

By Senator Latvala

16-01426-11

20111782__

1 A bill to be entitled
2 An act relating to domestic violence; amending s.
3 775.261, F.S.; revising the definition of the term
4 "career offender" for purposes of the Florida Career
5 Offender Registration Act to include severe domestic
6 violence offenders; defining the term "severe domestic
7 violence offender"; subjecting such offenders to the
8 registration provisions of the act; providing
9 penalties for violations; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 775.261, Florida Statutes, is amended to
14 read:

15 775.261 The Florida Career Offender Registration Act.—

16 (1) SHORT TITLE.—This section may be cited as "The Florida
17 Career Offender Registration Act."

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

19 (a) "Career offender" means any person who is designated as
20 a severe domestic violence offender, a habitual violent felony
21 offender, a violent career criminal, or a three-time violent
22 felony offender under s. 775.084 or as a prison releasee
23 reoffender under s. 775.082(9).

24 (b) "Chief of police" means the chief law enforcement
25 officer of a municipality.

26 (c) "Community" means any county where the career offender
27 lives or otherwise establishes or maintains a temporary or
28 permanent residence.

29 (d) "Department" means the Department of Law Enforcement.

16-01426-11

20111782

30 (e) "Entering the county" includes being discharged from a
31 correctional facility, jail, or secure treatment facility within
32 the county or being under supervision within the county with a
33 career-offender designation as specified in paragraph (a).

34 (f) "Permanent residence" means a place where the career
35 offender abides, lodges, or resides for 14 or more consecutive
36 days.

37 (g) "Severe domestic violence offender" means a person
38 convicted of an offense of domestic violence, as defined in s.
39 741.28, and the offense is classified as a felony of the second
40 degree or higher.

41 (h) ~~(g)~~ "Temporary residence" means:

42 1. A place where the career offender abides, lodges, or
43 resides for a period of 14 or more days in the aggregate during
44 any calendar year and which is not the career offender's
45 permanent address;

46 2. For a career offender whose permanent residence is not
47 in this state, a place where the career offender is employed,
48 practices a vocation, or is enrolled as a student for any period
49 of time in this state; or

50 3. A place where the career offender routinely abides,
51 lodges, or resides for a period of 4 or more consecutive or
52 nonconsecutive days in any month and which is not the career
53 offender's permanent residence, including any out-of-state
54 address.

55 (3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.—

56 (a) A career offender released on or after July 1, 2002,
57 from a sanction imposed in this state must register as required
58 under subsection (4) and is subject to community and public

16-01426-11

20111782

59 notification as provided under subsection (5). For purposes of
60 this section, a sanction imposed in this state includes, but is
61 not limited to, a fine, probation, community control, parole,
62 conditional release, control release, or incarceration in a
63 state prison, private correctional facility, or local detention
64 facility, and:

65 1. The career offender has not received a pardon for any
66 felony or other qualified offense that is necessary for the
67 operation of this paragraph; or

68 2. A conviction of a felony or other qualified offense
69 necessary to the operation of this paragraph has not been set
70 aside in any postconviction proceeding.

71 (b) This section does not apply to any person who has been
72 designated as a sexual predator and required to register under
73 s. 775.21 or who is required to register as a sexual offender
74 under s. 943.0435 or s. 944.607. However, if a person is no
75 longer required to register as a sexual predator under s. 775.21
76 or as a sexual offender under s. 943.0435 or s. 944.607, the
77 person must register as a career offender under this section if
78 the person is otherwise designated as a career offender as
79 provided in this section.

80 (c) A person subject to registration as a career offender
81 is not subject to registration as a convicted felon under s.
82 775.13. However, if the person is no longer required to register
83 as a career offender under this section, the person must
84 register under s. 775.13 if required to do so under that
85 section.

86 (d) If a career offender is not sentenced to a term of
87 imprisonment, the clerk of the court shall ensure that the

16-01426-11

20111782__

88 career offender's fingerprints are taken and forwarded to the
89 department within 48 hours after the court renders its finding
90 that an offender is a career offender. The fingerprint card
91 shall be clearly marked, "Career Offender Registration Card."

92 (4) REGISTRATION.—

93 (a) A career offender must register with the department by
94 providing the following information to the department, or to the
95 sheriff's office in the county in which the career offender
96 establishes or maintains a permanent or temporary residence,
97 within 2 working days after establishing permanent or temporary
98 residence in this state or within 2 working days after being
99 released from the custody, control, or supervision of the
100 Department of Corrections or from the custody of a private
101 correctional facility:

102 1. Name, social security number, age, race, gender, date of
103 birth, height, weight, hair and eye color, photograph, address
104 of legal residence and address of any current temporary
105 residence within the state or out of state, including a rural
106 route address or a post office box, date and place of any
107 employment, date and place of each conviction, fingerprints, and
108 a brief description of the crime or crimes committed by the
109 career offender. A career offender may not provide a post office
110 box in lieu of a physical residential address. If the career
111 offender's place of residence is a motor vehicle, trailer,
112 mobile home, or manufactured home, as defined in chapter 320,
113 the career offender shall also provide to the department written
114 notice of the vehicle identification number; the license tag
115 number; the registration number; and a description, including
116 color scheme, of the motor vehicle, trailer, mobile home, or

16-01426-11

20111782

117 manufactured home. If a career offender's place of residence is
118 a vessel, live-aboard vessel, or houseboat, as defined in
119 chapter 327, the career offender shall also provide to the
120 department written notice of the hull identification number; the
121 manufacturer's serial number; the name of the vessel, live-
122 aboard vessel, or houseboat; the registration number; and a
123 description, including color scheme, of the vessel, live-aboard
124 vessel, or houseboat.

125 2. Any other information determined necessary by the
126 department, including criminal and corrections records;
127 nonprivileged personnel and treatment records; and evidentiary
128 genetic markers when available.

129 (b) If a career offender registers with the sheriff's
130 office, the sheriff shall take a photograph and a set of
131 fingerprints of the career offender and forward the photographs
132 and fingerprints to the department, along with the information
133 that the career offender is required to provide pursuant to this
134 section.

135 (c) Within 2 working days after the registration required
136 under paragraph (a), a career offender who is not incarcerated
137 and who resides in the community, including a career offender
138 under the supervision of the Department of Corrections pursuant
139 to s. 944.608, shall register in person at a driver's license
140 office of the Department of Highway Safety and Motor Vehicles
141 and shall present proof of registration. At the driver's license
142 office, the career offender shall:

143 1. If otherwise qualified, secure a Florida driver's
144 license, renew a Florida driver's license, or secure an
145 identification card. The career offender shall identify himself

16-01426-11

20111782

146 or herself as a career offender who is required to comply with
147 this section, provide his or her place of permanent or temporary
148 residence, including a rural route address or a post office box,
149 and submit to the taking of a photograph for use in issuing a
150 driver's license, renewed license, or identification card, and
151 for use by the department in maintaining current records of
152 career offenders. The career offender may not provide a post
153 office box in lieu of a physical residential address. If the
154 career offender's place of residence is a motor vehicle,
155 trailer, mobile home, or manufactured home, as defined in
156 chapter 320, the career offender shall also provide to the
157 Department of Highway Safety and Motor Vehicles the vehicle
158 identification number; the license tag number; the motor vehicle
159 registration number; and a description, including color scheme,
160 of the motor vehicle, trailer, mobile home, or manufactured
161 home. If a career offender's place of residence is a vessel,
162 live-aboard vessel, or houseboat, as defined in chapter 327, the
163 career offender shall also provide to the Department of Highway
164 Safety and Motor Vehicles the hull identification number; the
165 manufacturer's serial number; the name of the vessel, live-
166 aboard vessel, or houseboat; the registration number; and a
167 description, including color scheme, of the vessel, live-aboard
168 vessel, or houseboat.

169 2. Pay the costs assessed by the Department of Highway
170 Safety and Motor Vehicles for issuing or renewing a driver's
171 license or identification card as required by this section.

172 3. Provide, upon request, any additional information
173 necessary to confirm the identity of the career offender,
174 including a set of fingerprints.

16-01426-11

20111782

175 (d) Each time a career offender's driver's license or
176 identification card is subject to renewal, and within 2 working
177 days after any change of the career offender's residence or
178 change in the career offender's name by reason of marriage or
179 other legal process, the career offender must report in person
180 to a driver's license office, and shall be subject to the
181 requirements specified in paragraph (c). The Department of
182 Highway Safety and Motor Vehicles shall forward to the
183 department and to the Department of Corrections all photographs
184 and information provided by career offenders. Notwithstanding
185 the restrictions set forth in s. 322.142, the Department of
186 Highway Safety and Motor Vehicles may release a reproduction of
187 a color-photograph or digital-image license to the department
188 for purposes of public notification of career offenders as
189 provided in this section.

190 (e) If the career offender registers at an office of the
191 department, the department must notify the sheriff and, if
192 applicable, the police chief of the municipality, where the
193 career offender maintains a residence within 48 hours after the
194 career offender registers with the department.

195 (f) A career offender who intends to establish residence in
196 another state or jurisdiction other than the State of Florida
197 shall report in person to the sheriff of the county of current
198 residence or the department within 2 working days before the
199 date he or she intends to leave this state to establish
200 residence in another state or jurisdiction other than the State
201 of Florida. If the career offender is under the supervision of
202 the Department of Corrections, the career offender shall notify
203 the supervising probation officer of his or her intent to

16-01426-11

20111782__

204 transfer supervision, satisfy all transfer requirements pursuant
205 to the Interstate Compact for Supervision of Adult Offenders, as
206 provided in s. 949.07, and abide by the decision of the
207 receiving jurisdiction to accept or deny transfer. The career
208 offender must provide to the sheriff or department the address,
209 municipality, county, and state of intended residence. The
210 sheriff shall promptly provide to the department the information
211 received from the career offender. The failure of a career
212 offender to provide his or her intended place of residence is
213 punishable as provided in subsection (8).

214 (g) A career offender who indicates his or her intent to
215 reside in a state or jurisdiction other than the State of
216 Florida and later decides to remain in this state shall, within
217 2 working days after the date upon which the career offender
218 indicated he or she would leave this state, report in person to
219 the sheriff or the department, whichever agency is the agency to
220 which the career offender reported the intended change of
221 residence, of his or her intent to remain in this state. If the
222 sheriff is notified by the career offender that he or she
223 intends to remain in this state, the sheriff shall promptly
224 report this information to the department. A career offender who
225 reports his or her intent to reside in a state or jurisdiction
226 other than the State of Florida, but who remains in this state
227 without reporting to the sheriff or the department in the manner
228 required by this paragraph, commits a felony of the second
229 degree, punishable as provided in s. 775.082, s. 775.083, or s.
230 775.084.

231 (h)1. The department shall maintain online computer access
232 to the current information regarding each registered career

16-01426-11

20111782

233 offender. The department must maintain hotline access so that
234 state, local, and federal law enforcement agencies may obtain
235 instantaneous locator file and criminal characteristics
236 information on release and registration of career offenders for
237 purposes of monitoring, tracking, and prosecution. The
238 photograph and fingerprints need not be stored in a computerized
239 format.

240 2. The department's career offender registration list,
241 containing the information described in subparagraph (a)1., is a
242 public record. The department may disseminate this public
243 information by any means deemed appropriate, including operating
244 a toll-free telephone number for this purpose. When the
245 department provides information regarding a career offender to
246 the public, department personnel must advise the person making
247 the inquiry that positive identification of a person believed to
248 be a career offender cannot be established unless a fingerprint
249 comparison is made, and that it is illegal to use public
250 information regarding a career offender to facilitate the
251 commission of a crime.

252 3. The department shall adopt guidelines as necessary
253 regarding the registration of a career offender and the
254 dissemination of information regarding a career offender as
255 required by this section.

256 (i) A career offender must maintain registration with the
257 department for the duration of his or her life, unless the
258 career offender has received a full pardon or has had a
259 conviction set aside in a postconviction proceeding for any
260 offense that meets the criteria for classifying the person as a
261 career offender for purposes of registration. However, a

16-01426-11

20111782

262 registered career offender who has been lawfully released from
263 confinement, supervision, or sanction, whichever is later, for
264 at least 20 years and has not been arrested for any felony or
265 misdemeanor offense since release may petition the criminal
266 division of the circuit court of the circuit in which the
267 registered career offender resides for the purpose of removing
268 the requirement for registration as a career offender. The court
269 may grant or deny such relief if the registered career offender
270 demonstrates to the court that he or she has not been arrested
271 for any crime since release and the court is otherwise satisfied
272 that the registered career offender is not a current or
273 potential threat to public safety. The state attorney in the
274 circuit in which the petition is filed must be given notice of
275 the petition at least 3 weeks before the hearing on the matter.
276 The state attorney may present evidence in opposition to the
277 requested relief or may otherwise demonstrate the reasons why
278 the petition should be denied. If the court denies the petition,
279 the court may set a future date at which the registered career
280 offender may again petition the court for relief, subject to the
281 standards for relief provided in this paragraph. The department
282 shall remove a person from classification as a career offender
283 for purposes of registration if the person provides to the
284 department a certified copy of the court's written findings or
285 order that indicates that the person is no longer required to
286 comply with the requirements for registration as a career
287 offender.

288 (5) COMMUNITY AND PUBLIC NOTIFICATION.—

289 (a) Law enforcement agencies may inform the community and
290 the public of the presence of a career offender in the

16-01426-11

20111782

291 community. Upon notification of the presence of a career
292 offender, the sheriff of the county or the chief of police of
293 the municipality where the career offender establishes or
294 maintains a permanent or temporary residence may notify the
295 community and the public of the presence of the career offender
296 in a manner deemed appropriate by the sheriff or the chief of
297 police.

298 (b) The sheriff or the police chief may coordinate the
299 community and public notification efforts with the department.
300 Statewide notification to the public is authorized, as deemed
301 appropriate by local law enforcement personnel and the
302 department.

303 (6) VERIFICATION.—The department and the Department of
304 Corrections shall implement a system for verifying the addresses
305 of career offenders. The sheriff of each county shall annually
306 verify the addresses of career offenders who are not under the
307 care, custody, control, or supervision of the Department of
308 Corrections. The sheriff shall promptly provide the address
309 verification information to the department in an electronic
310 format. The address verification information must include the
311 verifying person's name, agency, and phone number, the date of
312 verification, and the method of verification, and must specify
313 whether the address information was verified as correct,
314 incorrect, or unconfirmed.

315 (7) IMMUNITY.—The department, the Department of Highway
316 Safety and Motor Vehicles, the Department of Corrections, any
317 law enforcement agency in this state, and the personnel of those
318 departments; an elected or appointed official, public employee,
319 or school administrator; or an employee, agency, or any

16-01426-11

20111782__

320 individual or entity acting at the request or upon the direction
321 of any law enforcement agency is immune from civil liability for
322 damages for good faith compliance with the requirements of this
323 section or for the release of information under this section and
324 shall be presumed to have acted in good faith in compiling,
325 recording, reporting, or releasing the information. The
326 presumption of good faith is not overcome if a technical or
327 clerical error is made by the department, the Department of
328 Highway Safety and Motor Vehicles, the Department of
329 Corrections, the personnel of those departments, or any
330 individual or entity acting at the request or upon the direction
331 of any of those departments in compiling or providing
332 information, or if information is incomplete or incorrect
333 because a career offender fails to report or falsely reports his
334 or her current place of permanent or temporary residence.

335 (8) PENALTIES.—

336 (a) Except as otherwise specifically provided, a career
337 offender who fails to register; who fails, after registration,
338 to maintain, acquire, or renew a driver's license or
339 identification card; who fails to provide required location
340 information or change-of-name information; or who otherwise
341 fails, by act or omission, to comply with the requirements of
342 this section, commits a felony of the third degree, punishable
343 as provided in s. 775.082, s. 775.083, or s. 775.084.

344 (b) Any person who misuses public records information
345 concerning a career offender, as defined in this section, or a
346 career offender, as defined in s. 944.608 or s. 944.609, to
347 secure a payment from such career offender; who knowingly
348 distributes or publishes false information concerning such a

16-01426-11

20111782

349 career offender which the person misrepresents as being public
350 records information; or who materially alters public records
351 information with the intent to misrepresent the information,
352 including documents, summaries of public records information
353 provided by law enforcement agencies, or public records
354 information displayed by law enforcement agencies on websites or
355 provided through other means of communication, commits a
356 misdemeanor of the first degree, punishable as provided in s.
357 775.082 or s. 775.083.

358 (9) PROSECUTIONS FOR ACTS OR OMISSIONS.—A career offender
359 who commits any act or omission in violation of this section, s.
360 944.608, or s. 944.609 may be prosecuted for the act or omission
361 in the county in which the act or omission was committed, the
362 county of the last registered address of the career offender,
363 the county in which the conviction occurred for the offense or
364 offenses that meet the criteria for designating a person as a
365 career offender, or in the county in which he or she was
366 designated a career offender.

367 (10) ASSISTING IN NONCOMPLIANCE.—It is a misdemeanor of the
368 first degree, punishable as provided in s. 775.082 or s.
369 775.083, for a person who has reason to believe that a career
370 offender is not complying, or has not complied, with the
371 requirements of this section and who, with the intent to assist
372 the career offender in eluding a law enforcement agency that is
373 seeking to find the career offender to question the career
374 offender about, or to arrest the career offender for, his or her
375 noncompliance with the requirements of this section, to:

376 (a) Withhold information from, or fail to notify, the law
377 enforcement agency about the career offender's noncompliance

16-01426-11

20111782__

378 with the requirements of this section and, if known, the
379 whereabouts of the career offender;

380 (b) Harbor or attempt to harbor, or assist another in
381 harboring or attempting to harbor, the career offender;

382 (c) Conceal or attempt to conceal, or assist another in
383 concealing or attempting to conceal, the career offender; or

384 (d) Provide information to the law enforcement agency
385 regarding the career offender which the person knows to be
386 false.

387 Section 2. This act shall take effect October 1, 2011.