

By the Committee on Criminal Justice; and Senators Book and Hutson

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1 A bill to be entitled
2 An act relating to sentencing for sexual offenders and
3 sexual predators; amending s. 775.21, F.S.; redefining
4 the terms "permanent residence," "temporary
5 residence," and "transient residence" by decreasing
6 the amount of days a person abides, lodges, or resides
7 in a certain place to qualify for that type of
8 residency category; revising existing criminal
9 penalties for sexual predators to require mandatory
10 minimum terms of community control with electronic
11 monitoring for first, second, and third and subsequent
12 felony violations if the court does not impose a
13 prison sentence; amending s. 943.0435, F.S.; revising
14 existing criminal penalties for sexual offenders to
15 require mandatory minimum terms of community control
16 with electronic monitoring for first, second, and
17 third and subsequent felony violations if the court
18 does not impose a prison sentence; reenacting s.
19 775.25, F.S., relating to prosecutions for certain
20 acts or omissions, to incorporate the amendments made
21 to ss. 775.21 and 943.0435, F.S., in references
22 thereto; reenacting ss. 944.606(1)(d), 985.481(1)(d),
23 and 985.4815(1)(f), F.S., relating to sexual offenders
24 and required notifications upon release, sexual
25 offenders adjudicated delinquent and required
26 notifications upon release, and notification to the
27 Department of Law Enforcement of information on
28 juvenile sexual offenders, respectively, to
29 incorporate the amendment made to s. 775.21, F.S., in

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30 references thereto; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Paragraphs (k), (n), and (o) of subsection (2)
35 and subsection (10) of section 775.21, Florida Statutes, are
36 amended, and paragraph (d) of subsection (5) and paragraphs (g)
37 and (i) of subsection (6) of that section are republished, to
38 read:

39 775.21 The Florida Sexual Predators Act.—

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

41 (k) "Permanent residence" means a place where the person
42 abides, lodges, or resides for 3 ~~5~~ or more consecutive days.

43 (n) "Temporary residence" means a place where the person
44 abides, lodges, or resides, including, but not limited to,
45 vacation, business, or personal travel destinations in or out of
46 this state, for a period of 3 ~~5~~ or more days in the aggregate
47 during any calendar year and which is not the person's permanent
48 address or, for a person whose permanent residence is not in
49 this state, a place where the person is employed, practices a
50 vocation, or is enrolled as a student for any period of time in
51 this state.

52 (o) "Transient residence" means a county where a person
53 lives, remains, or is located for a period of 3 ~~5~~ or more days
54 in the aggregate during a calendar year and which is not the
55 person's permanent or temporary address. The term includes, but
56 is not limited to, a place where the person sleeps or seeks
57 shelter and a location that has no specific street address.

58 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated

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59 as a sexual predator as follows:

60 (d) A person who establishes or maintains a residence in
61 this state and who has not been designated as a sexual predator
62 by a court of this state but who has been designated as a sexual
63 predator, as a sexually violent predator, or by another sexual
64 offender designation in another state or jurisdiction and was,
65 as a result of such designation, subjected to registration or
66 community or public notification, or both, or would be if the
67 person was a resident of that state or jurisdiction, without
68 regard to whether the person otherwise meets the criteria for
69 registration as a sexual offender, shall register in the manner
70 provided in s. 943.0435 or s. 944.607 and shall be subject to
71 community and public notification as provided in s. 943.0435 or
72 s. 944.607. A person who meets the criteria of this section is
73 subject to the requirements and penalty provisions of s.
74 943.0435 or s. 944.607 until the person provides the department
75 with an order issued by the court that designated the person as
76 a sexual predator, as a sexually violent predator, or by another
77 sexual offender designation in the state or jurisdiction in
78 which the order was issued which states that such designation
79 has been removed or demonstrates to the department that such
80 designation, if not imposed by a court, has been removed by
81 operation of law or court order in the state or jurisdiction in
82 which the designation was made, and provided such person no
83 longer meets the criteria for registration as a sexual offender
84 under the laws of this state.

85 (6) REGISTRATION.—

86 (g)1. Each time a sexual predator's driver license or
87 identification card is subject to renewal, and, without regard

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88 to the status of the predator's driver license or identification
89 card, within 48 hours after any change of the predator's
90 residence or change in the predator's name by reason of marriage
91 or other legal process, the predator shall report in person to a
92 driver license office and is subject to the requirements
93 specified in paragraph (f). The Department of Highway Safety and
94 Motor Vehicles shall forward to the department and to the
95 Department of Corrections all photographs and information
96 provided by sexual predators. Notwithstanding the restrictions
97 set forth in s. 322.142, the Department of Highway Safety and
98 Motor Vehicles may release a reproduction of a color-photograph
99 or digital-image license to the Department of Law Enforcement
100 for purposes of public notification of sexual predators as
101 provided in this section. A sexual predator who is unable to
102 secure or update a driver license or an identification card with
103 the Department of Highway Safety and Motor Vehicles as provided
104 in paragraph (f) and this paragraph shall also report any change
105 of the predator's residence or change in the predator's name by
106 reason of marriage or other legal process within 48 hours after
107 the change to the sheriff's office in the county where the
108 predator resides or is located and provide confirmation that he
109 or she reported such information to the Department of Highway
110 Safety and Motor Vehicles. The reporting requirements under this
111 subparagraph do not negate the requirement for a sexual predator
112 to obtain a Florida driver license or identification card as
113 required by this section.

114 2.a. A sexual predator who vacates a permanent, temporary,
115 or transient residence and fails to establish or maintain
116 another permanent, temporary, or transient residence shall,

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117 within 48 hours after vacating the permanent, temporary, or
118 transient residence, report in person to the sheriff's office of
119 the county in which he or she is located. The sexual predator
120 shall specify the date upon which he or she intends to or did
121 vacate such residence. The sexual predator shall provide or
122 update all of the registration information required under
123 paragraph (a). The sexual predator shall provide an address for
124 the residence or other place that he or she is or will be
125 located during the time in which he or she fails to establish or
126 maintain a permanent or temporary residence.

127 b. A sexual predator shall report in person at the
128 sheriff's office in the county in which he or she is located
129 within 48 hours after establishing a transient residence and
130 thereafter must report in person every 30 days to the sheriff's
131 office in the county in which he or she is located while
132 maintaining a transient residence. The sexual predator must
133 provide the addresses and locations where he or she maintains a
134 transient residence. Each sheriff's office shall establish
135 procedures for reporting transient residence information and
136 provide notice to transient registrants to report transient
137 residence information as required in this sub-subparagraph.
138 Reporting to the sheriff's office as required by this sub-
139 subparagraph does not exempt registrants from any reregistration
140 requirement. The sheriff may coordinate and enter into
141 agreements with police departments and other governmental
142 entities to facilitate additional reporting sites for transient
143 residence registration required in this sub-subparagraph. The
144 sheriff's office shall, within 2 business days, electronically
145 submit and update all information provided by the sexual

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146 predator to the department.

147 3. A sexual predator who remains at a permanent, temporary,
148 or transient residence after reporting his or her intent to
149 vacate such residence shall, within 48 hours after the date upon
150 which the predator indicated he or she would or did vacate such
151 residence, report in person to the sheriff's office to which he
152 or she reported pursuant to subparagraph 2. for the purpose of
153 reporting his or her address at such residence. When the sheriff
154 receives the report, the sheriff shall promptly convey the
155 information to the department. An offender who makes a report as
156 required under subparagraph 2. but fails to make a report as
157 required under this subparagraph commits a felony of the second
158 degree, punishable as provided in s. 775.082, s. 775.083, or s.
159 775.084.

160 4. The failure of a sexual predator who maintains a
161 transient residence to report in person to the sheriff's office
162 every 30 days as required by sub-subparagraph 2.b. is punishable
163 as provided in subsection (10).

164 5.a. A sexual predator shall register all electronic mail
165 addresses and Internet identifiers, and each Internet
166 identifier's corresponding website homepage or application
167 software name, with the department through the department's
168 online system or in person at the sheriff's office within 48
169 hours after using such electronic mail addresses and Internet
170 identifiers. If the sexual predator is in the custody or
171 control, or under the supervision, of the Department of
172 Corrections, he or she must report all electronic mail addresses
173 and Internet identifiers, and each Internet identifier's
174 corresponding website homepage or application software name, to

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175 the Department of Corrections before using such electronic mail
176 addresses or Internet identifiers. If the sexual predator is in
177 the custody or control, or under the supervision, of the
178 Department of Juvenile Justice, he or she must report all
179 electronic mail addresses and Internet identifiers, and each
180 Internet identifier's corresponding website homepage or
181 application software name, to the Department of Juvenile Justice
182 before using such electronic mail addresses or Internet
183 identifiers.

184 b. A sexual predator shall register all changes to home
185 telephone numbers and cellular telephone numbers, including
186 added and deleted numbers, all changes to employment
187 information, and all changes in status related to enrollment,
188 volunteering, or employment at institutions of higher education,
189 through the department's online system; in person at the
190 sheriff's office; in person at the Department of Corrections if
191 the sexual predator is in the custody or control, or under the
192 supervision, of the Department of Corrections; or in person at
193 the Department of Juvenile Justice if the sexual predator is in
194 the custody or control, or under the supervision, of the
195 Department of Juvenile Justice. All changes required to be
196 reported in this sub-subparagraph shall be reported within 48
197 hours after the change.

198 c. The department shall establish an online system through
199 which sexual predators may securely access, submit, and update
200 all electronic mail addresses; Internet identifiers and each
201 Internet identifier's corresponding website homepage or
202 application software name; home telephone numbers and cellular
203 telephone numbers; employment information; and institution of

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204 higher education information.

205 (i) A sexual predator who intends to establish a permanent,
206 temporary, or transient residence in another state or
207 jurisdiction other than the State of Florida shall report in
208 person to the sheriff of the county of current residence within
209 48 hours before the date he or she intends to leave this state
210 to establish residence in another state or jurisdiction or at
211 least 21 days before the date he or she intends to travel if the
212 intended residence of 5 days or more is outside of the United
213 States. Any travel that is not known by the sexual predator 21
214 days before the departure date must be reported to the sheriff's
215 office as soon as possible before departure. The sexual predator
216 shall provide to the sheriff the address, municipality, county,
217 state, and country of intended residence. For international
218 travel, the sexual predator shall also provide travel
219 information, including, but not limited to, expected departure
220 and return dates, flight number, airport of departure, cruise
221 port of departure, or any other means of intended travel. The
222 sheriff shall promptly provide to the department the information
223 received from the sexual predator. The department shall notify
224 the statewide law enforcement agency, or a comparable agency, in
225 the intended state, jurisdiction, or country of residence of the
226 sexual predator's intended residence. The failure of a sexual
227 predator to provide his or her intended place of residence is
228 punishable as provided in subsection (10).

229 (10) PENALTIES.—

230 (a) Except as otherwise specifically provided, a sexual
231 predator who fails to register; who fails, after registration,
232 to maintain, acquire, or renew a driver license or an

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233 identification card; who fails to provide required location
234 information; who fails to provide electronic mail addresses,
235 Internet identifiers, and each Internet identifier's
236 corresponding website homepage or application software name; who
237 fails to provide all home telephone numbers and cellular
238 telephone numbers, employment information, change in status at
239 an institution of higher education, or change-of-name
240 information; who fails to make a required report in connection
241 with vacating a permanent residence; who fails to reregister as
242 required; who fails to respond to any address verification
243 correspondence from the department within 3 weeks of the date of
244 the correspondence; who knowingly provides false registration
245 information by act or omission; or who otherwise fails, by act
246 or omission, to comply with the requirements of this section
247 commits a felony of the third degree, punishable as provided in
248 s. 775.082, s. 775.083, or s. 775.084.

249 (b) A sexual predator who has been convicted of or found to
250 have committed, or has pled nolo contendere or guilty to,
251 regardless of adjudication, any violation, or attempted
252 violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
253 the victim is a minor; s. 794.011, excluding s. 794.011(10); s.
254 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
255 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s.
256 985.701(1); or a violation of a similar law of another
257 jurisdiction when the victim of the offense was a minor, and who
258 works, whether for compensation or as a volunteer, at any
259 business, school, child care facility, park, playground, or
260 other place where children regularly congregate, commits a
261 felony of the third degree, punishable as provided in s.

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262 775.082, s. 775.083, or s. 775.084.

263 (c) For a felony violation of this section, excluding
264 paragraph (10)(g), committed on or after July 1, 2018, if the
265 court does not impose a prison sentence, the court shall impose
266 a mandatory minimum term of community control, as defined in s.
267 948.001, as follows:

268 1. For a first offense, a mandatory minimum term of 6
269 months of community control with electronic monitoring.

270 2. For a second offense, a mandatory minimum term of 1 year
271 of community control with electronic monitoring.

272 3. For a third or subsequent offense, a mandatory minimum
273 term of 2 years of community control with electronic monitoring.

274 (d)~~(e)~~ Any person who misuses public records information
275 relating to a sexual predator, as defined in this section, or a
276 sexual offender, as defined in s. 943.0435 or s. 944.607, to
277 secure a payment from such a predator or offender; who knowingly
278 distributes or publishes false information relating to such a
279 predator or offender which the person misrepresents as being
280 public records information; or who materially alters public
281 records information with the intent to misrepresent the
282 information, including documents, summaries of public records
283 information provided by law enforcement agencies, or public
284 records information displayed by law enforcement agencies on
285 websites or provided through other means of communication,
286 commits a misdemeanor of the first degree, punishable as
287 provided in s. 775.082 or s. 775.083.

288 (e)~~(d)~~ A sexual predator who commits any act or omission in
289 violation of this section may be prosecuted for the act or
290 omission in the county in which the act or omission was

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291 committed, in the county of the last registered address of the
292 sexual predator, in the county in which the conviction occurred
293 for the offense or offenses that meet the criteria for
294 designating a person as a sexual predator, in the county where
295 the sexual predator was released from incarceration, or in the
296 county of the intended address of the sexual predator as
297 reported by the predator prior to his or her release from
298 incarceration. In addition, a sexual predator may be prosecuted
299 for any such act or omission in the county in which he or she
300 was designated a sexual predator.

301 (f)~~(e)~~ An arrest on charges of failure to register, the
302 service of an information or a complaint for a violation of this
303 section, or an arraignment on charges for a violation of this
304 section constitutes actual notice of the duty to register when
305 the predator has been provided and advised of his or her
306 statutory obligation to register under subsection (6). A sexual
307 predator's failure to immediately register as required by this
308 section following such arrest, service, or arraignment
309 constitutes grounds for a subsequent charge of failure to
310 register. A sexual predator charged with the crime of failure to
311 register who asserts, or intends to assert, a lack of notice of
312 the duty to register as a defense to a charge of failure to
313 register shall immediately register as required by this section.
314 A sexual predator who is charged with a subsequent failure to
315 register may not assert the defense of a lack of notice of the
316 duty to register.

317 ~~(f)~~ Registration following such arrest, service, or
318 arraignment is not a defense and does not relieve the sexual
319 predator of criminal liability for the failure to register.

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320 (g) Any person who has reason to believe that a sexual
321 predator is not complying, or has not complied, with the
322 requirements of this section and who, with the intent to assist
323 the sexual predator in eluding a law enforcement agency that is
324 seeking to find the sexual predator to question the sexual
325 predator about, or to arrest the sexual predator for, his or her
326 noncompliance with the requirements of this section:

327 1. Withholds information from, or does not notify, the law
328 enforcement agency about the sexual predator's noncompliance
329 with the requirements of this section, and, if known, the
330 whereabouts of the sexual predator;

331 2. Harbors, or attempts to harbor, or assists another
332 person in harboring or attempting to harbor, the sexual
333 predator;

334 3. Conceals or attempts to conceal, or assists another
335 person in concealing or attempting to conceal, the sexual
336 predator; or

337 4. Provides information to the law enforcement agency
338 regarding the sexual predator which the person knows to be false
339 information,

340
341 commits a felony of the third degree, punishable as provided in
342 s. 775.082, s. 775.083, or s. 775.084. This paragraph does not
343 apply if the sexual predator is incarcerated in or is in the
344 custody of a state correctional facility, a private correctional
345 facility, a local jail, or a federal correctional facility.

346 Section 2. Subsection (9) of section 943.0435, Florida
347 Statutes, is amended, and paragraph (f) of subsection (1),
348 paragraph (d) of subsection (4), and subsection (7) of that

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349 section are republished, to read:

350 943.0435 Sexual offenders required to register with the
351 department; penalty.—

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

353 (f) "Permanent residence," "temporary residence," and
354 "transient residence" have the same meaning as provided in s.
355 775.21.

356 (4)

357 (d) The failure of a sexual offender who maintains a
358 transient residence to report in person to the sheriff's office
359 every 30 days as required in subparagraph (b)2. is punishable as
360 provided in subsection (9).

361 (7) A sexual offender who intends to establish a permanent,
362 temporary, or transient residence in another state or
363 jurisdiction other than the State of Florida shall report in
364 person to the sheriff of the county of current residence within
365 48 hours before the date he or she intends to leave this state
366 to establish residence in another state or jurisdiction or at
367 least 21 days before the date he or she intends to travel if the
368 intended residence of 5 days or more is outside of the United
369 States. Any travel that is not known by the sexual offender 21
370 days before the departure date must be reported in person to the
371 sheriff's office as soon as possible before departure. The
372 sexual offender shall provide to the sheriff the address,
373 municipality, county, state, and country of intended residence.
374 For international travel, the sexual offender shall also provide
375 travel information, including, but not limited to, expected
376 departure and return dates, flight number, airport of departure,
377 cruise port of departure, or any other means of intended travel.

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378 The sheriff shall promptly provide to the department the
379 information received from the sexual offender. The department
380 shall notify the statewide law enforcement agency, or a
381 comparable agency, in the intended state, jurisdiction, or
382 country of residence of the sexual offender's intended
383 residence. The failure of a sexual offender to provide his or
384 her intended place of residence is punishable as provided in
385 subsection (9).

386 (9) (a) Except as otherwise specifically provided, a sexual
387 offender who does not comply with the requirements of this
388 section commits a felony of the third degree, punishable as
389 provided in s. 775.082, s. 775.083, or s. 775.084.

390 (b) For a felony violation of this section, excluding
391 subsection (13), committed on or after July 1, 2018, if the
392 court does not impose a prison sentence, the court shall impose
393 a mandatory minimum term of community control, as defined in s.
394 948.001, as follows:

395 1. For a first offense, a mandatory minimum term of 6
396 months of community control with electronic monitoring.

397 2. For a second offense, a mandatory minimum term of 1 year
398 of community control with electronic monitoring.

399 3. For a third or subsequent offense, a mandatory minimum
400 term of 2 years of community control with electronic monitoring.

401 (c) ~~(b)~~ A sexual offender who commits any act or omission in
402 violation of this section may be prosecuted for the act or
403 omission in the county in which the act or omission was
404 committed, in the county of the last registered address of the
405 sexual offender, in the county in which the conviction occurred
406 for the offense or offenses that meet the criteria for

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407 designating a person as a sexual offender, in the county where
408 the sexual offender was released from incarceration, or in the
409 county of the intended address of the sexual offender as
410 reported by the offender prior to his or her release from
411 incarceration.

412 (d)~~(e)~~ An arrest on charges of failure to register when the
413 offender has been provided and advised of his or her statutory
414 obligations to register under subsection (2), the service of an
415 information or a complaint for a violation of this section, or
416 an arraignment on charges for a violation of this section
417 constitutes actual notice of the duty to register. A sexual
418 offender's failure to immediately register as required by this
419 section following such arrest, service, or arraignment
420 constitutes grounds for a subsequent charge of failure to
421 register. A sexual offender charged with the crime of failure to
422 register who asserts, or intends to assert, a lack of notice of
423 the duty to register as a defense to a charge of failure to
424 register shall immediately register as required by this section.
425 A sexual offender who is charged with a subsequent failure to
426 register may not assert the defense of a lack of notice of the
427 duty to register.

428 ~~(d)~~ Registration following such arrest, service, or
429 arraignment is not a defense and does not relieve the sexual
430 offender of criminal liability for the failure to register.

431 Section 3. For the purpose of incorporating the amendments
432 made by this act to sections 775.21 and 943.0435, Florida
433 Statutes, in references thereto, section 775.25, Florida
434 Statutes, is reenacted to read:

435 775.25 Prosecutions for acts or omissions.—A sexual

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436 predator or sexual offender who commits any act or omission in
437 violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.
438 944.607, or former s. 947.177 may be prosecuted for the act or
439 omission in the county in which the act or omission was
440 committed, in the county of the last registered address of the
441 sexual predator or sexual offender, in the county in which the
442 conviction occurred for the offense or offenses that meet the
443 criteria for designating a person as a sexual predator or sexual
444 offender, in the county where the sexual predator or sexual
445 offender was released from incarceration, or in the county of
446 the intended address of the sexual predator or sexual offender
447 as reported by the predator or offender prior to his or her
448 release from incarceration. In addition, a sexual predator may
449 be prosecuted for any such act or omission in the county in
450 which he or she was designated a sexual predator.

451 Section 4. For the purpose of incorporating the amendment
452 made by this act to section 775.21, Florida Statutes, in a
453 reference thereto, paragraph (d) of subsection (1) of section
454 944.606, Florida Statutes, is reenacted to read:

455 944.606 Sexual offenders; notification upon release.—

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

457 (d) "Permanent residence," "temporary residence," and
458 "transient residence" have the same meaning as provided in s.
459 775.21.

460 Section 5. For the purpose of incorporating the amendment
461 made by this act to section 775.21, Florida Statutes, in a
462 reference thereto, paragraph (d) of subsection (1) of section
463 985.481, Florida Statutes, is reenacted to read:

464 985.481 Sexual offenders adjudicated delinquent;

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465 notification upon release.-

466 (1) As used in this section:

467 (d) "Permanent residence," "temporary residence," and
468 "transient residence" have the same meaning as provided in s.
469 775.21.

470 Section 6. For the purpose of incorporating the amendment
471 made by this act to section 775.21, Florida Statutes, in a
472 reference thereto, paragraph (f) of subsection (1) of section
473 985.4815, Florida Statutes, is reenacted to read:

474 985.4815 Notification to Department of Law Enforcement of
475 information on juvenile sexual offenders.-

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

477 (f) "Permanent residence," "temporary residence," and
478 "transient residence" have the same meaning as provided in s.
479 775.21.

480 Section 7. This act shall take effect July 1, 2018.