

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 Community Affairs Committee

BILL: CS/SB 2236

INTRODUCER: Community Affairs Committee and Senator Aaronberg

SUBJECT: Sexual Offenders and Sexual Predators

DATE: April 3, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>JA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute (CS) requires a landlord who knowingly solicits an individual, registered as a sexual offender or sexual predator because of the individual's status as a sexual offender or sexual predator, to rent or lease a dwelling unit to verify the individual's address is correct in the sexual offender database within 5 days after occupying the dwelling unit. The landlord must also notify the sheriff if the address is listed incorrectly in the database. A person who willfully violates these requirements is liable for a civil penalty not to exceed \$10,000 for each violation.

This CS creates section 943.04355 of the Florida Statutes.

II. Present Situation:

As of February 29, 2008, there were 6,862 sexual predators and 40,547 sexual offenders in the state registry. The criteria for designation as a sexual predator are found in s. 775.21, F.S., and the criteria for sexual offenders in s. 943.0435, F.S. 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 occurred. Sexual predator status can only be conferred for offenses committed on or after October 1, 1993. Sexual offender status applies only if the person was released from the sanction for the designated offense on or after October 1, 1997. The list of designated offenses is not identical for sexual offenders and sexual predators, but commission of any of the following offenses would require registration as either a sexual offender or a sexual predator:

- Kidnapping, false imprisonment, or luring or enticing a child where the victim is a minor and the defendant is not the victim's parent (ss. 787.01, 787.02, and 787.025(2)(c), F.S.)
- Sexual battery under ch. 794, F.S. (except for false accusation of another and refusal to be chemically castrated)
- Procuring a person under the age of 18 for prostitution (s. 796.03, F.S.)
- Selling or buying of minors into sex trafficking or prostitution (s. 796.035, F.S.)
- Lewd or lascivious offenses upon or in the presence of a person under 16 (s. 800.04, F.S.)
- Lewd or lascivious offenses on an elderly or disabled person (s. 825.1025, F.S.)
- Enticing, promoting, or possessing images of sexual performance by a child (s. 827.071, F.S.)
- Distribution of obscene materials to a minor (s. 847.0133, F.S.)
- Computer pornography (s. 847.0135, F.S.)
- Transmission of child pornography by electronic device (s. 847.0137, F.S.)
- Transmission of material harmful to minors to a minor by electronic device (s. 847.0138, F.S.)
- Selling or buying of minors for child pornography (s. 847.0145, F.S.)
- Sexual misconduct by a DJJ employee with a juvenile offender (s. 985.701(1), F.S.)
- Violating a similar law of another jurisdiction.

FDLE maintains a registry of sexual offenders and sexual predators compiled using information provided by the Department of Corrections, Department of Highway Safety and Motor Vehicles, and law enforcement officials. This information is available to the public via a website. Persons with information that an address for a sexual offender or sexual predator is incorrect in the registry are encouraged to contact the Florida Offender Registration and Tracking Services absconder section and also to provide the information to the law enforcement agency supervising the sexual offender or sexual predator.

Section 943.0435, F.S., contains reporting requirements for sexual offenders and sexual predators, including a requirement for a sexual offender to report in person every 6 months to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. This provision also provides immunity from civil damages for any law enforcement agency in this state, their employees, and certain other public officials and individuals acting at the request or upon the direction of any law enforcement agency for the reporting of information in good faith compliance with s. 943.0435, F.S. Section 775.21, F.S., requires sexual predators to report every 3 months and provides similar immunity from civil damages for those entities or individuals who report information regarding a sexual predator.

III. Effect of Proposed Changes:

Section 943.04355, F.S., is created to require a landlord who knowingly solicits an individual, registered as a sexual offender or sexual predator to rent or lease a dwelling unit because of the individual's status as a registered sexual offender or sexual predator, to verify the individual's address is correct in the sexual offender database. Specifically, within 5 days after the sexual offender or sexual predator occupies the dwelling unit as a tenant, the landlord shall:

- Conduct a search for the tenant's name in the sexual offender database;

- Confirm the address of the tenant identified as a sexual offender or sexual predator is correct in the sexual offender database; and
- Notify the sheriff of the county in which the dwelling unit is located if the tenant's address is not correct in the sexual offender database.

It also defines the following terms: "dwelling unit," "sexual offender," "sexual offender database," "sexual predator," and "solicit."

A person who willfully violates these requirements is subject to a civil penalty not to exceed \$10,000 for each violation. Such civil penalty may be recovered in an action by the Attorney General to enforce s. 943.04355, F.S., along with reasonable attorney's fees and costs. Penalties collected through enforcement of this provision shall be deposited into the General Revenue Fund unallocated.

The CS takes effect July 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:

A person who willfully violates the requirements of s. 943.04355, F.S., is liable for a civil penalty not to exceed \$10,000 for each violation.

C. Government Sector Impact:

The CS authorizes the Attorney General to recover a civil penalty not to exceed \$10,000 for each violation of s. 943.04355, F.S., and reasonable attorney's fees and costs.

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.)

The CS limits the applicability of its provisions to those landlords who knowingly solicit a registered sexual offender or sexual predator to rent a dwelling unit. It removes a criminal provision creating a second degree misdemeanor for failure to comply with the provisions of the CS. Instead, the CS creates a civil penalty for a person who willfully fails to comply with the provisions of the CS. It also authorizes the Attorney General to recover the civil penalty and reasonable attorney's fees and costs. The CS revises the section number in Florida Statutes created by the CS.

B. Amendments:

None.