

Committee Substitute for Senate Bill Nos. 1400 and 1224

An act relating to sexual predators and sexual offenders; amending s. 775.21, F.S.; revising the definition of the term "conviction" to include a conviction in another jurisdiction; clarifying the definition of the term "temporary residence" to include an out-of-state address; revising criteria under which an offender may be designated as a sexual predator; expanding scope of persons required to register as sexual predators; revising criteria for exemption from registration requirements; expanding the information required to be provided for registration purposes; requiring that the Department of Corrections or custodian of a local jail notify the Department of Law Enforcement if a sexual predator escapes from custody, absconds from supervision, or dies; requiring a sexual predator to report a legal name change; deleting a current exemption from registration for sexual predators whose civil rights are restored; requiring that a sexual predator report in person to the sheriff or the Department of Law Enforcement prior to changing a place of residence; revising criteria under which a court may remove an offender's designation as a sexual predator; revising verification procedures; revising provisions granting certain agencies and personnel immunity from civil liability for the release of information concerning sexual predators; revising penalties; providing legislative findings with respect to the designation of sexual offenders; amending s. 943.0435, F.S.; revising the definitions of the terms "sexual offender" and "conviction"; revising criteria under which an offender is required to register as a sexual offender; revising reporting requirements for sexual offenders; expanding the information to be provided for registration purposes; revising verification procedures; deleting current exemption from lifetime registration if sexual offender has civil rights restored; revising provisions granting certain agencies and personnel immunity from civil liability for the release of information concerning sexual offenders; amending s. 944.606, F.S., relating to reporting requirements for sexual offenders upon release; revising definitions of the terms "convicted" and "sexual offender"; expanding the information required to be provided for notification purposes; requiring that the Department of Corrections notify the Department of Law Enforcement if a sexual offender escapes, absconds, or dies; amending s. 944.607, F.S., relating to notification to the Department of Law Enforcement of information on sexual offenders; revising the definitions of the terms "sexual offender" and "convicted"; correcting a reference to refer to the Department of Law Enforcement; clarifying requirements that a sexual offender report his or her temporary residence; expanding the information required to be provided for notification purposes; providing an effective date.

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

Section 1. Section 775.21, Florida Statutes, is 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.—

(1) SHORT TITLE.—This section may be cited as “The Florida Sexual Predators Act.”

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

(a) “Chief of police” means the chief law enforcement officer of a municipality.

(b) “Community” means any county where the sexual predator lives or otherwise establishes or maintains a temporary or permanent residence.

(c) “Conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction in any state of the United States or other jurisdiction.

(d) “Department” means the Department of Law Enforcement.

(e) “Entering the county” includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(f) “Permanent residence” means a place where the person abides, lodges, or resides for 14 or more consecutive days.

(g) “Temporary residence” means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person’s permanent address; 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; or a place where the person routinely abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person’s permanent residence, including any out-of-state address.

(3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.—

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.03(5). The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;

2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(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 as provided in subsection (6), and is subject to community and public notification as provided in subsection (7). 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 establishes or maintains a permanent or temporary residence shall notify members of 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 establishes or maintains a permanent or temporary residence on October 1, 1996, for offenders described in sub-subparagraph b. The state attorney shall 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, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to community and public notification requirements as provided in subsection (7). 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 the requirements for community and public notification as a sexual predator.~~

~~(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 as provided in subsection (6), and is subject to community and public notification as provided in subsection (7). 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 establishes or maintains a permanent or temporary residence 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 establishes or maintains a permanent or temporary residence 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 as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). 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.~~

~~(a)(c) For a current offense committed on or after October 1, 1993 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, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent, or of chapter 794, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or~~

~~b. An attempt to commit a capital, life, or first-degree felony violation of chapter 794, where the victim is a minor, or a violation of a similar law of another jurisdiction; or~~

~~b.c. Any second-degree or greater felony violation, or any attempt thereof, of s. 787.01, or s. 787.02, or s. 787.025, where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s. 825.1025(2)(b); s. 827.071; or s. 847.0145; or a violation 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. 787.01, or s. 787.02, or s. 787.025, where the victim is a minor and the defendant is not the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05 s. 794.023; s. 796.03; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; or s. 847.0145, or a violation 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.

~~(b)(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.

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

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

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

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for

administrative designation as a sexual predator, and, for an offender described under subparagraph 2., shall notify the state attorney of the county where the offender establishes or maintains a permanent or temporary residence. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be 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.

(5) ~~SEXUAL PREDATOR DESIGNATION.—For a current offense committed on or after October 1, 1996,~~ An offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph ~~(4)(a)~~ ~~(4)(c)~~ who is before the court for sentencing for a current offense committed on or after October 1, ~~1993~~ ~~1996~~, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

2. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent or temporary residence in this state meets the sexual predator criteria described in paragraph ~~(4)(a)~~ ~~(4)(c)~~ because the offender committed a similar violation in another jurisdiction on or after October 1, ~~1993~~ ~~1996~~, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent or temporary residence of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours of the court designating an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprint card shall be clearly marked, "Sexual Predator Registration Card." The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition or restriction on the sexual predator which restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(c) If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence upon first entering the state for offenders described in subparagraph (a)2. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, shall register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the another state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(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 and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box, 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. A post office box shall not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

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.

(b) 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 register with the Department of Corrections. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator and forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law

enforcement purposes only or may be used by the department for purposes of public notification.

(e) If the 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 establishes or maintains a residence 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 establishes or maintains a residence, 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.

(f) Within 48 hours after the ~~initial~~ registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver's license office of the Department of Highway Safety and Motor Vehicles and shall present proof of ~~initial~~ registration. 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, including a rural route address and a post office box, 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. A post office box shall not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

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.

(g) Each time a sexual predator's driver's license or identification card is subject to renewal, and within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver's license office, and shall be subject to the requirements specified in paragraph (f). 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.

(h) 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 maintains a residence within 48 hours after the sexual predator registers with the department.

(i) A sexual predator who intends to establish residence in another state or jurisdiction shall report in person to notify the sheriff of the county of current residence or the department within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. ~~The sexual predator notification must provide to the sheriff or department include~~ the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, report in person to notify the sheriff or the department, whichever agency is the agency to which the sexual predator reported the intended change of residence, of his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to reside in another state or jurisdiction, but who remains in this state without reporting to the sheriff or the department in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k)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 department is authorized to disseminate this public information by any means deemed appropriate, including operating a toll-free 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.

(l) 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 met the criteria for the sexual predator designation.~~ However, a sexual predator who was designated as a sexual predator by a court before October 1, 1998, and 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 in the circuit in which the sexual predator resides for the purpose of removing the sexual predator designation. A sexual predator who was designated a sexual predator by a court on or after October 1, 1998, who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years, and who has not been arrested for any felony or misdemeanor offense since release may petition the criminal division of the circuit court in the circuit in which the sexual predator resides for the purpose of removing the sexual predator designation. The court may grant or deny such relief if the petitioner demonstrates to the court that he or she has not been arrested for any crime since release, the requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the removal of the designation as a sexual predator or required to be met as a condition for the receipt of federal funds by the state, and the court is otherwise satisfied that the petitioner is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual predator may again petition the court for relief, subject to the standards for relief provided in this paragraph. Unless specified in the order, a sexual predator who is granted relief under this paragraph must comply with the requirements for registration as a sexual offender and other requirements provided under s. 943.0435 or s. 944.607. If a petitioner obtains an order from the court that imposed the order designating the petitioner as a sexual predator which removes such designation, the petitioner shall forward a certified copy of the written findings or order to

the department in order to have the sexual predator designation removed from the sexual predator registry.

(7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform members of 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 establishes or maintains a permanent or temporary residence shall notify members of 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. Within 48 hours after receiving 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 each licensed day care center, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. Information provided to members of 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 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) 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.

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal

funds by the state ~~requirements that apply to the laws of this state governing sexual predators.~~ The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections.

(9) IMMUNITY.—~~The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, any law enforcement agency in this state, and the personnel of those departments; When the court has made a written finding that an offender is a sexual predator,~~ an elected or appointed official, public employee, or school administrator; ~~or an~~ employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good-faith compliance with the requirements of this section ~~or for resulting from the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the 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, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator fails to report or falsely reports his or her current place of permanent or temporary residence.

(10) PENALTIES.—

(a) Except as otherwise specifically provided, a sexual predator who fails to register; ~~or who fails, after registration, to maintain, acquire, or renew a driver's license or identification card; who fails to~~ or provide required location information or change-of-name information; or who otherwise fails, by act or omission, to 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.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025, where the victim is a minor and the defendant is not the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 794.023; s. 800.04; s. 827.071; s. 847.0133; or s. 847.0145, or a violation of a similar law of another jurisdiction, when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or

offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on web sites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Legislative findings.—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 government 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 information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment, but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

Section 3. Section 943.0435, Florida Statutes, is amended to read:

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

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

(a) “Sexual 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 similar offenses in another jurisdiction: s. 787.01, ~~or s. 787.02, or s. 787.025~~, where the victim is a minor and the defendant is not the victim's parent; ~~s. 787.025~~; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s. 825.1025; 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 that, ~~regarding the person's offense~~, there has been a determination of guilt as a result of a trial or the entry of a plea of

guilty or nolo contendere, regardless of whether adjudication is withheld. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction in any state of the United States or other jurisdiction.

(c) "Permanent residence" and "temporary residence" have the same meaning ascribed in s. 775.21.

(2) A sexual 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 establishes or maintains a permanent or temporary residence, within 48 hours after establishing permanent or temporary residence in this state or within 48 hours after being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility. The sexual offender shall provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, within the state and out of state, including a rural route address and a post office box, date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat. If a sexual 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 sexual offender.

(3) Within 48 hours after the ~~initial~~ report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card was previously secured or updated under s. 944.607(9). At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender ~~initially~~ reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual 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 sexual 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 sexual offender, including a set of fingerprints.

(4) Each time a sexual offender's driver's license or identification card is subject to renewal, and within 48 hours after any change in the offender's permanent or temporary residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, 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 sexual 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 sexual 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) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state requirements.

(7) A sexual offender who intends to establish residence in another state or jurisdiction shall report in person to notify the sheriff of the county of current residence or the department within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to notify the sheriff or department, whichever agency is the agency to which the sexual offender reported the

intended change of residence, of his or her intent to remain in this state. If the sheriff is notified by the sexual offender that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff or the department in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) A sexual 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.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; an employee, agency, or, ~~and any individual or entity acting at the request or upon the direction of any law enforcement agency is of those departments~~ are immune from civil liability or damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, and reporting, or releasing the 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, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(11) A sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender ~~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 meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a) Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years and has not been arrested for any felony or misdemeanor offense since release; or

(b) Who was 18 years of age or under at the time the offense was committed and adjudication was withheld for that offense, who has had 10 years elapse since having been placed on probation, and who has not been arrested for any felony or misdemeanor offense since release

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender. The court may grant or deny such relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release, the requested relief complies with the provisions

of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state, and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

Section 4. Subsections (1) and (3) of section 944.606, Florida Statutes, are amended to read:

944.606 Sexual offenders; notification upon release.—

(1) As used in this section:

(a) “~~Convicted~~” “~~Conviction~~” means there has been a determination of guilt as a which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a violation of a similar offense law of another jurisdiction includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction in any state of the United States or other jurisdiction.

(b) “Sexual offender” means a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, or s. 787.02, or s. 787.025, where the victim is a minor and the defendant is not the victim's parent; s. 787.025; chapter 794, excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 800.04; s. 825.1025; 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 subsection, 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.

(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, any change in the offender's name by reason of marriage or other legal process, 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 days before release; the date of release of the sexual offender; and the offender's intended residence address, if known. The department shall notify the Department of Law Enforcement if the sexual offender escapes, absconds, or dies. 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. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this paragraph and any information specified in subparagraph 2. that the Department of Law Enforcement requests.

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;
3. The Florida Department of Law Enforcement; and
4. 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.

Section 5. Subsections (1), (3), (4), (6), and (9) of section 944.607, Florida Statutes, are amended to read:

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

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

(a) “Sexual 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 similar offenses in another jurisdiction: s. 787.01, ~~or s. 787.02, or s. 787.025~~, where the victim is a minor and the defendant is not the victim’s parent; ~~s. 787.025~~; chapter 794, ~~excluding ss. 794.011(10) and 794.0235~~; s. 796.03; s. 800.04; s. 825.1025; 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 which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction in any state of the United States or other jurisdiction.

(3) If a sexual offender is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual offender’s fingerprints are taken and forwarded to the Department of Law Enforcement within 48 hours after the court sentences the offender. The fingerprint card shall be clearly marked “Sexual Offender Registration Card.”

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated must register with the Department of Corrections and provide the following information: name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; and permanent or legal residence and address of temporary residence within the state or out of state while the sexual offender is under supervision in this state, including any rural route address or post office box. The Department of Corrections shall verify the address of each sexual offender in the manner described in ss. 775.21 and 943.0435.

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

(a) The information obtained from the sexual offender under subsection (4);

(b) The sexual offender's most current address and place of permanent and temporary residence within the state or out of state while the sexual offender is under supervision in this state, 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 sexual offender and the scheduled termination date of that legal status;

(d) The location of, and local telephone number for, any Department of Corrections' office that is responsible for supervising the sexual offender;

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

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

(g) A digitized photograph of the sexual 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 sexual 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 sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual 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 sexual offender is under the department's control, custody, or supervision, including any change in the offender's name by reason of marriage or other legal process, the department shall, in a timely manner, update the information and provide it to the Department of Law Enforcement in the manner prescribed in subsection (2).

(9) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register in the manner provided in s. 943.0435(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register as required under s. 775.21. A sexual offender who fails to comply with the requirements of s. 943.0435 is subject to the penalties provided in s. 943.0435(9) ~~s. 943.0435(10)~~.

Section 6. This act shall take effect July 1, 2000.

Approved by the Governor June 5, 2000.

Filed in Office Secretary of State June 5, 2000.