

CHAPTER 97-299

Senate Bill No. 958

An act relating to the release of public records information regarding criminal offenders; creating the "Public Safety Information Act"; amending s. 415.5018, F.S.; providing for the sharing of certain criminal history information; amending s. 415.51, F.S.; providing for the release of certain confidential reports to a law enforcement agency; amending s. 775.13, F.S.; revising registration requirements for convicted felons; amending s. 775.21, F.S.; revising requirements for public notification of the presence of a sexual predator; revising registration requirements for sexual predators; requiring a sexual predator to register at a driver's license office of the Department of Highway Safety and Motor Vehicles following a change in permanent or temporary residence and obtain a driver's license or identification card; requiring that a sexual predator renew such license or identification card; providing a penalty; creating s. 943.046, F.S.; authorizing a state or local law enforcement agency to release to the public criminal offender information that is not exempt from public disclosure under the public records law; providing immunity from civil liability for a law enforcement agency and its personnel in releasing such information; creating s. 943.043, F.S.; requiring the Department of Law Enforcement to provide a toll-free telephone number for public access to information regarding sex offenders; requiring that the department provide to the public upon request a copy of the photograph of a sex offender or sexual predator and a summary of information that is publicly available; providing immunity from civil liability for the department and its personnel in reporting information; providing that the department and its personnel are presumed to have acted in good faith; creating s. 943.0435, F.S.; providing definitions; requiring sex offenders to report their current place of permanent or temporary residence to the Department of Law Enforcement and the Department of Highway Safety and Motor Vehicles within a specified time and upon moving to a new place of residence; providing procedures for reporting; providing a penalty for failing to report as required; providing immunity from civil liability for the Department of Law Enforcement, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, and the personnel of those departments in compiling, recording, and reporting information regarding sex offenders; providing that those departments and the personnel of those departments are presumed to have acted in good faith; creating s. 944.607, F.S.; requiring that the Department of Corrections provide information to the Department of Law Enforcement on sex offenders who are in the custody or control of, or under the supervision of, the Department of Corrections or the custody of a private correctional facility on or after a specified date; providing immunity from civil liability for the Department of Corrections and its personnel in compiling, recording, and reporting information regarding sex offenders; providing that the department and its personnel are presumed to have

acted in good faith; amending ss. 944.605, 947.177, F.S.; revising requirements for the Department of Corrections, the Control Release Authority, and the Parole Commission with respect to notifying judges and law enforcement agencies of the anticipated release of an inmate; requiring that a digitized photograph be made of the inmate; requiring that this information be provided to the Department of Law Enforcement; amending s. 944.606, F.S., relating to the release of information regarding certain sex offenders by the Department of Corrections; requiring that this information be provided to the Department of Law Enforcement; providing that the release of such information does not constitute unauthorized public disclosure under the Florida Sexual Predators Act; amending s. 948.06, F.S.; requiring state and local law enforcement agencies to verify if a person under investigation or under arrest for certain sexual offenses is on probation, community control, parole, conditional release, or control release; requiring the law enforcement agency to notify the person's probation officer or release supervisor of the investigation or the arrest; amending s. 921.0012, F.S.; ranking under the sentencing guidelines the offenses of failure to register, including failure to renew a driver's license or identification card, and failure of sex offenders to comply with reporting requirements; amending s. 921.0017, F.S., relating to credit upon recommitment of an offender serving a split sentence; conforming a cross-reference to changes made by the act; requiring the court, at the time of sentencing, to note on the judgment if the victim is a minor and provide such information to the Department of Law Enforcement; providing appropriations; providing for uses of certain appropriations; providing an effective date.

WHEREAS, the Legislature and law enforcement agencies recognize that the release of criminal history information or other information regarding criminal offenders is essential to the public's safety and welfare, and

WHEREAS, the Legislature intends to provide specific statutory direction whereby a law enforcement agency, of its own volition or in response to a request for a public record, may release to the public criminal history information and other information regarding criminal offenders, including public notification of this information, and

WHEREAS, the Legislature intends that criminal history information and other information regarding criminal offenders which is subject to release to the public shall consist only of information that is subject to public disclosure under section 119.07(1), Florida Statutes, the state public records law, and under Section 24(a), Article I of the State Constitution, and

WHEREAS, the Legislature intends that the order of priority, the methods of dissemination of criminal history information compiled from intrastate sources by the Department of Law Enforcement, and the assessment of costs for the production of this information, as provided in section 943.053, Florida Statutes, shall be maintained, and

WHEREAS, the Legislature finds that the public is especially concerned about certain sex offenders, and

WHEREAS, the Legislature intends to enhance public access to information regarding certain sex offenders by creating a public-access telephone number for releasing this information, and

WHEREAS, the Legislature intends that information released through the public-access telephone number shall consist only of information that is subject to public disclosure under section 119.07(1), Florida Statutes, the state public records law, and under Section 24(a), Article I of the State Constitution, and

WHEREAS, the Legislature finds that current law authorizes law enforcement agencies to release to the public criminal information on certain sex offenders which is provided to these agencies by the Department of Corrections, but prohibits these agencies from providing public or community notification of this information, and

WHEREAS, the Legislature further finds that this information is subject to public disclosure under section 119.07(1), Florida Statutes, the state public records law, and under Section 24(a), Article I of the State Constitution, and

WHEREAS, the Legislature intends to authorize public or community notification of this information, and

WHEREAS, the Legislature intends that a state or local law enforcement agency that investigates or arrests a person for certain sexual offenses shall verify whether the person is on probation or some form of release supervision, and, if so verified, shall inform the person's probation officer that the person is under investigation or arrest for a sexual offense, NOW, THEREFORE,

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

Section 1. This act may be cited as the "Public Safety Information Act."

Section 2. Subsection (3) of section 415.5018, Florida Statutes, 1996 Supplement, is amended to read:

415.5018 District authority and responsibilities.—

(3) CHILD PROTECTIVE INVESTIGATION; COUNTY SHERIFF'S OFFICE OR LOCAL POLICE DEPARTMENT OPTION.—Within existing resources, a district, with the approval of the district health and human services board, and the secretary of the department shall enter into an agreement with a county sheriff's office or local police department that is jurisdictionally responsible to allow such law enforcement entity to assume a lead in conducting any potential criminal investigations as well as partial or full responsibility for conducting certain components of protective investigations under ss. 415.502-415.514 that are related to cases involving a criminal investigation. The written agreement must specify how the requirements of ss. 415.502-415.514 will be met. For the purposes of such agreement, the jurisdictionally responsible law enforcement entity is

authorized to share Florida criminal history information that is not otherwise exempt from s. 119.07(1) with the district personnel directly responsible for child protective investigation and emergency child placement. The agencies entering into such agreement must comply with s. 943.0525 to the extent applicable. Criminal justice information provided by such law enforcement entity shall be used only for the purposes specified in the agreement and shall be provided at no charge.

(a) The agreement between the district and the county sheriff's office or local police department must include the following assurances and information:

1. Assurance that the county sheriff's office or local police department will be in compliance with the procedural requirements of ss. 415.502-415.514.

2. Description of a protocol between the district and the county sheriff's office or local police department that at a minimum addresses the following:

- a. Response to reports of abuse and neglect.
 - b. Investigations.
 - c. Assessment of risk.
 - d. Evidence gathering.
 - e. Classification of reports.
 - f. Appeals of classifications.
 - g. Communication and involvement with the state attorney.
 - h. Confidentiality of reports and access to information.
 - i. Utilization of the child protection team.
 - j. Storage and maintenance of records and other information.
3. Description of the transition of responsibility that assures the integrity and continuity of protective investigations.
4. Description of any necessary changes to department rules.

(b) County sheriff's office or local police department personnel assuming responsibility for conducting certain components of protective investigations shall receive training from the department relevant to child protective investigations and services.

(c) The secretary of the department shall dispose of a proposed agreement by approving or disapproving the agreement between a district and the county sheriff's office or local police department within 60 days after receipt. The secretary may negotiate modifications within this 60-day period.

Section 3. Subsection (4) of section 415.51, Florida Statutes, 1996 Supplement, is amended to read:

415.51 Confidentiality of reports and records in cases of child abuse or neglect.—

(4) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services or, the central abuse hotline, or the appropriate state attorney or law enforcement agency, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he makes the report, request that the department notify him that a child protective investigation occurred as a result of the report. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

Section 4. Section 775.13, Florida Statutes, 1996 Supplement, is amended to read:

775.13 Registration of convicted felons, exemptions; penalties.—

(1) Any person who has been convicted of a felony in any court of this state shall, within 48 hours after entering any county in this state, register with the sheriff of said county, be fingerprinted and photographed, and list the crime for which convicted, place of conviction, sentence imposed, if any, name, aliases, if any, address, and occupation.

(2) Any person who has been convicted of a crime in any federal court or in any court of a state other than Florida, or of any foreign state or country, which crime if committed in Florida would be a felony, shall forthwith within 48 hours after entering any county in this state register with the sheriff of said county in the same manner as provided for in subsection (1).

(3) Any person who is ~~presently~~ within any county of the state as of ~~October 1, 1997, the effective date of this section shall likewise be required to register with the sheriff of such county by December 1, 1997 within 30 days after the effective date of this section,~~ if such person would be required to register under the terms of subsection (1) or subsection (2), if he or she were entering such county.

(4) In lieu of registering with the ~~sheriff~~ sheriffs of the several counties of the state as required by this section, such registration may be made with the Department of Law Enforcement, and ~~is shall be~~ subject to the same terms and conditions as required for registration with the ~~sheriff~~ several sheriffs of the state. Any person so registering with the Department of Law Enforcement ~~shall not be required to make further registration in any county in the state.~~

(5) ~~The provisions of This section does law~~ do not apply to an offender:

- (a) Who has had his or her civil rights restored;
- (b) Who has received a full pardon for the offense for which convicted;
- (c) ~~Whose conviction of a felony was more than 10 years prior to the time provided for registration under the provisions of this law and~~ Who has been lawfully released from incarceration or other sentence or supervision for under a felony conviction and sentence for more than 5 years prior to such time for registration, unless the offender is a fugitive from justice on a felony charge or has been convicted of any offense since release from such incarceration or other sentence or supervision;
- ~~(d) Who is a parolee or probationer under the supervision of the Department of Corrections or is a probationer under the supervision of any county probation officer of the state or who has been lawfully discharged from such parole or probation;~~
- ~~(d)(e)~~ (e) Who is a parolee or probationer under the supervision of the United States Parole Commission if the commission knows of and consents to the presence of the offender in Florida or is a probationer under the supervision of any federal probation officer in the state or who has been lawfully discharged from such parole or probation; or
- ~~(e)(f)~~ (f) Who is a sexual predator and has registered as required under s. 775.21.

(6) Failure of any such convicted felon to comply with this section constitutes ~~shall constitute~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) All laws and parts of laws in conflict herewith are hereby repealed, provided that nothing in this section shall be construed to affect any law of this state relating to registration of criminals where the penalties are in excess of those imposed by this section.

Section 5. Subsections (4), (6), and (7) and paragraph (a) of subsection (9) of section 775.21, Florida Statutes, 1996 Supplement, are amended to read:

775.21 The Florida Sexual Predators Act; definitions; legislative findings, purpose, and intent; criteria; designation; registration; community and public notification; immunity; penalties.—

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, and before October 1, 1995:

1. An offender who was found by the court under former s. 775.22 or former s. 775.23 to be a sexual predator is a “sexual predator” if the court made a written finding that the offender was a sexual predator at the time of sentencing, as required by former s. 775.23. Such sexual predator must register or be registered as a sexual predator with the department, and but ~~is not~~ subject to community and public notification. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police

of the municipality where the sexual predator temporarily or permanently resides shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police.

2. If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and:

a. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator, or

b. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information which indicated that the offender met the sexual predator criteria based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's sexual predator list, and shall notify the state attorney who prosecuted the offense that triggered the administrative sexual predator designation for offenders described in sub-subparagraph a., or the state attorney of the county where the offender permanently or temporarily resides on October 1, 1996, for offenders described in sub-subparagraph b. The state attorney may bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the court then makes a written finding that the offender is a sexual predator, the offender is designated as a sexual predator and must register or be registered as a sexual predator with the department, ~~but is not subject to community and public notification.~~ If the court does not make a written finding that the offender is a sexual predator, the offender is not designated as a sexual predator with respect to that offense, is not required to register or be registered as a sexual predator with the department, and is not subject to community and public notification.

(b) For a current offense committed on or after October 1, 1995, and before October 1, 1996:

1. An offender who was found by the court under former s. 775.22 or former s. 775.23 to be a sexual predator is a "sexual predator" if the court made a written finding that the offender was a sexual predator at the time of sentencing, as required by former s. 775.23. Such sexual predator must register or be registered with the department, and is subject to the community and public notification provisions of former s. 775.225. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police.

2. If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and:

- a. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator, or
- b. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information which indicated that the offender met the sexual predator criteria based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's sexual predator list, and shall notify the state attorney who prosecuted the offense that triggered the administrative sexual predator designation for offenders described in sub-subparagraph a., or the state attorney of the county where the offender permanently or temporarily resides on October 1, 1996, for offenders described in sub-subparagraph b. The state attorney may bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the court makes a written finding that the offender is a sexual predator, the offender is designated as a sexual predator, must register or be registered as a sexual predator with the department, and is subject to the community and public notification provisions under former s. 775.225. If the court does not make a written finding that the offender is a sexual predator, the offender is not designated as a sexual predator with respect to that offense and, is not required to register or be registered as a sexual predator with the department, ~~and is not subject to the community and public notification provisions under former s. 775.225.~~

(c) For a current offense committed on or after October 1, 1996, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony meets the criteria of former ss. 775.22(2) and 775.23(2), specifically, the felony is:

a. A capital, life, or first degree felony violation of chapter 794 or s. 847.0145, or of a similar law of another jurisdiction; or

b. Any second degree or greater felony violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 794.011(2), (3), (4), (5), or (8), s. 794.023, s. 800.04, s. 827.071, s. 847.0133, or s. 847.0145, or of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(d) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony. If the offender's prior enumerated felony was committed more than 10 years before the primary offense, it shall not be considered a prior felony under this subsection if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later.

(e) "Conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld.

(6) REGISTRATION.—

(a) A sexual predator must register with the department by providing the following information to the department:

1. Name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence, address of any current temporary residence, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the offender.

2. Any other information determined necessary by the department, including criminal and corrections records, nonprivileged personnel, treatment, and abuse registry records, and evidentiary genetic markers when available.

~~If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator must may register directly with the department, or the Department of Corrections or any law enforcement agency may register the sexual predator with the department. The sexual predator is not required to make any further registration as a convicted felony offender in any county.~~

~~(b) If the Each sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility, and who is residing permanently or temporarily resides in the state, the sexual predator shall initially register in person at an office of the department, or at the sheriff's office in the county in which the predator permanently or temporarily resides, within 48 hours after establishing permanent or temporary residence in this state. If a sexual predator registers with the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the predator and forward the photographs and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section. outside of a correctional facility, jail, or secure treatment facility must register or be registered with the department within 48 hours after entering the county of permanent or temporary residence. A sexual predator who is registered with the department must provide written notification to the department of any change in~~

~~permanent or temporary residence within 48 hours after arrival at the new place of permanent or temporary residence.~~

(c) Subsequent to the initial registration required under paragraph (b), a sexual predator shall register in person at a driver's license office of the Department of Highway Safety and Motor Vehicles within 48 hours after any change in the predator's permanent or temporary residence. At the driver's license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent or temporary residence, and submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators.

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

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(d) Each time a sexual predator's driver's license or identification card is subject to renewal, the predator shall report in person to a driver's license office, regardless of whether the predator's residence has changed, and shall be subject to the requirements specified in paragraph (c). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section.

(e)(e) If the sexual predator initially registers at an office of the department, the department must notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator permanently or temporarily resides within 48 hours after the sexual predator registers with the department ~~or provides change of location information to the department.~~

(f)(d)1. The department is responsible for the on-line maintenance of current information regarding each registered sexual predator. The department must maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The depart-

ment is authorized to disseminate this public information by any means deemed appropriate, including operating a "900" telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel must advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(g)(e) A sexual predator must maintain registration with the department for the duration of his or her life, unless the sexual predator has had his or her civil rights restored, or has received a full pardon or has had a conviction set aside in a postconviction proceeding for any felony sex offense that which met the criteria for the sexual predator designation; However, a sexual predator who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 10 years and has not been arrested for any felony or misdemeanor offense since release, may petition the criminal division of the circuit court for the purpose of removing the sexual predator designation. The court has the discretion to grant or deny such relief.

(7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Information provided to the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;
2. A description of the sexual predator, including a photograph;
3. The sexual predator's current address, including the name of the county or municipality if known;
4. The circumstances of the sexual predator's offense or offenses; and
5. Whether The age of the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the

public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

~~(d)~~(e) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators. The department, in consultation and cooperation with the Department of Highway Safety and Motor Vehicles, shall determine the feasibility of requiring sexual predators to have a special designation on any drivers license, identification card, or license tag issued in this state.

(9) PENALTIES.—

(a) A sexual predator who fails to register ~~or be registered~~ or who fails, after registration, to renew a driver's license or identification card or provide required location information, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Section 943.046, Florida Statutes, is created to read:

943.046 Notification of criminal offender information.—

(1) Any state or local law enforcement agency may release to the public any criminal history information and other information regarding a criminal offender, including, but not limited to, public notification by the agency of the information, unless the information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, this section does not contravene any provision of s. 943.053 which relates to the method by which an agency or individual may obtain a copy of an offender's criminal history record.

(2) A state or local law enforcement agency and its personnel are immune from civil liability for the release of criminal history information or other information regarding a criminal offender, as provided by this section.

Section 7. Section 943.043, Florida Statutes, is created to read:

943.043 Toll-free telephone number; sex-offender information.—

(1) The department shall provide, through a toll-free telephone number, public access to information regarding sex offenders which is not confidential or exempt from public disclosure and which is reported to the department by the Department of Corrections as provided in s. 944.607 or by a sex offender as provided in s. 943.0435.

(2) The department shall provide to any person, upon request and at a reasonable cost determined by the department, a copy of the photograph of any sex offender or sexual predator which the department maintains in its files and a printed summary of the information that is available to the public under this section.

(3) The department and its personnel are immune from civil liability for damages for good-faith compliance with this section and shall be presumed to have acted in good faith by reporting information. The presumption of good faith is not overcome if technical or clerical errors are made by the department and its personnel in reporting the information, if the department and its personnel are unable to report information because the information has not been provided or reported by a person or agency required to provide or report the information to the department, or if the department and its personnel report information that was falsely reported without the knowledge of the department and its personnel.

Section 8. Section 943.0435, Florida Statutes, is created to read:

943.0435 Sex offenders required to report to the department; penalty.—

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

(a) “Sex offender” means a person who has been:

1. Convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or analogous offenses in another jurisdiction: s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s. 847.0135, s. 847.0145, or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.

2. Released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in subparagraph 1. For purposes of subparagraph 1., a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(b) “Convicted” means the person has been determined guilty as a result of a plea or a trial, regardless of whether adjudication is withheld.

(2) A sex offender shall initially report in person at an office of the department, or at the sheriff's office in the county in which the offender permanently or temporarily resides, within 48 hours after establishing permanent or temporary residence in this state. A sex offender permanently resides in this state if the offender abides, lodges, or resides in a place for more than 2 consecutive weeks. A sex offender temporarily resides in this state if the offender abides, lodges, or resides in a place for 2 consecutive weeks or less, excluding a stay of 2 consecutive weeks or less at a different residence due to a vacation or an emergency or special circumstance that requires the sex offender to leave his or her place of permanent or temporary residence for 2 weeks or less. The sex offender shall provide his or her name, date of birth, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, address of permanent or legal residence, or address of any current temporary residence, date and place of each conviction, and a brief description of the crime or crimes committed by the offender. If a sex offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and

fingerprints to the department, along with the information provided by the sex offender.

(3) Subsequent to the initial report required under subsection (2), a sex offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles within 48 hours after any change in the offender's permanent or temporary residence. At the driver's license office the sex offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sex offender shall identify himself or herself as a sex offender who is required to comply with this section. The sex offender shall provide any of the information specified in subsection (2), if requested. The sex offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sex offenders.

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

(c) Provide, upon request, any additional information necessary to confirm the identity of the sex offender, including a set of fingerprints.

(4) Each time a sex offender's driver's license or identification card is subject to renewal, the offender shall report in person to a driver's license office, regardless of whether the offender's residence has changed, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sex offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in ss. 943.043, 943.0435, and 944.606.

(5) This section does not apply to a sex offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) A sex offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, and the personnel of those departments are immune from civil liability for damages for good-faith compliance with the requirements of this section, and shall be presumed to have acted in good faith in compiling, recording, and reporting information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the

Department of Corrections, or the personnel of those departments in compiling or providing information, or if information is incomplete or incorrect because a sex offender fails to report or falsely reports his or her current place of permanent or temporary residence.

Section 9. Section 944.607, Florida Statutes, is created to read:

944.607 Notification to Department of Law Enforcement of information on sex offenders.—

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

(a) “Sex offender” means a person who is in the custody or control of, or under the supervision of, the department or is in the custody of a private correctional facility on or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or analogous offenses in another jurisdiction: s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s. 847.0135, s. 847.0145, or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph.

(b) “Conviction” means a determination of guilt as a result of a plea or trial, regardless of whether adjudication is withheld.

(2) In addition to notification and transmittal requirements imposed by any other provision of law, the department shall compile information on any sex offender and provide the information to the Department of Law Enforcement. The information shall be made available electronically to the Department of Law Enforcement as soon as this information is in the department’s database and must be in a format that is compatible with the requirements of the Florida Crime Information Center.

(3) The information provided to the Department of Law Enforcement must include:

(a) The name of the sex offender and any alias, if known;

(b) The sex offender’s most current address and place of permanent or temporary residence, including the name of the county or municipality in which the offender permanently or temporarily resides and, if known, the intended place of permanent or temporary residence upon satisfaction of all sanctions;

(c) The legal status of the sex offender and the scheduled termination date of that legal status;

(d) The location of, and local telephone number for, any office of probation, community control, parole, conditional release, or control release which is responsible for supervising the sex offender;

(e) An indication of whether the victim of the offense that resulted in the offender’s status as a sex offender was a minor;

(f) A physical description of the sex offender;

(g) The offense or offenses at conviction which resulted in the determination of the offender's status as a sex offender; and

(h) A digitized photograph of the sex offender which must have been taken within 60 days before the offender is released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275 or must have been taken by January 1, 1998, or within 60 days after the onset of the department's supervision of any sex offender who is on probation, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If the sex offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sex offender within the time period provided in this paragraph and shall provide the photograph to the department.

If any information provided by the department changes during the time the sex offender is under the department's control, custody, or supervision, the department shall update the information and provide it to the Department of Law Enforcement in the manner prescribed in subsection (2).

(4) The department and its personnel are immune from civil liability for damages for good-faith compliance with this section, and shall be presumed to have acted in good faith in compiling, recording, and providing information. The presumption of good faith is not overcome if technical or clerical errors are made by the department and its personnel in compiling, recording, or providing information, if the information compiled, recorded, or provided by the department and its personnel is incomplete because the information has not been provided to the department by a person or agency required to provide the information, or if the department and its personnel compile, record, or provide information that was falsely reported without the knowledge of the department and its personnel.

Section 10. Section 944.605, Florida Statutes, 1996 Supplement, is amended to read:

944.605 Inmate release; notice by Department of Corrections, Control Release Authority, or Parole Commission.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private correctional facility by expiration of sentence under s. 944.275, any release program provided by law, or parole under chapter 947, or as soon as possible if the offender is released earlier than anticipated, notification of such anticipated release date shall be made known by the appropriate agency to the chief original sentencing judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. If the original sentencing judge is no longer available, such notice shall be sent to the chief judge of the circuit in which the offender was sentenced. In addition, unless otherwise requested

by the victim or the personal representative of the victim, the state attorney, the Department of Corrections, the Control Release Authority, or the Parole Commission, whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when if the name and address of such victim or representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of sentence. For the purposes of this section, the Parole Commission or the Control Release Authority is the appropriate agency for any type of release it grants, and the Department of Corrections is the appropriate agency for any type of release it authorizes. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

(2) Within ~~60~~ 120 days before the anticipated release of an inmate under subsection (1), ~~a digitized photograph except for an inmate for which notification is required under subsection (3) or s. 944.606, an exit photo of the inmate to be released shall be made by the Department of Corrections or a private correctional facility, whichever has custody of the inmate. If a private correctional facility makes the digitized photograph, this photograph shall be provided to the Department of Corrections. Additionally, the digitized photograph, whether made by the Department of Corrections or a private correctional facility, shall be taken and placed in the inmate's file. The Department of Corrections shall make the digitized photograph available electronically to the Department of Law Enforcement as soon as the digitized photograph is in the department's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center. The department shall provide a copy of the digitized photograph to a local law enforcement agency upon request.~~

(3) If an inmate is to be released after having served one or more sentences for a conviction of robbery, sexual battery, home-invasion robbery, or carjacking, or an inmate to be released has a prior conviction for robbery, sexual battery, home-invasion robbery, or carjacking or similar offense, in this state or in another jurisdiction, and if such prior conviction information is contained in department records, the appropriate releasing agency shall release to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that municipality, the following information, which must include, but need not be limited to:

- (a) Name;
- (b) Social security number;
- (c) Date of birth;
- (d) Race;
- (e) Sex;

- (f) Height;
- (g) Weight;
- (h) Hair and eye color;
- (i) Tattoos or other identifying marks;
- (j) Fingerprints; and
- (k) A digitized photograph as provided in subsection (2) ~~taken not more than 90 days before the date of the inmate's release.~~

The department, the Parole Commission, or the Control Release Authority shall release the information specified in this subsection within 6 months prior to the discharge of the inmate from the custody of the department.

Section 11. Section 944.606, Florida Statutes, 1996 Supplement, is amended to read:

944.606 Sexual offenders; notification upon release.—

(1) As used in this section:

(a) “Conviction” means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld.

(b) “Sexual offender” means a person who has been convicted of a felony violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, or a violation of a similar law of another jurisdiction, when the department has received verified information regarding such conviction; an offender’s computerized criminal history record is not, in and of itself, verified information.

(2) The Legislature finds that sexual offenders, especially those who have committed their offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount governmental interest. Sexual offenders have a reduced expectation of privacy because of the public’s interest in public safety and in the effective operation of government. Releasing sexual offender information to law enforcement agencies and to persons who request such information, and releasing such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety.

(3)(a) The department must provide information regarding any sexual offender who is being released after serving a period of incarceration for any offense, as follows:

1. The department must provide: the sexual offender’s name and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender’s, social security number, race, sex, date of birth, height, weight, and hair and eye color; date and county of sentence and each crime for which the offender was sentenced; a copy of the offender’s fingerprints and a digitized photograph taken within 60 90 days before of

release; the date of release of the sexual offender; and the offender's intended residence address, if known. If the sexual offender is in the custody of a private correctional facility, the facility shall take the digitized photograph of the sexual offender within 60 days before the sexual offender's release and provide this photograph to the Department of Corrections and also place it in the sexual offender's file.

2. The department may provide any other information deemed necessary, including criminal and corrections records, nonprivileged personnel and treatment records, when available.

(b) The department must provide the information described in subparagraph (a)1. to:

1. The sheriff of the county from where the sexual offender was sentenced;

2. The sheriff of the county and, if applicable, the police chief of the municipality, where the sexual offender plans to reside; ~~and~~

3. The Florida Department of Law Enforcement; and

~~4.3.~~ Any person who requests such information,

either within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if an offender is released earlier than anticipated. All such information provided to the Department of Law Enforcement must be available electronically as soon as the information is in the agency's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center.

(c) Upon request, the department must provide the information described in subparagraph (a)2. to:

1. The sheriff of the county from where the sexual offender was sentenced; and

2. The sheriff of the county and, if applicable, the police chief of the municipality, where the sexual offender plans to reside,

either within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if an offender is released earlier than anticipated.

(d) Upon receiving information regarding a sexual offender from the department, the Department of Law Enforcement, the sheriff or the chief of police shall provide the information described in subparagraph (a)1. to any individual who requests such information and may release the information to the public in any manner deemed appropriate, unless the information so received is confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(4) This section authorizes ~~does not authorize~~ the department or any law enforcement agency to notify the community and the public of a sexual

offender's presence in the community. However, with respect to a sexual offender who has been found to be a "sexual predator" under chapter 775, the Florida Department of Law Enforcement or any other law enforcement agency must inform the community and the public of the sexual predator's presence in the community, as provided in chapter 775. Release of information pursuant to this section does not constitute unauthorized public disclosure of information that relates to sexual predators under chapter 775.

(5) An elected or appointed official, public employee, or agency is immune from civil liability for damages resulting from the release of information under this section.

Section 12. Section 947.177, Florida Statutes, 1996 Supplement, is amended to read:

947.177 Inmate release; notice by Department of Corrections, Control Release Authority, or Parole Commission.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private correctional facility by expiration of sentence under s. 944.275, control release under s. 947.146, or parole under this chapter, or as soon as possible if the offender is released earlier than anticipated, notification of such release date shall be made known by the appropriate agency to the chief original sentencing judge of the circuit in which the offender was sentenced, the appropriate state attorney, ~~the original arresting law enforcement agency,~~ and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. ~~If the original sentencing judge is no longer available, such notice shall be sent to the chief judge of the circuit in which the offender was sentenced.~~ In addition, unless otherwise requested by the victim or the personal representative of the victim, the state attorney, the Department of Corrections, or the Parole Commission, whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when if the name and address of the victim or representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of sentence. For the purposes of this section, the Parole Commission or the Control Release Authority is the appropriate agency for any type of release it grants, and the Department of Corrections is the appropriate agency for any type of release it authorizes. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

(2) Within ~~60~~ 120 days before the anticipated release of an inmate, a digitized photograph except for an inmate for which notification is required under subsection (3) or s. 944.606, an exit photo of the inmate to be released shall be made by the Department of Corrections or a private correctional facility, whichever has custody of the inmate. If a private correctional facility makes the digitized photograph, this photograph shall be provided to the Department of Corrections. Additionally, the digitized photograph, whether made by the Department of Corrections or a private correctional facility,

shall be taken and placed in the inmate's file. The Department of Corrections shall make the digitized photograph available electronically to the Department of Law Enforcement as soon as the digitized photograph is in the agency's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center.

(3) If an inmate is to be released after having served one or more sentences for a conviction of robbery, sexual battery, home-invasion robbery, or carjacking, or an inmate to be released has a prior conviction for robbery, sexual battery, home-invasion robbery, or carjacking or similar offense, in this state or in another jurisdiction, and if such prior conviction information is contained in records of the Department of Corrections, the appropriate releasing agency shall release to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that municipality, the following information, which must include, but need not be limited to:

- (a) Name;
- (b) Social security number;
- (c) Date of birth;
- (d) Race;
- (e) Sex;
- (f) Height;
- (g) Weight;
- (h) Hair and eye color;
- (i) Tattoos or other identifying marks;
- (j) Fingerprints; and

(k) A digitized photograph as provided in subsection (2) taken not more than 90 days before the date of the inmate's release.

The Department of Corrections, the Parole Commission, or the Control Release Authority shall release the information specified in this subsection within 6 months prior to the discharge of the inmate from the custody of the Department of Corrections.

Section 13. Present subsections (2), (3), (4), (5), and (6) of section 948.06, Florida Statutes, are redesignated as subsections (3), (4), (5), (6), and (7), respectively, and a new subsection (2) is added to that section, to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(2)(a) When any state or local law enforcement agency investigates or arrests a person for committing, or attempting, soliciting, or conspiring to

commit, a violation of: s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement agency shall contact the Department of Corrections to verify whether the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release.

(b) If the law enforcement agency finds that the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release, the law enforcement agency shall immediately notify the person's probation officer or release supervisor of the investigation or the arrest.

Section 14. Paragraph (f) of subsection (3) of section 921.0012, Florida Statutes, 1996 Supplement, is amended to read:

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(f) LEVEL 6
316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
<u>775.21(9)</u>	<u>3rd</u>	<u>Failure to register; failure to renew driver's license or identification card.</u>
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.

Florida Statute	Felony Degree	Description
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report of deadly explosive or act of arson or violence to state property.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
812.014(2)(b)	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at \$100 or more, but less than \$20,000.
827.03(1)	3rd	Abuse of a child.
827.03(3)(c)	3rd	Neglect of a child.
827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill or do bodily injury.
843.12	3rd	Aids or assists person to escape.

Florida Statute	Felony Degree	Description
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
<u>943.0435(6)</u>	<u>3rd</u>	<u>Sex offenders; failure to comply with reporting requirements.</u>
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.

Section 15. Section 921.0017, Florida Statutes, is amended to read:

921.0017 Credit upon recommitment of offender serving split sentence.—Effective for offenses committed on or after January 1, 1994, if an offender's probation or community control is revoked and the offender is serving a split sentence pursuant to s. 948.01, upon recommitment to the Department of Corrections, the court shall order credit for time served only, without considering any type of gain-time earned before release to supervision, or any type of sentence reduction granted to avoid prison overcrowding, including, but not limited to, any sentence reduction resulting from administrative gain-time, provisional credits, or control release. The court shall determine the amount of jail-time credit to be awarded for time served between the date of arrest as a violator and the date of recommitment, and shall direct the Department of Corrections to compute and apply credit for all other time served previously on the prior sentence for the offense for which the offender is being recommitted. This section does not affect or limit the department's authority to forfeit gain-time under ss. 944.28(1) and 948.06(7) ~~948.06(6)~~.

Section 16. At the time of sentencing of any offender for an offense involving a victim who, at the time the offense was committed, was a minor, the court shall stamp on the face of the judgment "VICTIM IS A MINOR" and shall note this fact on any document or information sent to the Department of Law Enforcement for its incorporation into the criminal justice information system of the Department of Law Enforcement.

Section 17. (1) There is appropriated to the Florida Department of Law Enforcement the sum of \$311,680 from the General Revenue Fund, and five positions are allocated to the department, for fiscal year 1997-1998. Of the

funds appropriated to the Department of Law Enforcement, the sum of \$209,750 may be expended for recurring costs.

(2) There is appropriated to the Department of Corrections the sum of \$141,160 from the General Revenue Fund for fiscal year 1997-1998. Of the funds appropriated to the Department of Corrections, the sum of \$31,200 may be expended for recurring costs.

(3) There is appropriated to the Department of Highway Safety and Motor Vehicles the sum of \$31,748 from the Highway Safety Operating Trust Fund for fiscal year 1997-1998.

Section 18. This act shall take effect October 1, 1997.

Approved by the Governor June 3, 1997.

Filed in Office Secretary of State June 3, 1997.