements for such ordinances;

10 providing exceptions; amending s. 794.065,

11 F.S.; revising provisions relating to the

12 residence of specified sex offenders; providing

13 definitions; prohibiting the knowing rental or

14 lease of a residence within 2,500 feet of

15 specified locations to a restricted sex

16 offender who intends to occupy the unit;

17 providing a due diligence defense; providing

18 criminal penalties; amending s. 947.1405, F.S.;

19 revising conditional release program

20 restrictions on the residence of certain sexual

21 offenders; revising the requirements for the

22 location of public school bus stops in relation

23 to the permanent residence of specified sexual

24 offenders; amending s. 948.30, F.S.; revising

25 terms and conditions of probation or community

26 control restricting the residence of persons

27 convicted of certain sex offenses; providing

28 that amendments in this act to provisions

29 restricting the residence of sexual offenders

30 and sexual predators shall not require the

31 relocation of such an offender who had

1 established, prior to the effective date of
2 this act, a residence not in compliance with
3 the amendments to such restrictions; providing
4 an effective date.

5
6 WHEREAS, recent attacks on children by registered sex
7 offenders within this state have shed light on the necessity
8 of providing greater protection to children from the risks
9 posed by registered sex offenders, and

10 WHEREAS, the recidivism rate of sex offenders is high,
11 especially for offenders who commit crimes involving children,
12 and

13 WHEREAS, the Legislature is deeply concerned about the
14 health, safety, and protection of all of Florida's residents,
15 particularly its children, NOW, THEREFORE,

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

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19 Section 1. Subsection (7) of section 775.21, Florida
20 Statutes, is amended to read:

21 775.21 The Florida Sexual Predators Act.--

22 (7) COMMUNITY AND PUBLIC NOTIFICATION; RESIDENCE
23 RESTRICTIONS.--

24 (a) Law enforcement agencies must inform members of
25 the community and the public of a sexual predator's presence.
26 Upon notification of the presence of a sexual predator, the
27 sheriff of the county or the chief of police of the
28 municipality where the sexual predator establishes or
29 maintains a permanent or temporary residence shall notify
30 members of the community and the public of the presence of the
31 sexual predator in a manner deemed appropriate by the sheriff

1 or the chief of police. Within 48 hours after receiving
2 notification of the presence of a sexual predator, the sheriff
3 of the county or the chief of police of the municipality where
4 the sexual predator temporarily or permanently resides shall
5 notify each licensed day care center, elementary school,
6 middle school, and high school within a 1-mile radius of the
7 temporary or permanent residence of the sexual predator of the
8 presence of the sexual predator. Information provided to
9 members of the community and the public regarding a sexual
10 predator must include:

- 11 1. The name of the sexual predator;
- 12 2. A description of the sexual predator, including a
13 photograph;
- 14 3. The sexual predator's current address, including
15 the name of the county or municipality if known;
- 16 4. The circumstances of the sexual predator's offense
17 or offenses; and
- 18 5. Whether the victim of the sexual predator's offense
19 or offenses was, at the time of the offense, a minor or an
20 adult.

21
22 This paragraph does not authorize the release of the name of
23 any victim of the sexual predator.

24 (b) The sheriff or the police chief may coordinate the
25 community and public notification efforts with the department.
26 Statewide notification to the public is authorized, as deemed
27 appropriate by local law enforcement personnel and the
28 department.

29 (c) The department shall notify the public of all
30 designated sexual predators through the Internet. The Internet
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1 notice shall include the information required by paragraph
2 (a).

3 (d) The department shall adopt a protocol to assist
4 law enforcement agencies in their efforts to notify the
5 community and the public of the presence of sexual predators.

6 (e)1. The sexual predator shall not establish or
7 maintain a permanent or temporary residence within 2,500 feet,
8 as measured in s. 794.065, of a school, day care center, park,
9 playground, public school bus stop located as provided in s.
10 947.1405(7)(a), or other place where children regularly
11 congregate.

12 2. Nothing contained in this paragraph shall prevent
13 any county or municipality from enacting an ordinance relating
14 to restrictions as to the location of the residence of sexual
15 offenders provided that such restrictions are identical to the
16 provisions of subparagraph 1. Such an ordinance may differ as
17 to the offenses that might subject an offender to residence
18 restrictions.

19 Section 2. Section 794.065, Florida Statutes, is
20 amended to read:

21 794.065 Unlawful place of residence for restricted sex
22 offenders; certain leases prohibited ~~persons convicted of~~
23 ~~certain sex offenses.~~--

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

25 (a) "Convicted" shall have the same meaning as
26 provided in s. 943.0435.

27 (b) "Restricted sex offender" means a person convicted
28 of:

29 1. A felony violation of any statute listed in s.
30 943.0435(1)(a)1.;
31

1 2. Any similar offense committed in this state that
2 has been redesignated from a former statute number to one of
3 those listed in s. 943.0435(1)(a)1.; or

4 3. Any similar offense in another jurisdiction that
5 would be a felony if committed in this state,

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7 where the victim of the offense was under the age of 18 at the
8 time of the offense and the offender was 18 years of age or
9 older at the time of the offense, or the offender was under
10 the age of 18 at the time of the offense and was prosecuted as
11 an adult.

12 (c) "Within 2,500 feet" means a distance that shall be
13 measured in a straight line from the outer boundary of the
14 real property upon which the residential dwelling unit of the
15 restricted sex offender is located. The distance may not be
16 measured by a pedestrian route or automobile route, but
17 instead shall be measured as the shortest straight line
18 between the two points without regard to any intervening
19 structures or objects. Without otherwise limiting the
20 foregoing measurement instructions, under those circumstances
21 in which the residential dwelling unit of the restricted sex
22 offender is within a cooperative, condominium, or apartment
23 building, the parcel of real property described in this
24 paragraph shall consist of the parcel or parcels of real
25 property upon which the cooperative, condominium, or apartment
26 building that contains the residential dwelling unit of the
27 restricted sex offender is located.

28 (2)(a) It is unlawful for any person who is a
29 restricted sex offender to reside within 2,500 feet of any
30 school, public school bus stop located as provided in s.
31 947.1405(7)(a), day care center, park, playground, or other

1 place where children regularly congregate. A restricted sex
2 offender who violates this section and whose conviction of an
3 offense described in paragraph (1)(b) was classified as a
4 felony of the first degree or higher commits a felony of the
5 third degree, punishable as provided in s. 775.082 or s.
6 775.083. A restricted sex offender who violates this section
7 and whose conviction of an offense described in paragraph
8 (1)(b) was classified as a felony of the second or third
9 degree commits a misdemeanor of the first degree, punishable
10 as provided in s. 775.082 or s. 775.083.

11 (b) The provisions of this subsection shall not
12 prohibit a restricted sex offender from continuing to reside
13 at his or her residence solely because a school, public school
14 bus stop located as provided in s. 947.1405(7)(a), day care
15 center, park, playground, or other place where children
16 regularly congregate is built or established within 2,500 feet
17 of that residence after the offender has established
18 residence.

19 (c) This subsection applies to any person convicted of
20 an offense described in paragraph (1)(b) that occurs on or
21 after October 1, 2006.

22 ~~(3)(a)(1)~~ It is unlawful for any person who has been
23 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,
24 or s. 847.0145, regardless of whether adjudication has been
25 withheld, in which the victim of the offense was less than 16
26 years of age, to reside within 2,500 ~~1,000~~ feet of any school,
27 day care center, park, or playground. A person who violates
28 this section and whose conviction under s. 794.011, s. 800.04,
29 s. 827.071, or s. 847.0145 was classified as a felony of the
30 first degree or higher commits a felony of the third degree,
31 punishable as provided in s. 775.082 or s. 775.083. A person

1 | who violates this section and whose conviction under s.
2 | 794.011, s. 800.04, s. 827.071, or s. 847.0145 was classified
3 | as a felony of the second or third degree commits a
4 | misdemeanor of the first degree, punishable as provided in s.
5 | 775.082 or s. 775.083.

6 | ~~(b)(2)~~ This subsection ~~section~~ applies to any person
7 | convicted of a violation of s. 794.011, s. 800.04, s. 827.071,
8 | or s. 847.0145 for offenses that occur on or after October 1,
9 | 2006 ~~2004~~.

10 | (4) A landlord or owner of a residential dwelling unit
11 | shall not knowingly rent or lease a residential dwelling unit
12 | located within 2,500 feet of a school, public school bus stop
13 | located as provided in s. 947.1405(7)(a), day care center,
14 | park, playground, or other place where children regularly
15 | congregate if a prospective tenant, as defined in s. 83.43, is
16 | a restricted sex offender who intends to occupy the unit
17 | unless the landlord or owner can establish that, prior to
18 | rental or lease, he or she used reasonable due diligence and
19 | was unable to determine that a prospective tenant of the unit
20 | was a restricted sex offender intending to occupy the unit. A
21 | person who violates this subsection commits a misdemeanor of
22 | the second degree, punishable as provided in s. 775.082 or s.
23 | 775.083.

24 | Section 3. Paragraph (a) of subsection (7) of section
25 | 947.1405, Florida Statutes, is amended to read:

26 | 947.1405 Conditional release program.--

27 | (7)(a) Any inmate who is convicted of a crime
28 | committed on or after October 1, 1995, or who has been
29 | previously convicted of a crime committed on or after October
30 | 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,
31 | or s. 847.0145, and is subject to conditional release

1 supervision, shall have, in addition to any other conditions
2 imposed, the following special conditions imposed by the
3 commission:

4 1. A mandatory curfew from 10 p.m. to 6 a.m. The
5 commission may designate another 8-hour period if the
6 offender's employment precludes the above specified time, and
7 such alternative is recommended by the Department of
8 Corrections. If the commission determines that imposing a
9 curfew would endanger the victim, the commission may consider
10 alternative sanctions.

11 2. If the victim was under the age of 18, a
12 prohibition on living within 2,500 ~~1,000~~ feet of a school, day
13 care center, park, playground, designated public school bus
14 stop, or other place where children regularly congregate. A
15 releasee who is subject to this subparagraph may not relocate
16 to a residence that is within 2,500 ~~1,000~~ feet of a public
17 school bus stop. Beginning October 1, 2006 ~~2004~~, the
18 commission or the department may not approve a residence that
19 is located within 2,500 ~~1,000~~ feet of a school, day care
20 center, park, playground, designated school bus stop, or other
21 place where children regularly congregate for any releasee who
22 is subject to this subparagraph. On October 1, 2006 ~~2004~~, the
23 department shall notify each affected school district of the
24 location of the residence of a releasee 30 days prior to
25 release and thereafter, if the releasee relocates to a new
26 residence, shall notify any affected school district of the
27 residence of the releasee within 30 days after relocation. If,
28 on October 1, 2006 ~~2004~~, any public school bus stop is located
29 within 2,500 ~~1,000~~ feet of the existing residence of such
30 releasee, the permanent residence of a sexual predator who is
31 subject to s. 775.21(7)(e), the permanent residence of an

1 individual subject to registration as a sexual offender under
2 s. 943.0435, or the permanent residence of a restricted sex
3 offender under s. 794.065, the district school board shall
4 relocate that school bus stop. Beginning October 1, ~~2006~~ 2004,
5 a district school board may not establish or relocate a public
6 school bus stop within 2,500 ~~1,000~~ feet of the residence of a
7 releasee who is subject to this subparagraph, the permanent
8 residence of a sexual predator who is subject to s.
9 775.21(7)(e), the permanent residence of an individual subject
10 to registration as a sexual offender under s. 943.0435, or the
11 permanent residence of a restricted sex offender under s.
12 794.065. The failure of the district school board to comply
13 with this subparagraph shall not result in a violation of
14 conditional release supervision or a violation of s.
15 775.21(7)(e). For purposes of this subparagraph, a 2,500-foot
16 distance shall be measured as in s. 794.065.

17 3. Active participation in and successful completion
18 of a sex offender treatment program with qualified
19 practitioners specifically trained to treat sex offenders, at
20 the releasee's own expense. If a qualified practitioner is not
21 available within a 50-mile radius of the releasee's residence,
22 the offender shall participate in other appropriate therapy.

23 4. A prohibition on any contact with the victim,
24 directly or indirectly, including through a third person,
25 unless approved by the victim, the offender's therapist, and
26 the sentencing court.

27 5. If the victim was under the age of 18, a
28 prohibition against contact with children under the age of 18
29 without review and approval by the commission. The commission
30 may approve supervised contact with a child under the age of
31 18 if the approval is based upon a recommendation for contact

1 issued by a qualified practitioner who is basing the
2 recommendation on a risk assessment. Further, the sex offender
3 must be currently enrolled in or have successfully completed a
4 sex offender therapy program. The commission may not grant
5 supervised contact with a child if the contact is not
6 recommended by a qualified practitioner and may deny
7 supervised contact with a child at any time. When considering
8 whether to approve supervised contact with a child, the
9 commission must review and consider the following:

10 a. A risk assessment completed by a qualified
11 practitioner. The qualified practitioner must prepare a
12 written report that must include the findings of the
13 assessment and address each of the following components:

14 (I) The sex offender's current legal status;

15 (II) The sex offender's history of adult charges with
16 apparent sexual motivation;

17 (III) The sex offender's history of adult charges
18 without apparent sexual motivation;

19 (IV) The sex offender's history of juvenile charges,
20 whenever available;

21 (V) The sex offender's offender treatment history,
22 including a consultation from the sex offender's treating, or
23 most recent treating, therapist;

24 (VI) The sex offender's current mental status;

25 (VII) The sex offender's mental health and substance
26 abuse history as provided by the Department of Corrections;

27 (VIII) The sex offender's personal, social,
28 educational, and work history;

29 (IX) The results of current psychological testing of
30 the sex offender if determined necessary by the qualified
31 practitioner;

1 (X) A description of the proposed contact, including
2 the location, frequency, duration, and supervisory
3 arrangement;

4 (XI) The child's preference and relative comfort level
5 with the proposed contact, when age-appropriate;

6 (XII) The parent's or legal guardian's preference
7 regarding the proposed contact; and

8 (XIII) The qualified practitioner's opinion, along
9 with the basis for that opinion, as to whether the proposed
10 contact would likely pose significant risk of emotional or
11 physical harm to the child.

12
13 The written report of the assessment must be given to the
14 commission.

15 b. A recommendation made as a part of the
16 risk-assessment report as to whether supervised contact with
17 the child should be approved;

18 c. A written consent signed by the child's parent or
19 legal guardian, if the parent or legal guardian is not the sex
20 offender, agreeing to the sex offender having supervised
21 contact with the child after receiving full disclosure of the
22 sex offender's present legal status, past criminal history,
23 and the results of the risk assessment. The commission may not
24 approve contact with the child if the parent or legal guardian
25 refuses to give written consent for supervised contact;

26 d. A safety plan prepared by the qualified
27 practitioner, who provides treatment to the offender, in
28 collaboration with the sex offender, the child's parent or
29 legal guardian, and the child, when age appropriate, which
30 details the acceptable conditions of contact between the sex
31 offender and the child. The safety plan must be reviewed and

1 approved by the Department of Corrections before being
2 submitted to the commission; and

3 e. Evidence that the child's parent or legal guardian,
4 if the parent or legal guardian is not the sex offender,
5 understands the need for and agrees to the safety plan and has
6 agreed to provide, or to designate another adult to provide,
7 constant supervision any time the child is in contact with the
8 offender.

9
10 The commission may not appoint a person to conduct a risk
11 assessment and may not accept a risk assessment from a person
12 who has not demonstrated to the commission that he or she has
13 met the requirements of a qualified practitioner as defined in
14 this section.

15 6. If the victim was under age 18, a prohibition on
16 working for pay or as a volunteer at any school, day care
17 center, designated public school bus stop, park, playground,
18 or other place where children regularly congregate, as
19 prescribed by the commission.

20 7. Unless otherwise indicated in the treatment plan
21 provided by the sexual offender treatment program, a
22 prohibition on viewing, owning, or possessing any obscene,
23 pornographic, or sexually stimulating visual or auditory
24 material, including telephone, electronic media, computer
25 programs, or computer services that are relevant to the
26 offender's deviant behavior pattern.

27 8. Effective for a releasee whose crime is committed
28 on or after July 1, 2005, a prohibition on accessing the
29 Internet or other computer services until the offender's sex
30 offender treatment program, after a risk assessment is
31 completed, approves and implements a safety plan for the

1 offender's accessing or using the Internet or other computer
2 services.

3 9. A requirement that the releasee must submit two
4 specimens of blood to the Florida Department of Law
5 Enforcement to be registered with the DNA database.

6 10. A requirement that the releasee make restitution
7 to the victim, as determined by the sentencing court or the
8 commission, for all necessary medical and related professional
9 services relating to physical, psychiatric, and psychological
10 care.

11 11. Submission to a warrantless search by the
12 community control or probation officer of the probationer's or
13 community controllee's person, residence, or vehicle.

14 Section 4. Subsection (4) is added to section 948.30,
15 Florida Statutes, to read:

16 948.30 Additional terms and conditions of probation or
17 community control for certain sex offenses.--Conditions
18 imposed pursuant to this section do not require oral
19 pronouncement at the time of sentencing and shall be
20 considered standard conditions of probation or community
21 control for offenders specified in this section.

22 (4) Effective for probationers or community
23 controllees whose crime was committed on or after October 1,
24 2006, and who are placed under supervision for violation of
25 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, in
26 addition to all other standard and special conditions imposed,
27 the court must impose a prohibition on living within 2,500
28 feet of a school, public school bus stop located as provided
29 in s. 947.1405(7)(a), day care center, park, playground, or
30 other place where children regularly congregate as prescribed
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1 by the court. For purposes of this subsection, a 2,500-foot
2 distance shall be measured as in s. 794.065.

3 Section 5. The amendments in this act to provisions
4 restricting the residence of sexual offenders and sexual
5 predators shall not require the relocation of such an offender
6 who had established, prior to the effective date of this act,
7 a residence not in compliance with the amendments to such
8 restrictions contained in this act.

9 Section 6. This act shall take effect October 1, 2006.

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