

**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.)

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Prepared By: The Professional Staff of the Criminal and Civil Justice Appropriations Committee

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BILL: SB 2750

INTRODUCER: Senator Dean

SUBJECT: Career Offenders

DATE: April 14, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Anderson</u>	<u>Maclure</u>	<u>JU</u>	<b>Favorable</b>
3.	<u>Butler</u>	<u>Sadberry</u>	<u>JA</u>	<b>Favorable</b>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

The bill provides that it is first degree misdemeanor for a person to:

- Withhold information from, or fail to notify, a law enforcement agency about a career offender's noncompliance with the requirements of the Florida Career Offender Registration Act (s. 775.261, F.S.) and, if known, the whereabouts of the career offender;
- Harbor or attempt to harbor, or assist another in harboring or attempting to harbor, the career offender;
- Conceal or attempt to conceal, or assist another in concealing or attempting to conceal, the career offender; or
- Provide information to the law enforcement agency regarding the career offender which the person knows to be false.

Each specified act is only unlawful if the person has reason to believe that a career offender is not complying, or has not complied, with the requirements of s. 775.261, F.S., and commits the act with the intent to assist the career offender in eluding a law enforcement agency that is seeking to find the career offender to question the career offender about, or to arrest the career offender for, his or her noncompliance with the requirements of s. 775.261, F.S.

This bill substantially amends section 775.261, Florida Statutes.

## II. Present Situation:

### Florida Career Offender Registration Act

Section 775.261, F.S., the Florida Career Offender Registration Act, requires an offender who meets the definition of “career offender” in the statute to register as such. A “career offender” is a person who is designated as a habitual violent felony offender,<sup>1</sup> a violent career criminal,<sup>2</sup> a three-time violent felony offender,<sup>3</sup> or a prison releasee reoffender.<sup>4</sup> These sentencing statutes have different criteria but, in general, impose enhanced penalties upon offenders who have been convicted on multiple occasions of certain felony offenses.

A career offender released on or after July 1, 2002, from a sanction<sup>5</sup> imposed in Florida is required to register with the Florida Department of Law Enforcement (FDLE) or the sheriff’s office in the county in which the career offender establishes or maintains a permanent or temporary residence within 2 working days after establishing this residence. A career offender must also register with FDLE or the sheriff within 2 working days after being released from the custody, control, or supervision of the Department of Corrections (DOC) or from the custody of a private correctional facility. The career offender is required to provide specified, identifying information to the sheriff such as the offender’s name, social security number, age, race, date of birth, and address. If the career offender registers with the sheriff, the sheriff must provide the information obtained to FDLE. If the career offender registers with FDLE, FDLE must notify the sheriff and, if applicable, the police chief of the municipality, where the career offender maintains a residence within 48 hours after the career offender registers with FDLE.<sup>6</sup>

Within 2 working days after registering with FDLE or the sheriff, the career offender (not incarcerated and residing in the community) must register in person at a driver’s license office of the Department of Highway Safety and Motor Vehicles (DHSMV or department), secure a driver’s license or state identification card, and provide specified, identifying information.<sup>7</sup> Each time the career offender’s driver’s license or state identification card is subject to renewal, and within 2 working days after any change of career offender’s residence or name, the career offender must report in person to a driver’s license office and is subject to the previously noted requirements relevant to reporting to DHSMV. The department must forward the information provided by the career offender to FDLE and DOC.<sup>8</sup>

The statute also provides reporting requirements relevant to career offenders who:

- Intend to establish a residence in a state or jurisdiction other than Florida;<sup>9</sup> or

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<sup>1</sup> Section 775.084(1)(b), F.S.

<sup>2</sup> Section 775.084(1)(d), F.S.

<sup>3</sup> Section 775.084(1)(c), F.S.

<sup>4</sup> Section 775.082(9), F.S.

<sup>5</sup> Section 775.261(3), F.S. provides that a “sanction” includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, private correctional facility, or local detention facility.

<sup>6</sup> Section 775.261(4), F.S.

<sup>7</sup> Section 775.261(4)(c), F.S.

<sup>8</sup> Section 775.261(4)(d), F.S.

<sup>9</sup> Section 775.261(4)(f), F.S.

- Indicate an intent to establish a residence in a state or jurisdiction other than Florida but decide to remain in Florida.<sup>10</sup>

Registration information is a public record, and FDLE maintains a statewide database and a searchable public website with this information.<sup>11</sup>

Failure to comply with the requirements of the section is a third degree felony.<sup>12</sup>

### **Florida Sexual Predators Act**

Currently, the Florida Sexual Predators Act punishes acts involving withholding certain information from law enforcement agencies about registration-eligible sexual predators and sexual offenders and harboring and concealing the whereabouts of these sexual predators and sexual offenders.<sup>13</sup> The act provides that it is a third degree felony for any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section, and with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of the act, to:

- Withhold information from, or not notify, the law enforcement agency about the sexual predator's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator.
- Harbor, or attempt to harbor, or assist another person in harboring or attempting to harbor, the sexual predator.
- Conceal or attempt to conceal, or assist another person in concealing or attempting to conceal, the sexual predator.
- Provide information to the law enforcement agency regarding the sexual predator which the person knows to be false information.<sup>14</sup>

There is no similar provision relating to career offenders.

### **III. Effect of Proposed Changes:**

The bill amends s. 775.261, F.S., the Florida Career Offender Registration Act, to provide that it is first degree misdemeanor for a person to:

- Withhold information from, or fail to notify, a law enforcement agency about a career offender's noncompliance with the requirements of s. 775.261, F.S., and, if known, the whereabouts of the career offender;

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<sup>10</sup> Section 775.261(4)(g), F.S.

<sup>11</sup> Florida Department of Law Enforcement, *Career Offender Search*, <http://www.fdle.state.fl.us/coflyer/home.asp> (last visited Apr. 1, 2010).

<sup>12</sup> Section 775.261(8)(a), F.S.

<sup>13</sup> Section 775.21(10)(g), F.S.

<sup>14</sup> *Id.* Similar provisions are provided in statutes applicable to sexual offender registration. *See* ss. 943.0435(13), 944.607(12), and 985.4815(12), F.S.

- Harbor or attempt to harbor, or assist another in harboring or attempting to harbor, the career offender;
- Conceal or attempt to conceal, or assist another in concealing or attempting to conceal, the career offender; or
- Provide information to the law enforcement agency regarding the career offender which the person knows to be false.

Each specified act is only unlawful if the person has reason to believe that a career offender is not complying, or has not complied, with the requirements of s. 775.261, F.S., and commits the act with the intent to assist the career offender in eluding a law enforcement agency that is seeking to find the career offender to question the career offender about, or to arrest the career offender for, his or her noncompliance with the requirements of s. 775.261, F.S.

The effective date of the bill is July 1, 2010.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Section 18(d) of Article VII of the State Constitution exempts laws that have insignificant fiscal impacts on cities and counties from the requirements of subsection (1). Because the bill creates a new misdemeanor, the bill could impact county jails. The impact is unknown but is anticipated to be insignificant.

##### **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:**

On March 17, 2010, the Criminal Justice Impact Conference determined the identical House Bill 1493 would not have an impact on prison population because the bill creates a

misdemeanor.<sup>15</sup> Misdemeanors are less-serious crimes. They are generally punishable by a fine or incarceration in the county jail for less than one year. The impact on county jails is not known; however, it is anticipated that any impact would be insignificant.

**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.)

None.

**B. Amendments:**

None.

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

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<sup>15</sup> Office of Economic and Demographic Research, The Florida Legislature, *Criminal Justice Impact Conference 2010 Legislature* (Updated through Mar. 17, 2010), available at <http://edr.state.fl.us/conferences/criminaljustice/Impact/cjimpact.htm> (follow the “2010 Conference Results” link) (last visited Apr. 8, 2010).