

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 2026

INTRODUCER: Criminal Justice Committee and Senator Ring

SUBJECT: Sexual Offenders and Predators

DATE: March 11, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			JU	
3.			JA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill requires that a sexual predator's and sexual offender's home telephone number and any cellular telephone number be provided as part of the process of registering sexual predators and sexual offenders.

The bill also adds this new requirement to the penalty section in s. 775.21, F.S., the sexual predator registration statute, thereby making it a third degree felony if a sexual predator fails to provide these telephone numbers as part of the registration and re-registration process.

The Department of Corrections is required to provide to the Florida Department of Law Enforcement the home telephone number and any cellular telephone number of a sexual offender released from incarceration. The Department of Juvenile Justice is required to provide to the Florida Department of Law Enforcement the home telephone number and any cellular telephone number of a sexual offender released after serving a period of residential commitment.

This bill substantially amends ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S.

II. Present Situation:

Currently, persons convicted of a certain sexual offense or certain sexual offenses that were committed on or after October 1, 1993, are designated as sexual predators and are subject to registration requirements as provided in s. 775.21, F.S. Other persons convicted on or after October 1, 1997, or adjudicated delinquent on or after July 1, 2007, for a certain sexual offense or certain sexual offenses are required to register as sexual offenders pursuant to s. 943.0435, F.S., s. 944.607, F.S., or s. 985.4815, F.S., as applicable. One or more of these statutes may apply to the person. For example, a person who qualifies as a sexual offender based on a qualifying conviction and who is a “free citizen” would be subject to s. 943.0435, F.S. A person who qualifies as a sexual offender based on qualifying conviction and who is in the custody of the Department of Corrections (DOC) would be subject to s. 944.607, F.S. A person who qualifies as a sexual offender and who is under DOC supervision would be subject to ss. 944.607 and s. 943.0435, F.S. A person who qualifies as a sexual offender based on a qualifying adjudication and who is under the supervision of the Department of Juvenile Justice (DJJ) would be subject to s. 985.4815, F.S., and s. 943.0435, F.S.

Each of these statutes requires that certain information be provided by or about the sexual offender. Examples of some of the information included in some or all of these statutes include: name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, and address of permanent or legal residence or address of any current temporary residence. Section 944.607, F.S., requires the DOC to provide to the Florida Department of Law Enforcement (FDLE) similar information (and other information) about qualifying sexual offenders released from the DOC after serving a period of incarceration. Similarly, s. 985.481, F.S., requires the DJJ to provide to the FDLE similar information (and other information) about qualifying sexual offenders released from the DJJ after serving a period of residential commitment. None of the aforementioned statutes specifies that the information regarding a sexual predator or a sexual offender includes the predator’s or offender’s home telephone number or cellular telephone numbers.

The federal Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248) includes a comprehensive revision of the national standards for sex offender registration and notification. In the U.S. Attorney General’s guidelines¹ regarding the act, the Attorney General exercised his authority under the act to require sex offenders to provide their telephone number. The following reasons were provided for this requirement:

Requiring sex offenders to provide their telephone numbers (both for fixed location phones and cell phones) furthers the objectives of sex offender registration. One obvious purpose in having such information is to facilitate communication between registration personnel and a sex offender in case issues arise relating to the sex offender’s registration. Moreover, as communications technology advances, the boundaries blur between text-based and voice-based communications media. Telephone calls may be transmitted through the Internet. Text messages may be sent between cell phones. Regardless of the particular communication medium, and regardless of whether the

¹ *The National Guidelines for Sex Offender Registration and Notification: Proposed Guidelines* (May 2007). Office of the Attorney General, U.S. Department of Justice.

communication involves text or voice, sex offenders may potentially utilize remote communications in efforts to contact or lure potential victims. Hence, including phone numbers in the registration information may help in investigating crimes committed by registrants that involved telephonic communication with the victim, and knowledge that their phone numbers are known to the authorities may help sex offenders to resist the temptation to commit crimes by this means

III. Effect of Proposed Changes:

The bill amends ss. 775.21, 943.0435, 944.607, and s. 985.4815, F.S., to require that a sexual predator and sexual offender provide his or her home telephone number and any cellular telephone number as part of the process of registering sexual predators and sexual offenders.

This bill also adds this new requirement to the penalty section in s. 775.21, F.S., thereby making it a third degree felony if a sexual predator fails to provide these telephone numbers as part of the registration and re-registration process.

The bill also amends s. 944.606, F.S., to require the Department of Corrections to provide to the Florida Department of Law Enforcement the home telephone number and any cellular telephone number of a sexual offender released from incarceration. The bill also amends s. 985.481, F.S., to require the Department of Juvenile Justice to provide to the Florida Department of Law Enforcement the home telephone number and any cellular telephone number of a sexual offender released after serving a period of residential commitment.

The effective date of the bill is October 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of Law Enforcement (FDLE) states that the bill, if enacted, would require the FDLE to:

- Update and modify the current electronic registration and re-registration system and forms, to require reporting of the information required for successful registration.
- Notice registered sexual offenders and predators regarding the requirement of the laws.
- Update, print, and distribute updated paper registration and notice of responsibilities forms for sheriff's offices and police departments across the State of Florida.

The FDLE indicates that the bill will not have an impact on the department.

The Department of Corrections states:

- Implementing this requirement will have a minimal impact on the department, including programming to capture the additional cellular telephone numbers for personal or work numbers used by the offender and revision of the notice of responsibilities forms. However, there could be a future impact of additional "Failure to Register" offenses (third degree felony) if the offender fails to comply with this new requirement.
- As the bill creates a new felony, the department is unable to provide data from its current offender population to assist in gauging the impact this bill will have on the prison and probation population. Final impact to be determined by the Criminal Justice Impact Conference.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 11, 2008:

- Provides that a sexual offender under the supervision of the Department of Corrections must provide his or her home telephone number and any cellular telephone number to the department.

- Requires the Department of Juvenile Justice to provide to the Florida Department of Law Enforcement the home telephone number and any cellular telephone number of a sexual offender released after serving a period of residential commitment.
- Provides that a sexual offender under the supervision of the Department of Juvenile Justice must provide his or her telephone number to the department.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
