

STORAGE NAME: h3221.cp

DATE: March 20, 1998

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

BILL #: HB 3221

RELATING TO: Notification Of Presence Of Sexual Predators

SPONSOR(S): Rep. Rodriguez-Chomat

COMPANION BILL(S): None.

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

- (1) CRIME AND PUNISHMENT
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

Section 775.21, F.S., **the Florida Sexual Predator Act**, requires offenders who have committed violent sexual offenses or who are repeat sexual offenders to register with law enforcement. It further requires the local sheriff or chief of police to notify the community and the public of the presence of a sexual predator.

The bill amends s. 775.21, F.S., by providing new registration and notice requirements if the sexual predator's victim was a minor, as follows:

- ▶ The Department of Corrections must notify the local governing body of the community where the sexual predator intends to live, within 90 days of his release from the department,
- ▶ The sexual predator must notify the local governing body of the community in which he intends to reside within 72 hours of arrival.
- ▶ The sexual predator who is released from custody in another state, must register with the Florida Department of Law Enforcement within 24 hours of arriving in this state.
- ▶ The bill provides that failure of a sexual predator to register or report as provided shall be punished by a 1st-degree felony with a 3-year, mandatory-minimum sentence.

The effective date is July 1, of the year in which enacted.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Florida's Sexual Predator Act

Florida's Sexual Predator Act, s. 775.21, F.S. (1996 Supp.), designates offenders as "sexual predators" where the current offense is a:

- 1) capital, life or first-degree felony violation of Chapter 794, or s. 847.045, F.S.;
OR
- 2) any second-degree felony violation of Chapter 794, s. 800.04, 827.071 or 847.0145, F.S.; AND
- 3) the offender has previously been convicted of 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, F.S.

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. The sexual predator is not required to make any further registration as a convicted felony offender in any county.

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.

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.

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

Other Reporting Requirements

Sexual Offender Information

Section 944.606, F.S. (1996 Supp.), requires the Department of Corrections to provide certain descriptive information, such as criminal history, fingerprints, and a photograph taken within 90 days of release to the sheriff of the county where a sexual offender is sentenced; the sheriff or the police chief, as appropriate, where the sexual offender plans to reside; and any person requesting such information.

The term "sexual offender" is defined to include a person who has been convicted of sexual battery and other designated sexual offenses. The sheriff or police chief is required to provide this information to any individual who requests it.

Notification of Inmate Release

Sections 944.605 and 947.177, F.S. (1996 Supp.), provide that within 6 months before the release of an inmate, the Department of Correction's shall notify the sentencing judge, the appropriate state attorney, the original arresting law enforcement agency, the sheriff of the county where the inmate plans to reside, and the victim or the victim's representative. An exit photograph will be placed in the inmate's file within 120 days of release. Additional information is required for the release of inmates convicted of enumerated violent offenses, including an exit photograph taken within 90 days of release.

B. EFFECT OF PROPOSED CHANGES:

New Notice and Registration Requirements

The bill amends s. 775.21, F.S., by providing new registration and notice requirements **if the sexual predator's victim was a minor**, as follows:

- 1) The Department of Corrections must notify the local governing body of the community where the sexual predator intends to live, within 90 days of his release from the department.
- 2) The sexual predator must notify the local governing body of the community in which he intends to reside within 72 hours of arrival.
- 3) The sexual predator who is not in the state, must register with the Florida Department of Law Enforcement within 24 hours of arriving in the state.
- 4) The bill provides that failure of a sexual predator to register or report as provided shall be punished by a 1st-degree felony with a **3-year, mandatory-minimum sentence**.

Provision **3)** is already provided for, under current law. See, 775.21(6)(b), F.S. (requires registration within 48 hours) Number **4)** is an enhancement of penalties which are already provided. See, 775.21(9), F.S. The objectives contained in provisions **1)** and **2)** may be accomplished, now, by making a request for the information from local law enforcement, by calling F.D.L.E.'s toll-free telephone number, or by accessing F.D.L.E.'s website on the Internet. See, s. 775.21(6)(f) & (7)(c), F.S.

Strike-Everything Amendment

An anticipated strike-everything amendment is described in the comments section of this bill research statement.

Effective Date

The effective date is July 1, of the year in which enacted.

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?

Yes. The bill requires local sheriff and chiefs of police to notify the local governing body of the presence sexual predators whose crimes were committed against minors.

(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?

Yes. The bill punishes a sexual predator's failure to register and report as a 1st-degree felony with a 3-year, mandatory minimum sentence.

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 s. 775.21, F.S., as described in Effect Of Proposed Changes.

Section 2: Incorporates the bill by reference to s. 943.0435, F.S.

Section 3: Provides an effective date.

III. 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:

See, Fiscal Comments.

2. Direct Private Sector Benefits:

See, Fiscal Comments.

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

See, Fiscal Comments.

D. FISCAL COMMENTS:

The Criminal Justice Estimating Committee has not met to consider the bill, but offers a tentative estimate of **no fiscal impact** if passed with the strike-everything amendment. See, Comments.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Because the bill concerns a criminal statute, it is exempt from the requirements of Article VII, Section 18.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce anyone's 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.

V. COMMENTS:

Strike-Everything Amendment

There is a strike-everything amendment which eliminates the portions of the bill which are redundant to existing law and accomplishes the bill's objectives by adding clauses to existing subsection of section 775.21, F.S., as follows:

- ▶ Amends s. 775.21(7), (Community & Public Notification) to require local sheriffs and chiefs of police to notify local governing bodies of the communities which are home to all sexual predators. While it is not limited to those sexual predators whose victims were minors, information about whether the victim was a minor must be included as part of the notification pursuant to this subsection.
- ▶ Amends s. 775.21(6), (Registration) to require sexual predators to notify the local governing body of the new community within 48 hours of any change in temporary or permanent residence.
- ▶ Amends s. 775.21(9), (Penalties) to make it a 3rd-degree felony for a sexual predator to fail to notify the local governing body of the new community within 48 hours of any change in temporary or permanent residence.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON CRIME AND PUNISHMENT:

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