

By Senator Book

32-01124-18

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1 A bill to be entitled
2 An act relating to sentencing for sexual offenders and
3 sexual predators; amending s. 775.21, F.S.; redefining
4 the terms "permanent residence," "temporary
5 residence," and "transient residence" by decreasing
6 the amount of days a person abides, lodges, or resides
7 in a certain place to qualify for that type of
8 residency category; revising existing criminal
9 penalties for sexual predators to require mandatory
10 minimum terms of community control with electronic
11 monitoring for first, second, and third and subsequent
12 violations of specified offenses; amending s.
13 943.0435, F.S.; revising existing criminal penalties
14 for sexual offenders to require mandatory minimum
15 terms of community control with electronic monitoring
16 for first, second, and third and subsequent violations
17 of specified offenses; reenacting s. 775.25, F.S.,
18 relating to prosecutions for certain acts or
19 omissions, to incorporate the amendments made to ss.
20 775.21 and 943.0435, F.S., in references thereto;
21 reenacting ss. 944.606(1)(d), 985.481(1)(d), and
22 985.4815(1)(f), F.S., relating to sexual offenders and
23 required notifications upon release, sexual offenders
24 adjudicated delinquent and required notifications upon
25 release, and notification to the Department of Law
26 Enforcement of information on juvenile sexual
27 offenders, respectively, to incorporate the amendment
28 made to s. 775.21, F.S., in references thereto;
29 providing an effective date.

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

Section 1. Paragraphs (k), (n), and (o) of subsection (2) and paragraph (a) of subsection (10) of section 775.21, Florida Statutes, are amended, and paragraph (d) of subsection (5) and paragraphs (g) and (i) of subsection (6) of that section are republished, to read:

775.21 The Florida Sexual Predators Act.—

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

(k) "Permanent residence" means a place where the person abides, lodges, or resides for 3 ~~5~~ or more consecutive days.

(n) "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 ~~5~~ or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

(o) "Transient residence" means a county where a person lives, remains, or is located for a period of 3 ~~5~~ or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

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

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59 (d) A person who establishes or maintains a residence in
60 this state and who has not been designated as a sexual predator
61 by a court of this state but who has been designated as a sexual
62 predator, as a sexually violent predator, or by another sexual
63 offender designation in another state or jurisdiction and was,
64 as a result of such designation, subjected to registration or
65 community or public notification, or both, or would be if the
66 person was a resident of that state or jurisdiction, without
67 regard to whether the person otherwise meets the criteria for
68 registration as a sexual offender, shall register in the manner
69 provided in s. 943.0435 or s. 944.607 and shall be subject to
70 community and public notification as provided in s. 943.0435 or
71 s. 944.607. A person who meets the criteria of this section is
72 subject to the requirements and penalty provisions of s.
73 943.0435 or s. 944.607 until the person provides the department
74 with an order issued by the court that designated the person as
75 a sexual predator, as a sexually violent predator, or by another
76 sexual offender designation in the state or jurisdiction in
77 which the order was issued which states that such designation
78 has been removed or demonstrates to the department that such
79 designation, if not imposed by a court, has been removed by
80 operation of law or court order in the state or jurisdiction in
81 which the designation was made, and provided such person no
82 longer meets the criteria for registration as a sexual offender
83 under the laws of this state.

84 (6) REGISTRATION.—

85 (g)1. Each time a sexual predator's driver license or
86 identification card is subject to renewal, and, without regard
87 to the status of the predator's driver license or identification

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88 card, within 48 hours after any change of the predator's
89 residence or change in the predator's name by reason of marriage
90 or other legal process, the predator shall report in person to a
91 driver license office and is subject to the requirements
92 specified in paragraph (f). The Department of Highway Safety and
93 Motor Vehicles shall forward to the department and to the
94 Department of Corrections all photographs and information
95 provided by sexual predators. Notwithstanding the restrictions
96 set forth in s. 322.142, the Department of Highway Safety and
97 Motor Vehicles may release a reproduction of a color-photograph
98 or digital-image license to the Department of Law Enforcement
99 for purposes of public notification of sexual predators as
100 provided in this section. A sexual predator who is unable to
101 secure or update a driver license or an identification card with
102 the Department of Highway Safety and Motor Vehicles as provided
103 in paragraph (f) and this paragraph shall also report any change
104 of the predator's residence or change in the predator's name by
105 reason of marriage or other legal process within 48 hours after
106 the change to the sheriff's office in the county where the
107 predator resides or is located and provide confirmation that he
108 or she reported such information to the Department of Highway
109 Safety and Motor Vehicles. The reporting requirements under this
110 subparagraph do not negate the requirement for a sexual predator
111 to obtain a Florida driver license or identification card as
112 required by this section.

113 2.a. A sexual predator who vacates a permanent, temporary,
114 or transient residence and fails to establish or maintain
115 another permanent, temporary, or transient residence shall,
116 within 48 hours after vacating the permanent, temporary, or

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117 transient residence, report in person to the sheriff's office of
118 the county in which he or she is located. The sexual predator
119 shall specify the date upon which he or she intends to or did
120 vacate such residence. The sexual predator shall provide or
121 update all of the registration information required under
122 paragraph (a). The sexual predator shall provide an address for
123 the residence or other place that he or she is or will be
124 located during the time in which he or she fails to establish or
125 maintain a permanent or temporary residence.

126 b. A sexual predator shall report in person at the
127 sheriff's office in the county in which he or she is located
128 within 48 hours after establishing a transient residence and
129 thereafter must report in person every 30 days to the sheriff's
130 office in the county in which he or she is located while
131 maintaining a transient residence. The sexual predator must
132 provide the addresses and locations where he or she maintains a
133 transient residence. Each sheriff's office shall establish
134 procedures for reporting transient residence information and
135 provide notice to transient registrants to report transient
136 residence information as required in this sub-subparagraph.
137 Reporting to the sheriff's office as required by this sub-
138 subparagraph does not exempt registrants from any reregistration
139 requirement. The sheriff may coordinate and enter into
140 agreements with police departments and other governmental
141 entities to facilitate additional reporting sites for transient
142 residence registration required in this sub-subparagraph. The
143 sheriff's office shall, within 2 business days, electronically
144 submit and update all information provided by the sexual
145 predator to the department.

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146 3. A sexual predator who remains at a permanent, temporary,
147 or transient residence after reporting his or her intent to
148 vacate such residence shall, within 48 hours after the date upon
149 which the predator indicated he or she would or did vacate such
150 residence, report in person to the sheriff's office to which he
151 or she reported pursuant to subparagraph 2. for the purpose of
152 reporting his or her address at such residence. When the sheriff
153 receives the report, the sheriff shall promptly convey the
154 information to the department. An offender who makes a report as
155 required under subparagraph 2. but fails to make a report as
156 required under this subparagraph commits a felony of the second
157 degree, punishable as provided in s. 775.082, s. 775.083, or s.
158 775.084.

159 4. The failure of a sexual predator who maintains a
160 transient residence to report in person to the sheriff's office
161 every 30 days as required by sub-subparagraph 2.b. is punishable
162 as provided in subsection (10).

163 5.a. A sexual predator shall register all electronic mail
164 addresses and Internet identifiers, and each Internet
165 identifier's corresponding website homepage or application
166 software name, with the department through the department's
167 online system or in person at the sheriff's office within 48
168 hours after using such electronic mail addresses and Internet
169 identifiers. If the sexual predator is in the custody or
170 control, or under the supervision, of the Department of
171 Corrections, he or she must report all electronic mail addresses
172 and Internet identifiers, and each Internet identifier's
173 corresponding website homepage or application software name, to
174 the Department of Corrections before using such electronic mail

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175 addresses or Internet identifiers. If the sexual predator is in
176 the custody or control, or under the supervision, of the
177 Department of Juvenile Justice, he or she must report all
178 electronic mail addresses and Internet identifiers, and each
179 Internet identifier's corresponding website homepage or
180 application software name, to the Department of Juvenile Justice
181 before using such electronic mail addresses or Internet
182 identifiers.

183 b. A sexual predator shall register all changes to home
184 telephone numbers and cellular telephone numbers, including
185 added and deleted numbers, all changes to employment
186 information, and all changes in status related to enrollment,
187 volunteering, or employment at institutions of higher education,
188 through the department's online system; in person at the
189 sheriff's office; in person at the Department of Corrections if
190 the sexual predator is in the custody or control, or under the
191 supervision, of the Department of Corrections; or in person at
192 the Department of Juvenile Justice if the sexual predator is in
193 the custody or control, or under the supervision, of the
194 Department of Juvenile Justice. All changes required to be
195 reported in this sub-subparagraph shall be reported within 48
196 hours after the change.

197 c. The department shall establish an online system through
198 which sexual predators may securely access, submit, and update
199 all electronic mail addresses; Internet identifiers and each
200 Internet identifier's corresponding website homepage or
201 application software name; home telephone numbers and cellular
202 telephone numbers; employment information; and institution of
203 higher education information.

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204 (i) A sexual predator who intends to establish a permanent,
205 temporary, or transient residence in another state or
206 jurisdiction other than the State of Florida shall report in
207 person to the sheriff of the county of current residence within
208 48 hours before the date he or she intends to leave this state
209 to establish residence in another state or jurisdiction or at
210 least 21 days before the date he or she intends to travel if the
211 intended residence of 5 days or more is outside of the United
212 States. Any travel that is not known by the sexual predator 21
213 days before the departure date must be reported to the sheriff's
214 office as soon as possible before departure. The sexual predator
215 shall provide to the sheriff the address, municipality, county,
216 state, and country of intended residence. For international
217 travel, the sexual predator shall also provide travel
218 information, including, but not limited to, expected departure
219 and return dates, flight number, airport of departure, cruise
220 port of departure, or any other means of intended travel. The
221 sheriff shall promptly provide to the department the information
222 received from the sexual predator. The department shall notify
223 the statewide law enforcement agency, or a comparable agency, in
224 the intended state, jurisdiction, or country of residence of the
225 sexual predator's intended residence. The failure of a sexual
226 predator to provide his or her intended place of residence is
227 punishable as provided in subsection (10).

228 (10) PENALTIES.—

229 (a) Except as otherwise specifically provided, a sexual
230 predator who fails to register; who fails, after registration,
231 to maintain, acquire, or renew a driver license or an
232 identification card; who fails to provide required location

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233 information; who fails to provide electronic mail addresses,
234 Internet identifiers, and each Internet identifier's
235 corresponding website homepage or application software name; who
236 fails to provide all home telephone numbers and cellular
237 telephone numbers, employment information, change in status at
238 an institution of higher education, or change-of-name
239 information; who fails to make a required report in connection
240 with vacating a permanent residence; who fails to reregister as
241 required; who fails to respond to any address verification
242 correspondence from the department within 3 weeks of the date of
243 the correspondence; who knowingly provides false registration
244 information by act or omission; or who otherwise fails, by act
245 or omission, to comply with the requirements of this section
246 commits a felony of the third degree, punishable as provided in
247 s. 775.082, s. 775.083, or s. 775.084, and shall be sentenced:

248 1. For a first offense committed on or after July 1, 2018,
249 to a mandatory minimum term of 6 months of community control, as
250 defined in s. 948.001, with electronic monitoring.

251 2. For a second offense committed on or after July 1, 2018,
252 to a mandatory minimum term of 1 year of community control, as
253 defined in s. 948.001, with electronic monitoring.

254 3. For a third or subsequent offense committed on or after
255 July 1, 2018, to a mandatory minimum term of 2 years of
256 community control, as defined in s. 948.001, with electronic
257 monitoring.

258 Section 2. Paragraph (a) of subsection (9) of section
259 943.0435, Florida Statutes, is amended, and paragraph (f) of
260 subsection (1), paragraph (d) of subsection (4), and subsection
261 (7) of that section are republished, to read:

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262 943.0435 Sexual offenders required to register with the
263 department; penalty.—

264 (1) As used in this section, the term:

265 (f) "Permanent residence," "temporary residence," and
266 "transient residence" have the same meaning as provided in s.
267 775.21.

268 (4)

269 (d) The failure of a sexual offender who maintains a
270 transient residence to report in person to the sheriff's office
271 every 30 days as required in subparagraph (b)2. is punishable as
272 provided in subsection (9).

273 (7) A sexual offender who intends to establish a permanent,
274 temporary, or transient residence in another state or
275 jurisdiction other than the State of Florida shall report in
276 person to the sheriff of the county of current residence within
277 48 hours before the date he or she intends to leave this state
278 to establish residence in another state or jurisdiction or at
279 least 21 days before the date he or she intends to travel if the
280 intended residence of 5 days or more is outside of the United
281 States. Any travel that is not known by the sexual offender 21
282 days before the departure date must be reported in person to the
283 sheriff's office as soon as possible before departure. The
284 sexual offender shall provide to the sheriff the address,
285 municipality, county, state, and country of intended residence.
286 For international travel, the sexual offender shall also provide
287 travel information, including, but not limited to, expected
288 departure and return dates, flight number, airport of departure,
289 cruise port of departure, or any other means of intended travel.
290 The sheriff shall promptly provide to the department the

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291 information received from the sexual offender. The department
292 shall notify the statewide law enforcement agency, or a
293 comparable agency, in the intended state, jurisdiction, or
294 country of residence of the sexual offender's intended
295 residence. The failure of a sexual offender to provide his or
296 her intended place of residence is punishable as provided in
297 subsection (9).

298 (9) (a) Except as otherwise specifically provided, a sexual
299 offender who does not comply with the requirements of this
300 section commits a felony of the third degree, punishable as
301 provided in s. 775.082, s. 775.083, or s. 775.084, and shall be
302 sentenced:

303 1. For a first offense committed on or after July 1, 2018,
304 to a mandatory minimum term of 6 months of community control, as
305 defined in s. 948.001, with electronic monitoring.

306 2. For a second offense committed on or after July 1, 2018,
307 to a mandatory minimum term of 1 year of community control, as
308 defined in s. 948.001, with electronic monitoring.

309 3. For a third or subsequent offense committed on or after
310 July 1, 2018, to a mandatory minimum term of 2 years of
311 community control, as defined in s. 948.001, with electronic
312 monitoring.

313 Section 3. For the purpose of incorporating the amendments
314 made by this act to sections 775.21 and 943.0435, Florida
315 Statutes, in references thereto, section 775.25, Florida
316 Statutes, is reenacted to read:

317 775.25 Prosecutions for acts or omissions.—A sexual
318 predator or sexual offender who commits any act or omission in
319 violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.

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320 944.607, or former s. 947.177 may be prosecuted for the act or
321 omission in the county in which the act or omission was
322 committed, in the county of the last registered address of the
323 sexual predator or sexual offender, in the county in which the
324 conviction occurred for the offense or offenses that meet the
325 criteria for designating a person as a sexual predator or sexual
326 offender, in the county where the sexual predator or sexual
327 offender was released from incarceration, or in the county of
328 the intended address of the sexual predator or sexual offender
329 as reported by the predator or offender prior to his or her
330 release from incarceration. In addition, a sexual predator may
331 be prosecuted for any such act or omission in the county in
332 which he or she was designated a sexual predator.

333 Section 4. For the purpose of incorporating the amendment
334 made by this act to section 775.21, Florida Statutes, in a
335 reference thereto, paragraph (d) of subsection (1) of section
336 944.606, Florida Statutes, is reenacted to read:

337 944.606 Sexual offenders; notification upon release.—

338 (1) As used in this section, the term:

339 (d) "Permanent residence," "temporary residence," and
340 "transient residence" have the same meaning as provided in s.
341 775.21.

342 Section 5. For the purpose of incorporating the amendment
343 made by this act to section 775.21, Florida Statutes, in a
344 reference thereto, paragraph (d) of subsection (1) of section
345 985.481, Florida Statutes, is reenacted to read:

346 985.481 Sexual offenders adjudicated delinquent;
347 notification upon release.—

348 (1) As used in this section:

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349 (d) "Permanent residence," "temporary residence," and
350 "transient residence" have the same meaning as provided in s.
351 775.21.

352 Section 6. For the purpose of incorporating the amendment
353 made by this act to section 775.21, Florida Statutes, in a
354 reference thereto, paragraph (f) of subsection (1) of section
355 985.4815, Florida Statutes, is reenacted to read:

356 985.4815 Notification to Department of Law Enforcement of
357 information on juvenile sexual offenders.-

358 (1) As used in this section, the term:

359 (f) "Permanent residence," "temporary residence," and
360 "transient residence" have the same meaning as provided in s.
361 775.21.

362 Section 7. This act shall take effect July 1, 2018.