

STORAGE NAME: h3107s1z.cp

****FINAL ACTION****

DATE: May 13, 1998

****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME AND PUNISHMENT
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 3107

RELATING TO: SEXUAL PREDATOR REGISTRATION

SPONSOR(S): REPRESENTATIVES FASANO AND EFFMAN

COMPANION BILL(S): SB 514(S)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME AND PUNISHMENT YEAS 8 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

Vetoed by the Governor on May 21, 1998. The veto message states that similar, but not identical, legislation was passed in CS/SB 1992 which contains a different effective date (July 1, 1998) than the one for CS/HB 3107 (October 1, 1998). The bill was vetoed out of a desire to avoid confusion regarding effective dates.

II. SUMMARY:

Section **775.21**, F.S. is known as the **Florida Sexual Predators Act**. It designates certain serious or repeat sex offenders as "sexual predators" requiring them to submit to pervasive registration requirements which assist law enforcement and the community to know of their presence and, thereby, reduce the likelihood that they will offend again.

The act contains an amnesty provision whereby sexual predators who commit no crimes for a period of 10-years may petition the court to remove the designation.

For those persons designated a sexual predator after July 1, 1998, the bill amends the amnesty provision by requiring 20-years of good behavior in order to apply for removal of the designation.

For all sexual predators, the bill amends the amnesty process by placing the burden of proof on the offender to show he no longer represents a threat to society, by requiring 3-weeks notice of the hearing to the prosecuting state attorney, and by providing the state attorney an opportunity to present evidence in opposition to the petition.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Florida's Sexual Predator Act

Florida's Sexual Predator Act, s. 775.21, F.S. (1996 Supp.), is designed to track sex offenders during and after completion of their sentences. Designation as a sexual offender is mandatory for qualified offenders and requires an order from the court at sentencing. A sexual predator is defined as anyone convicted of a:

◆ capital, life or first-degree felony violation of:

- * Section 794.011(2), F.S. (Sexual Battery On a Child Under 12),
- * Section 794.011(3), F.S. (Sexual Battery With Deadly Force),
- * Section 794.011(4), F.S. (Sexual Battery On a Helpless Victim)
- * Section 794.011(5), F.S. (Sexual Battery With Slight Force),
- * Section 794.011(8)(b), F.S. (Sexual Battery by Familial or Custodial Authority)
- * Section 794.011(8)(c), F.S. (Attempted Sexual Battery with Injury of Sex Organs)
- * Section 847.0145, F.S (Buying/Selling of Minors for Production of Pornography)

OR,

◆ any second-degree felony violation of

- * Chapter 794, F.S. (Sexual Battery),
- * Section 800.04, F.S. (Lewd or Lascivious Conduct),
- * Section 827.071, F.S. (Procuring Sexual Performance by a Child), or,
- * Section 847.0145, F.S. (Buying/Selling of Minors for Production of Pornography);

AND,

◆ the offender has previously been convicted of any violation of :

- * Section 794.011(2), F.S. (Sexual Battery On a Child Under 12),
- * Section 794.011(3), F.S. (Sexual Battery With Deadly Force),
- * Section 794.011(4), F.S. (Sexual Battery On a Helpless Victim)
- * Section 794.011(5), F.S. (Sexual Battery With Slight Force),
- * Section 794.011(8), F.S. (Solicitation/Sex With a Minor),
- * Section 794.023, F.S. (Sexual Battery by Multiple Perpetrators),
- * Section 800.04, F.S. (Lewd or Lascivious Conduct),
- * Section 827.071, F.S. (Procuring Sexual Performance by a Child),
- * Section 847.0133, F.S. (Delivering Obscene Material To a Minor), or

* Section 847.0145, F.S. (Buying/Selling of Minors for Production of Pornography).

How To Register

The sexual predator is required to register directly with the Florida Department of Law Enforcement (FDLE), provide certain information, and be fingerprinted. In lieu of initially registering with the FDLE, the sexual predator may register with the Department of Corrections (DOC) or any law enforcement agency.

When To Register

Each sexual predator who is residing permanently or temporarily in the state outside a correctional facility, jail, or secure treatment facility must register or be registered within 48 hours after entering the county of permanent or temporary residence. Any change in temporary or permanent address, also, must be provided within 48 hours.

Typically, a designated sexual predator must maintain registration with the FDLE for the duration of the offender's life. However, current law contains an amnesty provision. **If the offender breaks no laws for a period of 10-years, then he may petition the court for removal of the sexual predator designation.**

Penalties For Failure To Register

A sexual predator who fails to register or be registered, or who fails, after registration, to provide location information, commits a third degree felony.

Notification of Presence of Sexual Predator

Law enforcement must inform the community and the public of a sexual predator's presence "in a manner deemed appropriate" by the sheriff or police chief.

B. EFFECT OF PROPOSED CHANGES:

The current sexual predator law contains an amnesty provision whereby a sexual predator may apply for removal of the designation if he or she commits no crimes (felony or misdemeanor) for a period of ten years.

For those persons designated a sexual predator after July 1, 1998, the bill amends the amnesty provision by requiring 20-years of good behavior in order to apply for removal of the designation.

For all sexual predators, the bill amends the amnesty process by placing the burden of proof on the offender to show he no longer represents a threat to

society, by requiring 3-weeks notice of the hearing to the prosecuting state attorney, and by providing the state attorney an opportunity to present evidence in opposition to the petition.

The effective date is July 1, 1998.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?
No.
- b. Does the bill require or authorize an increase in any fees?
No.
- c. Does the bill reduce total taxes, both rates and revenues?
No.
- d. Does the bill reduce total fees, both rates and revenues?
No.
- e. Does the bill authorize any fee or tax increase by any local government?
No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
No.
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?
No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

s. 775.21, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends the amnesty provision with more stringent requirements, thereby making it more difficult to have the sexual predator designation removed.

Section 2: Provides an effective date.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See, Fiscal Comments

2. Recurring Effects:

See, Fiscal Comments

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments

4. Total Revenues and Expenditures:

See, Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See, Fiscal Comments

2. Recurring Effects:

See, Fiscal Comments

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Conference reviewed the bill on April 9, 1998, and determined the bill will have **no fiscal impact**.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill is not subject to the mandates provision because it affects a criminal statute.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the state tax shared with counties and municipalities.

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Senate added a provision making the eligibility prerequisite of 20-years of crime-free behavior applicable only to those persons designated sexual predators after July 1, 1998.

VIII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

Prepared by:

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