

1 A bill to be entitled
 2 An act relating to sexual offenders and predators;
 3 amending s. 775.21, F.S.; reducing the aggregate and
 4 consecutive number of days used to determine residency
 5 for purposes of sexual predator or sexual offender
 6 registration; providing for a mandatory minimum
 7 sentence of community control with electronic
 8 monitoring for certain offenses committed by sexual
 9 predators if the court does not impose a prison
 10 sentence; amending s. 943.0435, F.S.; providing for a
 11 mandatory minimum sentence of community control with
 12 electronic monitoring for certain offenses committed
 13 by sexual offenders if the court does not impose a
 14 prison sentence; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Paragraphs (k), (n), and (o) of subsection (2)
 19 and subsection (10) of section 775.21, Florida Statutes, are
 20 amended to read:

21 775.21 The Florida Sexual Predators Act.—

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

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

25 (n) "Temporary residence" means a place where the person

26 | abides, lodges, or resides, including, but not limited to,
27 | vacation, business, or personal travel destinations in or out of
28 | this state, for a period of 3 ~~5~~ or more days in the aggregate
29 | during any calendar year and which is not the person's permanent
30 | address or, for a person whose permanent residence is not in
31 | this state, a place where the person is employed, practices a
32 | vocation, or is enrolled as a student for any period of time in
33 | this state.

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

40 | (10) PENALTIES.—

41 | (a) Except as otherwise specifically provided, a sexual
42 | predator who fails to register; who fails, after registration,
43 | to maintain, acquire, or renew a driver license or an
44 | identification card; who fails to provide required location
45 | information; who fails to provide electronic mail addresses,
46 | Internet identifiers, and each Internet identifier's
47 | corresponding website homepage or application software name; who
48 | fails to provide all home telephone numbers and cellular
49 | telephone numbers, employment information, change in status at
50 | an institution of higher education, or change-of-name

51 information; who fails to make a required report in connection
52 with vacating a permanent residence; who fails to reregister as
53 required; who fails to respond to any address verification
54 correspondence from the department within 3 weeks of the date of
55 the correspondence; who knowingly provides false registration
56 information by act or omission; or who otherwise fails, by act
57 or omission, to comply with the requirements of this section
58 commits a felony of the third degree, punishable as provided in
59 s. 775.082, s. 775.083, or s. 775.084.

60 (b) A sexual predator who has been convicted of or found
61 to have committed, or has pled nolo contendere or guilty to,
62 regardless of adjudication, any violation, or attempted
63 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
64 the victim is a minor; s. 794.011, excluding s. 794.011(10); s.
65 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
66 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s.
67 985.701(1); or a violation of a similar law of another
68 jurisdiction when the victim of the offense was a minor, and who
69 works, whether for compensation or as a volunteer, at any
70 business, school, child care facility, park, playground, or
71 other place where children regularly congregate, commits a
72 felony of the third degree, punishable as provided in s.
73 775.082, s. 775.083, or s. 775.084.

74 (c) For a felony violation of this section, excluding
75 paragraph (g), committed on or after July 1, 2018, if the court

76 | does not impose a prison sentence, the court shall impose as
77 | part of the sentence a term of community control, as defined in
78 | s. 948.001, as follows:

79 | 1. For a first offense, a mandatory minimum term of 6
80 | months with electronic monitoring.

81 | 2. For a second offense, a mandatory minimum term of 1
82 | year with electronic monitoring.

83 | 3. For a third or subsequent offense, a mandatory minimum
84 | term of 2 years with electronic monitoring.

85 | (d)~~(e)~~ Any person who misuses public records information
86 | relating to a sexual predator, as defined in this section, or a
87 | sexual offender, as defined in s. 943.0435 or s. 944.607, to
88 | secure a payment from such a predator or offender; who knowingly
89 | distributes or publishes false information relating to such a
90 | predator or offender which the person misrepresents as being
91 | public records information; or who materially alters public
92 | records information with the intent to misrepresent the
93 | information, including documents, summaries of public records
94 | information provided by law enforcement agencies, or public
95 | records information displayed by law enforcement agencies on
96 | websites or provided through other means of communication,
97 | commits a misdemeanor of the first degree, punishable as
98 | provided in s. 775.082 or s. 775.083.

99 | (e)~~(d)~~ A sexual predator who commits any act or omission
100 | in violation of this section may be prosecuted for the act or

101 omission in the county in which the act or omission was
102 committed, in the county of the last registered address of the
103 sexual predator, in the county in which the conviction occurred
104 for the offense or offenses that meet the criteria for
105 designating a person as a sexual predator, in the county where
106 the sexual predator was released from incarceration, or in the
107 county of the intended address of the sexual predator as
108 reported by the predator prior to his or her release from
109 incarceration. In addition, a sexual predator may be prosecuted
110 for any such act or omission in the county in which he or she
111 was designated a sexual predator.

112 (f)~~(e)~~ An arrest on charges of failure to register, the
113 service of an information or a complaint for a violation of this
114 section, or an arraignment on charges for a violation of this
115 section constitutes actual notice of the duty to register when
116 the predator has been provided and advised of his or her
117 statutory obligation to register under subsection (6). A sexual
118 predator's failure to immediately register as required by this
119 section following such arrest, service, or arraignment
120 constitutes grounds for a subsequent charge of failure to
121 register. A sexual predator charged with the crime of failure to
122 register who asserts, or intends to assert, a lack of notice of
123 the duty to register as a defense to a charge of failure to
124 register shall immediately register as required by this section.
125 A sexual predator who is charged with a subsequent failure to

126 register may not assert the defense of a lack of notice of the
127 duty to register.

128 ~~(f)~~ Registration following such arrest, service, or
129 arraignment is not a defense and does not relieve the sexual
130 predator of criminal liability for the failure to register.

131 (g) Any person who has reason to believe that a sexual
132 predator is not complying, or has not complied, with the
133 requirements of this section and who, with the intent to assist
134 the sexual predator in eluding a law enforcement agency that is
135 seeking to find the sexual predator to question the sexual
136 predator about, or to arrest the sexual predator for, his or her
137 noncompliance with the requirements of this section:

138 1. Withholds information from, or does not notify, the law
139 enforcement agency about the sexual predator's noncompliance
140 with the requirements of this section, and, if known, the
141 whereabouts of the sexual predator;

142 2. Harbors, or attempts to harbor, or assists another
143 person in harboring or attempting to harbor, the sexual
144 predator;

145 3. Conceals or attempts to conceal, or assists another
146 person in concealing or attempting to conceal, the sexual
147 predator; or

148 4. Provides information to the law enforcement agency
149 regarding the sexual predator which the person knows to be false
150 information,

151
152 commits a felony of the third degree, punishable as provided in
153 s. 775.082, s. 775.083, or s. 775.084. This paragraph does not
154 apply if the sexual predator is incarcerated in or is in the
155 custody of a state correctional facility, a private correctional
156 facility, a local jail, or a federal correctional facility.

157 Section 2. Subsection (9) of section 943.0435, Florida
158 Statutes, is amended to read:

159 943.0435 Sexual offenders required to register with the
160 department; penalty.—

161 (9) (a) A sexual offender who does not comply with the
162 requirements of this section commits a felony of the third
163 degree, punishable as provided in s. 775.082, s. 775.083, or s.
164 775.084.

165 (b) For a felony violation of this section, excluding
166 subsection (13), committed on or after July 1, 2018, if the
167 court does not impose a prison sentence, the court shall impose
168 as part of the sentence a term of community control, as defined
169 in s. 948.001, as follows:

170 1. For a first offense, a mandatory minimum term of 6
171 months with electronic monitoring.

172 2. For a second offense, a mandatory minimum term of 1
173 year with electronic monitoring.

174 3. For a third or subsequent offense, a mandatory minimum
175 term of 2 years with electronic monitoring.

176 (c) ~~(b)~~ A sexual offender who commits any act or omission
177 in violation of this section may be prosecuted for the act or
178 omission in the county in which the act or omission was
179 committed, in the county of the last registered address of the
180 sexual offender, in the county in which the conviction occurred
181 for the offense or offenses that meet the criteria for
182 designating a person as a sexual offender, in the county where
183 the sexual offender was released from incarceration, or in the
184 county of the intended address of the sexual offender as
185 reported by the offender prior to his or her release from
186 incarceration.

187 (d) ~~(e)~~ An arrest on charges of failure to register when
188 the offender has been provided and advised of his or her
189 statutory obligations to register under subsection (2), the
190 service of an information or a complaint for a violation of this
191 section, or an arraignment on charges for a violation of this
192 section constitutes actual notice of the duty to register. A
193 sexual offender's failure to immediately register as required by
194 this section following such arrest, service, or arraignment
195 constitutes grounds for a subsequent charge of failure to
196 register. A sexual offender charged with the crime of failure to
197 register who asserts, or intends to assert, a lack of notice of
198 the duty to register as a defense to a charge of failure to
199 register shall immediately register as required by this section.
200 A sexual offender who is charged with a subsequent failure to

201 register may not assert the defense of a lack of notice of the
202 duty to register.

203 ~~(d)~~ Registration following such arrest, service, or
204 arraignment is not a defense and does not relieve the sexual
205 offender of criminal liability for the failure to register.

206 Section 3. This act shall take effect July 1, 2018.