



## II. Present Situation:

### Registration of Sexual Predators and Sexual Offenders

Florida's Sexual Predators Act, s. 775.21, F.S., provides that an offender shall be designated as a "sexual predator," if the defendant's current felony offense was committed on or after October 1, 1993, and the offense is any of the offenses specified in that section. The court sentencing the offender for an offense applicable to the sexual predator designation makes the designation subject to statutory procedures for making a written finding. There are also provisions for a court to designate as a sexual predator those persons who were administratively designated as sexual predators under former law or who meet the sexual predator criteria but have not been designated by a court as a sexual predator.

If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections (DOC), or is in the custody of a private correctional facility, the predator must register with the DOC and provide specified information. Private correctional facilities are also governed by these requirements.

If the sexual predator is not in the custody or control of, or under the supervision of, the DOC, or is not in the custody of a private correctional facility, and the predator establishes or maintains a residence in this state, the predator must initially register in person at an FDLE office, or at the sheriff's office in the county of residence within 48 hours after establishing permanent or temporary residence.

Within 48 hours of initial registration, a sexual predator who is not incarcerated and who resides in the community, including a predator under DOC supervision, must register at a driver's license office of the DHSMV and present proof of registration, provide specified information, and secure a driver's license, if qualified, or an identification card. Each time a sexual predator's driver's license or identification card is subject to renewal, and within 48 hours after any change in the predator's residence or name, he or she must report in person to a driver's license facility of the DHSMV and is subject to specified registration requirements.

Registration procedures are also provided for sexual predators who are under federal supervision, in the custody of a local jail, designated as a sexual predator (or another sexual offender designation) in another state and establish or maintain a residence in this state, or are enrolled, employed, or carrying on a vocation at an institution of higher education in this state.

Extensive procedures are provided for providing notifying communities about certain information relating to sexual predators, much of which is compiled during the registration process. The law directs how information collected by the DOC, the DHSMV, and others, is to be provided to FDLE. Extensive procedures are also provided for verification of sexual predator's addresses. *See* ss. 775.21, 943.043, 943.0435, 944.606, and 944.607, F.S.

A sexual predator's failure to comply with registration requirements is a third degree felony. s. 775.21, F.S.

Section 943.0435, F.S., requires a “sexual offender” (a person who has been convicted of any specified offense and who has been released on or after October 1, 1997, from the sanction imposed for any conviction of a specified offense) to report and register in a manner similar to the registration of a sexual predator under s. 775.21, F.S. There are also somewhat similar registration requirements for sexual offenders under the custody or control of the DOC, or under its supervision, or in custody of a private correctional facility. s. 944.607, F.S. Failure of a sexual offender (under s. 943.0435, F.S., or s. 944.607, F.S.) to comply with the registration requirements is a third degree felony.

Section 944.606, F.S., requires that the DOC provide certain information to the FDLE and others, as specified, regarding any sexual offender being released from incarceration.

### **Civil Commitment of Sexual Violent Predators**

Part V of ch. 394, F.S., provides that sexually violent predators may be subject to involuntary civil commitment. A sexually violent predator is a person convicted of a sexually violent offense who suffers from a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment. s. 394.912, F.S. Procedures for identifying persons subject to the sexually violent predator criteria and civilly committing a person identified as a sexually violent predator are provided in ss. 394.913, F.S., et seq.

### **III. Effect of Proposed Changes:**

The CS amends s. 775.21, F.S., to require that a person civilly committed as a sexually violent predator be designated as a sexual predator for registration purposes by the court involved in the civil commitment.

The CS amends ss. 775.21 and 943.0435, F.S., to require sexual predators and sexual offenders who vacate a permanent residence and don't establish or maintain another residence to report to FDLE or the local sheriff where the person is located within 48 hours after vacating the residence and provide the date the residence was vacated, update registration information, and provide an address where the person will be during the time when no residence is established or maintained.

If the sexual predator or sexual offender remains at a permanent residence after having reported vacating the premises, he or she has to return to FDLE or the sheriff within 48 hours after the date he or she indicated the residence would be vacated and report that fact. Failure to make this report is a second degree felony. The offense is unranked so it defaults to a Level 4 ranking, which means the court could impose a sentence of imprisonment but is not required to do so.

The CS amends ss. 775.21, 943.0435, 944.606, and 944.607, F.S., to modify the definition of “conviction” under the registration statutes to indicate that conviction includes an entry of a guilty plea or nolo contendere resulting in a sanction.

The CS amends ss. 775.21, 943.0435, and 944.607, F.S., to indicate where venue may occur for the purpose of prosecuting violations of the registration laws, specify what constitutes actual notice of the duty to register, require registration of sexual predators or sexual offenders who are

charged with failure to register and who assert a lack of notice of the duty to register, and preclude the defense of lack of notice of duty to register on a subsequent charge of failure to register. Additionally, registration following arrest, service, or arraignment is not a defense and does not relieve the sexual predator or sexual offender from criminal liability for failure to register.

The CS also reenacts ss. 39.806(1)(d), 63.089(4)(b), 63.092(3), 775.13(5), 775.24(2), 775.25, 775.261(3)(b), 921.0022(3)(f), 944.608(7), 943.0436(2), 944.609(4), and 947.1405(2)(c), F.S., for the purpose of incorporating the amendments to statutes amended by the CS in reference to those statutes in the reenacted statutes or statutory provisions.

The CS takes effect July 1, 2004.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

An estimate of the impact, if any, on FDLE and DOC of the provisions of the CS was not available at the time this analysis was completed.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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