

1                   A bill to be entitled  
2           An act relating to residence of sexual offenders and  
3           predators; amending s. 775.21, F.S.; prohibiting sexual  
4           predators from establishing or maintaining a residence  
5           within 2,500 feet of specified locations; providing for  
6           county or municipal ordinances that restrict the residence  
7           of sexual offenders; providing requirements for such  
8           ordinances; providing exceptions; amending s. 794.065,  
9           F.S.; revising provisions relating to the residence of  
10          specified sex offenders; providing definitions;  
11          prohibiting the knowing rental or lease of a residence  
12          within 2,500 feet of specified locations to a restricted  
13          sex offender who intends to occupy the unit; providing a  
14          due diligence defense; providing criminal penalties;  
15          amending s. 947.1405, F.S.; revising conditional release  
16          program restrictions on the residence of certain sexual  
17          offenders; revising the requirements for the location of  
18          public school bus stops in relation to the permanent  
19          residence of specified sexual offenders; amending s.  
20          948.30, F.S.; revising terms and conditions of probation  
21          or community control restricting the residence of persons  
22          convicted of certain sex offenses; providing that  
23          amendments in this act to provisions restricting the  
24          residence of sexual offenders and sexual predators shall  
25          not require the relocation of such an offender who had  
26          established, prior to the effective date of this act, a  
27          residence not in compliance with the amendments to such  
28          restrictions; providing an effective date.

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

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

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

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

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

775.21 The Florida Sexual Predators Act.--

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

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a

57 | sexual predator, the sheriff of the county or the chief of  
58 | police of the municipality where the sexual predator temporarily  
59 | or permanently resides shall notify each licensed day care  
60 | center, elementary school, middle school, and high school within  
61 | a 1-mile radius of the temporary or permanent residence of the  
62 | sexual predator of the presence of the sexual predator.

63 | Information provided to members of the community and the public  
64 | regarding a sexual predator must include:

- 65 | 1. The name of the sexual predator;
- 66 | 2. A description of the sexual predator, including a  
67 | photograph;
- 68 | 3. The sexual predator's current address, including the  
69 | name of the county or municipality if known;
- 70 | 4. The circumstances of the sexual predator's offense or  
71 | offenses; and
- 72 | 5. Whether the victim of the sexual predator's offense or  
73 | offenses was, at the time of the offense, a minor or an adult.

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75 | This paragraph does not authorize the release of the name of any  
76 | victim of the sexual predator.

77 | (b) The sheriff or the police chief may coordinate the  
78 | community and public notification efforts with the department.  
79 | Statewide notification to the public is authorized, as deemed  
80 | appropriate by local law enforcement personnel and the  
81 | department.

82 | (c) The department shall notify the public of all  
83 | designated sexual predators through the Internet. The Internet  
84 | notice shall include the information required by paragraph (a).

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

88 (e)1. The sexual predator shall not establish or maintain  
 89 a permanent or temporary residence within 2,500 feet, as  
 90 measured in s. 794.065, of a school, day care center, park,  
 91 playground, public school bus stop located as provided in s.  
 92 947.1405(7)(a), or other place where children regularly  
 93 congregate.

94 2. Nothing contained in this paragraph shall prevent any  
 95 county or municipality from enacting an ordinance relating to  
 96 restrictions as to the location of the residence of sexual  
 97 offenders provided that such restrictions are identical to the  
 98 provisions of subparagraph 1. Such an ordinance may differ as to  
 99 the offenses that might subject an offender to residence  
 100 restrictions.

101 Section 2. Section 794.065, Florida Statutes, is amended  
 102 to read:

103 794.065 Unlawful place of residence for restricted sex  
 104 offenders; certain leases prohibited ~~persons convicted of~~  
 105 ~~certain sex offenses.--~~

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

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

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

110 1. A felony violation of any statute listed in s.

111 943.0435(1)(a)1.;

112 2. Any similar offense committed in this state that has

113 been redesignated from a former statute number to one of those  
 114 listed in s. 943.0435(1)(a)1.; or

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

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 118 where the victim of the offense was under the age of 18 at the  
 119 time of the offense and the offender was 18 years of age or  
 120 older at the time of the offense, or the offender was under the  
 121 age of 18 at the time of the offense and was prosecuted as an  
 122 adult.

123 (c) "Within 2,500 feet" means a distance that shall be  
 124 measured in a straight line from the outer boundary of the real  
 125 property upon which the residential dwelling unit of the  
 126 restricted sex offender is located. The distance may not be  
 127 measured by a pedestrian route or automobile route, but instead  
 128 shall be measured as the shortest straight line between the two  
 129 points without regard to any intervening structures or objects.  
 130 Without otherwise limiting the foregoing measurement  
 131 instructions, under those circumstances in which the residential  
 132 dwelling unit of the restricted sex offender is within a  
 133 cooperative, condominium, or apartment building, the parcel of  
 134 real property described in this paragraph shall consist of the  
 135 parcel or parcels of real property upon which the cooperative,  
 136 condominium, or apartment building that contains the residential  
 137 dwelling unit of the restricted sex offender is located.

138 (2)(a) It is unlawful for any person who is a restricted  
 139 sex offender to reside within 2,500 feet of any school, public  
 140 school bus stop located as provided in s. 947.1405(7)(a), day

141 care center, park, playground, or other place where children  
 142 regularly congregate. A restricted sex offender who violates  
 143 this section and whose conviction of an offense described in  
 144 paragraph (1)(b) was classified as a felony of the first degree  
 145 or higher commits a felony of the third degree, punishable as  
 146 provided in s. 775.082 or s. 775.083. A restricted sex offender  
 147 who violates this section and whose conviction of an offense  
 148 described in paragraph (1)(b) was classified as a felony of the  
 149 second or third degree commits a misdemeanor of the first  
 150 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

161 (3)(a)~~(1)~~ It is unlawful for any person who has been  
 162 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,  
 163 or s. 847.0145, regardless of whether adjudication has been  
 164 withheld, in which the victim of the offense was less than 16  
 165 years of age, to reside within 2,500 ~~1,000~~ feet of any school,  
 166 day care center, park, or playground. A person who violates this  
 167 section and whose conviction under s. 794.011, s. 800.04, s.  
 168 827.071, or s. 847.0145 was classified as a felony of the first

169 degree or higher commits a felony of the third degree,  
 170 punishable as provided in s. 775.082 or s. 775.083. A person who  
 171 violates this section and whose conviction under s. 794.011, s.  
 172 800.04, s. 827.071, or s. 847.0145 was classified as a felony of  
 173 the second or third degree commits a misdemeanor of the first  
 174 degree, punishable as provided in s. 775.082 or s. 775.083.

175 (b)(2) This subsection ~~section~~ applies to any person  
 176 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,  
 177 or s. 847.0145 for offenses that occur on or after October 1,  
 178 2006 ~~2004~~.

179 (4) A landlord or owner of a residential dwelling unit  
 180 shall not knowingly rent or lease a residential dwelling unit  
 181 located within 2,500 feet of a school, public school bus stop  
 182 located as provided in s. 947.1405(7)(a), day care center, park,  
 183 playground, or other place where children regularly congregate  
 184 if a prospective tenant, as defined in s. 83.43, is a restricted  
 185 sex offender who intends to occupy the unit unless the landlord  
 186 or owner can establish that, prior to rental or lease, he or she  
 187 used reasonable due diligence and was unable to determine that a  
 188 prospective tenant of the unit was a restricted sex offender  
 189 intending to occupy the unit. A person who violates this  
 190 subsection commits a misdemeanor of the second degree,  
 191 punishable as provided in s. 775.082 or s. 775.083.

192 Section 3. Paragraph (a) of subsection (7) of section  
 193 947.1405, Florida Statutes, is amended to read:

194 947.1405 Conditional release program.--

195 (7)(a) Any inmate who is convicted of a crime committed on  
 196 or after October 1, 1995, or who has been previously convicted

197 of a crime committed on or after October 1, 1995, in violation  
 198 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is  
 199 subject to conditional release supervision, shall have, in  
 200 addition to any other conditions imposed, the following special  
 201 conditions imposed by the commission:

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

208 2. If the victim was under the age of 18, a prohibition on  
 209 living within 2,500 ~~1,000~~ feet of a school, day care center,  
 210 park, playground, designated public school bus stop, or other  
 211 place where children regularly congregate. A releasee who is  
 212 subject to this subparagraph may not relocate to a residence  
 213 that is within 2,500 ~~1,000~~ feet of a public school bus stop.  
 214 Beginning October 1, 2006 ~~2004~~, the commission or the department  
 215 may not approve a residence that is located within 2,500 ~~1,000~~  
 216 feet of a school, day care center, park, playground, designated  
 217 school bus stop, or other place where children regularly  
 218 congregate for any releasee who is subject to this subparagraph.  
 219 On October 1, 2006 ~~2004~~, the department shall notify each  
 220 affected school district of the location of the residence of a  
 221 releasee 30 days prior to release and thereafter, if the  
 222 releasee relocates to a new residence, shall notify any affected  
 223 school district of the residence of the releasee within 30 days  
 224 after relocation. If, on October 1, 2006 ~~2004~~, any public school



225 bus stop is located within 2,500 ~~1,000~~ feet of the existing  
 226 residence of such releasee, the permanent residence of a sexual  
 227 predator who is subject to s. 775.21(7)(e), the permanent  
 228 residence of an individual subject to registration as a sexual  
 229 offender under s. 943.0435, or the permanent residence of a  
 230 restricted sex offender under s. 794.065, the district school  
 231 board shall relocate that school bus stop. Beginning October 1,  
 232 2006 ~~2004~~, a district school board may not establish or relocate  
 233 a public school bus stop within 2,500 ~~1,000~~ feet of the  
 234 residence of a releasee who is subject to this subparagraph, the  
 235 permanent residence of a sexual predator who is subject to s.  
 236 775.21(7)(e), the permanent residence of an individual subject  
 237 to registration as a sexual offender under s. 943.0435, or the  
 238 permanent residence of a restricted sex offender under s.  
 239 794.065. The failure of the district school board to comply with  
 240 this subparagraph shall not result in a violation of conditional  
 241 release supervision or a violation of s. 775.21(7)(e). For  
 242 purposes of this subparagraph, a 2,500-foot distance shall be  
 243 measured as in s. 794.065.

244 3. Active participation in and successful completion of a  
 245 sex offender treatment program with qualified practitioners  
 246 specifically trained to treat sex offenders, at the releasee's  
 247 own expense. If a qualified practitioner is not available within  
 248 a 50-mile radius of the releasee's residence, the offender shall  
 249 participate in other appropriate therapy.

250 4. A prohibition on any contact with the victim, directly  
 251 or indirectly, including through a third person, unless approved

252 by the victim, the offender's therapist, and the sentencing  
253 court.

254 5. If the victim was under the age of 18, a prohibition  
255 against contact with children under the age of 18 without review  
256 and approval by the commission. The commission may approve  
257 supervised contact with a child under the age of 18 if the  
258 approval is based upon a recommendation for contact issued by a  
259 qualified practitioner who is basing the recommendation on a  
260 risk assessment. Further, the sex offender must be currently  
261 enrolled in or have successfully completed a sex offender  
262 therapy program. The commission may not grant supervised contact  
263 with a child if the contact is not recommended by a qualified  
264 practitioner and may deny supervised contact with a child at any  
265 time. When considering whether to approve supervised contact  
266 with a child, the commission must review and consider the  
267 following:

268 a. A risk assessment completed by a qualified  
269 practitioner. The qualified practitioner must prepare a written  
270 report that must include the findings of the assessment and  
271 address each of the following components:

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

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

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

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

279 (V) The sex offender's offender treatment history,  
280 including a consultation from the sex offender's treating, or  
281 most recent treating, therapist;

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

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

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

287 (IX) The results of current psychological testing of the  
288 sex offender if determined necessary by the qualified  
289 practitioner;

290 (X) A description of the proposed contact, including the  
291 location, frequency, duration, and supervisory arrangement;

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

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

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

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301 The written report of the assessment must be given to the  
302 commission.

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

306 c. A written consent signed by the child's parent or legal  
 307 guardian, if the parent or legal guardian is not the sex  
 308 offender, agreeing to the sex offender having supervised contact  
 309 with the child after receiving full disclosure of the sex  
 310 offender's present legal status, past criminal history, and the  
 311 results of the risk assessment. The commission may not approve  
 312 contact with the child if the parent or legal guardian refuses  
 313 to give written consent for supervised contact;

314 d. A safety plan prepared by the qualified practitioner,  
 315 who provides treatment to the offender, in collaboration with  
 316 the sex offender, the child's parent or legal guardian, and the  
 317 child, when age appropriate, which details the acceptable  
 318 conditions of contact between the sex offender and the child.  
 319 The safety plan must be reviewed and approved by the Department  
 320 of Corrections before being submitted to the commission; and

321 e. Evidence that the child's parent or legal guardian, if  
 322 the parent or legal guardian is not the sex offender,  
 323 understands the need for and agrees to the safety plan and has  
 324 agreed to provide, or to designate another adult to provide,  
 325 constant supervision any time the child is in contact with the  
 326 offender.

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 328 The commission may not appoint a person to conduct a risk  
 329 assessment and may not accept a risk assessment from a person  
 330 who has not demonstrated to the commission that he or she has  
 331 met the requirements of a qualified practitioner as defined in  
 332 this section.

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

338           7. Unless otherwise indicated in the treatment plan  
339 provided by the sexual offender treatment program, a prohibition  
340 on viewing, owning, or possessing any obscene, pornographic, or  
341 sexually stimulating visual or auditory material, including  
342 telephone, electronic media, computer programs, or computer  
343 services that are relevant to the offender's deviant behavior  
344 pattern.

345           8. Effective for a releasee whose crime is committed on or  
346 after July 1, 2005, a prohibition on accessing the Internet or  
347 other computer services until the offender's sex offender  
348 treatment program, after a risk assessment is completed,  
349 approves and implements a safety plan for the offender's  
350 accessing or using the Internet or other computer services.

351           9. A requirement that the releasee must submit two  
352 specimens of blood to the Florida Department of Law Enforcement  
353 to be registered with the DNA database.

354           10. A requirement that the releasee make restitution to  
355 the victim, as determined by the sentencing court or the  
356 commission, for all necessary medical and related professional  
357 services relating to physical, psychiatric, and psychological  
358 care.

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

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

364 948.30 Additional terms and conditions of probation or  
 365 community control for certain sex offenses.--Conditions imposed  
 366 pursuant to this section do not require oral pronouncement at  
 367 the time of sentencing and shall be considered standard  
 368 conditions of probation or community control for offenders  
 369 specified in this section.

370 (4) Effective for probationers or community controllees  
 371 whose crime was committed on or after October 1, 2006, and who  
 372 are placed under supervision for violation of chapter 794, s.  
 373 800.04, s. 827.071, or s. 847.0145, in addition to all other  
 374 standard and special conditions imposed, the court must impose a  
 375 prohibition on living within 2,500 feet of a school, public  
 376 school bus stop located as provided in s. 947.1405(7)(a), day  
 377 care center, park, playground, or other place where children  
 378 regularly congregate as prescribed by the court. For purposes of  
 379 this subsection, a 2,500-foot distance shall be measured as in  
 380 s. 794.065.

381 Section 5. The amendments in this act to provisions  
 382 restricting the residence of sexual offenders and sexual  
 383 predators shall not require the relocation of such an offender  
 384 who had established, prior to the effective date of this act, a  
 385 residence not in compliance with the amendments to such  
 386 restrictions contained in this act.

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