



938452

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/21/2008	.	
	.	
	.	

1 The Committee on Criminal Justice (Crist) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. Paragraph (b) of subsection (3) of section
 8 775.21, Florida Statutes, is amended to read:

9 775.21 The Florida Sexual Predators Act.--

10 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.--

11 (b) The high level of threat that a sexual predator
 12 presents to the public safety, and the long-term effects suffered
 13 by victims of sex offenses, provide the state with sufficient
 14 justification to implement a strategy that includes:

15 1. Incarcerating sexual predators and maintaining adequate
 16 facilities to ensure that decisions to release sexual predators
 17 into the community are not made on the basis of inadequate space.

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18 2. Providing for specialized supervision of sexual
19 predators who are in the community by specially trained probation
20 officers with low caseloads, as described in ss. 947.1405(7) and
21 948.30. The sexual predator is subject to specified terms and
22 conditions implemented at sentencing or at the time of release
23 from incarceration, with a requirement that only those sexual
24 predators found to be indigent may defer payment pursuant to s.
25 28.246 of all or part of the costs in accordance with the
26 provisions of that section ~~who are financially able must pay all~~
27 ~~or part of the costs of supervision.~~

28 3. Requiring the registration of sexual predators, with a
29 requirement that complete and accurate information be maintained
30 and accessible for use by law enforcement authorities,
31 communities, and the public.

32 4. Providing for community and public notification
33 concerning the presence of sexual predators.

34 5. Prohibiting sexual predators from working with children,
35 either for compensation or as a volunteer.

36 Section 2. Section 775.215, Florida Statutes, is created to
37 read:

38 775.215 Residency distance limitations for persons
39 convicted of certain sexual offenses; local ordinances preempted
40 and repealed.--The adoption of residency distance limitations for
41 persons convicted of sexual offenses, including, but not limited
42 to, violations of s. 787.01, s. 787.02, s. 794.011, s. 800.04, s.
43 827.071, or s. 847.0145, regardless of whether adjudication has
44 been withheld, is expressly preempted to the state. The
45 provisions of ss. 794.065, 947.1405, and 948.30 establishing such
46 distance limitations supersede the distance limitations included
47 in any such municipal or county ordinances. Any such residency



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48 distance limitations adopted by a county or municipality prior to
49 October 1, 2008, are hereby repealed and abolished as of October
50 1, 2008.

51 Section 3. Subsection (2) of section 775.24, Florida
52 Statutes, is amended to read:

53 775.24 Duty of the court to uphold laws governing sexual
54 predators and sexual offenders.--

55 (2) If a person meets the criteria in this chapter for
56 designation as a sexual predator or meets the criteria in s.
57 943.0435, s. 944.606, s. 944.607, or any other law for
58 classification as a sexual offender, the court may not enter an
59 order, for the purpose of approving a plea agreement or for any
60 other reason, which:

61 (a) Exempts a person who meets the criteria for designation
62 as a sexual predator or classification as a sexual offender from
63 such designation or classification; ~~or~~ exempts such person from
64 the requirements for registration or community and public
65 notification imposed upon sexual predators and sexual offenders;
66 exempts such person from the distance limitations contained in
67 ss. 794.065, 947.1405, and 948.30; or exempts such person from
68 the provisions of s. 794.0701;

69 (b) Restricts the compiling, reporting, or release of
70 public records information that relates to sexual predators or
71 sexual offenders; or

72 (c) Prevents any person or entity from performing its
73 duties or operating within its statutorily conferred authority as
74 such duty or authority relates to sexual predators or sexual
75 offenders.

76 Section 4. Section 794.065, Florida Statutes, is amended to
77 read:

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78 794.065 Unlawful place of residence for persons convicted
79 of certain sex offenses.--

80 (1) (a)1. It is unlawful for any person who has been
81 convicted of a violation of s. 794.011, s. 800.04, s. 827.071, or
82 s. 847.0145, regardless of whether adjudication has been
83 withheld, in which the victim of the offense was less than 16
84 years of age, to reside within 1,000 feet of any school, day care
85 center, park, or playground.

86 2. A person who violates this subsection ~~section~~ and whose
87 conviction for an offense listed in subparagraph 1. ~~under s.~~
88 ~~794.011, s. 800.04, s. 827.071, or s. 847.0145~~ was classified as:

89 a. A felony of the first degree or higher, commits a felony
90 of the third degree, punishable as provided in s. 775.082 or s.
91 775.083. ~~A person who violates this section and whose conviction~~
92 ~~under s. 794.011, s. 800.04, s. 827.071, or s. 847.0145 was~~
93 ~~classified as~~

94 b. A felony of the second or third degree, commits a
95 misdemeanor of the first degree, punishable as provided in s.
96 775.082 or s. 775.083.

97 (b)(2) This subsection ~~section~~ applies to any person
98 convicted of an offense listed in subparagraph (a)1. if the
99 offense occurred a violation of s. 794.011, s. 800.04, s.
100 827.071, or s. 847.0145 for offenses that occur on or after
101 October 1, 2004.

102 (2) (a)1. It is unlawful for any person who has been
103 convicted of a violation of s. 787.01, s. 787.02, s. 794.011, s.
104 800.04, s. 827.071, or s. 847.0145, committed on or after October
105 1, 2008, regardless of whether adjudication has been withheld, in
106 which the victim of the offense was less than 16 years of age, to

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107 reside within 1,500 feet of any school, day care center, park, or
108 playground.

109 2. A person violating this subsection whose conviction of
110 an offense listed in subparagraph 1. was classified as:

111 a. A felony of the first degree or higher, commits a felony
112 of the third degree, punishable as provided in s. 775.082 or s.
113 775.083.

114 b. A felony of the second or third degree, commits a
115 misdemeanor of the first degree, punishable as provided in s.
116 775.082 or s. 775.083.

117 (b) The distances in this subsection shall be measured in a
118 straight line from the offender's place of residence to the
119 nearest boundary line of the school, day care center, park, or
120 playground.

121 Section 5. Section 794.0701, Florida Statutes, is created
122 to read:

123 794.0701 Loitering or prowling by persons convicted of
124 certain sex offenses.--Any person who:

125 (1) Has been convicted of a violation of s. 787.01, s.
126 787.02, s. 794.011, s. 800.04, s. 827.071, or s. 847.0145,
127 regardless of whether adjudication has been withheld, in which
128 the victim of the offense was less than 16 years of age; and

129 (2) Loiters or prowls as proscribed in s. 856.021 within
130 300 feet of a place where children regularly congregate,
131 including, but not limited to, a school, designated public school
132 bus stop, day care center, playground or park

133
134 commits a misdemeanor of the first degree, punishable as provided
135 in s. 775.082 or s. 775.083.



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136 Section 6. Section 4. Paragraph (a) of subsection (7) of
137 section 947.1405, Florida Statutes, are amended, and subsection
138 (11) is added to that section, to read:

139 947.1405 Conditional release program.--

140 (7) (a) Any inmate who is convicted of a crime committed on
141 or after October 1, 1995, or who has been previously convicted of
142 a crime committed on or after October 1, 1995, in violation of
143 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is
144 subject to conditional release supervision, shall have, in
145 addition to any other conditions imposed, the following special
146 conditions imposed by the commission:

147 1. A mandatory curfew from 10 p.m. to 6 a.m. The commission
148 may designate another 8-hour period if the offender's employment
149 precludes the above specified time, and such alternative is
150 recommended by the Department of Corrections. If the commission
151 determines that imposing a curfew would endanger the victim, the
152 commission may consider alternative sanctions.

153 2.a. If the victim was under the age of 18, a prohibition
154 on living within 1,000 feet of a school, day care center, park,
155 playground, designated public school bus stop, or other place
156 where children regularly congregate. A releasee who is subject to
157 this subparagraph may not relocate to a residence that is within
158 1,000 feet of a public school bus stop.

159 b. Beginning October 1, 2004, the commission or the
160 department may not approve a residence that is located within
161 1,000 feet of a school, day care center, park, playground,
162 designated school bus stop, or other place where children
163 regularly congregate for any releasee who is subject to this
164 subparagraph. On October 1, 2004, the department shall notify
165 each affected school district of the location of the residence of



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166 a releasee 30 days prior to release and thereafter, if the
167 releasee relocates to a new residence, shall notify any affected
168 school district of the residence of the releasee within 30 days
169 after relocation. If, on October 1, 2004, any public school bus
170 stop is located within 1,000 feet of the existing residence of
171 such releasee, the district school board shall relocate that
172 school bus stop. Beginning October 1, 2004, a district school
173 board may not establish or relocate a public school bus stop
174 within 1,000 feet of the residence of a releasee who is subject
175 to this subparagraph. The failure of the district school board to
176 comply with this subparagraph shall not result in a violation of
177 conditional release supervision.

178 c. If the victim was under the age of 18, beginning October
179 1, 2008, neither the commission nor the department may approve a
180 residence located within 1,500 feet of a school, day care center,
181 park, playground, designated school bus stop, or other place
182 where children regularly congregate for any releasee who is
183 subject to this subparagraph. The distance in this sub-
184 subparagraph shall be measured in a straight line from the
185 offender's place of residence to the nearest boundary line of the
186 school, day care center, park, playground, or other place where
187 children regularly congregate. The distance may not be measured
188 by a pedestrian route or automobile route.

189 3. Active participation in and successful completion of a
190 sex offender treatment program with qualified practitioners
191 specifically trained to treat sex offenders, at the releasee's
192 own expense. If a qualified practitioner is not available within
193 a 50-mile radius of the releasee's residence, the offender shall
194 participate in other appropriate therapy.



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195 4. A prohibition on any contact with the victim, directly
196 or indirectly, including through a third person, unless approved
197 by the victim, the offender's therapist, and the sentencing
198 court.

199 5. If the victim was under the age of 18, a prohibition
200 against contact with children under the age of 18 without review
201 and approval by the commission. The commission may approve
202 supervised contact with a child under the age of 18 if the
203 approval is based upon a recommendation for contact issued by a
204 qualified practitioner who is basing the recommendation on a risk
205 assessment. Further, the sex offender must be currently enrolled
206 in or have successfully completed a sex offender therapy program.
207 The commission may not grant supervised contact with a child if
208 the contact is not recommended by a qualified practitioner and
209 may deny supervised contact with a child at any time. When
210 considering whether to approve supervised contact with a child,
211 the commission must review and consider the following:

212 a. A risk assessment completed by a qualified practitioner.
213 The qualified practitioner must prepare a written report that
214 must include the findings of the assessment and address each of
215 the following components:

216 (I) The sex offender's current legal status;

217 (II) The sex offender's history of adult charges with
218 apparent sexual motivation;

219 (III) The sex offender's history of adult charges without
220 apparent sexual motivation;

221 (IV) The sex offender's history of juvenile charges,
222 whenever available;



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223 (V) The sex offender's offender treatment history,
224 including a consultation from the sex offender's treating, or
225 most recent treating, therapist;

226 (VI) The sex offender's current mental status;

227 (VII) The sex offender's mental health and substance abuse
228 history as provided by the Department of Corrections;

229 (VIII) The sex offender's personal, social, educational,
230 and work history;

231 (IX) The results of current psychological testing of the
232 sex offender if determined necessary by the qualified
233 practitioner;

234 (X) A description of the proposed contact, including the
235 location, frequency, duration, and supervisory arrangement;

236 (XI) The child's preference and relative comfort level with
237 the proposed contact, when age-appropriate;

238 (XII) The parent's or legal guardian's preference regarding
239 the proposed contact; and

240 (XIII) The qualified practitioner's opinion, along with the
241 basis for that opinion, as to whether the proposed contact would
242 likely pose significant risk of emotional or physical harm to the
243 child.

244
245 The written report of the assessment must be given to the
246 commission.

247 b. A recommendation made as a part of the risk-assessment
248 report as to whether supervised contact with the child should be
249 approved;

250 c. A written consent signed by the child's parent or legal
251 guardian, if the parent or legal guardian is not the sex
252 offender, agreeing to the sex offender having supervised contact



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253 with the child after receiving full disclosure of the sex
254 offender's present legal status, past criminal history, and the
255 results of the risk assessment. The commission may not approve
256 contact with the child if the parent or legal guardian refuses to
257 give written consent for supervised contact;

258 d. A safety plan prepared by the qualified practitioner,
259 who provides treatment to the offender, in collaboration with the
260 sex offender, the child's parent or legal guardian, and the
261 child, when age appropriate, which details the acceptable
262 conditions of contact between the sex offender and the child. The
263 safety plan must be reviewed and approved by the Department of
264 Corrections before being submitted to the commission; and

265 e. Evidence that the child's parent or legal guardian, if
266 the parent or legal guardian is not the sex offender, understands
267 the need for and agrees to the safety plan and has agreed to
268 provide, or to designate another adult to provide, constant
269 supervision any time the child is in contact with the offender.

270
271 The commission may not appoint a person to conduct a risk
272 assessment and may not accept a risk assessment from a person who
273 has not demonstrated to the commission that he or she has met the
274 requirements of a qualified practitioner as defined in this
275 section.

276 6. If the victim was under age 18, a prohibition on working
277 for pay or as a volunteer at any school, day care center, park,
278 playground, or other place where children regularly congregate,
279 as prescribed by the commission.

280 7. Unless otherwise indicated in the treatment plan
281 provided by the sexual offender treatment program, a prohibition
282 on viewing, owning, or possessing any obscene, pornographic, or



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283 sexually stimulating visual or auditory material, including
284 telephone, electronic media, computer programs, or computer
285 services that are relevant to the offender's deviant behavior
286 pattern.

287 8. Effective for a releasee whose crime is committed on or
288 after July 1, 2005, a prohibition on accessing the Internet or
289 other computer services until the offender's sex offender
290 treatment program, after a risk assessment is completed, approves
291 and implements a safety plan for the offender's accessing or
292 using the Internet or other computer services.

293 9. A requirement that the releasee must submit two
294 specimens of blood to the Florida Department of Law Enforcement
295 to be registered with the DNA database.

296 10. A requirement that the releasee make restitution to the
297 victim, as determined by the sentencing court or the commission,
298 for all necessary medical and related professional services
299 relating to physical, psychiatric, and psychological care.

300 11. Submission to a warrantless search by the community
301 control or probation officer of the probationer's or community
302 controllee's person, residence, or vehicle.

303 (11) (a) For a releasee whose crime was committed on or
304 after October 1, 2008, the commission must, in addition to all
305 other provisions of this section, impose the special conditions
306 in paragraph (b) on the following releasees:

307 1. A releasee whose crime was committed on or after October
308 1, 2008, in violation of s. 800.04(4), (5), or (6); s. 827.071;
309 or s. 847.0145 in this state or a similar offense in another
310 jurisdiction when, at the time of the offense, the victim was
311 under 16 years of age and the releasee was 18 years of age or
312 older.



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313 2. A releasee who is designated as a sexual predator under
314 s. 775.21 or who has received a similar designation or
315 determination in another jurisdiction.

316 3. A releasee subject to registration as a sexual predator
317 under s. 775.21 or as a sexual offender under s. 943.0435 who has
318 committed an offense that would meet the criteria for the
319 designation or registration when at the time of the offense the
320 victim was under 16 years of age and the releasee was 18 years of
321 age or older, who commits a violation of s. 775.21 or s. 943.0435
322 on or after October 1, 2008, and who is not otherwise subject to
323 this paragraph.

324 (b) The commission must order a prohibition on distributing
325 candy or other items to children on Halloween, wearing a Santa
326 Claus costume on or preceding Christmas, wearing an Easter Bunny
327 costume on or preceding Easter, entertaining at children's
328 parties, or wearing a clown costume without prior approval from
329 the commission.

330 Section 7. Paragraph (b) of subsection (1) and subsection
331 (3) of section 948.30, Florida Statutes, are amended, and
332 subsection (4) is added to that section, to read:

333 948.30 Additional terms and conditions of probation or
334 community control for certain sex offenses.--Conditions imposed
335 pursuant to this section do not require oral pronouncement at the
336 time of sentencing and shall be considered standard conditions of
337 probation or community control for offenders specified in this
338 section.

339 (1) Effective for probationers or community controllees
340 whose crime was committed on or after October 1, 1995, and who
341 are placed under supervision for violation of chapter 794, s.
342 800.04, s. 827.071, or s. 847.0145, the court must impose the

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343 following conditions in addition to all other standard and
344 special conditions imposed:

345 (b)1. Except as provided in subparagraph 2., if the victim
346 was under the age of 18, a prohibition on living within 1,000
347 feet of a school, day care center, park, playground, or other
348 place where children regularly congregate, as prescribed by the
349 court. The 1,000-foot distance shall be measured in a straight
350 line from the offender's place of residence to the nearest
351 boundary line of the school, day care center, park, playground,
352 or other place where children regularly congregate. The distance
353 may not be measured by a pedestrian route or automobile route.

354 2. For a probationer or community controllee whose crime
355 was committed on or after October 1, 2008, if the victim was
356 under the age of 18, a prohibition on living within 1,500 feet of
357 a school, day care center, park, playground, or other place where
358 children regularly congregate, as prescribed by the court. This
359 distance shall be measured in a straight line from the offender's
360 place of residence to the nearest boundary line of the school,
361 day care center, park, playground, or other place where children
362 regularly congregate. The distance may not be measured by a
363 pedestrian route or automobile route.

364 (3) Effective for a probationer or community controllee
365 whose crime was committed on or after September 1, 2005, and who:

366 (a) Is placed on probation or community control for a
367 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,
368 or s. 847.0145 and the unlawful sexual activity involved a victim
369 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years
370 of age or older;

371 (b) Is designated a sexual predator pursuant to s. 775.21;
372 or



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373 (c) Has previously been convicted of a violation of chapter
374 794, s. 800.04(4), (5), or (6), s. 827.071, or s. 847.0145 and
375 the unlawful sexual activity involved a victim under 16 ~~15~~ years
376 of age ~~or younger~~ and the offender is 18 years of age or older,
377
378 the court must order, in addition to any other provision of this
379 section, mandatory electronic monitoring as a condition of the
380 probation or community control supervision.

381 (4) (a) The court must, in addition to all other provisions
382 of this section, impose the special conditions in paragraph (b)
383 on the following probationers or community controllees whose
384 crime was committed on or after October 1, 2008:

385 1. A probationer or community controllee who violated s.
386 800.04(4), (5), or (6); s. 827.071; or s. 847.0145 in this state
387 or committed a similar offense in another jurisdiction when, at
388 the time of the offense, the victim was under 16 years of age and
389 the probationer or community controllee was 18 years of age or
390 older.

391 2. A probationer or community controllee who is designated
392 as a sexual predator under s. 775.21 or who has received a
393 similar designation or determination in another jurisdiction.

394 3. A probationer or community controllee subject to
395 registration as a sexual predator under s. 775.21 or as a sexual
396 offender pursuant to s. 943.0435 who has committed an offense
397 that would meet the criteria for the designation or registration
398 when at the time of the offense the victim was under 16 years of
399 age and the probationer or community controllee was 18 years of
400 age or older, who commits a violation of s. 775.21 or s. 943.0435
401 on or after October 1, 2008, and who is not otherwise subject to
402 this paragraph.



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403 (b) The court must order a prohibition on distributing
 404 candy or other items to children on Halloween, wearing a Santa
 405 Claus costume on or preceding Christmas, wearing an Easter Bunny
 406 costume on or preceding Easter, entertaining at children's
 407 parties, or wearing a clown costume without prior approval from
 408 the court.

409 Section 8. This act shall take effect October 1, 2008.

410
 411 ===== T I T L E A M E N D M E N T =====

412 And the title is amended as follows:

413 Delete everything before the enacting clause
 414 and insert:

415 A bill to be entitled
 416 An act relating to sexual offenders and predators;
 417 amending s. 775.21, F.S.; revising provisions relating to
 418 reimbursement of specified costs by sexual predators;
 419 creating s. 775.215, F.S.; specifying residency distance
 420 limitations for persons convicted of certain sexual
 421 offenses; preempting certain local ordinances and
 422 providing for repeal of such ordinances; amending s.
 423 775.24, F.S.; revising provisions relating to the duty of
 424 the court to uphold certain laws; amending s. 794.065,
 425 F.S.; providing additional residency restrictions on
 426 certain offenders; providing penalties; creating s.
 427 794.0701, F.S.; providing for enhanced penalties for
 428 loitering or prowling by persons convicted of certain sex
 429 offenses; amending s. 947.1405, F.S.; providing additional
 430 conditional release restrictions for certain offenders;
 431 amending s. 948.30, F.S.; revising provisions relating to
 432 terms and conditions of probation or community control for



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433 | certain sex offenses; providing additional restrictions
434 | for certain probationers or community controllees who
435 | committed sexual offenses with minors under the age of
436 | 16;; providing an effective date.