

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 Judiciary Committee

BILL: CS/CS/SB 2026

INTRODUCER: Judiciary Committee, Criminal Justice Committee, and Senator Ring

SUBJECT: Sexual Offenders and Predators

DATE: March 27, 2008

REVISED: _____

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

Please see Section VIII. for Additional Information:

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|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

The bill requires sexual predators and offenders to provide their home telephone number and any cellular telephone number as part of the process of registering as sexual predators and sexual offenders. The bill also adds this new requirement to the penalty section in 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 (FDLE) 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 FDLE the home telephone number and any cellular telephone number of a juvenile sexual offender released after serving a period of residential commitment.

The bill also requires sexual offenders and sexual predators to attest to the truthfulness of the required registration information. If a sexual offender or predator willfully provides false information during mandatory registration, he or she will be guilty of a third-degree felony.

The bill also requires FDLE, via an Internet website, to notify the public of certain information regarding sexual predators and sexual offenders. In addition to the general information requirements, the website must:

- visually distinguish sexual predators and offenders who have moved into an area, with the distinguishing feature being maintained for a period of six months from the new registration or relocation;
- enable a user to collapse the radius of a selected viewable area on a map from 1 mile to 1,000 feet; and
- enable the user to select a particular point on a map and identify offenders and predators at specified distances from the selected point.

Finally, the bill requires FDLE to develop a uniform system to require verification of predator and offender addresses that cannot be plotted on a map due to errors, omissions, or other irregularities in the address. FDLE is also directed to conduct a study to determine the feasibility of providing a mapping mechanism on the predator and offender website in which a user is capable of plotting the offender's or predator's proximity to, and distance from, sites such as schools, day care centers, parks, or playgrounds.

This bill substantially amends the following sections of the Florida Statutes: 775.21, 943.043, 943.0435, 944.606, 944.607, 985.481, and 985.4815.

II. Present Situation:

In Florida, sexual offenders are required to disclose certain personal information to law enforcement authority as part of the registration process. The purpose of the registration requirement is “to enhance the public safety by requiring the registration of sexual predators, providing for the monitoring of their activities and the tracking of their whereabouts, and facilitating law enforcement and prosecution.”¹

Florida Sexual Offender Registration Requirements

Currently, persons convicted of certain sexual offenses on or after October 1, 1993, are designated as sexual predators and are subject to the registration requirements provided in Florida law.² Other persons convicted on or after October 1, 1997, or adjudicated delinquent on or after July 1, 2007, for certain sexual offenses are also required to register as sexual offenders.³

For example, a person who qualifies as a sexual offender based on a qualifying conviction and who is not incarcerated or under supervision would be subject to registration.⁴ A person who qualifies as a sexual offender based on a qualifying conviction and is in the custody of the Department of Corrections (DOC) also would be subject to registration.⁵ A person who qualifies as a sexual offender and is under DOC supervision would be subject to registration under two

¹ *Collie v. State*, 710 So. 2d 1000 (Fla. 2d DCA 1998) (quoting s. 775.22(1), F.S. (1993)).

² Section 775.21, F.S.

³ Sections 943.0435, 944.607, or 985.4815, F.S. One or more of these statutes may apply to the person.

⁴ Section 943.0435, F.S.

⁵ Section 944.607, F.S.

separate statutes.⁶ Finally, a person who qualifies as a sexual offender based on a qualifying juvenile delinquency adjudication and is under the supervision of the Department of Juvenile Justice (DJJ) would be subject to registration requirements.⁷

Each of these statutes requires that certain information be provided by the sexual offender. Examples of some of the information included in some or all of these statutes requiring registration include:

- name and date of birth;
- social security number;
- gender and race;
- height and weight;
- hair and eye color;
- tattoos or other identifying marks;
- occupation and place of employment;
- address of permanent or legal residence; and
- address of any current temporary residence.

Under current law, DOC must 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.⁸ Similarly, DJJ is also required to provide to FDLE similar information (and other information) about qualifying sexual offenders released from the DJJ after serving a period of residential commitment.⁹

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 number.

Federal Sexual Offender Registration Requirements

The Adam Walsh Child Protection and Safety Act of 2006 includes a comprehensive revision of the national standards for sex offender registration and notification.¹⁰ In the U.S. Attorney General's guidelines 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

⁶ Sections 944.607 and 943.0435, F.S.

⁷ Sections 985.4815 and 943.0435, F.S.

⁸ Section 944.607(4)(a), F.S.

⁹ Section 985.481(3)(a), F.S.

¹⁰ Pub. L. No. 109-248 (2006).

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 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.¹¹

The guidelines also require a sex offender to register any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications.¹²

Penalties for Failure to Comply with Registration Requirements

Currently, the various sexual predator and offender registration statutes provide for a third-degree felony for failing to comply with the registration requirements. For example, sexual predators who, by act or omission, fail to comply with the registration requirements commit a third-degree felony.¹³ Similarly, sexual offenders who fail to comply with registration requirements commit a third-degree felony.¹⁴ Sexual offenders under the supervision of the Department of Corrections, as well as juvenile sexual offenders, also commit third-degree felonies when they fail to comply with registration requirements.¹⁵

According to FDLE, prosecutors have been successful in some jurisdictions in prosecuting sexual predators and sexual offenders for providing false information during the registration process. However, in other jurisdictions, courts have interpreted the compliance penalties to encompass only the failure to comply with the registration provisions, and not instances where false information was provided during the registration process.

III. Effect of Proposed Changes:

The bill makes several changes to the mandatory sexual predator and sexual offender registration requirements. Furthermore, several changes to enhance public notification of predator and offender information are included in the bill.

¹¹ Office of the Attorney General, U.S. Department of Justice. *The National Guidelines for Sex Offender Registration and Notification: Proposed Guidelines* (May 2007).

¹² *Id.*

¹³ Section 775.21(10), F.S.

¹⁴ Section 943.0435(9)(a), F.S.

¹⁵ Sections 944.607(10)(a) and 985.4815(10)(a), F.S.

Telephone Information Registration Requirement

The bill amends the various sexual offender registration statutes¹⁶ to require sexual predators and offenders to provide their home telephone number and any cellular telephone number as part of the sexual predator and offender registration process.

New requirements are also added to the penalty section of the Florida Sexual Predators Act, 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.¹⁷

Under the bill, the Department of Corrections must provide to the Department of Law Enforcement (FDLE) the home telephone number and any cellular telephone number of a sexual offender released from incarceration in addition to the other information required by current law. Additionally, the Department of Juvenile Justice must provide to FDLE the home telephone number and any cellular telephone number of a juvenile sexual offender released after serving a period of residential commitment.

Attestation Requirement and Penalties

The bill requires sexual predators and offenders to attest to the truthfulness of the information provided under the penalty of a third-degree felony for willfully providing false information. The “willful” standard will punish those who intentionally provide false information during the registration process, without penalizing those who mistakenly provide registration information.

Enhancement of Predator and Offender Website

In order to enhance the sexual predator and sexual offender website, the bill requires FDLE to notify the public of certain information regarding sexual predators and sexual offenders. In addition to the general information requirements,¹⁸ the website must visually distinguish sexual offenders and predators that have moved into an area for a period of six months from the new registration or relocation. This feature will enable public users to quickly identify newly registered offenders in a given geographic area. FDLE must also enable a user to collapse the radius of a selected viewable area on a map from 1 mile to 1,000 feet, which is the distance that some offenders and predators are required to remain from certain locations, such as schools, parks, and day care centers.¹⁹ The final required feature must enable the public user to select a particular point on a map, without inputting a specific address, and identify predators and offenders at specified distances from the selected point on the map.

¹⁶ Sections 775.21, 943.0435, 944.607, 985.481, and 985.4815, F.S.

¹⁷ A third-degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁸ General information regarding the sexual predator and offender includes: name; a physical description including a photograph; the current address; the circumstances surrounding the offenses committed; and whether the victim was a minor at the time of the offense. This information is identical to the general information regarding sexual predators which is required in public notifications under s. 775.21(7)(a), F.S.

¹⁹ See 794.065, F.S.

Verification of Predator and Offender Addresses

The bill statutorily requires FDLE to develop, in coordination with other agencies that supply registration information of predators and offenders (DOC, DJJ and Department of Highway Safety and Motor Vehicles), a uniform system to require verification of addresses submitted by predators and offenders which cannot be plotted on the website map due to errors, omissions, or other irregularities in the website. Currently, certain predators and offenders' locations may not be plotted on the predator and offender website map due to inaccuracies or errors in the address.²⁰ A uniform system of reporting such information, as well as verification procedures, may reduce the number of predators and offenders who cannot be plotted on the website map.

FDLE Feasibility Study

FDLE is directed to study the feasibility of allowing public users to select an offender's location on a map and then plot the distance to vulnerable sites such as schools, parks, playgrounds, and day care centers. In addition, FDLE must examine the feasibility of providing public users with information regarding any given predator's or offender's restricted access to certain sites. Based upon a predator's or offender's particular offense, he or she may be precluded from living or being within a given distance from a particular site. FDLE must report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2008.

Effective Date

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.

²⁰ The inaccuracies or errors in the reported address may occur due to processing errors by those agencies gathering the information or due to inaccurate information intentionally or mistakenly provided by predators and offenders.

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.
- Notify 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 Florida.

FDLE may experience costs associated with completing the feasibility study regarding enhanced features on the predator and offender website.

The Department of Corrections reports that:

- 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. The final impact is 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 Judiciary on March 24, 2008:**

The committee substitute:

- Includes in each statute governing sexual predator and offender registration a requirement that the registrant attest to the truthfulness of the information provided under the penalty of a third-degree felony for willfully providing false information.
- Requires the Department of Law Enforcement (FDLE), via the Internet, to notify the public of certain information regarding sexual predators and sexual offenders.
- Provides that the Internet site must visually distinguish sexual offenders and predators who have moved into an area within six months from the relocation, enable a user to easily collapse the one mile-radius from a given address down to 1,000 feet, and enable the user to select a particular point on a map and identify offenders and predators at specified distances from the selected point.
- Directs FDLE to study the feasibility of allowing users to click on an offender's location and then plot the distance to vulnerable sites like schools and day care centers, as well as providing information regarding any restrictions on a predator's or offender's access to particular sites.

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.