

**HOUSE OF REPRESENTATIVES ANALYSIS**

**BILL #:** HB 37  
**SPONSOR(S):** Kravitz  
**TIED BILLS:**

**RELATING TO:** Sexual Offenders  
**IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
(1) <u>Corrections (Sub)</u>	_____	<u>Kramer</u>	<u>De La Paz</u>
(2) <u>Public Safety &amp; Crime Prevention</u>	_____	_____	_____
(3) <u>Pre-K through 12 (Sub)</u>	_____	_____	_____
(4) <u>Education K-20</u>	_____	_____	_____
(5) <u>PUBLIC SAFETY APPROPRIATIONS (SUB)</u>	_____	_____	_____
(6) <u>Appropriations</u>	_____	_____	_____

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**SUMMARY ANALYSIS**

Under current law, certain sex offenders under conditional release supervision cannot reside within 1,000 feet of a "school, day care center, park, playground, or other place where children regularly congregate." HB 37 amends the conditional release statute to specify that these offenders cannot live within 1,000 feet of a "designated public school bus stop". The bill prohibits a school bus stop from being established or relocated within a distance of less than 1,000 feet from the existing residence of a releasee.

HB 37 also makes it unlawful for any person who has been convicted of one of a list of specified sexual offenses against a victim less than age 16 to reside within 1,000 feet of any school, day care center, park or playground. This provision applies only to offenses that occur after October 1, 2003.

The effective date of the bill is October 1, 2003.

There does not appear to be a significant fiscal impact associated with this bill.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |  |   |
|--------------------------------------|---|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |

For any principle that received a "no" above, please explain: Relating to the issue of whether the bill would expand individual freedom, the bill would make it unlawful for a person who had been convicted of a list of specified sexual offenses to reside within 1,000 feet of a school, day care center, park or playground. This would have the effect of restricting where these offenders could legally reside for the duration of their lives. The bill will also provide additional restrictions on where offenders on conditional release are permitted to reside for the duration of their supervision. Further, to the extent that the bill results in increased workload for district school boards or the Department of Corrections, it may be seen as failing to reduce government.

#### B. EFFECT OF PROPOSED CHANGES:

Conditional release program: Currently, section 947.1405, F.S. creates the conditional release program. This program requires an inmate convicted of repeated violent offenses who is nearing the end of his or her sentence to be released under close supervision.<sup>1</sup> The Parole Commission sets the length and conditions of release after reviewing information provided by the Department of Corrections.<sup>2</sup> The Department of Corrections supervises the offender while on conditional release.

For inmates convicted of certain sexual offense<sup>3</sup> or offenses against children, who are subject to conditional release, section 947.1405(7)(a), F.S., also requires the Commission to impose the following conditions, in addition to any other terms and conditions it imposes:

1. Mandatory curfew;
2. *If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate;*
3. Participation in a sex offender treatment program;
4. Prohibition on contact with the victim;
5. Prohibition on unsupervised contact with children if certain conditions are met;
6. Prohibition on working at any school, day care center, park, playground, or other place where children congregate if the victim was under 18;
7. Prohibition on the possession of pornographic or sexually stimulating materials;
8. Submission of a DNA sample to the Florida Department of Law Enforcement;
9. Restitution to the victim; and
10. Submission to warrantless searches by the releasee's probation officer of the releasee's person, residence, or vehicle.

<sup>1</sup> Inmates who qualify for conditional release include: 1) those who have previously served time in a correctional institution and are currently incarcerated for one a list of violent offenses including murder, sexual battery, robbery, assault or battery; 2) inmates sentenced as a habitual offender, a violent habitual offender or a violent career criminal; 3) inmates who were found to be a sexual predator. s. 947.1405(2), F.S.

<sup>2</sup> The length of supervision cannot exceed the maximum penalty imposed by the court. s. 947.1405(6)

<sup>3</sup> Offenses include sexual battery (s.794), lewd or lascivious offenses (s.800.04); sexual performance by a child (s. 827.071) and selling or buying of minors (s. 847.0145).

If the releasee successfully completes the conditional release program, the inmate is no longer supervised by the court or by the Department of Corrections. If a person on conditional release violates the conditions of his or her release, the violation may be referred to the Parole Commission. The releasee is entitled to a hearing before the Parole Commission or its hearing officer.<sup>4</sup> After a hearing, the Commission may revoke the conditional release and return the releasee to prison, impose new conditions on the release, or allow conditional release to continue.

Information provided by the Department of Corrections revealed that, as of 11/30/02, there were 3,248 conditional releasees under active supervision of the Department of Corrections. Of these, 263 were sex offenders and 21 had a minor victim that fit the criteria for application of the proposed new condition of supervision. In Fiscal Year 2001-2002, 337 conditional release sex offenders were released to supervision and 30 had a minor victim that fit the criteria for application of the proposed new condition of supervision.

HB 37 specifies that certain sex offenders who are under conditional release and whose victims are under 18 years of age cannot live within 1,000 feet of a "*designated public school bus stop*". The bill provides that a school bus stop may not be established or relocated within a distance of less than 1,000 feet from the existing residence of a releasee.

The bill also amends section 1006.22, F.S. relating to transportation of students to require each district school board to provide to the Department of Corrections the location of school bus stops.

#### Unlawful place of residence for persons convicted of certain sex offenses

HB 37 also creates a new section of statute which makes it unlawful for a person who is convicted of a enumerated sexual offense<sup>5</sup> committed after October 1, 2003 against a victim under 16 years to reside within 1,000 feet of any school, day care center, park or playground. The offense is a third degree felony if the prior conviction for a sexual offense was a felony of the first degree or higher. The offense is a first degree misdemeanor if the prior conviction for a sexual offense was a second or third degree felony.

#### C. SECTION DIRECTORY:

Section 1: Amending s.947.1405, relating to conditional release program; adding to condition of release for certain sexual offenders a prohibition against residing within 1,000 feet of a school bus stop.

Section 2: Creating s. 794.065, making it unlawful for persons convicted of certain sexual offenses to live within 1,000 feet of school, day care center, park or playground.

Section 3: Amending s. 1006.22 relating to safety and health of students being transported to require district school boards to provide the location of school bus stops to Department of Corrections.

Section 4: Providing effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

2. Expenditures: By placing restrictions on where certain offenders on conditional release and certain convicted felons can live, there may be additional revocations of conditional release and convictions

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<sup>4</sup> s. 947.141, F.S.

<sup>5</sup> Offenses include violations of ss. 794.011, 794.05, 800.04, 827.071 and 847.0145.

that may result in an unspecified number of offenders returning to or entering prison. The Criminal Justice Impact Conference has not met to consider any impact of the bill on the prison population of the Department of Corrections.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:
2. Expenditures: Because school districts will be prohibited from placing or relocating a school bus stop within 1,000 feet of the residence of an offender, there may be additional workload on staff to develop alternative locations for bus stops.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Persons convicted of certain sexual offenses who are under conditional release supervision and live within 1,000 feet of a school bus stop on the effective day of the bill may be required to change their residence as a result of the provisions of the bill. Further, if a person is convicted of a sexual offense after October 1, 2003 where the victim is under the age of 16 and resides in a location within 1,000 feet of a school, day care, playground or park, that offender would have to move out of his or her residence in order to avoid committing a criminal offense.

**D. FISCAL COMMENTS:**

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision
2. Other

**B. RULE-MAKING AUTHORITY:**

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

School districts do not currently report the location of school bus stops to any state agency. This bill would require each district school board to provide the Department of Corrections with the location of school bus stops. There is no standard format for maintaining this information throughout the 67 school districts statewide. For example, staff from the Miami-Dade Public Schools Transportation Office indicated that they currently do not have a computerized routing system and would be unable to submit a map of their approximately 32,000 bus stops electronically. Further, staff from the Osceola County School District indicated that although they map their 5,199 school bus stops using Geographic Information Systems (GIS) software, this information could not be transferred electronically for proprietary and technological reasons. Both districts indicated that they would have to submit this information as a list of addresses where school bus stops are located.

School bus stop locations are changed or added throughout the school year for many reasons including requests from parents, changing student population and safety hazards being identified. The bill does not indicate how often the school districts are required to submit the location of bus stops to the Department of Corrections.

The bill prohibits a school district from establishing or relocating a school bus stop within a distance of less than 1,000 feet from the existing residence of certain offenders who are on conditional release. However, the bill does not require the Department of Corrections to provide school districts with information regarding the

residences of offenders on conditional release. Therefore, it is not clear how the school districts would obtain information relevant to the placement of school bus stops.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**