

1 A bill to be entitled

2 An act relating to sexual offenders and predators;
3 amending s. 775.21, F.S.; revising provisions relating to
4 reporting requirements for sexual predators in transient
5 status; prohibiting sexual predators from loitering or
6 prowling within a specified distance of certain
7 facilities; providing criminal penalties; providing
8 exceptions; amending s. 943.0435, F.S.; revising
9 provisions relating to reporting requirements for sexual
10 offenders in transient status; prohibiting sexual
11 offenders from loitering or prowling within a specified
12 distance of certain facilities; providing criminal
13 penalties; providing exceptions; amending s. 947.1405,
14 F.S.; revising provisions relating to polygraph
15 examinations of specified conditional releasees who have
16 committed specified sexual offenses; providing additional
17 restrictions for certain conditional releasees who
18 committed sexual offenses with minors under the age of 16;
19 amending s. 948.30, F.S.; revising provisions relating to
20 polygraph examinations of specified probationers or
21 community controllees who have committed specified sexual
22 offenses; providing additional restrictions for certain
23 probationers or community controllees who committed sexual
24 offenses with minors under the age of 16; amending s.
25 948.31, F.S.; deleting a requirement for diagnosis of
26 certain sexual predators and offenders on community
27 control; revising provisions relating to treatment for
28 such offenders and predators; providing an effective date.

HB 157

2007

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

Section 1. Paragraph (g) of subsection (6) of section 775.21, Florida Statutes, is amended, and paragraph (h) is added subsection (10) of that section, to read:

775.21 The Florida Sexual Predators Act.--

(6) REGISTRATION.--

(g)1. Each time a sexual predator's driver's license or identification card is subject to renewal, and, without regard to the status of the predator's driver's license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver's license office and shall be subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section.

2. A sexual predator who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the sheriff's office of the

HB 157

2007

57 | county in which he or she is located and report his or her
58 | transient status. The sexual predator shall specify the date
59 | upon which he or she intends to or did vacate such residence.
60 | The sexual predator must provide or update all of the
61 | registration information required under paragraph (a). The
62 | sexual predator must provide an address for the residence or
63 | other location that he or she is or will be occupying during the
64 | time in which he or she fails to establish or maintain a
65 | permanent or temporary residence. While in transient status, the
66 | sexual predator is required to report in person every 2 weeks to
67 | the sheriff's office of the county in which he or she is
68 | located.

69 | 3. A sexual predator who remains at a permanent residence
70 | after reporting his or her intent to vacate such residence
71 | shall, within 48 hours after the date upon which the predator
72 | indicated he or she would or did vacate such residence, report
73 | in person to the sheriff's office to which he or she reported
74 | pursuant to subparagraph 2. for the purpose of reporting his or
75 | her address at such residence. When the sheriff receives the
76 | report, the sheriff shall promptly convey the information to the
77 | department. An offender who makes a report as required under
78 | subparagraph 2. but fails to make a report as required under
79 | this subparagraph commits a felony of the second degree,
80 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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82 | The sheriff shall promptly provide to the department the
83 | information received from the sexual predator.

84 | (10) PENALTIES.--

85 (h) A sexual predator who loiters or prowls, as defined in
 86 s. 856.021, within 300 feet of a place where children regularly
 87 congregate, including, but not limited to, a school, day care
 88 center, playground, or park, without a justifiable reason or
 89 purpose commits a misdemeanor of the first degree, punishable as
 90 provided in s. 775.082 or s. 775.083. A sexual predator does not
 91 violate this paragraph while he or she is dropping off or
 92 picking up his or her own children at school or attending parent
 93 conferences or other related activities involving his or her own
 94 children.

95 Section 2. Paragraph (b) of subsection (4) of section
 96 943.0435, Florida Statutes, is amended, and subsection (15) is
 97 added to that section, to read:

98 943.0435 Sexual offenders required to register with the
 99 department; penalty.--

100 (4)

101 (b) A sexual offender who vacates a permanent residence
 102 and fails to establish or maintain another permanent or
 103 temporary residence shall, within 48 hours after vacating the
 104 permanent residence, report in person to the sheriff's office of
 105 the county in which he or she is located and report his or her
 106 transient status. The sexual offender shall specify the date
 107 upon which he or she intends to or did vacate such residence.
 108 The sexual offender must provide or update all of the
 109 registration information required under paragraph (2) (b). The
 110 sexual offender must provide an address for the residence or
 111 other location that he or she is or will be occupying during the
 112 time in which he or she fails to establish or maintain a

HB 157

2007

113 permanent or temporary residence. While in transient status, the
 114 sexual offender is required to report in person every 2 weeks to
 115 the sheriff's office of the county in which he or she is
 116 located.

117 (15) A sexual offender who loiters or prowls, as defined
 118 in s. 856.021, within 300 feet of a place where children
 119 regularly congregate, including, but not limited to, a school,
 120 day care center, playground, or park, without a justifiable
 121 reason or purpose commits a misdemeanor of the first degree,
 122 punishable as provided in s. 775.082 or s. 775.083. A sexual
 123 offender does not violate this subsection while he or she is
 124 dropping off or picking up his or her own children at school or
 125 attending parent conferences or other related activities
 126 involving his or her own children.

127 Section 3. Paragraph (b) of subsection (7) of section
 128 947.1405, Florida Statutes, is amended, and subsection (11) is
 129 added to that section, to read:

130 947.1405 Conditional release program.--

131 (7)

132 (b) For a releasee whose crime was committed on or after
 133 October 1, 1997, in violation of chapter 794, s. 800.04, s.
 134 827.071, or s. 847.0145, and who is subject to conditional
 135 release supervision, in addition to any other provision of this
 136 subsection, the commission shall impose the following additional
 137 conditions of conditional release supervision:

138 1. As part of a treatment program, participation in a
 139 minimum of one annual polygraph examination to obtain
 140 information necessary for risk management and treatment and to

HB 157

2007

141 reduce the sex offender's denial mechanisms. The polygraph
142 examination must be conducted by a polygrapher trained
143 specifically in the use of the polygraph for the monitoring of
144 sex offenders who has been authorized by the department and
145 approved by the court, where available, and at the expense of
146 the releasee ~~sex offender~~. The results of the polygraph
147 examination shall be provided to the releasee's probation
148 officer and therapist and shall not be used as evidence in a
149 hearing to prove that a violation of supervision has occurred.

150 2. Maintenance of a driving log and a prohibition against
151 driving a motor vehicle alone without the prior approval of the
152 supervising officer.

153 3. A prohibition against obtaining or using a post office
154 box without the prior approval of the supervising officer.

155 4. If there was sexual contact, a submission to, at the
156 releasee's ~~probationer's or community controllee's~~ expense, an
157 HIV test with the results to be released to the victim or the
158 victim's parent or guardian.

159 5. Electronic monitoring of any form when ordered by the
160 commission.

161 (11)(a) Effective July 1, 2007, the commission must, in
162 addition to all other provisions of this section, impose the
163 special conditions set forth in paragraph (b) on the following
164 releasees:

165 1. A releasee whose crime was committed on or after July
166 1, 2007, in violation of chapter 794; s. 800.04(4), (5), or (6);
167 s. 827.071; or s. 847.0145 in this state or a releasee who has
168 committed on or after that date a similar offense in another

HB 157

2007

169 jurisdiction when, at the time of the offense, the victim was
170 under 16 years of age and the releasee was 18 years of age or
171 older.

172 2. A releasee who is designated as a sexual predator under
173 s. 775.21.

174 3. A releasee designated as a sexual predator under s.
175 775.21 or subject to registration as a sexual offender pursuant
176 to s. 943.0435 who has committed an offense that would meet the
177 criteria for the designation or registration when at the time of
178 the offense the victim was under 16 years of age and the
179 releasee was 18 years of age or older, who commits a violation
180 of s. 775.21 or s. 943.0435 on or after July 1, 2007, and who is
181 not otherwise subject to this paragraph.

182 (b) The commission must order:

183 1. A prohibition on visiting exclusionary zones such as
184 areas where children regularly congregate, including, but not
185 limited to, schools, day care centers, parks, and playgrounds.
186 The commission may also designate additional exclusionary zones
187 to protect the victim.

188 2. A prohibition on participation in a holiday event
189 involving children under 18 years of age without prior approval
190 from the commission. Such events include distributing candy or
191 other items to children on Halloween, wearing a Santa Claus
192 costume on or preceding Christmas, being employed as a Santa
193 Claus, wearing an Easter Bunny costume on or preceding Easter,
194 entertaining at children's parties, or wearing a clown costume.

195 Section 4. Paragraph (a) of subsection (2) of section
 196 948.30, Florida Statutes, is amended, and subsection (4) is
 197 added to that section, to read:

198 948.30 Additional terms and conditions of probation or
 199 community control for certain sex offenses.--Conditions imposed
 200 pursuant to this section do not require oral pronouncement at
 201 the time of sentencing and shall be considered standard
 202 conditions of probation or community control for offenders
 203 specified in this section.

204 (2) Effective for a probationer or community controllee
 205 whose crime was committed on or after October 1, 1997, and who
 206 is placed on community control or sex offender probation for a
 207 violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145,
 208 in addition to any other provision of this section, the court
 209 must impose the following conditions of probation or community
 210 control:

211 (a) As part of a treatment program, participation at least
 212 annually in polygraph examinations to obtain information
 213 necessary for risk management and treatment and to reduce the
 214 sex offender's denial mechanisms. A polygraph examination must
 215 be conducted by a polygrapher trained specifically in the use of
 216 the polygraph for the monitoring of sex offenders, who has been
 217 authorized by the department and approved by the court, where
 218 available, and shall be paid for by the probationer or community
 219 controllee ~~sex offender~~. The results of the polygraph
 220 examination shall be provided to the probationer's or community
 221 controllee's probation officer and therapist and shall not be

HB 157

2007

222 used as evidence in court to prove that a violation of community
 223 supervision has occurred.

224 (4) (a) Effective July 1, 2007, the court must, in addition
 225 to all other provisions of this section, impose the special
 226 conditions set forth in paragraph (b) on the following
 227 probationers or community controllees:

228 1. A probationer or community controllee whose crime was
 229 committed on or after July 1, 2007, in violation of chapter 794;
 230 s. 800.04(4), (5), or (6); s. 827.071; or s. 847.0145 in this
 231 state or a probationer or community controllee who has committed
 232 on or after that date a similar offense in another jurisdiction
 233 when, at the time of the offense, the victim was under 16 years
 234 of age and the probationer or community controllee was 18 years
 235 of age or older.

236 2. A probationer or community controllee who is designated
 237 as a sexual predator under s. 775.21.

238 3. A probationer or community controllee designated as a
 239 sexual predator under s. 775.21 or subject to registration as a
 240 sexual offender pursuant to s. 943.0435 who has committed an
 241 offense that would meet the criteria for the designation or the
 242 registration requirement where, at the time of the offense, the
 243 victim was under 16 years of age and the probationer or
 244 community controllee was 18 years of age or older, who commits a
 245 violation of s. 775.21 or s. 943.0435 on or after July 1, 2007,
 246 and who is not otherwise subject to this paragraph.

247 (b) The court must order:

248 1. A prohibition on visiting exclusionary zones such as
 249 areas where children regularly congregate, including, but not

HB 157

2007

250 limited to, schools, day care centers, parks, and playgrounds.
 251 The court may also designate additional exclusionary zones to
 252 protect the victim.

253 2. A prohibition on participation in a holiday event
 254 involving children under 18 years of age without prior approval
 255 from the court. Such events include distributing candy or other
 256 items to children on Halloween, wearing a Santa Claus costume on
 257 or preceding Christmas, being employed as a Santa Claus, wearing
 258 an Easter Bunny costume on or preceding Easter, entertaining at
 259 children's parties, or wearing a clown costume.

260 Section 5. Section 948.31, Florida Statutes, is amended to
 261 read:

262 948.31 ~~Diagnosis, Evaluation, and treatment of~~ sexual
 263 predators and sex offenders placed on probation or community
 264 ~~control for certain sex offenses or child exploitation.~~ --The
 265 court shall require an a diagnosis and evaluation to determine
 266 the need of a probationer or community controllee ~~offender in~~
 267 ~~community control~~ for treatment. If the court determines that a
 268 need therefor is established by the ~~such diagnosis and~~
 269 evaluation process, the court shall require sex offender
 270 treatment ~~outpatient counseling~~ as a term or condition of
 271 probation or community control for any person who meets the
 272 criteria to be designated as a sexual predator under s. 775.21
 273 or to be subject to registration as a sexual offender under s.
 274 943.0435 ~~was found guilty of any of the following, or whose plea~~
 275 ~~of guilty or nolo contendere to any of the following was~~
 276 ~~accepted by the court.~~

HB 157

2007

277 ~~(1) Lewd or lascivious battery, lewd or lascivious~~
278 ~~molesstation, lewd or lascivious conduct, or lewd or lascivious~~
279 ~~exhibition, as defined in s. 800.04.~~

280 ~~(2) Sexual battery, as defined in chapter 794, against a~~
281 ~~child.~~

282 ~~(3) Exploitation of a child as provided in s. 450.151, or~~
283 ~~for prostitution.~~

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285 Such treatment counseling shall be required to be obtained from
286 a qualified practitioner specifically trained to treat sex
287 offenders. The court shall impose a restriction against contact
288 with minors if sex offender treatment is recommended ~~community~~
289 ~~mental health center, a recognized social service agency~~
290 ~~providing mental health services, or a private mental health~~
291 ~~professional or through other professional counseling. The~~
292 evaluation and recommendations plan for treatment of counseling
293 ~~for the probationer or community controllee individual~~ shall be
294 provided to the court for review.

295 Section 6. This act shall take effect July 1, 2007.