



585352

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/18/2010	.	
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The Committee on Criminal Justice (Crist) recommended the following:

Senate Amendment (with title amendment)

Between lines 105 and 106
insert:

Section 4. Section 856.022, Florida Statutes, is created to read:

856.022 Loitering or prowling by certain offenders in close proximity to children; penalty.-

(1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or



585352

13 similar offenses in another jurisdiction against a victim who
14 was under the age of 18 at the time of the offense: s. 787.01,
15 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
16 the offender was not the victim's parent or guardian; s.
17 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
18 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
19 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
20 847.0145; s. 985.701(1); or any similar offense committed in
21 this state which has been redesignated from a former statute
22 number to one of those listed in this subsection, if the person
23 has not received a pardon for any felony or similar law of
24 another jurisdiction necessary for the operation of this
25 subsection and a conviction of a felony or similar law of
26 another jurisdiction necessary for the operation of this
27 subsection has not been set aside in any postconviction
28 proceeding.

29 (2) This section does not apply to a person who has been
30 removed from the requirement to register as a sexual offender or
31 sexual predator pursuant to s. 943.04354.

32 (3) A person described in subsection (1) commits loitering
33 or prowling by a person convicted of a sexual offense against a
34 minor if, while committing loitering or prowling in violation of
35 s. 856.021, he or she is knowingly:

36 (a) Within 300 feet of a child care facility or pre-K
37 through 12 school or on real property comprising any child care
38 facility or pre-K through 12 school when the child care facility
39 or school is in operation; or

40 (b) Within 300 feet of a park, playground, or bus stop
41 while children are present and congregating in such a manner



585352

42 that any reasonable person would be aware of their presence at
43 the park, playground, or bus stop at the same time that the
44 offender is also present.

45 (4) It is unlawful for a person described in subsection (1)
46 to:

47 (a) Knowingly approach, contact, or communicate with a
48 child under 18 years of age in any public park building or on
49 real property comprising any public park or playground with
50 intent to engage in conduct of a sexual nature, or to make a
51 communication of any type containing any content of a sexual
52 nature. This paragraph applies only to a person described in
53 subsection (1) whose offense was committed on or after the
54 effective date of this act.

55 (b)1. Knowingly be present in any child care facility or
56 pre-K through 12 school or on real property comprising any child
57 care facility or pre-K through 12 school when the child care
58 facility or school is in operation unless the person has
59 provided written notification of his or her intent to be present
60 to the school board, superintendent, principal, or child care
61 facility owner;

62 2. Fail to notify the child care facility owner or the
63 school principal's office when he or she arrives and departs the
64 child care facility or school; or

65 3. Fail to remain under direct supervision of a school
66 official or designated chaperone when present in the vicinity of
67 children. As used in this paragraph, the term "school official"
68 means a principal, school resource officer, teacher or any other
69 employee of the school, the superintendent of schools, a member
70 of the school board, a child care facility owner, or a child



585352

71 care provider.

72 (c) A person is not in violation of paragraph (b) if:

73 1. The child care facility or school is a voting location
74 and the person is present for the purpose of voting during the
75 hours designated for voting; or

76 2. The person is only dropping off or picking up his or her
77 own children or grandchildren at the child care facility or
78 school.

79 (5) Any person who violates this section commits a
80 misdemeanor of the first degree, punishable as provided in s.
81 775.082 or s. 775.083.

82 Section 5. Paragraph (g) of subsection (2), paragraph (c)
83 of subsection (4), paragraph (a) of subsection (5), paragraphs
84 (a), (f), (g), (i), and (j) of subsection (6), paragraph (a) of
85 subsection (7), and paragraph (a) of subsection (8) of section
86 775.21, Florida Statutes, are amended, and paragraph (1) is
87 added to subsection (2) of that section, to read:

88 775.21 The Florida Sexual Predators Act.—

89 (2) DEFINITIONS.—As used in this section, the term:

90 (g) "Temporary residence" means a place where the person
91 abides, lodges, or resides, including, but not limited to,
92 vacation, business, or personal travel destinations in or out of
93 this state, for a period of 5 or more days in the aggregate
94 during any calendar year and which is not the person's permanent
95 address or, for a person whose permanent residence is not in
96 this state, a place where the person is employed, practices a
97 vocation, or is enrolled as a student for any period of time in
98 this state.

99 (1) "Transient residence" means a place or county where a



585352

100 person lives, remains, or is located for a period of 5 or more
101 days in the aggregate during a calendar year and which is not
102 the person's permanent or temporary address. The term includes,
103 but is not limited to, a place where the person sleeps or seeks
104 shelter and a location that has no specific street address.

105 (4) SEXUAL PREDATOR CRITERIA.—

106 (c) If an offender has been registered as a sexual predator
107 by the Department of Corrections, the department, or any other
108 law enforcement agency and if:

109 1. The court did not, for whatever reason, make a written
110 finding at the time of sentencing that the offender was a sexual
111 predator; or

112 2. The offender was administratively registered as a sexual
113 predator because the Department of Corrections, the department,
114 or any other law enforcement agency obtained information that
115 indicated that the offender met the criteria for designation as
116 a sexual predator based on a violation of a similar law in
117 another jurisdiction,

118
119 the department shall remove that offender from the department's
120 list of sexual predators and, for an offender described under
121 subparagraph 1., shall notify the state attorney who prosecuted
122 the offense that met the criteria for administrative designation
123 as a sexual predator, and, for an offender described under this
124 paragraph, shall notify the state attorney of the county where
125 the offender establishes or maintains a permanent, ~~or~~ temporary,
126 or transient residence. The state attorney shall bring the
127 matter to the court's attention in order to establish that the
128 offender meets the criteria for designation as a sexual



585352

129 predator. If the court makes a written finding that the offender
130 is a sexual predator, the offender must be designated as a
131 sexual predator, must register or be registered as a sexual
132 predator with the department as provided in subsection (6), and
133 is subject to the community and public notification as provided
134 in subsection (7). If the court does not make a written finding
135 that the offender is a sexual predator, the offender may not be
136 designated as a sexual predator with respect to that offense and
137 is not required to register or be registered as a sexual
138 predator with the department.

139 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated
140 as a sexual predator as follows:

141 (a)1. An offender who meets the sexual predator criteria
142 described in paragraph (4)(d) is a sexual predator, and the
143 court shall make a written finding at the time such offender is
144 determined to be a sexually violent predator under chapter 394
145 that such person meets the criteria for designation as a sexual
146 predator for purposes of this section. The clerk shall transmit
147 a copy of the order containing the written finding to the
148 department within 48 hours after the entry of the order;

149 2. An offender who meets the sexual predator criteria
150 described in paragraph (4)(a) who is before the court for
151 sentencing for a current offense committed on or after October
152 1, 1993, is a sexual predator, and the sentencing court must
153 make a written finding at the time of sentencing that the
154 offender is a sexual predator, and the clerk of the court shall
155 transmit a copy of the order containing the written finding to
156 the department within 48 hours after the entry of the order; or

157 3. If the Department of Corrections, the department, or any



585352

158 other law enforcement agency obtains information which indicates
159 that an offender who establishes or maintains a permanent, ~~or~~
160 temporary, or transient residence in this state meets the sexual
161 predator criteria described in paragraph (4) (a) or paragraph
162 (4) (d) because the offender was civilly committed or committed a
163 similar violation in another jurisdiction on or after October 1,
164 1993, the Department of Corrections, the department, or the law
165 enforcement agency shall notify the state attorney of the county
166 where the offender establishes or maintains a permanent, ~~or~~
167 temporary, or transient residence of the offender's presence in
168 the community. The state attorney shall file a petition with the
169 criminal division of the circuit court for the purpose of
170 holding a hearing to determine if the offender's criminal record
171 or record of civil commitment from another jurisdiction meets
172 the sexual predator criteria. If the court finds that the
173 offender meets the sexual predator criteria because the offender
174 has violated a similar law or similar laws in another
175 jurisdiction, the court shall make a written finding that the
176 offender is a sexual predator.

177
178 When the court makes a written finding that an offender is a
179 sexual predator, the court shall inform the sexual predator of
180 the registration and community and public notification
181 requirements described in this section. Within 48 hours after
182 the court designating an offender as a sexual predator, the
183 clerk of the circuit court shall transmit a copy of the court's
184 written sexual predator finding to the department. If the
185 offender is sentenced to a term of imprisonment or supervision,
186 a copy of the court's written sexual predator finding must be



585352

187 submitted to the Department of Corrections.

188 (6) REGISTRATION.—

189 (a) A sexual predator must register with the department
190 through the sheriff's office by providing the following
191 information to the department:

192 1. Name, social security number, age, race, sex, date of
193 birth, height, weight, hair and eye color, photograph, address
194 of legal residence and address of any current temporary
195 residence, within the state or out of state, including a rural
196 route address and a post office box, if no permanent or
197 temporary address, any transient residence within the state,
198 address, location or description, and dates of any current or
199 known future temporary residence within the state or out of
200 state, any electronic mail address and any instant message name
201 required to be provided pursuant to subparagraph (g)4., home
202 telephone number and any cellular telephone number, date and
203 place of any employment, date and place of each conviction,
204 fingerprints, and a brief description of the crime or crimes
205 committed by the offender. A post office box shall not be
206 provided in lieu of a physical residential address.

207 a. If the sexual predator's place of residence is a motor
208 vehicle, trailer, mobile home, or manufactured home, as defined
209 in chapter 320, the sexual predator shall also provide to the
210 department written notice of the vehicle identification number;
211 the license tag number; the registration number; and a
212 description, including color scheme, of the motor vehicle,
213 trailer, mobile home, or manufactured home. If a sexual
214 predator's place of residence is a vessel, live-aboard vessel,
215 or houseboat, as defined in chapter 327, the sexual predator



585352

216 shall also provide to the department written notice of the hull
217 identification number; the manufacturer's serial number; the
218 name of the vessel, live-aboard vessel, or houseboat; the
219 registration number; and a description, including color scheme,
220 of the vessel, live-aboard vessel, or houseboat.

221 b. If the sexual predator is enrolled, employed, or
222 carrying on a vocation at an institution of higher education in
223 this state, the sexual predator shall also provide to the
224 department the name, address, and county of each institution,
225 including each campus attended, and the sexual predator's
226 enrollment or employment status. Each change in enrollment or
227 employment status shall be reported in person at the sheriff's
228 office, or the Department of Corrections if the sexual predator
229 is in the custody or control of or under the supervision of the
230 Department of Corrections, within 48 hours after any change in
231 status. The sheriff or the Department of Corrections shall
232 promptly notify each institution of the sexual predator's
233 presence and any change in the sexual predator's enrollment or
234 employment status.

235 2. Any other information determined necessary by the
236 department, including criminal and corrections records;
237 nonprivileged personnel and treatment records; and evidentiary
238 genetic markers when available.

239 (f) Within 48 hours after the registration required under
240 paragraph (a) or paragraph (e), a sexual predator who is not
241 incarcerated and who resides in the community, including a
242 sexual predator under the supervision of the Department of
243 Corrections, shall register in person at a driver's license
244 office of the Department of Highway Safety and Motor Vehicles



585352

245 and shall present proof of registration. At the driver's license
246 office the sexual predator shall:

247 1. If otherwise qualified, secure a Florida driver's
248 license, renew a Florida driver's license, or secure an
249 identification card. The sexual predator shall identify himself
250 or herself as a sexual predator who is required to comply with
251 this section, provide his or her place of permanent, ~~or~~
252 temporary, or transient residence, including a rural route
253 address and a post office box, and submit to the taking of a
254 photograph for use in issuing a driver's license, renewed
255 license, or identification card, and for use by the department
256 in maintaining current records of sexual predators. A post
257 office box shall not be provided in lieu of a physical
258 residential address. If the sexual predator's place of residence
259 is a motor vehicle, trailer, mobile home, or manufactured home,
260 as defined in chapter 320, the sexual predator shall also
261 provide to the Department of Highway Safety and Motor Vehicles
262 the vehicle identification number; the license tag number; the
263 registration number; and a description, including color scheme,
264 of the motor vehicle, trailer, mobile home, or manufactured
265 home. If a sexual predator's place of residence is a vessel,
266 live-aboard vessel, or houseboat, as defined in chapter 327, the
267 sexual predator shall also provide to the Department of Highway
268 Safety and Motor Vehicles the hull identification number; the
269 manufacturer's serial number; the name of the vessel, live-
270 aboard vessel, or houseboat; the registration number; and a
271 description, including color scheme, of the vessel, live-aboard
272 vessel, or houseboat.

273 2. Pay the costs assessed by the Department of Highway



585352

274 Safety and Motor Vehicles for issuing or renewing a driver's
275 license or identification card as required by this section. The
276 driver's license or identification card issued to the sexual
277 predator must be in compliance with s. 322.141(3).

278 3. Provide, upon request, any additional information
279 necessary to confirm the identity of the sexual predator,
280 including a set of fingerprints.

281 (g)1. Each time a sexual predator's driver's license or
282 identification card is subject to renewal, and, without regard
283 to the status of the predator's driver's license or
284 identification card, within 48 hours after any change of the
285 predator's residence or change in the predator's name by reason
286 of marriage or other legal process, the predator shall report in
287 person to a driver's license office and shall be subject to the
288 requirements specified in paragraph (f). The Department of
289 Highway Safety and Motor Vehicles shall forward to the
290 department and to the Department of Corrections all photographs
291 and information provided by sexual predators. Notwithstanding
292 the restrictions set forth in s. 322.142, the Department of
293 Highway Safety and Motor Vehicles is authorized to release a
294 reproduction of a color-photograph or digital-image license to
295 the Department of Law Enforcement for purposes of public
296 notification of sexual predators as provided in this section.

297 2. A sexual predator who vacates a permanent, temporary, or
298 transient residence and fails to establish or maintain another
299 permanent, ~~or~~ temporary, or transient residence shall, within 48
300 hours after vacating the permanent, temporary, or transient
301 residence, report in person to the sheriff's office of the
302 county in which he or she is located. The sexual predator shall



585352

303 specify the date upon which he or she intends to or did vacate
304 such residence. The sexual predator must provide or update all
305 of the registration information required under paragraph (a).
306 The sexual predator must provide an address for the residence or
307 other place ~~location~~ that he or she is or will be located
308 ~~occupying~~ during the time in which he or she fails to establish
309 or maintain a permanent or temporary residence.

310 3. A sexual predator who remains at a permanent, temporary,
311 or transient residence after reporting his or her intent to
312 vacate such residence shall, within 48 hours after the date upon
313 which the predator indicated he or she would or did vacate such
314 residence, report in person to the sheriff's office to which he
315 or she reported pursuant to subparagraph 2. for the purpose of
316 reporting his or her address at such residence. When the sheriff
317 receives the report, the sheriff shall promptly convey the
318 information to the department. An offender who makes a report as
319 required under subparagraph 2. but fails to make a report as
320 required under this subparagraph commits a felony of the second
321 degree, punishable as provided in s. 775.082, s. 775.083, or s.
322 775.084.

323 4. A sexual predator must register any electronic mail
324 address or instant message name with the department prior to
325 using such electronic mail address or instant message name on or
326 after October 1, 2007. The department shall establish an online
327 system through which sexual predators may securely access and
328 update all electronic mail address and instant message name
329 information.

330 (i) A sexual predator who intends to establish a permanent,
331 temporary, or transient residence in another state or



585352

332 jurisdiction other than the State of Florida shall report in
333 person to the sheriff of the county of current residence within
334 48 hours before the date he or she intends to leave this state
335 to establish residence in another state or jurisdiction. The
336 sexual predator must provide to the sheriff the address,
337 municipality, county, and state of intended residence. The
338 sheriff shall promptly provide to the department the information
339 received from the sexual predator. The department shall notify
340 the statewide law enforcement agency, or a comparable agency, in
341 the intended state or jurisdiction of residence of the sexual
342 predator's intended residence. The failure of a sexual predator
343 to provide his or her intended place of residence is punishable
344 as provided in subsection (10).

345 (j) A sexual predator who indicates his or her intent to
346 establish a permanent, temporary, or transient residence ~~reside~~
347 in another state or jurisdiction other than the State of Florida
348 and later decides to remain in this state shall, within 48 hours
349 after the date upon which the sexual predator indicated he or
350 she would leave this state, report in person to the sheriff to
351 which the sexual predator reported the intended change of
352 residence, and report his or her intent to remain in this state.
353 If the sheriff is notified by the sexual predator that he or she
354 intends to remain in this state, the sheriff shall promptly
355 report this information to the department. A sexual predator who
356 reports his or her intent to establish a permanent, temporary,
357 or transient residence ~~reside~~ in another state or jurisdiction,
358 but who remains in this state without reporting to the sheriff
359 in the manner required by this paragraph, commits a felony of
360 the second degree, punishable as provided in s. 775.082, s.



585352

361 775.083, or s. 775.084.

362 (7) COMMUNITY AND PUBLIC NOTIFICATION.—

363 (a) Law enforcement agencies must inform members of the
364 community and the public of a sexual predator's presence. Upon
365 notification of the presence of a sexual predator, the sheriff
366 of the county or the chief of police of the municipality where
367 the sexual predator establishes or maintains a permanent or
368 temporary residence shall notify members of the community and
369 the public of the presence of the sexual predator in a manner
370 deemed appropriate by the sheriff or the chief of police. Within
371 48 hours after receiving notification of the presence of a
372 sexual predator, the sheriff of the county or the chief of
373 police of the municipality where the sexual predator temporarily
374 or permanently resides shall notify each licensed day care
375 center, elementary school, middle school, and high school within
376 a 1-mile radius of the temporary or permanent residence of the
377 sexual predator of the presence of the sexual predator.
378 Information provided to members of the community and the public
379 regarding a sexual predator must include:

380 1. The name of the sexual predator;

381 2. A description of the sexual predator, including a
382 photograph;

383 3. The sexual predator's current permanent, temporary, and
384 transient addresses, and descriptions of registered locations
385 that have no specific street address, including the name of the
386 county or municipality if known;

387 4. The circumstances of the sexual predator's offense or
388 offenses; and

389 5. Whether the victim of the sexual predator's offense or



585352

390 offenses was, at the time of the offense, a minor or an adult.

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392 This paragraph does not authorize the release of the name of any
393 victim of the sexual predator.

394 (8) VERIFICATION.—The department and the Department of
395 Corrections shall implement a system for verifying the addresses
396 of sexual predators. The system must be consistent with the
397 provisions of the federal Adam Walsh Child Protection and Safety
398 Act of 2006 and any other federal standards applicable to such
399 verification or required to be met as a condition for the
400 receipt of federal funds by the state. The Department of
401 Corrections shall verify the addresses of sexual predators who
402 are not incarcerated but who reside in the community under the
403 supervision of the Department of Corrections and shall report to
404 the department any failure by a sexual predator to comply with
405 registration requirements. County and local law enforcement
406 agencies, in conjunction with the department, shall verify the
407 addresses of sexual predators who are not under the care,
408 custody, control, or supervision of the Department of
409 Corrections. Local law enforcement agencies shall report to the
410 department any failure by a sexual predator to comply with
411 registration requirements.

412 (a) A sexual predator must report in person each year
413 during the month of the sexual predator's birthday and during
414 every third month thereafter to the sheriff's office in the
415 county in which he or she resides or is otherwise located to
416 reregister. The sheriff's office may determine the appropriate
417 times and days for reporting by the sexual predator, which shall
418 be consistent with the reporting requirements of this paragraph.



585352

419 Reregistration shall include any changes to the following
420 information:

421 1. Name; social security number; age; race; sex; date of
422 birth; height; weight; hair and eye color; address of any
423 permanent residence and address of any current temporary
424 residence, within the state or out of state, including a rural
425 route address and a post office box; if no permanent or
426 temporary address, any transient residence within the state;
427 address, location or description, and dates of any current or
428 known future temporary residence within the state or out of
429 state; any electronic mail address and any instant message name
430 required to be provided pursuant to subparagraph (6)(g)4.; home
431 telephone number and any cellular telephone number; date and
432 place of any employment; vehicle make, model, color, and license
433 tag number; fingerprints; and photograph. A post office box
434 shall not be provided in lieu of a physical residential address.

435 2. If the sexual predator is enrolled, employed, or
436 carrying on a vocation at an institution of higher education in
437 this state, the sexual predator shall also provide to the
438 department the name, address, and county of each institution,
439 including each campus attended, and the sexual predator's
440 enrollment or employment status.

441 3. If the sexual predator's place of residence is a motor
442 vehicle, trailer, mobile home, or manufactured home, as defined
443 in chapter 320, the sexual predator shall also provide the
444 vehicle identification number; the license tag number; the
445 registration number; and a description, including color scheme,
446 of the motor vehicle, trailer, mobile home, or manufactured
447 home. If the sexual predator's place of residence is a vessel,



585352

448 live-aboard vessel, or houseboat, as defined in chapter 327, the
449 sexual predator shall also provide the hull identification
450 number; the manufacturer's serial number; the name of the
451 vessel, live-aboard vessel, or houseboat; the registration
452 number; and a description, including color scheme, of the
453 vessel, live-aboard vessel, or houseboat.

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455

456 ===== T I T L E A M E N D M E N T =====

457 And the title is amended as follows:

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459 Delete line 17

460 and insert:

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462 creating s. 856.022, F.S.; enhancing the penalty for
463 loitering or prowling by certain offenders within a
464 specified distance of certain places where children
465 congregate; prohibiting certain actions toward a child
466 at a public park or playground by certain offenders;
467 prohibiting the presence of certain offenders at or on
468 real property comprising a child care facility or pre-
469 K through 12 school without notice and supervision;
470 providing exceptions; providing penalties; amending s.
471 775.21, F.S.; revising and providing definitions;
472 revising provisions relating to residence reporting
473 requirements for sexual predators;