

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 665 Sexual Offenders and Predators
SPONSOR(S): Policy & Budget Council; Dean
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security & Public Safety</u>	<u>7 Y, 0 N</u>	<u>Kramer</u>	<u>Kramer</u>
2) <u>Safety & Security Council</u>	<u>14 Y, 0 N, As CS</u>	<u>Kramer</u>	<u>Havlicak</u>
3) <u>Policy & Budget Council</u>	<u>28 Y, 0 N, As CS</u>	<u>Leznoff</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

In July 2006, the federal Adam Walsh Child Protection and Safety Act of 2006 became law and imposed certain requirements on state sexual offender registries. CS/CS/HB 665 makes a number of conforming changes to state law including the following:

- Sexual predators and certain sexual offenders will be required to report in person at the sheriff's office every three months, rather than every six months.
- Sexual predators and certain sexual offenders will be required to maintain registration for life without the possibility of petitioning for removal.
- Certain juveniles who are 14 years of age or older and are adjudicated delinquent for a specified sexual offense will be required to register as a sexual offender.
- Local law enforcement agencies, the Department of Corrections (DOC) and the Department of Juvenile Justice (DJJ) will be required to report to the Florida Department of Law Enforcement (FDLE) failure of a sexual predator or sexual offender to comply with registration requirements.
- FDLE will be required to develop and maintain a system to provide automatic notification of registration information regarding sexual predators and sexual offenders to the public. Schools, public housing agencies, agencies responsible for conducting employment related background checks, social service entities responsible for protecting minors in the child welfare system and certain other organizations will have access to the system.

Also, certain offenders that have committed a first time sexual battery or lewd or lascivious offense on a victim 14 years of age or older, but less than 17 years of age, when the offender was not more than 4 years older than the victim and where the judge makes a finding that the removal of the registration requirement will not conflict with federal law will be able to petition to be removed from the registry. This will require a finding that consensual sexual activity occurred.

State agencies have noted a cumulative a fiscal impact of \$1,051,501: \$679,670 to the DJJ, \$273,231 to the FDLE and \$98,600 to the DOC. It appears the impact to DOC could be absorbed within existing agency resources. Also, DJJ's stated need for 3 FTE and \$257,598 for training the provisions of the act may not be necessary. Therefore the fiscal impact of the bill appears to be \$695,303. There is no appropriation in the bill however, this could be addressed in the General Appropriations Act.

The bill is effective July 1, 2007.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 4/23/2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill will require registration as a sexual offender for the commission of certain offenses which are currently not qualifying offenses. However, the bill will allow sexual offenders in certain circumstances to petition the court for removal from the registry.

Promote personal responsibility: In conformity with federal law, the bill will require sexual predators to report in person to the sheriff's office every three months instead of every six months.

B. EFFECT OF PROPOSED CHANGES:

Current law:

Sexual predator registration: As of February 15, 2007 there were 6,238 sexual predators in the state registry. Section 775.21, F.S., provides that a person convicted of an enumerated sexual offense must be designated a "sexual predator." Specifically, a person must be designated a sexual predator if he or she has been convicted of:

1. A capital, life, or first-degree felony violation, or any attempt thereof, of one of the following offenses:
 - a. kidnapping or false imprisonment¹ where the victim is a minor and the defendant is not the victim's parent;
 - b. sexual battery;²
 - c. lewd or lascivious offenses;³
 - d. selling or buying a minor for child pornography;⁴ or
 - e. a violation of a similar law of another jurisdiction.
2. Any felony violation of one of the following offenses where the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication one of the following offenses:
 - a. kidnapping, false imprisonment or luring or enticing a child⁵ where the victim is a minor and the defendant is not the victim's parent,
 - b. sexual battery;⁶
 - c. procuring a person under the age of 18 for prostitution;⁷
 - d. selling or buying of a minor into sex trafficking or prostitution⁸
 - e. lewd or lascivious offenses;
 - f. lewd or lascivious battery on an elderly person;⁹
 - g. promoting sexual performance by a child;¹⁰
 - h. selling or buying a minor for child pornography;¹¹
 - i. sexual misconduct by a Department of Juvenile Justice employee; ¹²or
 - j. a violation of a similar law of another jurisdiction.¹³

¹ s. 787.01, F.S. or s. 787.02, F.S.,

² See chapter 794, F.S.

³ s. 800.04, F.S.

⁴ s. 847.0145, F.S.

⁵ s. 787.025, F.S.

⁶ Excluded are offenses contained in ss. 794.011(10) and 794.0235, F.S.

⁷ s. 796.03, F.S.

⁸ s. 796.035, F.S.

⁹ s. 825.1025(2)(b), F.S.

¹⁰ s. 827.071, F.S.

¹¹ s. 847.0145, F.S.

¹² s. 985.701, F.S.

In order to be counted as a prior felony, the felony must have resulted in a conviction sentenced separately or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony.

If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections (DOC), or is in the custody of a private correctional facility, the predator must register with the DOC and provide specified information.¹⁴ Private correctional facilities are also governed by these requirements. Registration procedures are also provided for sexual predators who are under federal supervision¹⁵ or in the custody of a local jail¹⁶.

If the sexual predator is not in the custody or control of, or under the supervision of, the DOC, or is not in the custody of a private correctional facility, and the predator establishes or maintains a residence in this state, the predator must initially register in person at a sheriff's office in the county of residence within 48 hours after establishing permanent or temporary residence.¹⁷

Within 48 hours of initial registration, a sexual predator who is not incarcerated and who resides in the community, including a predator under DOC supervision, must register at a driver's license office of the Department of Highway Safety and Motor Vehicles (DHSMV) and present proof of registration, provide specified information, and secure a driver's license, if qualified, or an identification card.¹⁸ Each time a sexual predator's driver's license or identification card is subject to renewal, and within 48 hours after any change in the predator's residence or name, he or she must report in person to a driver's license facility of the DHSMV and is subject to specified registration requirements.¹⁹ This information is provided to FDLE which maintains the statewide registry of all sexual predators and sexual offenders (discussed further below). The department maintains a searchable web-site containing the names and addresses of all sexual predators and offenders as well as a toll-free telephone number.

Extensive procedures are provided for notifying communities about certain information relating to sexual predators, much of which is compiled during the registration process.²⁰ A sexual predator must report in person every six months to the sheriff's office in the county in which he or she resides to reregister.²¹ A sexual predator's failure to comply with registration requirements is a third degree felony.²²

Sexual offender registration: As of February 15, 2007, there were 33,989 sexual offenders in the state registry. In very general terms, the distinction between a sexual predator and a sexual offender is based on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense and the date the offense was committed. Specifically, a sexual offender is a person who has been convicted of one of the following offenses and has been released on or after October 1, 1997 from the sanction imposed for the offense:

1. kidnapping, false imprisonment or luring or enticing a child²³ where the victim is a minor and the defendant is not the victim's parent;
2. sexual battery;²⁴

¹³ Additionally, a person must be designated as a sexual predator if he or she committed one of the offenses listed in a. through h. above and has previously been convicted of the offense of selling or showing obscenity to a minor or using a computer to solicit sexual conduct of or with a minor [ss. 847.0133 or 847.0135, F.S.]

¹⁴ s. 775.21(6)(b), F.S.

¹⁵ s. 775.21(6)(d), F.S.

¹⁶ s. 775.21(6)(c), F.S.

¹⁷ s. 775.21(6)(e), F.S.

¹⁸ s. 775.21(6)(f), F.S.

¹⁹ s. 775.21(6)(g), F.S.

²⁰ s. 775.21(7), F.S.

²¹ s. 775.21(8), F.S.

²² s. 775.21(10), F.S.

²³ s. 787.025, F.S.

3. procuring a person under the age of 18 for prostitution;²⁵
4. selling or buying of a minor into sex trafficking or prostitution²⁶
5. lewd or lascivious offenses;
6. lewd or lascivious battery on an elderly person;²⁷
7. promoting sexual performance by a child;²⁸
8. selling or buying a minors for child pornography;
9. selling or showing obscenity to a minor;²⁹
10. using a computer to solicit sexual conduct of or with a minor;³⁰
11. transmitting child pornography;³¹
12. transmitting material harmful to minors;³²
13. sexual misconduct by a Department of Juvenile Justice employee; ³³or
14. a violation of a similar law of another jurisdiction.

A sexual offender is required to report and register in a manner similar to a sexual predator. Failure of a sexual offender to comply with the registration requirements is a third degree felony.

Adam Walsh Child Protection and Safety Act of 2006: In July 2006, the federal Adam Walsh Child Protection and Safety Act of 2006 (“Adam Walsh Act”) became law and imposed a number of requirements on state sexual offender registries. The law designates people who have committed a sexual offense into three categories based on the offense committed by the offender – Tier I, Tier II and Tier III. As discussed further below, the “tier” designation of an offender is relevant to how long the offender is required under the federal legislation to stay on a state’s registry and how often the offender is required to re-register in person. Generally, a Tier III offender is one that has committed what could be considered a more serious or violent offense than a Tier I or Tier II offender.

Changes made by HB 665:

HB 665 makes a number of changes to the laws relating to sexual predator and sexual offenders in conformity with the Adam Walsh Act.³⁴ In compliance with the definitions contained in the federal legislation, the bill will require that all sexual predators meet the requirements that the federal law places on Tier III offenders. As discussed further below, certain sexual offenders will also be subject to the requirements that the federal law places on Tier III sex offenders. All other adult sexual offenders will be subject to the requirements that the federal law places on Tier II sex offenders.

Qualifying offenses: Currently, the offenses of kidnapping and false imprisonment are qualifying offenses for sexual predator and sexual offender registration. Offenses where the defendant is the victim’s *parent* are not included. In conformity with the Adam Walsh Act,³⁵ HB 665 expands this to exclude kidnapping and false imprisonment offenses committed by the victim’s *guardian*.

Currently, a person that is convicted of a capital, life or first degree felony violation of chapter 794 is required to register as a sexual predator. Because the only offenses in that chapter which meet these qualifications are within section 794.011, F.S., the bill amends the reference to specify a violation of section 794.011, F.S.

²⁴ Excluded are offenses contained in ss. 794.011(10) and 794.0235, F.S.

²⁵ s. 796.03, F.S.

²⁶ s. 796.035, F.S.

²⁷ s. 825.1025(2)(b), F.S.

²⁸ s. 827.071, F.S.

²⁹ s. 847.0133, F.S.

³⁰ s. 847.0135, F.S.

³¹ s. 847.0137, F.S.

³² s. 847.0138, F.S.

³³ s. 985.701, F.S.

³⁴ The bill removes statutory references to the previously governing federal law, the Jacob Wetterling Act and replaces them with references to the Adam Walsh Act.

³⁵ Public Law 109-248 s. 111(7)(B)

A person convicted of a sexual offense contained within chapter 794 is required to register as a sexual offender pursuant to section 943.0435 or 944.6607. The definition of the term "sexual offender" currently excludes offenses contained within chapter 794 which do not involve sexual activity such as falsely accusing a person of sexual battery and refusing to comply with a court order relating to chemical castration.³⁶ There are other offenses in chapter 794 which do not involve sexual activity which are not excluded from the definition. HB 665 amends this reference to specify which offenses within chapter 794 will require a person to register as a sexual predator or sexual offender rather than having a blanket reference to chapter 794 and excluding certain offenses.³⁷

Exclusion from or removal of requirement to register as a sexual offender: The bill creates s. 943.04354 to authorize a person to petition for removal from the sexual offender or sexual predator registry if the person:

1. Was or will be convicted of a violation of s. 794.011 (sexual battery) or 800.04, F.S. (lewd or lascivious) and has not previously been convicted of such an offense;
2. Is required to register as a sexual offender or sexual predator solely on the basis of this violation; and
3. *Is not more than 4 years older than the victim of this violation who was 14 years of age or older but not more than 17 years of age at the time the person committed the violation.*

If a person meets these criteria and the offense was committed on or after July 1, 2007, the person may petition the court that will sentence the person to remove the requirement that the person register as a sexual offender or sexual predator. The person must allege that they meet the above criteria and that the removal of the registration requirement will not conflict with federal law. The Adam Walsh Act does not require a person to register as a sexual offender if the offense involved *consensual sexual conduct* and if the age of the victim and the offender matches certain criteria.³⁸ Therefore, the offender will be required to allege that the offense involved consensual sexual conduct and that the offender meets the other criteria described above in order to allege that removal of the registration requirement will not conflict with federal law. The state attorney will receive notice of the motion and an opportunity to present evidence in opposition to the motion. If the court finds that the offender meets the criteria and that the removal of the registration requirement will not conflict with federal law, the court may grant the motion and order the removal of the registration requirement. The bill also authorizes a person who is required to register as a sexual predator or sexual offender on the effective date of the bill to petition for removal from the registry if he or she meets the criteria described above.

Registration at sheriff's office: During the 2006 session, legislation passed which provided that, in conformity with the practice at the time, sexual predators and sexual offenders are required to register at a sheriff's office, not at a Department of Law Enforcement office. The sheriff submits this information to FDLE. HB 665 amends provisions which were inadvertently not included in the 2006 bill to further clarify that registration occurs at the sheriff's office.

Initial registration: The Adam Walsh Act requires that a sexual offender must register within three business days of being sentenced for an offense, if the sex offender is not sentenced to a term of imprisonment. In order to comply, HB 665 requires a sexual predator or sexual offender to register:

- at the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in the state; and

³⁶ ss. 794.011(10) and 794.0235, F.S.

³⁷ s. 794.024, F.S. (relating to disclosure of victim information); s. 794.027, F.S. (relating to the duty to report sexual battery); s. 794.03, F.S. (relating to publishing information identifying a sexual abuse victim); s. 796.065, F.S. (relating to unlawful places of residence for persons convicted of certain sex offenses); s. 794.075, F.S. (relating to sexual predators in possession of erectile dysfunction drugs).

³⁸ Public Law 109-248, s. 115(5)C).

- at the sheriff's office in the county where he or she was designated a sexual predator or was sentenced within 48 hours after the designation or sentencing.

If a sexual predator or sexual offender is in the custody of a local jail, the custodian of the jail will be required to register the predator or offender within 3 business days after intake of the person for any reason and upon release and will be required to forward the registration information to FDLE. A sexual predator or sexual offender who is under the supervision of DOC will be required to register with the department within 3 days after the court finds the person to be a sexual predator or sentences the person.

Reporting failure to comply with registration requirements: Currently, the Department of Corrections is required to verify the addresses of sexual predators who are under supervision. In conformity with the Adam Walsh Act,³⁹ HB 665 requires that DOC report to FDLE any failure by a sexual predator or sexual offender to comply with registration requirements. Similarly, the bill will require local law enforcement to report to FDLE any failure of a sexual predator or sexual offender who is not under DOC supervision to comply with registration requirements.

Frequency of in person reporting: As a result, of the Jessica Lunsford Act, which became law during the 2005 session⁴⁰, a sexual predator is required to report in person every six months to the sheriff's office in the county in which he or she resides to reregister.⁴¹ The federal Adam Walsh Act requires Tier III sex offenders to report in person at least every three months.⁴² HB 665 requires that sexual predators report in person every three months. In order to include those sexual offenders who would be considered Tier III offenders under the federal definition, the bill also amends section 943.0435(11) and 944.607(13) to provide that sexual offenders who are required to register as a result of a conviction for one of the following offenses be required to report in person every three months:

1. kidnapping or false imprisonment;⁴³
2. sexual battery;⁴⁴
3. lewd or lascivious battery where the court finds the offense involved a victim under 12 or sexual activity by force or coercion;⁴⁵
4. lewd or lascivious molestation where the offender was over 18 and the victim was less than 12;⁴⁶
5. lewd or lascivious molestation where the offender was less than 18 and the victim was less than 12 years of age involving unclothed genitals or genital area;⁴⁷
6. lewd or lascivious molestation where offender was 18 or older and the victim was 12 or older but less than 16 where a court finds the offense involved unclothed genitals or genital area;⁴⁸
7. lewd or lascivious molestation where offender is less than 18 and the victim was 12 or older but less than 16 and the court finds use of force or coercion and unclothed genitals or genital area;⁴⁹
8. any attempt or conspiracy to commit such offense or a violation of a similar law of another jurisdiction

The bill retains current law which requires all other sexual offenders to report in person to their local sheriff's office every six months.

³⁹ Public Law 109-248 s. 122

⁴⁰ See, Ch. 2005-28(5), Laws of Fla

⁴¹ s. 775.21(8), F.S.

⁴² Public Law 109-248 s. 116; The act requires tier I sex offenders to report at least once a year and tier II sex offenders to report no less than every six months.

⁴³ s. 787.01 or s. 787.02, F.S.

⁴⁴ s. 794.011, F.S. excluding s. 794.011(10).

⁴⁵ s. 800.04(4)(b), F.S.

⁴⁶ s. 800.05(b), F.S.

⁴⁷ s. 800.04(5)(c)1, F.S.

⁴⁸ s. 800.04(5)(c)2, F.S.

⁴⁹ s. 800.04(5)(d), F.S.

Removal of sexual predator/sexual offender designation: Currently, a sexual predator is required to maintain registration for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding. A sexual predator who was designated as a sexual predator by a court before October 1, 1998 and who has been released from confinement or supervision for at least 10 years and has not been arrested for any felony or misdemeanor offense since release, may petition the criminal division of the circuit court in the circuit where the sexual predator resides for removal of the sexual predator designation. For a person who was designated a sexual predator on or after October 1, 1998, a 20 year waiting period applies. For a person who was designated a sexual predator on or after September 1, 2005, a 30 year waiting period applies.⁵⁰ The federal Adam Walsh Act requires that “Tier III” sex offenders be registered for life.⁵¹ HB 665 removes language allowing a sexual predator to apply for removal of this designation.

Currently, a sexual offender is required to maintain registration with FDLE for the duration of his or her life, unless the sexual offender has received a full pardon or had his or her conviction set aside in a postconviction proceeding. A sexual offender who has been released from confinement, supervision or sanction for at least 20 years and has not been arrested for any felony or misdemeanor since release may petition the criminal circuit court where the offender resides for removal of the designation. Because the Adam Walsh Act requires that “Tier II” sex offenders be registered for at least 25 years⁵², HB 665 requires that sexual offenders be registered for at least 25 years before being able to petition the circuit court for removal. In order to include those sexual offenders who would be considered Tier III offenders under the federal definition and therefore be required to register for life, the bill provides that sexual offenders who are required to register as a result of an adult conviction for one of the following offenses must maintain registration for life without the possibility of removal:

1. kidnapping or false imprisonment;
2. sexual battery;
3. lewd or lascivious battery where the court finds the offense involved a victim under 12 or sexual activity by force or coercion;
4. lewd or lascivious molestation where the victim was less than 12 years of age;
5. lewd or lascivious molestation where the victim was 12 or older but less than 16 where a court finds the offense involved unclothed genitals or genital area; or
6. any attempt or conspiracy to commit such offense or a violation of a similar law of another jurisdiction

Addition of certain juvenile offenders to registry: Currently, a minor who is sentenced as an adult for a qualifying sexual offense must register as a sexual offender. However, a minor who is adjudicated delinquent for a sexual offense is not required to register as a sexual offender.

The Adam Walsh Act requires that minors who are adjudicated delinquent of certain sexual offenses must register as a sexual offender.⁵³ To comply with this provision, HB 665 expands the sexual offender criteria to include a person who was 14 years of age or older who has been adjudicated delinquent for an offense committed on or after July 1, 2007 of:

1. sexual battery⁵⁴
2. lewd or lascivious battery⁵⁵ where the victim is under 12 or where the court finds sexual activity by use of force or coercion;
3. lewd or lascivious molestation⁵⁶ (offender is under 18 and victim under 12) where the court finds molestation involving unclothed genitals; or

⁵⁰ s. 775.21(6)(l), F.S.

⁵¹ Public Law 109-248 s. 115(a)(3)

⁵² Public Law 109-248 s. 115(a)(2)

⁵³ Public Law 109-248 s. 111(8)

⁵⁴ s. 794.011, F.S. excluding s. 794.011(10)

⁵⁵ s. 800.04(4)(b), F.S.

⁵⁶ s. 800.04(5)(c)1, F.S.

4. lewd or lascivious molestation⁵⁷ (offender under 18 and victim 12-15 years of age) where the court finds the use of force or coercion and unclothed genitals.

The bill requires a court to make written findings indicating whether a lewd or lascivious battery offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a lewd or lascivious molestation offense, the court will be required to make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve use of force or coercion.

The bill will require a judge to make a written finding regarding the age of the victim at the time of the offense for every sexual offender qualifying offense.

Registry requirements for sexual offenders adjudicated delinquent: The bill also creates s. 985.4815, F.S. which requires a minor who is required to register as a sexual offender based on an adjudication of delinquency to report to the sheriff's office and DHSMV as required under s. 943.0435, F.S. for adult sexual offenders. People who are required to register as a sexual offender as a result of being adjudicated delinquent for an offense described above will be required to report in person to the sheriff's office every three months. They will also be required to maintain registration for 25 years before being eligible to petition the court for removal.

Criminal history information: According to section 943.0515, F.S., the Criminal Justice Information Program within FDLE is required to retain the criminal history record of a minor who is classified as a serious or habitual juvenile offender or is committed to a juvenile correctional facility for five years after the date the offender reaches 21 years of age. The criminal history records of other minors must be retained for five years after the date the minor reaches the age of 19. If a person 18 years of age or older is charged with a forcible felony and the person's criminal history record as a minor has not yet been destroyed or if a minor is adjudicated as an adult for a forcible felony, the person's record as a minor must be merged with the adult's criminal history record and retained.

The bill amends s. 943.0515, F.S. to provide that the Criminal Justice Information Program must retain the criminal history record of a minor that is required to register as a sexual offender. The bill provides that these records shall not be destroyed and must be merged with the person's adult criminal history records and retained as a part of the person's adult record.

DJJ notification to FDLE: The bill creates section 985.481, F.S. which requires the Department of Juvenile Justice to provide information to FDLE regarding minors who are being released after serving a period of residential commitment or other detention who are required to register as a sexual offender based on an adjudication of delinquency as described above. DJJ will be required to provide FDLE with the same information relating to sexual offenders as DOC is required to provide regarding adult offenders being released pursuant to s. 944.606, F.S.

Immunity: Currently, sections 775.21(9), 943.0435(10) and 944.607(11)F.S. grant FDLE, DOC, DHSMV and other law enforcement agencies immunity from civil liability for damages for good faith compliance with the requirements of the sections relating to the registration of sexual predators and sexual offenders or for the release of related information. The bill adds DJJ to these sections.

Public notification: The Adam Walsh Act requires FDLE to establish a system through which automated notifications regarding sexual predator and sexual offender information may be sent to certain entities.⁵⁸ The bill creates s. 943.44353, F.S. which requires FDLE to develop and maintain a system to provide for the automatic notification to the public of registration information regarding sexual predators and sexual offenders no later than January 1, 2008. The bill provides that the following entities will have access to the notification system:

- schools,

⁵⁷ s. 800.04(5)(d), F.S.

⁵⁸ Public Law 109-248 s. 121

- public housing agencies,
- agencies responsible for conducting employment-related background checks under the federal National Child Protection Act of 1993,
- social service entities responsible for protecting minors in the child welfare system,
- volunteer organizations in which contact with minors or other vulnerable individuals might occur, and
- any other such organization, company or individual

Definition of qualified practitioner: Section 948.30, F.S. requires certain offenders on supervision to participate in sex offender treatment with a qualified practitioner. The term “qualified practitioner” is defined as a psychiatrist licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a social worker, a mental health counselor, or a marriage and family therapist licensed under chapter 491 who, as determined by rule of the respective boards, has the coursework, training, qualifications and experience to evaluate and treat sex offenders. The bill modifies this language to provide that the psychiatrist, psychologist, social worker, mental health counselor or marriage and family therapist practice in accordance with his or her respective practice act. The bill removes reference to the person having the coursework, training qualifications and experience to evaluate and treat sex offenders as determined by rule of the respective boards. The bill makes identical changes to chapter 947, relating to conditional release.

C. SECTION DIRECTORY:

Section 1. Amends s. 775.21 relating to registration of sexual predators.

Section 2. Amends s. 943.0435, F.S., relating to sexual offender registration.

Section 3. Creates s. 943.04354, F.S. relating to exclusion from or removal of requirement to register as a sexual offender.

Section 4. Creates s. 943.44353, F.S.; providing for automatic notification of registration information regarding sexual predators and offenders.

Section 5. Amends s. 943.0515, F.S. relating to retention of criminal history records of minors.

Section 6. Amends s. 944.606, F.S.; relating to notification of release of sexual offender from DOC custody.

Section 7. Amends s. 944.607, F.S. relating to registration of sexual offenders.

Section 8. Amends s. 985.04, F.S. relating to oaths, records, confidential information.

Section 9. Amends s. 985.045, F.S., relating to court records.

Section 10. Creates s. 985.481, F.S.; relating to sexual offenders adjudicated delinquent.

Section 11. Creates s. 985.4815, F.S.; relating to notification to FDLE of information on juvenile sexual offenders.

Section 12. Amends s. 921.0022, F.S., relating to the offense severity ranking chart of the Criminal Punishment Code.

Section 13. Provides effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Departments of Juvenile Justice, Law Enforcement and Corrections indicate the following costs:

		FY 2007-08	FY 2008-09	FY 2009-10
Department of Juvenile Justice	3 FTE	\$ 679,670	\$ 331,740	\$ 331,740
Department of Law Enforcement	2 FTE	\$ 273,231	\$ 345,182	\$ 345,182
Department of Corrections		\$ 98,600	\$ 19,720	\$ 19,720
Total	5 FTE	\$1,051,501	\$ 696,642	\$ 696,642

The costs to the DJJ include 3 FTE and \$257,598 to train staff regarding the provisions of the act. The balance is for information technology needs. DOC and FDLE costs are all technology related. FDLE is requesting 2 FTE to address technology needs as part of their stated fiscal need.

If the Legislature provides for additional appropriations to cover these costs, the likely source would be General Revenue.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

The bill sponsor submitted the following statement:

The bill is necessary in order for FDLE to carry out the mandate from Congress contained in the Adam Walsh Act.

No additional comments were submitted regarding the council substitute.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

The Homeland Security & Public Safety Committee adopted a strike-all amendment to the bill. The amendment:

- Clarified the responsibilities of a sexual predator that is on supervision to register with DOC within 3 business days after the court finds the offender to be a sexual predator. Also, the amendment clarified that a local jail must register a sexual predator within 3 business days after intake of the sexual predator for any and upon release and must forward this information to FDLE.
- Modified the offenses for which a juvenile who was adjudicated delinquent must register as a sexual offender in order to specify only those offenses which are required to be included under the federal Adam Walsh Act.
- Modified the offenses for which a sexual offender can seek removal from the registry after 25 years have passed to conform to the Adam Walsh Act.
- Specified which qualifying offenses will require a sexual offender to report to the sheriff's office for re-registration every 3 months.
- Created a new section of statute that will exempt certain people from having to register as a sexual offender if the facts of the case meet specified criteria and authorizes certain sexual offenders to seek removal from the registry.
- Provided that FDLE's system which will provide for automatic notification of registration information to certain groups must be developed no later than January 1, 2008.
- Provided that DJJ will be required to provide information to FDLE on juveniles required to register as sexual offenders no later than November 1, 2007.
- Ranked newly created felony offenses for sexual offenders who fail to comply with the requirements of the registry in the offense severity ranking chart.

The Safety & Security Council reported the bill favorably as a council substitute.

On April 23, 2007 the Policy & Budget Council adopted two amendments to the bill. The first amendment modified the manner in which certain offenders can seek removal from the requirements to register as a sexual offender or sexual predator. The other amendment modified the definition of the term "qualified practitioner" as part of sections 947.005 and 948.001, F.S. The council reported the bill favorably as a council substitute.