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CS/HB 1301, Engrossed 1

2018 Legislature

1  
 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 effective dates.

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

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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

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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

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76 | does not impose a prison sentence, the court shall impose a  
 77 | mandatory minimum term of community control, as defined in s.  
 78 | 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

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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

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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,

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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 a mandatory minimum term of community control, as defined in s.  
169 948.001, 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.

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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



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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. Except as otherwise expressly provided in this  
207 act, this act shall take effect July 1, 2018.