

Florida Department of Law Enforcement

2004

Guidelines to

Florida Sex Offender Laws

Charting a Course for Public Safety in Florida

Look for this publication on-the
Florida Criminal Justice Network (CJNet).

Future updates will be available for downloading at
www.flcjn.net

**Florida Department of Law Enforcement
Sexual Offender/Predator Unit**

P.O. Box 1489
Tallahassee, FL 32302-1489
www.fdle.state.fl.us
1-888-FL Predator

Commissioner's Statement

Through the public Safety Information Act of 1997, Florida became the first state to list sexual predators and offenders on the Internet and to make the same information available through a 24-hour/day hotline. This Act allowed the Florida Department of Law Enforcement to give the public access to information important to their ability to protect themselves and their families against sexual offenders. Since that time, Florida has continued to lead the nation in legislating strong registration and related sexual offender laws, and effectively implementing these laws through the dedicated efforts of criminal justice partners across the state.

At the time the Public Safety Information Act passed, Florida had 471 sexual predators and approximately 8,000 sexual offenders listed in the database. Today, eight years later, that number has grown to more than 4,900 registered predators and 28,500 registered offenders. Despite the increased volume of registrants, Florida has responded quickly and favorably to the changing demands of state and federal laws as well as the logistical requirements that come with this much larger group of registrants.

From the beginning, Florida has benefited from great support and cooperation from all of our State's criminal justice partners at the local, state, and national levels in implementing a system of sexual predator/offender registration and verification which continues to ensure that important information and updates are available to citizens and criminal justice partners as soon as possible. Indeed, it is the continuing spirit of cooperation among all criminal justice partners and the citizens of Florida that ensures that Florida's registry is as up-to-date and accurate as possible, despite the great challenges to the success of this demanding process. Our state enjoys national recognition as the leader and a model in the strength of our law and in the successful partnership that makes those laws work.

Most importantly, because of these integrated efforts, Florida's public is advised of potential predators/offenders in a timely fashion, and predators and offenders are more closely monitored and controlled. Ultimately, this information makes Florida's citizens – especially our children – much safer.

The guidelines in this publication can be of great benefit to you and your agency and I strongly encourage you to use them to assist your agency in strong support of these important public safety laws.

Sincerely,
Guy M. Tunnell, Commissioner
Florida Department of Law Enforcement

Table of Contents

TABLE OF CONTENTS	
<i>NOTE: Every section is numbered individually, each beginning with page 1.</i>	
TOPIC	PAGE
SEXUAL PREDATORS STATUS QUALIFIERS & REQUIREMENTS	1-17
Legislative Findings & Intent	1
Definitions: "Sexual Predator" & "Conviction"	3
Qualifying Offenses for Sexual Predators	5-11
"One Is Enough" Offenses	5
"Second Strike" Offenses	7
Requirements for Sexual Predators	11-16
Definition: "Residence"	11
List of Requirements	12
Relief of Status as Sexual Predator	17
SEXUAL OFFENDERS STATUS QUALIFIERS & REQUIREMENTS	1-16
Legislative Findings & Intent	1
Statutory references for Sexual Offenders	2
Qualifying Offenses for Sexual Offenders	6
Requirements for Sexual Offenders	8-14
Definitions: "Conviction", "Sanction", & "Residence"	8
List of Requirements	10
Relief of Status as Sexual Offender	15

Table of Contents

REGISTRATION & RESTRICTIONS	1-49
General Information	1
Registration Form (Sample)	2
Registration Requirements	6-13
Persons Incarcerated/In Custody	6
Persons Serving Non-Incarcerated Sanctions	8
Persons Not Incarcerated/Not In Custody AND Not Serving Other Sanction(s)	12
Required Primary Registration Information	14
Inaccurate Registration Information	16
Change of Address	17
Out-Of-State Sexual Offenders/Predators	19
Juvenile Sexual Offenders/Predators	20
Procedures for Submitting Fingerprint Card for Registration	21
Prosecution of Violators	23-26
Preparing a Criminal Case for Violation of Registration Laws	23
Location of Prosecution	24
Suggestions for Law Enforcement	25
Blood Specimen Requirement for DNA Analysis	27
Prohibited Activities by Certain Sexual Predators	35
Probation/Community Control	36-44
Terms and Restrictions for Probation/Community Control	36
Ineligibility for Administrative Probation	45
CAMPUS SEX CRIME PREVENTION ACT (FEDERAL AND FLORIDA LAW)	1-7
Federal Law	1
Florida Law	4

Table of Contents

AGENCY RESPONSIBILITIES	1-23
Law Enforcement	1-5
Community Notification – Sexual Predators	1
Community Notification – Sexual Offenders	3
Other Responsibilities	4
FDLE (Florida Department of Law Enforcement)	6
DOC/FDC/DC (Florida Department of Corrections)	10
DHSMV (Florida Department of Highway, Safety, & Motor Vehicles)	16
Courts, Clerks of Court, State Attorneys	17
Local Jails	22
Federal Supervision Offices	23
ADDRESS VERIFICATION	1-13
Federal Wetterling Act requirements	1
FDLE Verification Letter & Response Form (Sample)	2
Other Address Verification Information	11
PROGRAMS & SERVICES	1-10
Florida Department of Law Enforcement	1
Henrico County, Virginia	7
Dallas Police Department	8
Escambia & Santa Rosa Counties, Florida	9

Table of Contents

COMMUNITY NOTIFICATION	1-15	
Basic Notification Requirements	1	
Community Notification for Sexual Predators	2	
Community Notification for Sexual Offenders	5	
Other Law Enforcement Notification Information & Requirements	6	
Immunity from Civil Liability	7	
Criminal Violation for Misuse of Information	8	
Geo-Mapping	9	
Internet	11	
Implications for Schools	12	
Interagency Notification	13	
SEXUALLY VIOLENT PREDATORS INVOLUNTARY CIVIL COMMITMENT	1-10	
Requirements of Chapter 394, Part V, Florida Statutes	1-10	
Legislative Findings & Intent	1	
Definitions	2	
Determination; Commitment; Housing	5	
Notice to State Attorney; Multidisciplinary Team	7	
FLORIDA LAW - QUALIFYING OFFENSES	1-30	
787.01	Kidnapping	1
787.02	False Imprisonment	2
787.025	Luring/Enticing a Child	3
Chapter 794	Sexual Battery	5-15
794.005	Legislative Findings	5

Table of Contents

794.011	Sexual Battery	5
794.0115	Repeat Sexual Batterers	10
794.02	Common Law Age Presumption	12
794.021	Ignorance/Belief of Victim's Age	12
794.023	Sexual Battery by Multiple Perpetrators	13
794.0235	Administration of Medroxyprogesterone to convicted sexual predators	15
794.05	Unlawful Sexual Activities with Certain Minors	16
796.03	Procuring Persons Under 18 for Prostitution	16
800.04	Lewd/Lascivious Acts On/In Presence of Persons Under 16	17
825.1025	Lewd/Lascivious Acts On/In Presence of Elderly/Disabled Person	20
827.071	Sexual Performance By a Child	22
847.0133	Obscenity Prohibitions re: Minors	25
847.0135	Computer Pornography	25
847.0137	Transmission of Child Pornography by Electronic Device or Equipment	27
847.0138	Transmission of Harmful Material to Minors by Electronic Device or Equipment	28
847.0145	Selling/Buying of Minors	29
FLORIDA LAW		1-68
NEW IN 2004		1-2
	SB 2054	1
	SB 1774	2
	SB 120	2
775.13	Registration of Convicted Felons	3
775.21	Florida Sexual Predator Act	5
775.24	Duty of Court to Uphold Laws re:	27

Table of Contents

	Sexual Predators/Offenders	
775.25	Prosecution for Acts/Omissions	30
943.043	FDLE services & requirements (Toll-free phone number; Internet service; access to sexual predator/offender information)	30
943.0435	Sexual Offenders Who Are Not Serving Sanctions	31
944.606	Sexual Offenders – Notice Upon Release	42
944.607	Notice to FDLE by DOC re: Sexual Offenders	47
948.01	Probation & Community Control – Court Information	53
948.03	Terms/Conditions of Probation & Community Control	57
948.06	Violation of Probation or Community Control	60
948.30	Additional Conditions and Conditions of Probation	65
348.32	Requirements of Law Enforcement	68
FEDERAL LAW		1-74
42 USC Section 14071 – Wetterling Act		1
42 USC Section 14072 – Violent Crime Control & Law Enforcement – Crimes Against Children		19
42 USC Section 1232(g) – Administration of Education Programs – Family & Education Privacy Rights		29
67 Federal Register 65598 – Final Guidelines from U.S. Department of Justice re: Campus Sex Crime Prevention Act		44-65
4042 - Duties of the Bureau of Prisons		69
Bureau of Prison Forms		72

Table of Contents

AGENCY CONTACTS	1-12
FDLE Field Offices and Regional Operation Centers	1
Governmental Sexual Offender Registries – in U.S. and U.S. Territories <i>(via the Federal Bureau of Investigation as of November 2004)</i>	6

Sexual Predators Status Qualifiers and Requirements

SEXUAL PREDATORS

Section 775.21(3), Florida Statutes:

Legislative Findings, Purpose, and Intent

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

Sexual Predators Status Qualifiers and Requirements

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;

2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

Sexual Predators Status Qualifiers and Requirements

SEXUAL PREDATORS

CAUTION: Under Florida law, not all “sex offenders” are “sexual predators”. A court must make a specific finding that an offender is a sexual *predator* before that offender can be officially designated as a sexual *predator* and be subject to Florida’s sexual *predator* registration and notification requirements. See *Sexual Offenders* section in this booklet for more information. Please use caution when evaluating an offender’s criminal convictions and in determining the appropriate designation, registration, and notification requirements.

What constitutes a Sexual Predator?

There are three ways a person can be qualified and designated as a “sexual predator” in the state of Florida and, therefore, be required to comply with Florida’s sexual predator registration laws:

- 1) **“One is Enough”** - Commit one specified offense on or after October 1, 1993, in Florida or in another jurisdiction, be convicted of such offense, and have a court enter a finding that such person is a sexual predator;

OR

- 2) **“Second Strike”** – Commit one specified offense on or after October 1, 1993, in Florida or in another jurisdiction, after having previously been convicted of or found to have committed, or pled nolo contendere or guilty to, regardless of adjudication, one or more of specified sexual offenses, and have a court enter a finding that such person is a sexual predator.

OR

Sexual Predators Status Qualifiers and Requirements

New in 2004:

3) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a "sexual predator" under this section and is subject to registration and community and public notification.

{Section 775.21(4)}

In any instance, a written finding designating the qualifying individual as a "sexual predator" *must* be issued from the court to establish the designation of "Sexual Predator."

What constitutes a “conviction”?

Amended in 2004

For purposes of determining qualifying offenses for “sexual predator” designation, **“conviction”** means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility. {Section 775.21(2)(c)}

**Sexual Predators
Status Qualifiers and Requirements**

"SECOND STRIKE"

**SEXUAL PREDATOR
QUALIFYING OFFENSES**

A sexual predator is an offender who has received a **conviction** for an offense listed below that was **committed ON or AFTER October 1, 1993.** ** Such offender must be designated as a sexual predator by a **court finding.** {Section 775.21(4)(a)-(c), (5)}

Any Felony violation <u>OR</u> Any Attempt thereof	s. 787.01*	Kidnapping <i>Where the victim is a minor and the defendant is not the victim's parent</i>
	s. 787.02*	False imprisonment <i>Where the victim is a minor and the defendant is not the victim's parent</i>
	s. 787.025	Luring or enticing a child <i>Where the victim is a minor and the defendant is not the victim's parent</i>
	Chapter 794*	Sexual Battery <i>*Excluding subsections 794.011(10) and 794.0235</i>
	s. 796.03	Procuring a person under the age of 18 for prostitution
	s. 800.04	Lewd/lascivious offenses committed upon or in the presence of persons less than 16 years of age

CONTINUED ON NEXT PAGE

**Sexual Predators
Status Qualifiers and Requirements**

s.825.1025 (2)(b)	Lewd/lascivious offenses committed upon or in the presence of an elderly person or disabled adult
s. 827.071	Sexual performance by a child
s. 847.0145	Selling or buying of minors (for portrayal in a visual depiction engaging in sexually explicit conduct)
Or A violation of a similar law of another jurisdiction	

***NOTE: Before using a Kidnapping or False Imprisonment conviction to determine if an offender is a "sexual predator", please check the current case law in Florida for applicable interpretation and application of these convictions.**

AND

The offender has **previously** been convicted of or found to have committed or has pled nolo contendere or guilty to, regardless of adjudication, any violation of the below listed offenses.

{Section 775.21(4)(a)1.b.}

787.01*	Kidnapping. <i>Where the victim is a minor and the defendant is not the victim's parent</i>
787.02*	False imprisonment. <i>Where the victim is a minor and the defendant is not the victim's parent</i>
787.025	Luring or enticing a child. <i>Where the victim is a minor and the defendant is not the victim's parent</i>
794.011 (3)	Sexual battery upon person 12 or older with threats of deadly weapon or physical force

**Sexual Predators
Status Qualifiers and Requirements**

794.011 (4)	Sexual battery on 12 year old or older (various circumstances)
794.011 (5)	Sexual battery upon 12 year old or older without physical force and violence
794.011 (8)	Solicit or engage in sexual battery by person in familial or custodial authority on a person under 18
794.05	Unlawful sexual activity with certain minors
796.03	Procuring person under age of 18 for prostitution
800.04	Lewd, lascivious, offenses committed upon or in the presence of persons less than 16 years of age
825.1025	Lewd, lascivious, offenses committed upon or in the presence of an elderly person or disabled adult.
827.071	Sexual performance by a child
847.0133	Protection of minors; prohibition of certain acts in connection with obscenity
847.0135	Computer pornography
847.0145	Selling or buying of minors (for portrayal in a visual depiction engaging in sexually explicit conduct)
Or A violation of a similar law of another jurisdiction	

***NOTE: Before using a Kidnapping or False Imprisonment conviction to determine if an offender is a “sexual predator”, please check the current case law in Florida for applicable interpretation and application of these convictions.**

Provided that:

- ❖ The offender has not received a pardon for any felony or similar law of another jurisdiction that is a qualifying offense; {Section 775.21(4)(a)2}

AND

CONTINUED ON NEXT PAGE

**Sexual Predators
Status Qualifiers and Requirements**

- ❖ A conviction of a felony or similar law of another jurisdiction that is a qualifying offense has not been set aside in any post conviction proceeding; {Section 775.21(4)(a)3}

AND

- ❖ In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony. If the offender's prior enumerated felony was committed more than 10 years before the primary offense, it shall not be considered a prior felony under this subsection if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later.

{Section 775.21(4)(b)}

Sexual Predators Status Qualifiers and Requirements

SEXUAL PREDATOR REQUIREMENTS

What constitutes a “permanent residence” and a “temporary residence”?

The applicable Florida statutory provisions define these terms as follows:

“Permanent residence”:

- a place where the person abides, lodges, or resides for 14 or more consecutive days.
{Section 775.21(2)(f)}

“Temporary residence”:

- a place where the person abides, lodges, or resides for a **period of 14 or more days in the aggregate during any calendar year** and which is not the person's permanent address;
- for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state; or
- a place where the person routinely abides, lodges, or resides for a **period of 4 or more consecutive or nonconsecutive days in any month** and which is not the person's permanent residence, including any out-of-state address.
{Section 775.21(2)(g)}

Sexual Predators Status Qualifiers and Requirements

Sexual predators...

- Who have registered as required under s. 775.21 are exempt from convicted felon registration as defined by s. 775.13.
{Section 775.13(5)(e)}
- Are subject to community and public notification.
{Sections 775.21(6)(k)2., 775.21(7), 943.043}
- Must register with the Florida Department of Law Enforcement (FDLE) (through the sheriff's office, an FDLE office, the Florida Department of Corrections (FDC), the custodian of a local jail or a federal supervision office) within 48 hours after establishing permanent or temporary residence in this state.
{Section 775.21(6)}
- Who are enrolled, employed, or carrying on a vocation at an institution of higher education in this state, must provide FDLE with the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, or the Department of Corrections if the sexual predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status. {Section 775.21(6)1.b.} *For more information, see the Campus Sex Crimes Prevention Act section.*
- Who are not incarcerated and who reside in the community (including those under the supervision of the Department of Corrections) must - within 48 hours of initial registration - present proof of initial registration as a predator in person at the DHSMV and secure or renew a driver's license or

Sexual Predators Status Qualifiers and Requirements

identification card. {Section 775.21(6)(f)}

- Must report in person any change in permanent or temporary residence to DHSMV within 48 hours.
{Section 775.21(6)(g)}
- Must renew *in person* their driver's license or identification card when subject to renewal.
{Section 775.21(6)(g)}
- Who are not in custody or control of, or under the supervision of FDC, or are not in the custody of a private correctional facility, must report any change in their permanent or temporary residence or name, after registering in person at an office of FDLE or at the sheriff's office, in the manner currently provided in 775.21(6).

{Section 775.21(6)(e)}

- Must report intent to establish residence in another state in person to the sheriff or FDLE within 48 hours before the date they intend to leave Florida.
{Section 775.21(6)(i)}
- Who indicate their intent to reside in another state or jurisdiction and later decide to remain in this state must, within 48 hours after the date upon which they indicated they would leave this state, notify in person the sheriff or the department, whichever agency is the agency to which they reported the intended change of residence, of their intent to remain in this state.
Failure to do so is a second-degree felony.
{Section 775.21(6)(j)}

➤ ***New in 2004***

Who vacates a permanent residence and fails to establish or maintain another permanent or temporary

Sexual Predators Status Qualifiers and Requirements

residence shall, within 48 hours after vacating the permanent residence, report in person to the department or the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator must provide or update all of the registration information required. The sexual predator must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.
{Section 775.21(6)(g)}

➤ ***New in 2004***

Who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported (see previous paragraph) for the purpose of reporting his or her address at such residence. If the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required in the previous paragraph but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
{Section 775.21(6)(g)}

- Must maintain registration with the department for the duration of their life, unless they have received a full pardon or have had a conviction set aside in a post conviction proceeding for any felony sex offense that met the criteria for the sexual predator designation.

{Section 775.21(6)(l)}

Sexual Predators Status Qualifiers and Requirements

- Who were designated a sexual predator by a court before October 1, 1998, and who have been lawfully released from confinement, supervision, or sanction, *whichever is later*, for at least 10 years and have not been arrested for any felony or misdemeanor offense since release, may petition the criminal division of the circuit court in the circuit in which they reside for the purpose of removing the sexual predator designation.
{Section 775.21(6)(l)}
- Who were designated a sexual predator by a court on or after October 1, 1998, who have been lawfully released from confinement, supervision, or sanction, *whichever is later*, for at least 20 years, and who have not been arrested for any felony or misdemeanor offense since release may petition the criminal division of the circuit court in the circuit in which they reside for the purpose of removing the sexual predator designation.
{Section 775.21(6)(l)}
- Who are granted relief of their predator designation, unless specified in the order, must comply with the requirements for registration as sexual offenders and other requirements provided under s. 943.0435 or s. 944.607.
{Section 775.21(6)(l)}
- Who obtain an order from the court that imposed the order designating them as a sexual predator which removes such designation, shall forward a certified copy of the written findings or order to the department in order to have the sexual predator designation removed from the sexual predator registry.
{Section 775.21(6)(l)}

Sexual Predators Status Qualifiers and Requirements

- Sexual predators who live in another state but work or attend school in Florida must register both their in-state employment or school address as well as their out-of-state residential address.
{Section 775.21(2)(g), 943.0435(1)(c)}
- Who, except as otherwise specifically provided, fail to register or who fail, after registration, to maintain, acquire, or renew a driver's license or identification card or provide required location information, or who otherwise fail, by act or omission, to comply with the requirements of the Sexual Predator Act, commit a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
{Section 775.21(10)(a)}
- Who have been convicted of or found to have committed, or have pled nolo contendere or guilty to, regardless of adjudication, 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, or a violation of a similar law of another jurisdiction, when the victim of the offense was a minor, and who work, whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly congregate, commit a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
{Section 775.21(10)(b)}

Sexual Predators Status Qualifiers and Requirements

RELIEF OF STATUS AS SEXUAL PREDATOR

The court may grant or deny such relief if the petitioner demonstrates to the court that he or she has not been arrested for any crime since release, the requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the removal of the designation as a sexual predator or required to be met as a condition for the receipt of federal funds by the state, and the court is otherwise satisfied that the petitioner is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual predator may again petition the court for relief, subject to the standards for relief provided in this paragraph. Unless specified in the order, a sexual predator who is granted relief under this paragraph must comply with the requirements for registration as a sexual offender and other requirements provided under s. 943.0435 or s. 944.607. If a petitioner obtains an order from the court that imposed the order designating the petitioner as a sexual predator, which removes such designation, the petitioner shall forward a certified copy of the written findings or order to the department in order to have the sexual predator designation removed from the sexual predator registry. {Section 775.21(6)(l)}

**Sexual Offenders
Status Qualifiers and Requirements**

SEXUAL OFFENDERS

Section 943.0435(12), Florida Statutes:

Legislative Findings, Purpose, and Intent

The Legislature finds that sexual offenders, especially those who have committed their offenses against minors, often pose a high risk of engaging in sexual offenses, even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. **The designation of a person as a sexual offender is not a sentence or a punishment, but is simply the status of the offender which is the result of a conviction for having committed certain crimes.**

**Sexual Offenders
Status Qualifiers and Requirements**

Sexual Offender related statutes – The below chart lists primary Florida statutes for designation, registration, and notification requirements relating to sexual offenders. Please refer to the designated statutory reference for complete content.

775.21(5)(d); 943.0435(1)(a)3.	Offenders designated as sexual offenders in another state or jurisdiction
775.24	Restrictions on court entering certain types of orders and method to address improper orders, etc.
775.25	Counties where sex offenders who violate certain registration statutes can be prosecuted
943.043	FDLE Internet site, toll-free number, public access to public records, and immunity clause
943.0435	Primary section for sexual offender definition, designation and registration requirements for qualifying offenders who are <u>not under the care, custody, control, or supervision of the Florida Department of Corrections;</u> immunity clause
944.606	Sexual offender definition and requirements of the Florida Department of Corrections to provide information on sexual offenders <u>who are being released from incarceration</u> for any offense; immunity clause
944.607	Primary section for sexual offender definitions, designation, registration, and notification requirements for

**Sexual Offenders
Status Qualifiers and Requirements**

	qualifying offenders who <u>are in the custody or control of, or under the supervision of the Florida Department of Corrections; in the custody of a private correctional facility or a local jail; or under federal supervision; immunity clause; clerks of court obligations</u>
948.03	Terms and conditions of probation or community control
948.30	Additional terms and conditions of probation or community control for certain sex offenses; includes mandatory conditions for <i>specific</i> sex offenders/ predators, including restrictions on residency and specific activities

**Sexual Offenders
Status Qualifiers and Requirements**

SEXUAL OFFENDERS

CAUTION: Under Florida law, not all “sex offenders” are “sexual predators”. A court must make a specific finding that an offender is a sexual *predator* before that offender can be officially designated as a sexual *predator* and be subject to Florida’s sexual *predator* registration and notification requirements. See *Sexual Predators* section in this booklet for more information. **Please use caution when evaluating an offender’s criminal convictions and in determining the appropriate designation, registration, and notification requirements.**

What Constitutes a Sexual Offender?

There are several ways a person can be qualified and designated as a “sexual offender” in the state of Florida and, therefore, be required to comply with Florida’s sexual offender registration laws:

1. Be convicted of committing, or attempting, soliciting, or conspiring to commit, any of the specified crimes below in this state or of similar offenses in another jurisdiction (or any similar offense committed in this state which has been redesignated from a former statute number to the one specified);

AND

- a. Be in the custody or control of, or under the supervision of, the Florida Department of Corrections, or be in the custody of a private correctional facility, on or after October 1, 1997, as a result of the above conviction(s);

**Sexual Offenders
Status Qualifiers and Requirements**

OR

- b. On or after October 1, 1997, be released or have been released from the sanction(s) imposed for the above conviction(s). (*"Sanction" is defined below.*);

OR

2. Establish or maintain a residence in this state and have not been designated as a sexual predator by a court of this state but have been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and as a result of such designation, are subjected to registration or community or public notification, or both, or would be if a resident of that state or jurisdiction;

OR

3. Establish or maintain a residence in this state and be in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the specified criminal offenses listed below (or any similar offense committed in this state which has been re-designated from a former statute number to the one specified).

{Sections 943.0435(1)(a); 944.606(1)(b); 944.607(1)(a)}

**Sexual Offenders
Status Qualifiers and Requirements**

**QUALIFYING OFFENSES
FOR SEXUAL OFFENDER DESIGNATION**

Commission of OR Attempt, Solicit, or Conspire to Commit	s. 787.01*	Kidnapping <i>Where the victim is a minor and the defendant is not the victim's parent</i>
	s. 787.02*	False imprisonment <i>Where the victim is a minor and the defendant is not the victim's parent</i>
	s. 787.025	Luring or enticing a child <i>Where the victim is a minor and the defendant is not the victim's parent</i>
	Chapter 794*	Sexual Battery <i>*Excluding subsections 794.011(10) and 794.0235</i>
	s. 796.03	Procuring a person under the age of 18 for prostitution
	s. 800.04	Lewd/lascivious offenses committed upon or in the presence of persons less than 16 years of age
	s. 825.1025	Lewd/lascivious offenses committed upon or in the presence of an elderly person or disabled adult
	s. 827.071	Sexual performance by a child
	s. 847.0133	Protection of minors; prohibition of certain acts in connection with obscenity
	s. 847.0135	Computer pornography

CONTINUED ON NEXT PAGE

**Sexual Offenders
Status Qualifiers and Requirements**

	s. 847.0137	Transmission of child pornography by electronic device/equipment
	s. 847.0138	Transmission of material harmful to minors to a minor by electronic device/equipment
	s. 847.0145	Selling or buying of minors (for portrayal in a visual depiction engaging in sexually explicit conduct)
Or A violation of a similar law of another jurisdiction		

***NOTE: Before using a Kidnapping or False Imprisonment conviction to determine if an offender is a “sexual offender”, please check the current case law in Florida for applicable interpretation and application of these convictions.**

**Sexual Offenders
Status Qualifiers and Requirements**

SEXUAL OFFENDER REQUIREMENTS

What constitutes a “conviction”?

For purposes of determining qualifying offenses for “sexual offender” designation, “**conviction**” means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction.

{Sections 943.0435(1)(b), 944.606(1)(a), and
944.607(1)(b)}

What constitutes a “sanction”?

For purposes of determining qualifying offenses for “sexual offender” designation, a “**sanction**” in Florida or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

{Sections 943.0435(1)(a)2., 944.607(1)(a)}

Sexual Offenders Status Qualifiers and Requirements

What constitutes a “permanent residence” and a “temporary residence”?

The applicable Florida statutory provisions define these terms as follows:

“Permanent residence”:

- a place where the person abides, lodges, or resides for 14 or more consecutive days.
{Section 943.0435(1)(c)}

“Temporary residence”:

- a place where the person abides, lodges, or resides for a **period of 14 or more days in the aggregate during any calendar year** and which is not the person's permanent address;
- for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state; or
- a place where the person routinely abides, lodges, or resides for a **period of 4 or more consecutive or nonconsecutive days in any month** and which is not the person's permanent residence, including any out-of-state address.
{Section 943.0435(1)(c)}

Sexual Offenders Status Qualifiers and Requirements

Sexual Offenders...

- Who have registered as required under s. 943.0435 or s. 944.607 are exempt from convicted felon registration as defined by s. 775.13. {Section 775.13(5)(f)}
- Are subject to community and public notification. {Sections 775.21(5)(d), 943.043, 943.0435(10), 944.606(2),(3)(d),(4), 944.607(11)}
- Must register with FDLE (through the sheriff's office, an FDLE office, the Department of Corrections, the custodian of a local jail or a federal supervision office) within 48 hours after establishing permanent or temporary residence in this state.
{Sections 943.0435(2), 944.607(4),(7),(8)}
- Who are enrolled, employed, or carrying on a vocation at an institution of higher education in this state, must provide FDLE with the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, or the Department of Corrections if the sexual offender is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status.

{Sections 943.0435(2)(b)2., 944.607(4)(b)}
For more information, see the Campus Sex Crimes Prevention Act section.

- Who are not incarcerated and who reside in the community (including those under the supervision of the Department of Corrections) must - within 48 hours of registration - present proof of initial
-

Sexual Offenders Status Qualifiers and Requirements

registration as an offender in person at the DHSMV and secure or renew a driver's license or identification card.

{Sections 943.0435(3), 944.607(9)}

- Must report in person any change in permanent or temporary residence to DHSMV within 48 hours.
{Sections 943.0435(4), 944.607(9)}
- Renew *in person* their driver's license or identification card when subject to renewal.
{Sections 943.0435(4), 944.607(9)}
- Who are not in custody or control of, or under the supervision of FDC, or are not in the custody of a private correctional facility, must report any change in their permanent or temporary residence or name, after registering in person at an office of FDLE or at the sheriff's office, in the manner currently provided in 943.0435(4), (7), and (8).
{Section 943.0435(2)(a)}
- Must report intent to establish residence in another state to the sheriff or FDLE *in person* within 48 hours before the date they intend to leave Florida.
{Section 943.0435(7)}
- Who indicate their intent to reside in another state or jurisdiction and later decide to remain in this state must, within 48 hours after the date upon which they indicated they would leave this state, notify the sheriff or the department, whichever agency is the agency to which they reported the intended change of residence, of their intent to remain in this state. *Failure to do so is a second-degree felony.*
{Section 943.0435(8)}

Sexual Offenders Status Qualifiers and Requirements

- **Who also meet all qualifying criteria for sexual predator, including a court finding, must register as a sexual predator as required under s. 775.21.**
{Sections 943.0435(5), 944.607(9)}
- *Who do not comply with the requirements of offender registration laws commit a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.* {Sections 943.0435(9)(a), 944.607(9)}
- The failure of a sexual offender to submit to the taking of a digitized photograph, or to otherwise comply with the requirements of this section, is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. {Section 944.607(10)(a)}
- Must maintain registration with FDLE for the duration of their life, unless they have received a full pardon or have had a conviction set aside in a post conviction proceeding for any felony sex offense that meets the criteria for classifying them as a sexual offender for purposes of registration. {Section 943.0435(11)} *See Relief of Status as Sexual Offender below for more information.*
- Who establishes or maintains a residence in this state and has not been designated as a sexual predator by a court in this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a results of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction shall register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification requirements and penalties provided in s. 943.0435 or

Sexual Offenders Status Qualifiers and Requirements

s. 944.607, until such offender provides FDLE with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to FDLE that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

{Sections 775.21(5)(d); 943.0435(1)(a)3., (11)(c)}

- Sexual offenders who live in another state but work or attend school in Florida must register both their in-state employment or school address as well as their out-of-state residential address.
{Sections 775.21(2)(g), 943.0435(1)(c)}

- ***New in 2004***

Who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the department or the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required. The sexual offender must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.
{Section 943.0435(4)}

Sexual Offenders Status Qualifiers and Requirements

- ***New in 2004***

Who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported (see previous paragraph) for the purpose of reporting his or her address at such residence. If the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required in the previous paragraph but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

{Section 943.0435(4)}

**Sexual Offenders
Status Qualifiers and Requirements**

RELIEF OF STATUS AS SEXUAL OFFENDER

A SEXUAL OFFENDER....

- Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years and has not been arrested for any felony or misdemeanor offense since release may petition the criminal division of the circuit court of the circuit in which they reside for the purpose of removing the requirement for registration as a sexual offender;
{Section 943.0435(11)(a)}

OR

- Who was 18 years of age or under at the time the offense was committed and the victim was 12 years of age or older and adjudication was withheld for that offense, who is released from all sanctions, who has had 10 years elapse since having been placed on probation, and who has not been arrested for any felony or misdemeanor offense since the date of conviction of the qualifying offense.
{Section 943.0435(11)(b)}

In the above circumstances, the court may grant or deny such relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be

**Sexual Offenders
Status Qualifiers and Requirements**

given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

{Section 943.0435(11)(b)}

Sexual Predators & Offenders Registration & Restrictions

All qualifying sexual predators and offenders must register.

Failure of a sexual predator or offender to register as required by law is a third degree felony.
{Sections 775.21(10), 943.0435(9), 944.607(9),(10)}

Criminal Felon Registration - Sexual Offenders and Predators who have registered as required are exempt from felony criminal registration as outlined in s. 775.13(5)(e), 775.13(5)(f).
{Section 775.13}

Sexual Offenders who are also sexual predators shall register as sexual predators as required under s. 775.21.
{Sections 943.0435(5), 944.607(9)}

After the court makes a determination that a **predator** meets the statutory criteria, the court submits its finding to FDLE and the Department of Corrections (if the offender is imprisoned). If FDLE, FDC, or any law enforcement agency obtains information suggesting that an offender meets the criteria for a sexual predator, but has not been designated as one in writing by the court, the state attorney of the circuit in which the offender resides is to be notified, and the state attorney will seek a court hearing to obtain the written finding. (Florida Statute 775.21 allows a state attorney to secure a court's sexual predator written finding when it appears one should have been made, but was not, or for offenders entering Florida from other jurisdictions.)

{Sections 775.21(4)(c), (5)(a)2., (5)(c)}

Sexual Predators & Offenders Registration & Restrictions

FDLE SEXUAL PREDATOR / SEXUAL OFFENDER REGISTRATION FORM TO BE COMPLETED BY LAW ENFORCEMENT	
Complete all sections that apply, attach fingerprint card and photo, and submit to: Florida Department of Law Enforcement Attn: SOPU, P.O. Box 1489 Tallahassee, FL 32302-1489 1-888-357-7332	
Check One <input type="checkbox"/> Sex Offender <input type="checkbox"/> Sex Predator (Court Order Required)	
SECTION A - Contributing Agency Information (Required)	
Agency Name: _____ Warrants Check: Local <input type="checkbox"/> FCIC <input type="checkbox"/> NCIC <input type="checkbox"/>	
Agency Address: _____ Street Address City County State Zip	
Phone Number: () _____ FAX: () _____	
SECTION B - Registrant Information (Required)	
Name: _____ SS#: _____ Alias: _____ LAST FIRST MIDDLE	
Florida Driver's License or ID Card # _____ FDLE/SID # _____	
Race: _____ Sex: _____ DOB: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____	
Scars, Marks, Tattoos: _____ Occupation (type of work) _____	
Currently on Probation/Parole: <input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, Probation type <input type="checkbox"/> Federal <input type="checkbox"/> State If State, what state _____	
DC # _____ Federal/State Probation Officer Name: _____ Officer Phone # _____	
If either your permanent or temporary address is out of state, complete the following. (Required) Please check the box that describes your status. I am: <input type="checkbox"/> Permanently leaving Florida to establish a residence in another state <input type="checkbox"/> Temporarily leaving Florida to visit another state <input type="checkbox"/> Moving from another state to permanently establish a residence in Florida <input type="checkbox"/> Visiting from another state and establishing a temporary address in Florida <input type="checkbox"/> Other (please describe) _____	
SECTION C Permanent Address (Required)	
<input type="checkbox"/> I am vacating this residence and have no other permanent or temporary residence as of this date _____	
Address: _____ P.O. BOX NOT ACCEPTABLE (Street, Apt #)	
City _____ County _____	
State _____ Zip _____	
Phone Number: () _____	
SECTION D Mailing Address MUST accompany a permanent or temporary address <input type="checkbox"/> Same as Permanent <input type="checkbox"/> Same as Temporary	
Address: _____ (Street, Apt #)	
City _____ County _____	
State _____ Zip _____	
Phone Number: () _____	
SECTION E - Vehicle, Mobile Home, Trailer or Manufactured Home (Required if applicable)	
VIN # _____ Hall ID # _____ Name of Vessel: _____	
License Tag # _____ State _____ Manufacturer's Serial # _____	
Description (color scheme/make/model): _____ Description (color scheme/make/model): _____	
SECTION F1 - Employment <input type="checkbox"/> Employed <input type="checkbox"/> Self-employed <input type="checkbox"/> Unemployed Occupation: _____	
Employer: _____ Contact _____ Phone Number: () _____	
Address: _____ City _____ County _____ State _____ Zip _____	
SECTION F2 - Campus Activity (Required if applicable) <input type="checkbox"/> Student <input type="checkbox"/> Employee <input type="checkbox"/> Volunteer Start Date: _____ Stop Date: _____	
University/School: _____ Campus: _____	
Employer: _____ Contact _____ Phone Number: () _____	
Address: _____ City _____ County (mandatory) State _____ Zip _____	
SECTION G - Adjudication Information (Required)	
Date Adjudicated: _____ Crime Conviction/Adjudication: _____ Status Number: _____ Conviction/Adjudication Location: (Include County & State) _____ Victim _____	
1) _____ <input type="checkbox"/> Minor <input type="checkbox"/> Adult	
2) _____ <input type="checkbox"/> Minor <input type="checkbox"/> Adult	
If out of state conviction, were you or would you be subject to registration or community notification in that state? <input type="checkbox"/> Yes <input type="checkbox"/> No	
SECTION H (Required) PLEASE READ CAREFULLY BEFORE SIGNING	
As a Sexual Predator (Florida Statute 775.21) or Sexual Offender (Florida Statute 943.0435, or 944.607) you are required by law to abide by those requirements listed on the back of this form. BY SIGNING BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ OR HAVE BEEN READ THE REQUIREMENTS ON THE BACK OF THIS FORM, AND THAT YOU UNDERSTAND THESE REQUIREMENTS.	
Under penalty of perjury I declare the above is true and correct.	
Registrant: _____ Witnessed by: _____ Signature Required Reporting Officer: _____ Signature Required	
Print Name: _____ Date: _____ Print Name: _____ Date: _____	
Right Thumb Print	
FDLE/CJIS/SOPU-001 (07/04) White copy - FDLE Yellow copy - Sheriff's Pink copy - Registrant *OFFICIAL DOCUMENT DO NOT DESTROY ORIGINAL*	

Sexual Predators & Offenders Registration & Restrictions

NOTICE OF SEXUAL PREDATOR AND SEXUAL OFFENDER OBLIGATIONS:

As a Sexual Predator (Florida Statute 775.21) or Sexual Offender (Florida Statute 943.0435 or 944.607), I understand that I am required by law to abide by the following:

1. You must report **in person** to the local Sheriff's Office or Florida Department of Law Enforcement (FDLE) office within 48 hours of release from custody and/or supervision of Department of Corrections or Department of Children and Family Services to register your temporary or permanent address. **Failure to comply with this requirement is a felony of the third degree.**
2. Within 48 hours after the initial report required as stated in paragraph #1, you must report **in person** to the driver's license office of the Department of Highway Safety and Motor Vehicles to obtain a valid Florida driver's license or identification card, unless a driver's license or identification card was previously secured or updated while under the supervision of Department of Corrections or Department of Children and Family Services and there have been no changes to your address or name. **Failure to comply with this requirement is a felony of the third degree.**
3. Within 48 hours, after any change of address in permanent or temporary residence, change of name due to marriage or other legal process, or when your driver's license is subject to renewal, you must report that information **in person** to the driver's license office of the Department of Highway Safety and Motor Vehicles to obtain and maintain a valid Florida driver's license or identification card. **Failure to comply with this requirement is a felony of the third degree.**
4. If you live in another state, but work or attend school in Florida, you **MUST** register your work or school address as a temporary address with the Florida Department of Law Enforcement. You must also obtain and maintain a valid Florida driver's license or identification card. **Failure to comply with this requirement is a felony of the third degree.**
5. If you intend to establish residence in another state or jurisdiction, you must report **in person** to the local Sheriff's Office or FDLE office to notify of your intention to move out of the state **within 48 hours prior to leaving**. **Failure to comply with this requirement is a felony of the third degree.**
6. If you later decide to remain in this state (see #5 above), you must report **in person** back to the local Sheriff's Office or FDLE office to notify of your intention to remain in Florida. This report must occur within 48 hours after the date you indicated that you would leave. **Failure to comply with this requirement is a felony of the second degree.**
7. If you are enrolled, employed, or carrying on a vocation at an institution of higher education in this state, you shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender/predator's enrollment or employment status. Each change in enrollment or employment status shall be reported **in person** at the Sheriff's Office with 48 hours after any change in status. **Failure to comply with this requirement is a felony of the third degree.**
8. If you are employed, carry on a vocation, are a student, or become a resident of another state you must also register in that state.
9. You will be subject to periodic verification of your address by law enforcement, which may include a letter requiring a response.
10. If you move from a permanent residence and do not have another permanent or temporary residence you must report **in person** to the Sheriff's Office or FDLE office within 48 hours. **Failure to comply with this requirement is a felony of the third degree.**
11. If you later decide to remain at the permanent residence (see #10 above), you must report **in person** back to the Sheriff's Office or FDLE office to notify of your intention. This report must occur within 48 hours after the date that you indicated that you would leave the permanent residence. **Failure to comply with this requirement is a felony of the second degree.**

Sexual Predators & Offenders Registration & Restrictions

The following list of obligations appears on the back of the FDLE Sexual Predator/Sexual Offender Registration Form (FDLE/CJIS/SOPU-001, shown on previous page) to be signed by each registering predator/offender:

NOTICE OF SEXUAL PREDATOR AND SEXUAL OFFENDER OBLIGATIONS:

As a Sexual Predator (Florida Statute 775.21) or Sexual Offender (Florida Statute 943.0435 or 944.607), I understand that I am required by law to abide by the following:

1. You must report **in person** to the local Sheriff's Office or Florida Department of Law Enforcement (FDLE) office within 48 hours of release from custody and/or supervision of Department of Corrections or Department of Children and Family Services to register your temporary or permanent address. **Failure to comply with this requirement is a felony of the third degree.**
2. Within 48 hours after the initial report required as stated in paragraph #1, you must report **in person** to the driver's license office of the Department of Highway Safety and Motor Vehicles to obtain a valid Florida driver's license or identification card, unless a driver's license or identification card was previously secured or updated while under the supervision of Department of Corrections or Department of Children and Family Services and there have been no changes to your address or name. **Failure to comply with this requirement is a felony of the third degree.**
3. **Within 48 hours, after any change of address in permanent or temporary residence, change of name due to marriage or other legal process, or when your driver's license is subject to renewal, you must report that information **in person** to the driver's license office of the Department of Highway Safety and Motor Vehicles to obtain and maintain a valid Florida driver's license or identification card. Failure to comply with this requirement is a felony of the third degree.**
4. **If you live in another state, but work or attend school in Florida, you MUST register your work or school address as a temporary address with the Florida Department of Law Enforcement. You must also obtain and maintain a valid Florida driver's license or identification card. Failure to comply with this requirement is a felony of the third degree.**

Sexual Predators & Offenders Registration & Restrictions

5. If you intend to establish residence in another state or jurisdiction, you must report **in person** to the local Sheriff's Office or FDLE office to notify of your intention to move out of the state **within 48 hours prior to leaving**. **Failure to comply with this requirement is a felony of the third degree.**
6. If you later decide to remain in this state (see #5 above), you must report **in person** back to the local Sheriff's Office or FDLE office to notify of your intention to remain in Florida. This report must occur within 48 hours after the date you indicated that you would leave. **Failure to comply with this requirement is a felony of the second degree.**
7. If you are enrolled, employed, or carrying on a vocation at an institution of higher education in this state, you shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender/predator's enrollment or employment status. Each change in enrollment or employment status shall be reported **in person** at the Sheriff's Office with 48 hours after any change in status. **Failure to comply with this requirement is a felony of the third degree.**
8. If you are employed, carry on a vocation, are a student, or become a resident of another state you must also register in that state.
9. You will be subject to periodic verification of your address by law enforcement, which may include a letter requiring a response.
10. If you move from a permanent residence and do not have another permanent or temporary residence you must report **in person** to the Sheriff's Office or FDLE office within 48 hours. **Failure to comply with this requirement is a felony of the third degree.**
11. If you later decide to remain at the permanent residence (see #10 above), you must report **in person** back to the Sheriff's Office or FDLE office to notify of your intention. This report must occur within 48 hours after the date that you indicated that you would leave the permanent residence. **Failure to comply with this requirement is a felony of the second degree.**

Sexual Predators & Offenders Registration & Restrictions

INCARCERATED / IN CUSTODY

INCARCERATED IN PRISON (FDC)

Sexual Predators who are incarcerated must provide registration information and materials to FDC. The FDC will forward the information and materials to FDLE. *{Sections 775.21(6)(b)}*

These materials include:

Fingerprint card	Digital photo	Completed registration form supplied by FDC	Copy of the court finding designating the offender as a predator	Genetic Markers* (Blood samples for DNA database)
And "any other information determined necessary" by FDLE.				

{Section 775.21(6)(a)}

*Genetic Markers: The Department of Corrections must be prepared to take both the predator's required photograph and fingerprints. The sentencing court should order DNA blood samples at time of conviction, but these may have to be obtained later if not previously secured. **SEE BLOOD SPECIMEN REQUIREMENT later in this section.**

Registration information shall be immediately forwarded to FDLE.

Sexual Offenders who are incarcerated must provide registration information to FDC. FDC will transmit the information to FDLE. *{Section 944.606(3)(a)}*

**Sexual Predators & Offenders
Registration & Restrictions**

INCARCERATED / IN CUSTODY - CONTINUED

IN CUSTODY OF LOCAL JAIL

If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator and forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

{Sections 775.21(6)(c); 944.607(7)}

**Sexual Predators & Offenders
Registration & Restrictions**

SERVING NON-INCARCERATED SANCTIONS

**UNDER SUPERVISION OF THE FLORIDA
DEPARTMENT OF CORRECTIONS**
*(Florida probation, community control,
control release, parole, etc.)*

1. Sexual Predators and Sexual Offenders who are not incarcerated but are under the supervision of the FDC shall register with the FDC through their supervising officer who shall forward the information to FDLE.

{Sections 775.21(6)(a)-(b); 944.607(4)-(6)}

**Registration Materials for
SUPERVISED SEXUAL PREDATORS:**

Fingerprint card	Digital photo	Completed registration form supplied by FDC	Copy of the court finding designating the offender as a predator	Genetic Markers* (Blood samples for DNA database)
And "any other information determined necessary" by FDLE.				

{Section 775.21(6)(a)-(b)}

**Registration Materials for
SUPERVISED SEXUAL OFFENDERS:**

Digital photo	Completed registration information supplied electronically by FDC	Genetic Markers* (Blood samples for DNA database)
And "any other information determined necessary" by FDLE.		

{Section 944.607(4)-(6)}

Sexual Predators & Offenders Registration & Restrictions

*Genetic Markers: The Department of Corrections must be prepared to take both the predator's required photograph and fingerprints. The sentencing court should order DNA blood samples at time of conviction, but these may have to be obtained later if not previously secured. **SEE BLOOD SPECIMEN REQUIREMENT later in this section.**

AND

2. Sexual Predators and Sexual Offenders who are not incarcerated but are under the supervision of the FDC shall report to the Florida Department of Highway Safety and Motor Vehicles (DHSMV) **within 48 hours of registration as a sexual offender/predator** to:

- report their status as a sexual offender/predator;
- show proof of registration as an offender/predator to DHSMV officials; and
- obtain a driver's license or identification card.

DHSMV will flag the sexual offender's/predator's driver's license or identification card in its computer system and will forward the above information provided by the sexual offender/predator to FDLE.

{Sections 775.21(6);943.0435(4)}

3. Sexual Predators and Sexual Offenders who are not incarcerated but are under the supervision of the FDC **AND** who are enrolled at, employed by or carrying on a vocation at an institution of higher education must report, in person, the following information to FDC through their supervising officer:

- name, address, and county of each institution of higher education;
- each campus attended;

Sexual Predators & Offenders Registration & Restrictions

- enrollment or employment status; and
- any change in enrollment or employment status, to be reported in person, within 48 hours of change.

FDC will promptly notify each institution of the sexual predator's/offender's presence and any change in such person's enrollment or employment status. FDC will also provide the information from the sexual predator/offender to FDLE.

{Sections 775.21(6)(a)1.b.; 944.607(4)(b)}

See Campus Sex Crime Prevention Act section for more information and requirements.

**Sexual Predators & Offenders
Registration & Restrictions**

**SERVING NON-INCARCERATED SANCTIONS
CONTINUED**

UNDER FEDERAL SUPERVISION

If the sexual offender/predator is under federal supervision, the federal agency responsible for supervising the sexual offender/predator may forward to FDLE any information regarding the sexual offender/predator which is consistent with the registration information provided by the Department of Corrections for offenders/predators, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by FDLE and law enforcement for purposes of public notification. {Sections 775.21(6)(d), 944.607(8)}

**Sexual Predators & Offenders
Registration & Restrictions**

**NOT INCARCERATED OR IN CUSTODY
AND NOT SERVING OTHER SANCTION(S)**

1. PRIMARY REGISTRATION

Sexual Predator

Within 48 hours after establishing permanent or temporary residence in this state, a sexual predator shall report in person to and register with either an FDLE office or to the sheriff of the county in which the predator establishes or maintains a permanent or temporary residence. {Section 775.21(6)(e)}

Sexual Offender

Within 48 hours after establishing permanent or temporary residence in this state, or within 48 hours after being released from the custody, control, or supervision of FDC or from the custody of a private correctional facility, a sexual offender shall report in person to and register with either an FDLE office or to the sheriff of the county in which the offender establishes or maintains a permanent or temporary residence. {Section 943.0435(2)}

This registration will include the following:

Fingerprint card	Digital photograph	Completed registration form (FDLE/CJIS/SOPU-001)
------------------	--------------------	--

{Sections 775.21(1)(e), (6)(a); 943.0435(2)}

Registration information shall immediately be forwarded to FDLE.

**Sexual Predators & Offenders
Registration & Restrictions**

2. ADDITIONAL REGISTRATION REQUIREMENT

NEW IN 2002 Sexual Predators and Sexual Offenders who are not incarcerated, not in custody, and not serving other sanctions AND who are enrolled at, employed by or carrying on a vocation at an institution of higher education must report, in person, the following information **to the sheriff** of the county in which the predator/offender establishes or maintains a residence:

- name, address, and county of each institution of higher education;
- each campus attended; and
- enrollment or employment status.

Sexual Predators and **Sexual Offenders**: Any **change** in enrollment or employment status must be reported, **in person**, by the predator/offender, **to the sheriff** of the county of the predator's/offender's residence, within 48 hours of the change. The sheriff will promptly notify each institution of the sexual predator's presence and any change in such person's enrollment or employment status. The sheriff will also provide the information from the sexual predator/offender to FDLE. {Sections 775.21(6)(a)1.b.; 943.0435(2)(b)2.}

See Campus Sex Crime Prevention Act (CSCPA) section for more information and requirements. CSCPA requirements can also be met by reporting to a local FDLE office.

**Sexual Predators & Offenders
Registration & Restrictions**

**REQUIRED *PRIMARY*
REGISTRATION INFORMATION**

Name including any legal name change	Height	Date & Place of Employment
Social Security #	Weight	Fingerprints
Age	Hair Color	Date and Place of each Conviction
Race	Eye Color	Description of Crime(s)
Sex	Photograph	Tattoos or Identifying Marks
Date of Birth	Address(es) *	Occupation

*Any current or temporary address both within and out of state. **A post office box shall not be provided in lieu of a physical residential address.**

{Sections 775.21(6)(a)1., 943.0435(2)}

**Sexual Predators & Offenders
Registration & Restrictions**

**REQUIRED PRIMARY
REGISTRATION INFORMATION**
Continued

If the predator or offender's place of residence is a **motor vehicle, trailer, mobile home or manufactured home** (s.320) he or she shall also provide written notice of:

Vehicle ID#	License Tag #	Registration #	Description including color scheme
--------------------	----------------------	-----------------------	---

of the motor vehicle, trailer, mobile home or manufactured home.

{Sections 775.21(6)(a)1., 943.0435(2)}

If the sexual predator or offender's place of residence is a **vessel, live-aboard vessel, or houseboat** (s.327) he or she shall also provide written notice of the

Hull ID #	Manufacturer's Serial #	Name of the vessel	Description including color scheme
------------------	--------------------------------	---------------------------	---

of the vessel, live-aboard vessel or houseboat.

{Sections 775.21(6)(a)1., 943(0435(2)}

**Sexual Predators & Offenders
Registration & Restrictions**

INACCURATE REGISTRATION INFORMATION

It is important that registration records be as accurate as possible. Many agencies will be routinely monitoring the predators and offenders in their communities. During the course of agency activity, it may be determined that an address or other information reflected in FDLE's records is inaccurate. This might be caused by a mistake in the registration information, failure by the offender/predator to promptly update registration records, or by an offender/predator's intentional attempt to circumvent registration requirements. **Any indications of inaccuracy or needed changes in FDLE's registration files should be reported by the agency to FDLE at 1-888-357-7332 or by utilizing the on-line access to the Sex Offender Database through the CJNet.** Should you determine that an offender/predator is no longer at the address reflected in FDLE's records, try to determine a new address, but contact FDLE even if a new address for the offender/predator is not known. If you believe the offender/predator intended to violate the registration requirements of the law, you should report the information to the state attorney having jurisdiction for consideration of prosecution.

**Sexual Predators & Offenders
Registration & Restrictions**

CHANGE OF ADDRESS PROCESS

1. NOTIFICATION TO DHSMV

After initial registration, **all non-incarcerated Sexual Predators and Offenders** must notify the DHSMV within 48 hours of any change of residence. Should the predator or offender be under sanction they must also report their change of address, as required by law, to their supervisor who will in turn notify FDLE.

DHSMV will notify FDLE of the change of address information and changes will be posted to the Internet site. The Sheriff's office and all police departments within the county will be notified via FCIC AM message of all new predator and offender addresses within their county. Agencies should regularly access the FDLE sexual offender/predator site via CJNET or the Internet at www.fdle.state.fl.us to obtain current listings of all sexual offenders. Agencies may also contact FDLE's Sexual Offender/Predator Unit for offender information at 1(888) 357-7332. {Sections 775.21(6)(g), 943.0435(4), 944.607(9)}

2. MOVING OUT OF STATE

A sexual predator or offender who intends to establish residence in another state or jurisdiction shall notify the sheriff of the county of current residence or FDLE in person within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction.

The notification must include:

Address	Municipality	County	State of intended residence
---------	--------------	--------	-----------------------------

**Sexual Predators & Offenders
Registration & Restrictions**

The sheriff shall *promptly* provide to FDLE the information received from the sexual predator/offender. FDLE will then notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual predator's intended residence.

The failure of a sexual offender/predator to provide his or her intended place of residence is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

{Sections 775.21(6)(i), (10), 943.0435(7),(9)}

A sexual predator or offender who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender/predator indicated he or she would leave this state, notify the sheriff or FDLE, whichever agency is the agency to which the sexual offender/predator reported the intended change of residence, of his or her intent to remain in this state. If the sheriff is notified by the sexual offender/predator that he or she intends to remain in this state, the sheriff shall *promptly* report this information to FDLE. **A sexual predator or offender who reports his or her intent to reside in another state or jurisdiction, but who remains in this state without reporting to the sheriff or FDLE in this manner, commits a felony of the second-degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.**

{Sections 775.21(6)(j), 943.0435(8)}

Sexual Predators & Offenders Registration & Restrictions

OUT OF STATE SEXUAL OFFENDERS / PREDATORS

Any person who resides in Florida and who has been designated a sexual predator, a violent sexual predator or another sexual offender designation in another state or jurisdiction and was subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, is required to register as a **sexual offender** in the state of Florida. {Sections 775.21(5)(d); 943.0435(1)(a)3.; 944.607(1)(a)2.}

(Note: If an offender enters Florida with out-of-state convictions that are similar to Florida's sexual predator criteria offenses, the state attorney in the jurisdiction in which the offender establishes or maintains a permanent or temporary residence shall initiate a court hearing to review the out-of-state offenses and to determine whether the offender will be classified as a sexual **predator** under Florida law.) {Section 775.21(5)(a)2.}

Sexual Predators & Offenders Registration & Restrictions

JUVENILE OFFENDERS

Juvenile offenders who are treated-as-adults can qualify as sexual predators or offenders based on the criteria for each classification.

Any offense for which an offender was adjudicated delinquent shall not be considered as a qualifying criteria offense for sexual predator or offender status except that, in the case of a sexual predator, a qualifying prior (predicate) offense which resulted in an adjudication of delinquency may be counted provided the current offense resulted in an adult or treat-as-adult adjudication.

Sexual Predators & Offenders Registration & Restrictions

PROCEDURES FOR SUBMITTING A FINGERPRINT CARD ON SEXUAL PREDATOR/SEX OFFENDER REGISTRANTS

Proper identification must be presented and the procedures listed below must be followed to insure accurate and complete recording of the Sexual Predator/Offender Registration information.

- ❖ The FBI criminal fingerprint card (Form FD-249, Revised 12-01-94) must be used for fingerprinting and recording of all the descriptive information.
- ❖ The words “**Sexual Predator**” or “**Sex Offender**” must be reflected in the **Charge** block.
- ❖ The word “**Released**” must be reflected in the **Final Disposition** block.
- ❖ The **occupation** and **residence** of the sexual predator/sex offender must be indicated in the respective blocks.
- ❖ A **photograph** is to be taken of the sexual predator/sex offender and an "X" in the block provided should indicate the availability of a photo.
- ❖ List **name, aliases** (if any), **social security number, date of birth** or age (if DOB is unknown), **race, sex, height, weight, hair** and **eye color, address of legal physical residence, address of any current temporary residence** and **date and place of any employment**.
- ❖ The date and place of each conviction, a brief description of the crime or crimes committed by the offender, and whether the victim was a minor or an adult must be indicated in the **Additional Information** block located on the reverse side of the fingerprint card.

Sexual Predators & Offenders Registration & Restrictions

- ❖ The signature of the registrant and the signature of the person taking the prints must be noted in the **signature blocks**.
- ❖ The Sexual Predator/Sex Offender Registration Form must be used for recording of all registration information.

The **completed fingerprint card, photograph and the sexual predator/sex offender registration form** should be forwarded to the attention of the

**Sexual Offender/Predator Unit
Florida Department of Law Enforcement,
P.O. Box 1489
Tallahassee, Florida 32302-1489**

for processing into the FCIC Criminal History System.

Any change of address must be reported directly to DHSMV. The FDLE will notify the appropriate authorities of the county where the sexual predator/sex offender establishes or maintains a permanent or temporary residence within 48 hours of registration of the predator/offender. These changes will be provided through the FCIC terminal via administrative message, Internet and CJNET access.

Note: All of these procedures may be completed at the Florida Department of Law Enforcement, located at 2331 Phillips Road, Tallahassee, Florida, or at any FDLE office in the state of Florida.

**Sexual Predators & Offenders
Registration & Restrictions**

**PREPARING A CRIMINAL CASE
FOR VIOLATION OF SEXUAL OFFENDER
REGISTRATION LAW(S)**

**FELONY 3RD DEGREE
Penalty for violations of registration
and related requirements**

Section 775.21(10)(a) - Sexual Predator

(Failure, by act or omission, to comply with requirements of s. 775.21, including but not limited to failure to register, or after registration, failure to maintain, acquire, or renew a driver's license or ID card; or failure to provide required location information or change-of-name information)

Section 943.0435(9) – Sexual Offender not serving any sanctions

(Failure to comply with the requirements of s. 943.0435)

Section 944.607(9)-(10) - Sexual Offender in the custody/control of, or under the supervision of FDC or in custody of a private correctional facility

(Failure to comply with the requirements of s. 944.607)

**Sexual Predators & Offenders
Registration & Restrictions**

LOCATION OF PROSECUTION

A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, or s. 944.607, may be prosecuted for the act or omission in

- ❖ the county in which the act or omission was committed;
- ❖ the county of the last registered address of the sexual predator or sexual offender;
- ❖ the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender; or
- ❖ for a sexual predator, the county in which he or she was designated a sexual predator.

{Section 775.25}

Sexual Predators & Offenders Registration & Restrictions

SUGGESTIONS FOR LAW ENFORCEMENT

The following information may assist in supporting a case for prosecution of a sexual offender or sexual predator for an act or omission referenced above:

- ❖ Information and advice from the State Attorney's Office in your jurisdiction first;
- ❖ Court case law from your jurisdiction and appellate courts; and
- ❖ Information gleaned from the following documents:
 1. Court order for predator/offender;
 2. Conviction of predator/offender;
 3. Order of probation re: requirements and special conditions;
 4. Signed obligation form from Department of Corrections/Probation & Parole;
 5. Affidavit of diligent search by FDLE and authentication of document re: address info (failure to register violations);
 6. Department of Highway, Safety, and Motor Vehicles documentation and name of reporting employee;
 7. Records of offender's/predator's residence. re: move or abandonment, utility bill info, neighbor info, mail forwarding info;
 8. Employee work documentation, including application, W-4 form, and witness info;
 9. Enrollment, work, and attendance records maintained by institutions of higher education;
 10. Registration documentation, including those related to the Campus Sex Crimes Prevention Act, from FDLE, sheriffs of jurisdictions where the offender

Sexual Predators & Offenders Registration & Restrictions

obtained/maintained an address, and Department of Corrections; and

11. Other documentation available from FDLE's Sexual Offender/Predator Unit database, including Field Intelligence reports.

**Sexual Predators & Offenders
Registration & Restrictions**

BLOOD SPECIMEN REQUIREMENT

**BLOOD OR OTHER BIOLOGICAL SPECIMEN TESTING
FOR DNA ANALYSIS**

{Section 943.325, Florida Statutes}

{See also 949.03(10)-(11)}

***This is a portion of the statutory information
on this topic. Please see the complete statutes
for more information.***

Any person who is

- convicted or was previously convicted in this state for any offense or attempted offense in the chart on the following page **OR**
- transferred to this state under Article VII of the Interstate Compact on Juveniles, part V of chapter 985, who has committed or attempted to commit an offense in the chart below *which is similarly defined by the transferring state*,

who is either:

- still incarcerated **OR**
- no longer incarcerated, or has never been incarcerated, yet is within Florida and is on probation, community control, parole, conditional release, control release, or any other type of court-ordered supervision,

shall be required to submit two specimens of blood or other biological specimens approved by the Department of Law Enforcement to a Department of Law Enforcement designated testing facility as directed by the department.

CONTINUED...

**Sexual Predators & Offenders
Registration & Restrictions**

"Any person" includes both juveniles and adults committed to a county jail or committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice, including persons incarcerated in a private correctional institution operated under contract pursuant to s. 944.105 or s. 957.03.

"Conviction" includes a finding of guilty, or entry of a plea of nolo contendere or guilty, regardless of adjudication or, in the case of a juvenile, the finding of delinquency.

Chart of Offenses in s. 943.325 re: blood or other biological specimen	
Chapter 794	Sexual Battery
Chapter 800	Lewdness/Indecent Exposure
s. 782.04	Murder
s. 784.045	Aggravated Battery
s. 810.02	Burglary
s. 812.133	Carjacking
s. 812.135	Home Invasion Robbery
s. 812.13*	Robbery (*added July 1, 2002)
s. 812.131*	Robbery by Sudden Snatching (*added July 1, 2002)
Chapter 787*	Kidnapping; False Imprisonment; Luring/Enticing a Child; Custody Offenses (*added July 1, 2003)

**Sexual Predators & Offenders
Registration & Restrictions**

	s. 782.07*	Manslaughter; Aggravated Manslaughter of elderly or disabled adult; child; officer; firefighter; emergency medical technician; paramedic (*added July 1, 2003)
	s. 776.08*	*Any forcible felony in this section (*added July 1, 2004)
	s. 827.03(2)*	Aggravated Child Abuse (*added July 1, 2004)
	s. 825.102(2)*	Aggravated Abuse of Elderly/Disabled Adult (*added July 1, 2004)
	Chapter 790*	Weapons/Firearms Offenses *Any felony in this chapter re: use/ possession of firearm (*added July 1, 2004)

Any **person** previously convicted of an offense specified in this section, or a crime which, if committed in this state, would be an offense specified in this section, and who is also **subject to the registration requirement imposed by s. 775.13**, shall be subject to the collection requirement of this section when the appropriate agency described in this section verifies the identification information of the person.

Any person who was previously convicted in this state for any offense or attempted offense enumerated in the chart above, except those listed in s. 776.08, s. 827.03(2), s.

**Sexual Predators & Offenders
Registration & Restrictions**

825.102(2), and Chapter 790, and who is still incarcerated or in the custody of the Department of Juvenile Justice must submit, not less than 45 days before his or her presumptive date of release from such incarceration or commitment, **two specimens of blood** as directed by the Department of Law Enforcement to a testing facility designated by the department.

The withdrawal of blood for purposes of this section shall be performed in a medically approved manner using a collection kit provided by, or accepted by, the Department of Law Enforcement and only by or under the supervision of a physician, registered nurse, licensed practical nurse, duly licensed medical personnel, or other trained and competent personnel. The collection of other approved biological specimens shall be performed by any person using a collection kit provided by, or accepted by, the Department of Law Enforcement in a manner approved by the department, as directed in the kit, or as otherwise found to be acceptable by the department.

Upon a conviction of any person for any offense as stated above which results in the commitment of the offender to a county jail, correctional facility, or juvenile facility, the **entity responsible for the facility shall assure** that the blood **specimens** or other biological specimens required by this statute are **promptly secured and transmitted to the Department of Law Enforcement**.

If the person is not incarcerated following such conviction, the **person may not be released from the custody of the court or released pursuant to a bond or surety until the required specimens have been taken**.

The chief judge of each circuit shall, in conjunction with the sheriff or other entity that maintains the county jail, **assure implementation of a method to promptly collect and**

Sexual Predators & Offenders Registration & Restrictions

forward the required specimens to the Department of Law Enforcement.

The Department of Law Enforcement, in conjunction with the sheriff, the courts, the Department of Corrections, and the Department of Juvenile Justice, shall develop a statewide protocol for securing the required specimens.

Personnel at the jail, correctional facility, or juvenile facility shall implement the protocol as part of the regular processing of offenders.

If any specimens submitted to the Department of Law Enforcement are found to be unacceptable for analysis and use or cannot be used by the department in the manner required, the Department of Law Enforcement may require that another set of specimens be taken.

The **results** of a DNA analysis and the comparison of analytic results is confidential and exempt from the provisions of s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution, **except they may be released only to criminal justice agencies** as defined in s. [943.045\(10\)](#), at the request of the agency.

The Department of Law Enforcement and the statewide criminal laboratory analysis system shall establish, implement, and maintain a statewide automated personal identification system capable of, but not limited to, classifying, matching, and storing **analyses of DNA** (deoxyribonucleic acid) **and other biological molecules**. The system shall be **available to all criminal justice agencies**.

The court shall include in the judgment of conviction for an offense specified in this section, or a finding that a person described in the first page of this section

Sexual Predators & Offenders Registration & Restrictions

violated a condition of probation, community control, or any other court-ordered supervision, an order stating that the required specimens shall be drawn or collected by the appropriate agency in a manner consistent with this statute and, unless the convicted person lacks the ability to pay, the person shall reimburse the appropriate agency for the cost of drawing and transmitting the blood specimens or collecting and transmitting other approved biological specimens to the Florida Department of Law Enforcement.

If the judgment places the convicted person on probation, community control, or any other court-ordered supervision, the court shall order the convicted person to submit to the drawing of the required specimens as a condition of the probation, community control, or other court-ordered supervision. For the purposes of a person who is on probation, community control, or any other court-ordered supervision, the collection requirement must be based upon a court order, or as otherwise provided by the person in the absence of a court order.

If the judgment sentences the convicted person to time served, the court shall order the convicted person to submit to the drawing of the required specimens as a condition of such sentence.

The appropriate agency shall cause the specimens to be drawn or collected as soon as practical after conviction but, in the case of any person ordered to serve a term of incarceration as part of the sentence, the specimen shall be drawn or collected as soon as practical after the receipt of the convicted person by the custodial facility.

If necessary, the state or local law enforcement or correctional agency having authority over the person subject to the sampling under this section shall assist in

Sexual Predators & Offenders Registration & Restrictions

the procedure. The law enforcement or correctional officer so assisting may use reasonable force if necessary to require such person to submit to the withdrawal of blood specimens or the collection of other approved biological specimens. Any such withdrawal or collection shall be performed in a reasonable manner.

IMMUNITY

A hospital, clinical laboratory, medical clinic, or similar medical institution; a physician, certified paramedic, registered nurse, licensed practical nurse, or other personnel authorized by a hospital to draw blood; a licensed clinical laboratory director, supervisor, technologist, or technician; or any other person who assists a law enforcement officer is not civilly or criminally liable as a result of withdrawing blood specimens according to accepted medical standards when requested to do so by a law enforcement officer or any personnel of a jail, correctional facility, or juvenile detention facility, regardless of whether the convicted person resisted the drawing of blood specimens.

A person other than the subject required to provide the biological specimens who collects or assists in the collection of approved specimens other than blood is not civilly or criminally liable if a collection kit provided by, or accepted by, the Department of Law Enforcement is utilized and the collection is done in a manner approved by the department, as directed in the kit, or is performed in an otherwise reasonable manner.

Unless the convicted person has been declared indigent by the court, the convicted person shall pay the actual costs of collecting the required/approved specimens.

If a court, a law enforcement agency, or the Department of Law Enforcement fails to strictly comply with this section or

Sexual Predators & Offenders Registration & Restrictions

to abide by a statewide protocol for collecting blood specimens or other approved biological specimens, such failure is not grounds for challenging the validity of the collection or the use of a specimen, and evidence based upon or derived from the collected blood specimens or other approved biological specimens may not be excluded by a court.

History.--s. 1, ch. 89-335; s. 9, ch. 93-204; s. 3, ch. 94-90; s. 52, ch. 95-283; s. 19, ch. 96-322; s. 447, ch. 96-406; s. 8, ch. 98-81; s. 14, ch. 98-251; s. 7, ch. 98-417; s. 1, ch. 2000-233; s. 2, ch. 2000-328; s. 3, ch. 2001-58; s. 3, ch. 2001-97; s. 9, ch. 2001-125; s. 6, ch. 2001-127

The FDLE blood collection kits and blood submission forms or the oral swab collection kits must be utilized in the collection of offender DNA specimens. Since a majority of all agencies submitting convicted offender samples are using the oral swab kit, and automated procedures are in place for extracting and analyzing this collection method, the DNA Database has discontinued ordering blood collection kits. However, the Database will continue to accept and process DNA specimens submitted using the FDLE blood collection kit. The oral swab collection kits will be provided free of charge by FDLE along with detailed instructions on the proper use and submission of buccal swab specimens.

The FDLE DNA Database also accepts blood or other biological specimens collected for s. 847.0145 and s. 827.071 offenses per the Florida Department of Corrections, s. 948.03, Florida Statutes.

For DNA kits and further information,
please contact the
FDLE DNA Database at 1-850-410-7721

**Sexual Predators & Offenders
Registration & Restrictions**

**PROHIBITED ACTIVITIES
AND
TERMS OF PROBATION/COMMUNITY CONTROL**

PROHIBITED ACTIVITIES

**Felony violation
if certain Sexual Predators
work or volunteer
where children congregate
{Section 775.21(10)(b), Florida Statutes}**

A **sexual predator** who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025, where the victim is a minor and the defendant is not the victim's parent; s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 800.04; s. 827.071; s. 847.0133; or s. 847.0145, or a violation of a similar law of another jurisdiction, when the victim of the offense was a minor, **and who works, whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly congregate**, commits a **felony of the third degree**, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
{Section 775.21(10)(b)}

**Sexual Predators & Offenders
Registration & Restrictions**

**PROBATION & COMMUNITY CONTROL
RESTRICTIONS**

Note to law enforcement:

948.32 Requirements of law enforcement agency upon arrest of persons for certain sex offenses.--

(1) When any state or local law enforcement agency investigates or arrests a person for committing, or attempting, soliciting, or conspiring to commit, a violation of s. [787.025](#), chapter 794, s. [796.03](#), s. [800.04](#), s. [827.071](#), s. [847.0133](#), s. [847.0135](#), or s. [847.0145](#), the law enforcement agency shall contact the Department of Corrections to verify whether the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release.

(2) If the law enforcement agency finds that the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release, the law enforcement agency shall immediately notify the person's probation officer or release supervisor of the investigation or the arrest.

History.--s. 13, ch. 97-299; s. 3, ch. 2000-246; s. 28, ch. 2004-373.

Note.--Former s. 948.06(2).

**TERMS AND CONDITIONS OF
PROBATION OR COMMUNITY CONTROL
FOR CERTAIN SEXUAL OFFENDERS/PREDATORS
{Sections 948.03 and 948.30, Florida Statutes}**

948.03 Terms and conditions of probation.--

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and

Sexual Predators & Offenders Registration & Restrictions

may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

- (a) Report to the probation and parole supervisors as directed.
- (b) Permit such supervisors to visit him or her at his or her home or elsewhere.
- (c) Work faithfully at suitable employment insofar as may be possible.
- (d) Remain within a specified place.
- (e) Make reparation or restitution to the aggrieved party for the damage or loss caused by his or her offense in an amount to be determined by the court. The court shall make such reparation or restitution a condition of probation, unless it determines that clear and compelling reasons exist to the contrary. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. [775.089](#), it shall state on the record in detail the reasons therefore.
- (f) Effective July 1, 1994, and applicable for offenses committed on or after that date, make payment of the debt due and owing to a county or municipal detention facility under s. [951.032](#) for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility. The court, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the felony probationer, the present and potential future financial needs and earning ability of the probationer, and dependents, and other appropriate factors.

Sexual Predators & Offenders Registration & Restrictions

(g) Support his or her legal dependents to the best of his or her ability.

(h) Make payment of the debt due and owing to the state under s. [960.17](#), subject to modification based on change of circumstances.

(i) Pay any application fee assessed under s. [27.52\(2\)\(a\)](#) and attorney's fees and costs assessed under s. [938.29](#), subject to modification based on change of circumstances.

(j) Not associate with persons engaged in criminal activities.

(k)1. Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances.

2. If the offense was a controlled substance violation and the period of probation immediately follows a period of incarceration in the state correction system, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. [943.10\(3\)](#).

(l) Be prohibited from possessing, carrying, or owning any firearm unless authorized by the court and consented to by the probation officer.

(m) Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician. The probationer or community controllee shall not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

Sexual Predators & Offenders Registration & Restrictions

(n) Submit to the drawing of blood or other biological specimens as prescribed in ss. [943.325](#) and [948.014](#), and reimburse the appropriate agency for the costs of drawing and transmitting the blood or other biological specimens to the Department of Law Enforcement.

(2) The enumeration of specific kinds of terms and conditions shall not prevent the court from adding thereto such other or others as it considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. [794.011](#), s. [800.04](#), s. [827.071](#), or s. [847.0145](#), to reside in another state, if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the probationer. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of probation, the period shall not exceed 364 days, and incarceration shall be restricted to either a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, a probation program drug punishment phase I secure residential treatment institution, or a community residential facility owned or operated by any entity providing such services.

History.--s. 23, ch. 20519, 1941; s. 5, ch. 77-452; s. 1, ch. 81-198; s. 3, ch. 83-75; s. 16, ch. 83-131; s. 192, ch. 83-216; s. 3, ch. 83-256; s. 8, ch. 84-363; s. 15, ch. 85-288; s. 5, ch. 87-211; s. 11, ch. 88-96; ss. 70, 71, ch. 88-122; s. 37, ch. 89-526; s. 10, ch. 90-287; ss. 8, 17, ch. 90-337; s. 11, ch. 91-225; s. 4, ch. 91-280; s. 23, ch. 92-310; s. 10, ch. 93-37; s. 15, ch. 93-227; s. 1, ch. 94-294; s. 1, ch. 95-189; ss. 53, 59, ch. 95-283; s. 1, ch. 96-170; s. 4, ch. 96-232; s. 54, ch. 96-312; s. 6, ch. 96-409; s. 22, ch. 97-78; s. 1877, ch. 97-102; s. 11, ch. 97-107; s. 27, ch. 97-234; s. 44, ch. 97-271; s. 3, ch. 97-308; s. 14, ch. 98-81; s. 15, ch. 98-251; s. 122, ch. 99-3; s. 13, ch. 99-201; s. 3, ch. 2000-246; s. 6, ch. 2001-50; s. 1045, ch. 2002-387; s. 1, ch. 2003-18; s. 1, ch. 2003-63; s. 136, ch. 2003-402; ss. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, ch. 2004-373.

Sexual Predators & Offenders Registration & Restrictions

948.30 Additional terms and conditions of probation or community control for certain sex offenses.--

Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(1) Effective for probationers or community controllees whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of chapter 794, s. [800.04](#), s. [827.071](#), or s. [847.0145](#), the court must impose the following conditions in addition to all other standard and special conditions imposed:

(a) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and such alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.

(b) 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, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route.

(c) Active participation in and successful completion of a sex offender treatment program with therapists specifically trained to treat sex offenders, at the probationer's or community controllee's own expense. If a specially trained therapist is not available within a 50-mile radius of the

Sexual Predators & Offenders Registration & Restrictions

probationer's or community controllee's residence, the offender shall participate in other appropriate therapy.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.

(e) If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the sentencing court without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the sentencing court.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or other place where children regularly congregate.

(g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

(h) A requirement that the probationer or community controllee must submit a specimen of blood or other approved biological specimen to the Department of Law Enforcement to be registered with the DNA data bank.

(i) A requirement that the probationer or community controllee make restitution to the victim, as ordered by the court under s. [775.089](#), for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

Sexual Predators & Offenders Registration & Restrictions

(j) Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(2) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on sex offender probation for a violation of chapter 794, s. [800.04](#), s. [827.071](#), or s. [847.0145](#), in addition to any other provision of this ¹subsection, the court must impose the following conditions of probation or community control:

(a) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid for by the sex offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of community supervision has occurred.

(b) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

(c) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

(d) If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

(e) Electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

Sexual Predators & Offenders Registration & Restrictions

History.--s. 59, ch. 95-283; s. 6, ch. 96-409; s. 3, ch. 97-308; s. 14, ch. 98-81; s. 13, ch. 99-201; s. 3, ch. 2000-246; s. 1, ch. 2003-18; s. 1, ch. 2003-63; s. 18, ch. 2004-373.

¹**Note.**--The referenced subsection was s. [948.03](#)(5), which was redesignated as s. [948.30](#) by s. 18, ch. 2004-373.

Note.--Former s. 948.03(5).

Sexual Predators & Offenders Registration & Restrictions

Ineligibility for Administrative Probation for certain Sexual Offenders/Predators {Section 948.013 }

948.013 Administrative probation.--

(1) The Department of Corrections may establish procedures for transferring an offender to administrative probation. The department may collect an initial processing fee of up to \$50 for each probationer transferred to administrative probation. The offender is exempt from further payment for the cost of supervision as required in s. [948.09](#).

(2) Effective for an offense committed on or after July 1, 1998, a person is ineligible for placement on administrative probation if the person is sentenced to or is serving a term of probation or community control, regardless of the conviction or adjudication, for committing, or attempting, conspiring, or soliciting to commit, any of the felony offenses described in s. [787.01](#) or s. [787.02](#), where the victim is a minor and the defendant is not the victim's parent; s. [787.025](#); chapter 794; s. [796.03](#); s. [800.04](#); s. [825.1025](#)(2)(b); s. [827.071](#); s. [847.0133](#); s. [847.0135](#); or s. [847.0145](#).

History.--s. 13, ch. 98-81; s. 3, ch. 2000-246; s. 12, ch. 2004-373.

Note.--Subsection (2) former s. 948.01(15).

**Campus Sex Crime Prevention Act
(Federal & Florida Information)**

**FEDERAL
CAMPUS SEX CRIMES PREVENTION ACT
&
RELATED NEW FLORIDA LAW**

**FEDERAL
CAMPUS SEX CRIMES PREVENTION ACT
Pub. L. No. 106-386, div.B, Sec 1601, 114 Stat.1464, 1537
42 U.S.C. § 14071(j) and 20 U.S.C. § 1092(f)(1)(I)**

Effective October 28, 2002

This Campus Sex Crimes Prevention Act (CSCPA) is a federal law that amends Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994/Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act/Megan's Law. States must comply with Wetterling Act requirements in order to maintain eligibility for full Byrne Grant funding.

The Campus Sex Crimes Prevention Act provides for the tracking of convicted sex offenders enrolled at or employed by institutions of higher education. The CSCPA's intent is to extend the protections of sex offender registries and Megan's Law to college campuses and post-secondary institutions. The CSCPA was signed into law on October 28, 2000, and became effective on October 28, 2002.

The Campus Sex Crimes Prevention Act requires sex offenders who must already register under state law and who are enrolled at, employed at, or carrying on a vocation at an institution of higher education to provide to state authorities, in a manner prescribed by state law, information about such enrollment or employment and any change in such status. In turn, this information will be

**Campus Sex Crime Prevention Act
(Federal & Florida Information)**

made available by the state authorities to the local law enforcement agency that has jurisdiction where the institution of higher education is located, and thereafter, by local law enforcement agencies, to the respective institutions of higher education.

Under the Campus Sex Crimes Prevention Act, “**employed, carrying on a vocation**” includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. 42 U.S.C. § 14071(a)(3)(F).

The CSCPA also amended the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) to require institutions of higher education to issue a statement advising the campus community where to obtain law enforcement agency information provided by a state concerning registered sex offenders:

"A statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address." 20 U.S.C. § 1092(f)(1)(I).

When preparing the above notice to the campus community, institutions must remember that “the local law enforcement agency having jurisdiction over the institution” does not include the Florida Department of Corrections (FDC), the agency that will have the CSCPA information required by Florida law to be provided by sex offenders

Campus Sex Crime Prevention Act (Federal & Florida Information)

and sex predators who are under the control or supervision of FDC. In addition, at the time of this publication, referring the campus community to the Search Page of FDLE's Sexual Offenders and Predators website will not enable the campus community to obtain the CSCPA information, as this information is not available to the public on that website. Therefore, institutions should be careful to indicate a list of sources where all applicable CSCPA information can be located by the campus community. *See the below Florida law section of the CSCPA for further discussion on the sources of CSCPA information.*

The Clery Act and the above notice requirement apply to most public and private institutions of higher education, because the Act is tied to participation in federal student financial aid programs.

The Campus Sex Crimes Prevention Act also amended the Family Educational Rights and Privacy Act of 1974 (FERPA), to clarify that nothing in the FERPA may be construed to prohibit an educational institution from disclosing information provided to the institution concerning registered sex offenders. The FERPA also requires the U.S. Secretary of Education to take appropriate steps to notify educational institutions that disclosure of this information is permitted. *20 U.S.C. § 1232g(7)(A).*

The U.S. Department of Justice issued final guidelines for the CSCPA on October 25, 2002, at 67 Fed. Reg. 65598. *Please see the Federal Law section of this book to review these guidelines.*

Campus Sex Crime Prevention Act (Federal & Florida Information)

2002 FLORIDA LAW RELATED TO THE CAMPUS SEX CRIMES PREVENTION ACT Sections 775.21(6)(a)1.b.; 943.0435(2)(b)2.; and 944.607(4)(b)

Effective July 1, 2002

In 2002, Florida enacted provisions into state law that comply with the requirements of the federal Campus Sex Crimes Prevention Act. The new provisions were effective as of July 1, 2002. Various sections of Florida Statutes pertaining to sexual offenders and predators who are not incarcerated, who are under the control or supervision of the Florida Department of Corrections, or who are incarcerated or in the custody of a local jail, were amended to require the offenders and predators to provide registration information and to require notifications to law enforcement and institutions of higher education.

Under these new Florida laws, sexual predators and sexual offenders who are already required to register in Florida as sexual offenders or predators **and who are enrolled, employed, or carrying on a vocation at an institution of higher education in Florida** must provide the following information:

- **Name, address, and county of each institution;**
- **Each campus attended;**
- **Enrollment and employment status; and**
- **Each change in enrollment or employment status, including a change in location of either.**

Campus Sex Crime Prevention Act (Federal & Florida Information)

“**Institution of higher education**” includes a community college, college, state university, or independent post-secondary institution.

*{Sections 775.21(2)(h); 943.0435(1)(d); and
944.607(1)(c).}*

“**Change in enrollment**” means commencement or termination of enrollment or employment OR a change in the location of enrollment or employment.

*{Sections 775.21(2)(l); 943.0435(1)(e); and
944.607 (1)(d).}*

Florida law requires sex offenders and sex predators who are not incarcerated but who are under the supervision of the Department of Corrections (FDC) to **provide the CSCPA information to FDC, including any changes** to enrollment or employment status which must be provided *within 48 hours of the change*. FDC is required to promptly notify the applicable institution of the presence of the offender/predator, along with any changes in the offender's/predator's enrollment/ employment status. FDC is also required to provide the information received to FDLE. *{Sections 775.21(6) (a)1.b.,(b); 944.607(4)(b),(5)-(6).}*

Florida law requires sex offenders and sex predators who are not incarcerated and not otherwise under the supervision of the Department of Corrections to **provide the CSCPA information to the sheriff's office. All changes** to enrollment or employment status must be provided to the sheriff within 48 hours of the change. The sheriff is required to promptly notify the applicable institution of the presence of the offender/predator, along with any changes in the offender's/predator's enrollment/employment status. The sheriff is also required to promptly provide the information received to FDLE. *{Sections 775.21(6) (a)1.b.,(l); 943.0435(2)(b)2.}*

Campus Sex Crime Prevention Act (Federal & Florida Information)

Upon receipt and entry of CSCPA information into the FDLE Sex Offender database, FDLE will send an automated teletype message to all law enforcement agencies in the areas where the applicable institutions are located, including the law enforcement agencies having jurisdiction over the institutions.

**Campus Sex Crime Prevention Act
(Federal & Florida Information)**

CRIMINAL VIOLATION (FLORIDA):

**MISUSE OR MATERIAL ALTERATION OF
PUBLIC RECORDS INFORMATION
OR DISTRIBUTING FALSE INFORMATION**

{Section 775.21(10)(c), Florida Statutes}

Any person who:

- ❖ misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender;
- ❖ knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information;
- ❖ who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication,

commits a **misdemeanor of the first degree**.

{Section 775.21(10)(c), Florida Statutes}

Sexual Predators & Offenders Agency Responsibilities

LOCAL LAW ENFORCEMENT

COMMUNITY NOTIFICATION REGARDING SEXUAL PREDATORS

{Section 775.21(7), Florida Statutes}

Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police.

Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator permanently or temporarily resides shall notify each licensed day care center, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator's presence.

Information provided to the community and the public regarding a sexual predator must include the following:

- The name of the sexual predator;
- A description of the sexual predator, including a photograph;
- The sexual predator's current address, including the name of the county or municipality if known;
- The circumstances of the sexual predator's offense or offenses; and

Sexual Predators & Offenders Agency Responsibilities

- Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

These requirements do NOT authorize the release of the name of any victim of the sexual predator.

The sheriff or police chief may coordinate notification efforts with FDLE. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and FDLE.

{Section 775.21(7)}

FEDERAL CAMPUS SEX CRIMES PREVENTION ACT

and related Florida laws: Upon receiving the required information from a sexual predator regarding such person's enrollment or employment status at an institution of higher learning, or any change thereto, the sheriff or the Department of Corrections, shall promptly notify each institution of the sexual predator's presence and of any change in the predator's enrollment or employment status.

{Section 775.21(6)(a)1.b.}

See Campus Sex Crimes Prevention Act (CSCPA) section for more information.

Sexual Predators & Offenders Agency Responsibilities

COMMUNITY NOTIFICATION REGARDING SEXUAL OFFENDERS

{Sections 943.043, 944.606(4)}

Notification of a sexual offender to the public is **authorized but not required**, as deemed appropriate by local law enforcement personnel and FDLE.

{Sections 943.043, 944.606(4)}

FEDERAL CAMPUS SEX CRIMES PREVENTION ACT and related Florida laws: Upon receiving the required information from a sexual offender regarding such person's enrollment or employment status at an institution of higher learning, or any change thereto, the sheriff or the Department of Corrections, whichever receives the information, shall promptly notify each institution of the sexual offender's presence and of any change in the offender's enrollment or employment status.

{Sections 943.0435(2)(b)2.; 944.607(4)(b)}

See Campus Sex Crimes Prevention Act (CSCPA) section for more information.

Sexual Predators & Offenders Agency Responsibilities

OTHER LOCAL LAW ENFORCEMENT RESPONSIBILITIES

Notification of a sexual offender/predator to the public is authorized, as deemed appropriate by local law enforcement personnel and FDLE.

{Sections 775.21(6)(k)2., (7)(b), 943.043, 944.606(4)}

Upon receiving information regarding a sexual offender from the Florida Department of Corrections, the Department of Law Enforcement, the sheriff or the chief of police shall provide the information described in subparagraph (a)1. to any individual who requests such information and may release the information to the public in any manner deemed appropriate, unless the information so received is confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

{Section 944.606(3)(d)}

If a sexual offender or predator registers with the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender/predator and forward the photographs and fingerprints to the department, along with the other registration information that the offender/predator is required to provide.

{Sections 775.21(6)(a) and (e); 943.0435(2)}

If a sexual offender or predator notifies the sheriff of intent to establish residence in another state or the intent to remain in this state after previously reporting intent to leave, the sheriff shall promptly provide to FDLE the information received from the sexual offender/predator. FDLE shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender/predator's intended residence. *{Sections 775.21(6)(i), 943.0435(7)}*

Sexual Predators & Offenders Agency Responsibilities

If a sexual predator or offender notifies the sheriff regarding his or her intent to vacate a permanent residence or remain at a permanent residence after reporting his or her intent to vacate such residence the sheriff shall promptly convey the information to the department. {Section 775.21(6)(g) and 943.0435(4)}

NOTE TO LAW ENFORCEMENT:

948.32 Requirements of law enforcement agency upon arrest of persons for certain sex offenses.--

(1) When any state or local law enforcement agency investigates or arrests a person for committing, or attempting, soliciting, or conspiring to commit, a violation of s. [787.025](#), chapter 794, s. [796.03](#), s. [800.04](#), s. [827.071](#), s. [847.0133](#), s. [847.0135](#), or s. [847.0145](#), the law enforcement agency shall contact the Department of Corrections to verify whether the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release.

(2) If the law enforcement agency finds that the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release, the law enforcement agency shall immediately notify the person's probation officer or release supervisor of the investigation or the arrest.

History.--s. 13, ch. 97-299; s. 3, ch. 2000-246; s. 28, ch. 2004-373.

Note.--Former s. 948.06(2).

Sexual Predators & Offenders Agency Responsibilities

FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE) RESPONSIBILITIES

The department shall notify the public of all designated sexual predators through the Internet.

{Sections 775.21(7)(c); 943.043}

If the sexual predator initially registers at an office of the department, the department must notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence within 48 hours after the sexual predator registers with the department.

{Section 775.21(6)(h)}

The department is responsible for the on-line maintenance of current information regarding each registered sexual predator.

{Section 775.21(6)(k)1.}

FDLE must maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution.

{Section 775.21(6)(k)1.}

FDLE and the Department of Corrections shall implement a system for verifying the addresses of sexual predators/offenders. The system must be consistent with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. See the *Address Verification* section for more details.

{Sections 775.21(8), 943.0435(6)}

Sexual Predators & Offenders Agency Responsibilities

County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators/offenders who are not under the care, custody, control, or supervision of the Department of Corrections.
{Sections 775.21(8), 943.0435(6)}

The department's sexual predator registration list is a public record. When FDLE provides information regarding a registered sexual predator to the public, department personnel must advise the person making the inquiry that

- ❖ positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and
- ❖ it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

{Section 775.21(6)(k)2.}

The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order, and meets other statutory requirements of s. 943.0432(11), that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.
{Section 943.0435(11)(c)}

The department is authorized to disseminate this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose.
{Sections 775.21(6)(k)2., 943.043, 944.606(2),(3)(d),(4)}

FDLE shall notify the statewide law enforcement agency, or a comparable agency, in any intended state or jurisdiction of residence of a sexual offender/predator.
{Sections 775.21(6)(h), 943.0435(7)}

Sexual Predators & Offenders Agency Responsibilities

Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and FDLE.
{Sections 775.21(6)(k)2., (7)(b), 943.043}

FDLE shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required in community notifications under s. 775.21(7)(a).
{Section 775.21(7)(c)}

FDLE may notify the public through the Internet of any information regarding sexual predators and sexual offenders which is not confidential and exempt from public disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
{Section 943.043(1)}

FDLE shall provide, through a toll-free telephone number, public access to registration information regarding sexual predators and sexual offenders and may provide other information reported to the department which is not exempt from public disclosure.
{Section 943.043(2)}

FDLE shall provide to any person, upon request and at a reasonable cost determined by the department, a copy of the photograph of any sexual offender or sexual predator which the department maintains in its files and a printed summary of the information that is available to the public.
{Section 943.043(3)}

FDLE shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of a sexual offender's intended residence, when it receives information from an offender or from a sheriff's office regarding the offender's intention to establish residence in another state or jurisdiction.
{Section 943.0435(7)-(8)}

Upon receipt of registration information required by the Campus Sex Crimes Prevention Act and corresponding

**Sexual Predators & Offenders
Agency Responsibilities**

Florida Statutes, including required notices of changes to such information, FDLE promptly provides such information through an automated teletype message to the local law enforcement agencies in the jurisdictions of the institutions listed in the registration information.

**Sexual Predators & Offenders
Agency Responsibilities**

**FLORIDA DEPARTMENT OF CORRECTIONS
(FDC/DOC/DC)**

The Department of Corrections shall provide to FDLE registration information for all supervised offenders and predators and the location of, and local telephone number for, any Department of Corrections' office that is responsible for supervising a sexual offender or predator.

{Sections 775.21(6)(b), 944.607(5),(6)}

The Department of Corrections shall notify the FDLE if a sexual predator/offender escapes or absconds from custody or supervision or if the sexual predator/offender dies.

{Sections 775.21(6)(b). 944.606(3)(a)1.}

If any information provided by the department changes during the time the sexual offender is under the department's control, custody, or supervision, including any change in the offender's name by reason of marriage or other legal process, the department shall, in a timely manner, update the information and provide it to the Department of Law Enforcement.

{Sections 944.606(3)(a)1., 944.607(6)(g)}

The Department of Corrections shall verify the addresses of sexual predators/offenders who are not incarcerated but who reside in the community under the supervision of the Department of Corrections.

{Sections 775.21(8), 943.0435 (6), 944.607(4)}

Sexual Predators & Offenders Agency Responsibilities

In addition to notification and transmittal requirements imposed by any other provision of law, FDC shall compile information on any sexual offender/predator (as defined by F.S. 944.607) and provide the information to the Department of Law Enforcement. The information shall be made available electronically to the Department of Law Enforcement as soon as this information is in FDC's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center. The information provided to the Department of Law Enforcement must include:

- ❖ The registration information obtained from the sexual offender/predator;
- ❖ The sexual offender/predator's most current address and place of permanent and temporary residence, including the name of the county or municipality in which he or she permanently or temporarily resides and,
- ❖ If known, the intended place of permanent or temporary residence upon satisfaction of all sanctions;
- ❖ The legal status of the sexual offender/predator and the scheduled termination date of that legal status;
- ❖ The location of, and local telephone number for, any Department of Corrections' office of that is responsible for supervising the sexual offender/predator;
- ❖ An indication of whether the victim of the offense that resulted in the offender/predator's status as a sexual offender/predator was a minor;
- ❖ The offense or offenses at conviction which resulted in the determination of the offender/predator's status as a sexual offender/predator; and
- ❖ A digitized photograph of the sexual offender/predator which must have been taken within 60 days before he or she is released from the custody of FDC or private correctional facility by expiration of sentence under s. 944.275 or must have been taken by January 1, 1998,

Sexual Predators & Offenders Agency Responsibilities

or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, community control, conditional release, parole, provisional release, or control release or who is supervised by FDC under the Interstate Compact Agreement for Probationers and Parolees.

{Sections 775.21(6)(b), 944.607(5),(6)}

If the sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in the above paragraph and shall provide the photograph to the department. *{Section 944.607(6)(g)}*

If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender and forward the information to the Department of Law Enforcement. The custodian of the local jail shall also take a digitized photograph of the sexual offender while the offender remains in custody and shall provide the digitized photograph to the Department of Law Enforcement. The custodian shall notify FDLE if the sexual predator/offender escapes from custody or dies.

{Sections 775.21(6)(c), 944.606(3)(a)1., 944.607(7)}

Upon receiving the required information from a sexual predator or sexual offender regarding such person's enrollment or employment status at an institution of higher learning, or any change thereto, FDC shall promptly notify each institution of the sexual predator's or sexual offender's presence and of any change in said person's enrollment or employment status.

{Sections 775.21(6)(a)1.b.; 944.607(4)(b)}

Sexual Predators & Offenders Agency Responsibilities

For Incarcerated Sexual Offenders/Predators

Florida Department of Corrections (FDC) or a custodian of a local jail must provide information regarding any sexual offender/predator who is being released after serving a period of incarceration for any offense, as follows:

- ❖ name, including any change of name due to marriage or other legal process, and any alias, if known;
- ❖ the correctional facility from which the sexual offender/predator is released;
- ❖ the sexual offender/predator's social security number,
- ❖ race,
- ❖ sex,
- ❖ date of birth,
- ❖ height,
- ❖ weight,
- ❖ hair and eye color;
- ❖ date and county of sentence and
- ❖ each crime for which the offender/predator was sentenced;
- ❖ a copy of the offender/predator's fingerprints and
- ❖ a digitized photograph taken within 60 days before release;
- ❖ the date of release of the sexual offender/predator; and
- ❖ the offender/predator's intended residence address, if known. {Section 944.606(3)}

Upon receiving information regarding a sexual offender/predator from FDC, the Department of Law Enforcement, the sheriff or the chief of police shall provide the information described to any individual who requests such information and may release the information to the public in any manner deemed appropriate, unless the information so received is confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. FDC or any law enforcement agency is authorized to notify

Sexual Predators & Offenders Agency Responsibilities

the community and the public of a sexual offender's presence in the community. However, with respect to a sexual offender who has been found to be a "sexual predator" under chapter 775, the Florida Department of Law Enforcement or any other law enforcement agency *must* inform the community and the public of the sexual predator's presence in the community, as provided in chapter 775. {Sections 944.606(3)(d),(4)}

If the sexual offender/predator is in the custody of a private correctional facility, the facility shall take the digitized photograph of the sexual offender within 60 days before the sexual offender's release and provide this photograph to the Department of Corrections and also place it in the sexual offender's file.

{Section 944.606(3)(a)1.}

The FDC or local jail custodian may provide any other information deemed necessary, including criminal and corrections records, nonprivileged personnel and treatment records, when available. FDC must provide the information described to: {Section 944.606(3)(a)2.}

- ❖ The sheriff of the county from where the sexual offender/predator was sentenced;
- ❖ The sheriff of the county and, if applicable, the police chief of the municipality, where the sexual offender/predator plans to reside;
- ❖ The Florida Department of Law Enforcement; and
- ❖ Any person who requests such information,

either within 6 months prior to the anticipated release of a sexual offender/predator, or as soon as possible if an offender/predator is released earlier than anticipated.

{Section 944.606(3)(b)}

**Sexual Predators & Offenders
Agency Responsibilities**

All such information provided to the Department of Law Enforcement must be available electronically as soon as the information is in the agency's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center. *{Section 944.606(3)(b)}*

**Sexual Predators & Offenders
Agency Responsibilities**

**DEPARTMENT OF HIGHWAY,
SAFETY, AND MOTOR VEHICLES
(DHSMV)**

The Department of Highway Safety and Motor Vehicles (DHSMV) shall forward to FDLE and to the Department of Corrections all photographs and information provided by sexual predators/offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators and offenders. *{Sections 775.21(6)(g), 943.0435(4)}*

Sexual Predators & Offenders Agency Responsibilities

COURTS, CLERKS OF COURT, & STATE ATTORNEYS

Prosecutions for acts or omissions.--A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual predator or sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator. {Section 775.25}

The clerk of the court of that court which convicted and sentenced the sexual offender/predator for the qualifying offense or offenses shall forward to FDC and FDLE a certified copy of any order entered by the court imposing any special condition or restriction on the sexual offender/predator which restricts or prohibits access to the victim, if the victim is a minor, or to other minors. The Department of Law Enforcement may include on its Internet site such special conditions or restrictions. {Section 944.607(2)}

If a sexual offender is not sentenced to a term of imprisonment, the clerk of *the court shall ensure that the sexual offender's* fingerprints are taken and forwarded to the department *within 48 hours* after the court sentences the offender. The fingerprint card shall be clearly marked "*Sexual Offender Registration Card.*" {Section 944.607(3)}

Sexual Predators & Offenders Agency Responsibilities

For an offender who meets the sexual predator criteria and is before the court for sentencing for a current (qualifying) offense committed on or after October 1, 1993, where the sentencing court makes a written finding at the time of sentencing that the offender is a sexual predator, the clerk of the court shall transmit a *copy of the order containing the written finding* to FDLE within 48 hours after the entry of the order. {Section 775.21(5)(a)1.}

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements. Within 48 hours of the court designating an offender as a sexual predator, the clerk of the circuit court shall transmit *a copy of the court's written sexual predator finding* to FDLE. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections. {Section 775.21(5)(a)2.}

If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to FDLE *within 48 hours* after the court renders its written sexual predator finding. The fingerprint card shall be clearly marked, "*Sexual Predator Registration Card.*" {Section 775.21(5)(b)}

If the Department of Corrections, FDLE, or any other law enforcement agency obtains information which indicates that an offender **who establishes or maintains a permanent or temporary residence in this state** meets the sexual predator criteria because the offender committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, FDLE, or the law enforcement agency shall notify the state

Sexual Predators & Offenders Agency Responsibilities

attorney of the county where the offender establishes or maintains a permanent or temporary residence of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator. {Section 775.21(4)(d)3}

If the Department of Corrections, FDLE, or any other law enforcement agency obtains information which indicates that ***an offender meets the sexual predator criteria but the court did not make a written finding that the offender is a sexual predator***, the Department of Corrections, FDLE, or the law enforcement agency shall notify the state attorney who prosecuted the offense for in-state offenders, or the state attorney of the county where the offender establishes or maintains a residence upon first entering the state. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, FDLE, or any other law enforcement agency shall not register a sexual predator without a written finding from the court that the offender is a sexual predator. {Section 775.21(5)(c)}

Sexual Predators & Offenders Agency Responsibilities

DUTY OF COURTS TO UPHOLD LAWS GOVERNING SEXUAL PREDATORS AND SEXUAL OFFENDERS

The Legislature finds that, for the purpose of approving a plea agreement or for other reasons, certain courts enter orders that effectively limit or nullify requirements imposed upon sexual predators and sexual offenders pursuant to the laws of this state and prevent persons or entities from carrying out the duties imposed, or exercising the authority conferred, by such laws....Unless a court that enters such an order determines that a person or entity is not operating in accordance with the laws governing sexual predators or sexual offenders, or that such laws or any part of such laws are unconstitutional or unconstitutionally applied, the court unlawfully encroaches on the Legislature's exclusive power to make laws and places at risk significant public interests of the state. {Section 775.24(1)}

If a person meets the criteria in Chapter 775 for designation as a sexual predator or meets the criteria in s. 943.0435, s. 944.606, s. 944.607, or any other law for classification as a sexual offender, the court may not enter an order, for the purpose of approving a plea agreement or for any other reason, which:

- (a) Exempts a person who meets the criteria for designation as a sexual predator or classification as a sexual offender from such designation or classification, or exempts such person from the requirements for registration or community and public notification imposed upon sexual predators and sexual offenders;
- (b) Restricts the compiling, reporting, or release of public records information that relates to sexual predators or sexual offenders; or
- (c) Prevents any person or entity from performing its duties or operating within its statutorily conferred authority as

Sexual Predators & Offenders Agency Responsibilities

such duty or authority relates to sexual predators or sexual offenders. {Section 775.24(2)}

If the court enters an order that affects an agency's performance of a duty imposed under the laws governing sexual predators or sexual offenders, or that limits the agency's exercise of authority conferred under such laws, the Legislature strongly encourages the affected agency to file a motion in the court that entered such order. **The affected agency may, within 1 year* after the receipt of any such order, move to modify or set aside the order or, if such order is in the nature of an injunction, move to dissolve the injunction.** Grounds for granting any such motion include, but need not be limited to:

- (a) The affected agency was not properly noticed.
- (b) The court is not authorized to enjoin the operation of a statute that has been duly adjudged constitutional and operative unless the statute is illegally applied or unless the statute or the challenged part of it is unconstitutional on adjudicated grounds.
- (c) Jurisdiction may not be conferred by consent of the parties.
- (d) To the extent that the order is based upon actions the agency might take, the court's order is premature and, if and when such actions are taken, these actions may be challenged in appropriate proceedings to determine their enforceability.
- (e) The injunction affects the public interest and would cause injury to the public.
- (f) The order creates an unenforceable, perpetual injunction.
- (g) The order seeks to restrict the agency in the performance of its duties outside the court's territorial jurisdiction. {Section 775.24(3)}

***Prior to the 2002 statutory change the time period was 60 days.**

Sexual Predators & Offenders Agency Responsibilities

LOCAL JAIL

(See also Incarceration and Department Of Corrections responsibilities)

If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender and forward the information to the Department of Law Enforcement. The custodian of the local jail shall also take a digitized photograph of the sexual offender while the offender remains in custody and shall provide the digitized photograph to the Department of Law Enforcement. The custodian shall notify FDLE if the sexual predator/offender escapes from custody or dies.

{Sections 775.21(6)(c), 944.606(3)(a)1., 944.607(7)}

Sexual Predators & Offenders Agency Responsibilities

FEDERAL SUPERVISION OFFICES

If the sexual offender/predator is released from federal prison or sentenced to federal probation, the federal agency responsible for the supervision or incarceration of the sexual offender/predator shall provide notice of the sexual offenders/predators release or change of residence to the chief law enforcement officer of the state and to the local jurisdiction in which the sexual offender/predator will reside or residing. The federal agency may also forward to FDLE any information regarding the sexual offender/predator which is consistent with the information provided by the Department of Corrections and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by FDLE for purposes of public notification.

{Sections 775.21(6)(d), 944.607(8)}18 USC 4042(C)}

**Sexual Predators & Offenders
Address Verification**

ADDRESS VERIFICATION

FDLE and the Department of Corrections shall implement a system for verifying the addresses of sexual predators and offenders. The system must be consistent with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. {Sections 775.21(8), 943.0435(6)}

Jacob Wetterling Act on Verification

For a person required to register under subparagraph (A) of subsection (a)(1) (*Florida sexual offenders*), State procedures shall provide for verification of address at least annually.

For a person required to register under subparagraph (B) of subsection (a)(1) (*Florida sexual predators*) must verify the registration every 90 days after the date of the initial release or commencement of parole.

{*Jacob Wetterling Act (3)(A),(B)*}

The Department of Corrections shall verify the addresses of sexual predators and offenders who are not incarcerated but who reside in the community under the supervision of the Department of Corrections. {Sections 775.21(8), 943.0435(6), 944.607(4)}

County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators and offenders who are not under the care, custody, control, or supervision of the Department of Corrections. {Sections 775.21(8), 943.0435(6)}

**Sexual Predators & Offenders
Address Verification**

FDLE conducts regular address verification mail-outs to all registered sexual offenders and predators who are no longer under sanction. Results from these mail-outs are available to local law enforcement agencies and FDLE regional offices through the CJNet and the Sexual Offender Predator Unit to facilitate efforts in identifying and ascertaining the location of any offender or predator who has failed to comply with registration requirements and seeking any necessary warrants or legal action.

FDLE Address Verification Letter & Response Form

"October 1, 2004

Sir or Madam:

The Florida Department of Law Enforcement (FDLE) has you listed as a registered sexual predator **or** sexual offender. Federal law mandates that the FDLE *must* conduct quarterly address verifications for all sexual predators and sexual offenders whose qualifying conviction meets the definition of a "sexually violent offense" {Title 42 U.S.C. Section 14071(a)(3)(B)}, **and** annual verification for all other sexual offenders. Florida law, section 775.21 or 943.0435, F.S. requires your compliance as part of your registration requirements.

◆ **In addition to your current registration responsibilities, as of July 1, 2004, any sexual predator or sexual offender who vacates a permanent residence and fails to establish or maintain another**

Sexual Predators & Offenders Address Verification

permanent or temporary residence, shall within 48 hours after vacating the permanent residence, report in person to the FDLE or the sheriff's office of the county in which he or she is located.

- ◆ The sexual predator or sexual offender shall specify the date upon which he or she intends to or did vacate such residence.
- ◆ The sexual predator or sexual offender must provide or update all of the registration information required under F.S. 775.21 or 943.0435.
- ◆ The sexual predator or sexual offender must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.
- ◆ A sexual predator or sexual offender who fails to make a report as required if he or she vacates a permanent residence and does not establish another residence, commits a felony of the third degree.
- ◆ A sexual predator or offender who remains at a permanent residence after reporting his or her intent to vacate such residence, must report in person back to the Sheriff's Office or FDLE office to notify of their intention. This report must occur within 48 hours after the date that the predator or offender indicated that they would leave the permanent residence. **Failure to comply with this requirement is a felony of the second degree."**

Sexual Predators & Offenders Address Verification

- ◆ A sexual predator or sexual offender who makes a report of vacating a permanent residence, but who fails to make a report as required if he or she remains at the permanent residence commits a felony of the second degree.
- ◆ If you live in a state other than Florida, but you work or attend school in Florida, give the address where you work or attend school as the *temporary address*. If you routinely reside at an address other than your permanent address for 4 or more days in a month, or 14 or more days during any calendar year, you **MUST** give that address in the "temporary address" space provided.

To make this process as simple as possible, FDLE has included a pre-addressed envelope in which to return the attached form. Please complete the form, and mail to FDLE. The form must be returned to FDLE **no later than October 25, 2004**. It is important that all pertinent information is filled out completely and both sides of the form are signed. Please be aware that if you are a registered Sexual Predator **or** Sexual Offender whose qualifying conviction meets the definition of a "sexually violent offense" {Title 42 U.S.C. Section 14071(a)(3)(B)}, this process must be completed on a quarterly basis. If you are a Sexual Offender, this process will occur annually. Please be advised that this is **not considered a registration form**.

If you have any questions concerning this letter, please contact the Sexual

**Sexual Predators & Offenders
Address Verification**

Offender/Predator Unit (SOPU) toll free at
1-888-357-7332 between the hours of 8:00
a.m. and 6:30 p.m. Monday - Friday.

Sincerely,

Guy M. Tunnell
Commissioner

Mary Coffee, SMAS
Sexual Offender/Predator Unit
GMT/MC/tw
Enclosures"

**Sexual Predators & Offenders
Address Verification**

FDLE SEXUAL OFFENDER/PREDATOR ADDRESS VERIFICATION

Please complete, affix postage to the enclosed envelope, and return to FDLE as soon as possible at
no later than **October 25, 2004**

THIS IS NOT A REGISTRATION FORM

NAME _____ PERSON NUMBER _____ County: _____
ADDRESS _____
CITY _____ STATE _____ ZIP CODE _____

Registrant Information

Person Number: _____ Date of Birth: _____ SSN#: _____ Sex: _____ Race: _____
Name: _____ Driver's License or ID#: _____
Nickname, Maiden & Alias Names: _____

Address Information (include out-of-state) *please complete if primary address is different from mailing or if Temporary Address applies*

Primary Address: _____
(Street, Apt#) _____ City _____ State _____ Zip _____ County _____
Begin Date: _____ End Date: _____ Telephone #: _____

Temporary Address: _____
(Street, Apt#) _____ City _____ State _____ Zip _____ County _____
Begin Date: _____ End Date: _____ Telephone #: _____

Employment Information

Occupation: _____ Employer: _____
Employer Address: _____
Street _____ City _____ State _____ Zip _____ County _____
Begin Date: _____ End Date: _____ Telephone #: _____

Vehicle Information

VIN #: _____ Make: _____
Tag #: _____ Model: _____
State: _____ Color Scheme: _____
Description: _____

Vessel Information

Hull ID #: _____ Vessel Name: _____
Make: _____ Model: _____
State: _____ Manufacturer's Serial #: _____
Description: (including Color Scheme) _____

Campus Employment/Enrollment Information

Name of School: _____ Telephone #: _____
Employer with in School or University: _____
School Address: _____
Street _____ City _____ State _____ Zip _____ County _____
Start Enrollment/employment Date: _____ End Enrollment/employment _____

Under penalty of perjury I declare the above is true and correct.

Signature: _____ Date: _____ 2nd Quarter 2004-2005

BOTH SIDES OF THIS FORM MUST BE COMPLETED AND SIGNED.

**Sexual Predators & Offenders
Address Verification**

BACK OF RETURN RESPONSE FORM>>>

Please read this page and sign below stating that you understand the registration requirements. This is NOT considered a registration form.

**NOTICE OF SEXUAL PREDATOR AND SEXUAL
OFFENDER OBLIGATIONS**

As a registered Sexual Offender or Sexual Predator, I understand that by law:

- I must obtain and maintain a valid Florida driver's license or Identification card.
- I must update my address through the Driver's License Office (Department of Highway Safety and Motor Vehicles), within 48 hours of any change of my address {Temporary and Permanent changes s. 775.21 (4)(e)(f) or s. 943.0435 (3), F.S.}.
- I understand that if I move from my permanent residence and do not have another permanent or temporary residence that I must report to the Sheriff's office or FDLE office within 48 hours. If I change my mind I must also report in person to the Sheriff's office or FDLE office within 48 hours after the date I intended to move.
 - The definition of temporary and permanent residence as it applies to registration:
{s.775.21(1)(f)(g) or s.943.0435(2)(c), F.S.}

**Sexual Predators & Offenders
Address Verification**

- ◆ **Permanent residence** - place where person abides, lodges, or resides for 14 or more consecutive days.
- ◆ **Temporary residence** - place where person abides, lodges, or resides for
 - ❖ 14 or more days in aggregate during any calendar year
 - ❖ 4 or more consecutive or non-consecutive days in a month
 - ❖ if permanent residence is outside state, then the place of employment, school or vocation would constitute as the temporary residence
- ◆ Must register motor vehicle, trailer, mobile home or manufactured home, as defined in chapter 320, live aboard vessel or houseboat information, as defined in chapter 327, if it is place of residence. {s.775.21 (6)(a) or s. 943.0435 (2), F.S.}
- I understand that if I live in another state but work, or attend school in Florida, I MUST give the work or school address as a temporary address. I must also obtain and maintain a valid Florida driver's license or Identification card.
- I must register with my local Sheriff's Office or FDLE office within 48 hours of release from custody or supervision of department of Corrections.
- **Failure to comply with these requirements or the address verification procedures may constitute**

**Sexual Predators & Offenders
Address Verification**

the commission of a felony in the third degree.

- I must notify the Sheriff's Office, or FDLE of my intent to move out of the state within 48 hours of leaving. If I change my mind, I must also notify the Sheriff or FDLE within 48 hours after my intended departure date.
- Failure to comply with the notification of the Sheriff's Office or FDLE of my intent to leave the state or of my change of mind may constitute the commission of a felony in the third or second.
- Failure to comply with the notification of the Sheriff's Office or FDLE of my intent to vacate a permanent residence and not establish another residence or of my change of mind to do so, may constitute the commission of a felony in the third or second.
- If you are enrolled, employed, or carrying on a vocation at an institution of higher education in this state, you shall also provide to the department the name, address, and county of each institution, including each campus attended, and your enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the Sheriff's office within 48 hours after any change in status. Change in enrollment means any commencement or termination of enrollment or employment or a change in location of enrollment or employment.

**Sexual Predators & Offenders
Address Verification**

- Failure to comply with this requirement is a felony of the third degree as provided in s. 775.21 (6)(a) 1.b. or s. 943.0435 (2)(b)2., F.S.

Signature: _____ Date: _____

*PLEASE NOTE, BOTH SIDES OF THIS FORM MUST
BE COMPLETED AND SIGNED.*

2nd Quarter 2004-2005"

Sexual Predators & Offenders Address Verification

ADDRESS VERIFICATION (CONTINUED)

Local law enforcement agencies are encouraged to incorporate address verification protocols for both sexual offenders and sexual predators within their jurisdictions.

It is essential that these protocols include dissemination of gathered information, particularly any address verification results, to the state registry.

This data may be submitted directly to the Sex Offender Database through specialized CJNet access and permissions or through the Sexual Offender/Predator Unit, 1-(888) 357-7332.

Local law enforcement agencies should contact the Sexual Offender/Predator Unit, 1-888-357-7332 to request training and permissions to the on-line, CJNet access to the State Sex Offender Database.

Local protocols may include, but should not be limited to:

- ❖ Community policing efforts
- ❖ Monitoring and tracking by Sex Crimes Units
- ❖ Cooperation with the local probation, parole and community control offices, particularly in gathering information regarding offenders and predators who remain under sanction for their offenses

Sexual Predators & Offenders Address Verification

The following ideas are offered as examples of various agency address verification efforts throughout Florida, which have incorporated policies to further enhance Florida's sexual offender and predator laws.

COMMUNITY POLICING EFFORTS:

Field Contact Reports:

- ❖ may be forwarded to the sex crimes unit for compilation in a log recording offender's/ predator's addresses which have been verified or not verified during the course of a year
- ❖ are given to local community control officers and supervisors to compare with their case rosters (field contact with community controlee's during their restricted hours are thereby documented and available for the court's review)

LOCAL ADDRESS VERIFICATION SWEEPS:

Working in conjunction with local Department of Corrections Probation and Parole Offices:

Each offender's specific probation restrictions can be noted prior to an address verification sweep.

These restrictions should be made available for review by officers participating in the sweep and can aid in rapidly identifying an offender or predator who may be violating their sanction provisions at the time of contact.

Some agencies have reported great success and efficiency through the assignment of a Florida Department of Corrections Liaison Officer. These officers have proved

Sexual Predators & Offenders Address Verification

invaluable in coordinating these address verification efforts.

One method of address verification includes regular address verification of all sexual offenders and predators through both contacting Department of Corrections offices regarding probationers as well as actual on-site contact with offenders and predators no longer serving a sanction. Any changed or conflicting information should then be promptly reported to the FDLE Sexual Offender/Predator Unit.

Sexual Predators & Offenders Programs & Services

FDLE

FDLE SERVICES FOR LAW ENFORCEMENT

- ❖ In addition to Internet access, FDLE will maintain and make available a connection to the sexual offender/predator database for all criminal justice agencies with CJNET capabilities.
- ❖ Viewing and limited write access directly to the state Sex Offender Database (through CJNet) to law enforcement agencies submitting address verification and field intelligence information.
- ❖ Training on sexual predator and offenders laws and relevant Florida procedures and systems.
- ❖ Upon request FDLE will provide all collected modus operandi (MO) information on sexual predators to local law enforcement agencies for investigations and analysis of patterns or actions used in abduction and/or sexual offenses previously committed by the predators.
- ❖ FDLE will provide all sheriffs' offices and FDLE regional operations centers with sexual predator/offender registration forms (**FDLE/CJIS/SOPU-001**).
- ❖ FDLE will make available by diskette, electronic (through CJNET) or hardcopy format, model affidavits and warrants for all offenses regarding sexual offenders and predators.
- ❖ FDLE will make available to all criminal justice agencies in the county where the sexual predator is going to reside a camera-ready copy of a flyer that may be used for community notification.
- ❖ FDLE will coordinate with the Department of Corrections to help ensure that DNA samples on all sexual predators are available to assist agencies in investigating and prosecuting cases.

Sexual Predators & Offenders Programs & Services

For sexual predators who do not have DNA samples, FDLE will take appropriate measures to locate the predator and obtain samples.

- ❖ FDLE will actively participate in locating and arresting sexual predators and sex offenders who are not residing at the address they have provided. When FDLE is notified that an offender is not at the location, FDLE will add to the remarks field in the sexual predator/sex offender status record that the reported address does not appear to be correct and, will continue to work cooperatively with local law enforcement to supply necessary information and documentation to investigate and obtain warrants when appropriate to fully effect this strategy
- ❖ FDLE will provide analysis and intelligence to assist local agencies in solving crimes that are sexual offenses, particularly where there is a possibility that a sexual predator/or sexual offender is involved.
- ❖ FDLE makes Florida sexual predator and sexual offender information available to other states by providing access to the hot file status records on these persons and by submitting information on these persons to the National Sex Offender Registry. FDLE provides the ability for local law enforcement agencies to access sexual predator information in other states. These are accomplished through the National Law Enforcement Telecommunications System (NLETS).
- ❖ FDLE will serve as a member of interdepartmental teams and task forces if so requested by local authorities.
- ❖ FDLE makes resources available to respond to the needs of the criminal justice community and the public in regard to sexual predators/offenders. This includes, as necessary, crime laboratory services, investigative services and informational services.

Sexual Predators & Offenders Programs & Services

FDLE GEO-MAPPING SERVICE

FDLE has contracted for a geo-mapping system that will aide all law enforcement in the state in areas of tracking sexual offenders and predators within their jurisdiction. Additionally geo-mapping applications can be expanded to include automated community mail notifications and other helpful tools. Look for the sexual predator/offender geomapping application on the CJNet.

Several agencies have already established effective geo-mapping practices within their agencies for the purposes of community notification and analysis. Analysis may include weekly updated locator graphs of addresses and new predators along with crime trend information for investigative purposes.

General instructions to access and use FDLE's Geo-Mapping service

(NOTE: Access available for law enforcement only)

- Go to www.flcjn.net.
- Click on Sexual Predators Search link in the first box under Law Enforcement Links.
- Once on the Sexual Predator Search page, click the green letters that state "Sexual Offenders/Predators Search System Click to search the database".
- This will take you to a new screen with many searchable fields.
- On this page, please read the disclaimer about Geo-Mapping before conducting a Geo-Mapping search.
- Go to the bottom of this page and click on the Advanced Options button. This button will bring you to a new page that allows you to select many different functions.

Sexual Predators & Offenders Programs & Services

- By default, this page is set up to only query for certain status types. For searches that will include all status types please click the Select All status types button located at the top of the page.
- Once you have clicked this button, scroll down to the Geo-Mapping check boxes.
- Click the check box next to Geo-Mapping. This will select three check boxes at once. At this time, if for some reason, you are only searching for schools, you can uncheck the box for care-centers. To receive all data available, leave all three check boxes selected.
- Scroll down and click on the Accept Changes button located at the bottom of the page. This will now bring you back to a search page.
- This new page can be searched by County, City or Zip Code. To search by County, enter the county desired. To search by city, enter the County and City desired. To search by zip codes, enter the County, City and Zip Code desired. In all instances, once the search criteria is entered, click the Submit button.
- After you have clicked the Submit button, the database will take a few moments to formulate the map that you have asked for.
- Once the map is loaded, please take a moment to look over the Help function located in the toolbar above the map. This function includes Toolbar 2. Legend 3. Status/Help Bar 4. Obtaining Technical Support 5. About the Application and 6. Disclaimer

For anyone that has ever had the opportunity to use an address mapping program on the Internet, you will find FDLE's Geo-Mapping service is comparable, including such functions as Zoom In/Out tool, Zoom to Full Extent and Panning.

Sexual Predators & Offenders Programs & Services

FDLE has added several functions to its Geo-Mapping service, to further assist law enforcement. These additional tools include the following:

- **Identify** (lists attributes about a selected feature);
- **Sexual Offenders/Predators Search** (allows selection of specific and multiple offenders/predators for display on the map);
- **Radius Search** (permits display of offenders/predators, schools, or care centers within a specified distance from a point on the map);
- **Clear Selected Features** (permits clearing the map of selected or highlighted features);
- **Locate Address** (permits entering an address with street and zip code, to designate address on the map with a red star);
- **Mailing Labels** (provides list of mailing labels on the screen for selected features regarding schools and care centers);
- **Toggle Street Labels** (permits turning off or on the feature of labeling of local streets on the map);
- **View Mapped or Unmapped Features Lists** (provides a list of database information for all features visible on the map OR for all features not located geographically; only for local area searches, not regional level searches).

FDLE SERVICES FOR THE PUBLIC

FDLE will make information on sexual predators and sexual offenders readily available to the public by:

- ❖ posting the predators/offenders registration information and their photographs on the Internet,

Sexual Predators & Offenders Programs & Services

- ❖ by maintaining a toll-free telephone line for the public to use to inquire whether an individual is a sexual predator or sexual offender, and
- ❖ by making informational flyers and brochures on sexual predators and sexual offenders available to the public.

Sexual Predators & Offenders Programs & Services

Henrico County, Virginia Model

The Henrico County, Virginia, Division of Police has implemented an innovative community policing policy involving, among others, their sexual offenders. Part of this effort is entitled "Project Welcome Home."

For each offender or predator released back into the community from incarceration or moving into the community, a task force or community officer delivers a package to the offender in an effort to learn more about the individual and clarify for the offender applicable registration responsibilities and restrictions. Through these efforts the division hopes to send the message that the police officers working the area will be keeping an eye on the offender.

The package contains a letter to the offender "welcoming" them and offering assistance during their transition into the community. The correspondence encourages the offender to comply with the state's laws and become a productive citizen. The letter also reminds the offender of the zero tolerance policy for violations of sanction restrictions, particularly weapons and narcotics violations, as well as assurance that their behavior will be monitored and any violations observed will be reported to their supervision officer.

In addition to this letter, the package also contains employment locator service and career resource center information and contacts to aid in the offender's transition into society.

Finally, the package includes a questionnaire that the offender goes through with the contact officer serving as both information to the offender and an intelligence tool for

Sexual Predators & Offenders Programs & Services

the officer. Questions include information regarding any employment of the offender, locations for employment assistance if needed, last contact with the probation/parole officer, any problems the offender may need assistance with, awareness of any neighborhood crime the police should be aware of, plans for changing residence, etc.

Dallas Police Department SOAP Program

SOAP: Sex Offender Apprehension Program

This program is a zero-tolerance, pro-active, team approach to the management of known and suspected sex offenders residing in the community, which is currently funded by the Dallas, TX, Police Department. In the first 6 months of this program's existence, these detectives made over 300 arrests of sexual offenders who had violated their registration requirements or terms of supervision.

For more information contact:

**Sergeant Irving Porter
City of Dallas Police Department
Special Investigations Division
Sexual Offender Compliance Squad
1400 South Lamar Street
Dallas, TX 75215
Phone: (214) 671-4206
Fax: (214) 670-8245**

Sexual Predators & Offenders Programs & Services

Escambia and Santa Rosa Counties, Florida – School and Law Enforcement Programs

School administrators and law enforcement personnel in these counties have taken steps to increase safety at children's bus stops and to increase children's awareness of abduction dangers. Officials match school bus stop routes to residential addresses provided by sexual predators and sexual offenders as part of these offenders' required registration process in Florida. If bus stops are found to be located too close to a sexual offender's residence, the offender is contacted and the bus driver is alerted. The bus stop location may also be changed by school administrators.

Law enforcement officials also attempt to verify that the offenders are actually residing at the addresses they have provided. Those offenders violating the law regarding their addresses are targeted for arrest. Law enforcement officers also make periodic checks of bus stops, immediately investigate reports of suspicious persons in the vicinity, and take action to promptly notify the community with information about reported incidents related to the safety of children.

Through programs like D.A.R.E. and various school resource activities, law enforcement and school officials are also taking an active role in the classrooms, to educate even the youngest school children about abduction possibilities and what to do when approached by strangers.

CONTINUED...

Sexual Predators & Offenders Programs & Services

For more information, contact:

**Ms. Pat Witt, Administrative Assistant
Major Crimes Unit
Santa Rosa County Sheriff's Office
5755 East Milton Road
Milton, FL 32583
Phone: (850) 983-1230
Fax: (850) 983-1231**

**Deputy Lee Perry
Intelligence Unit
Escambia County Sheriff's Office
1700 West Leonard Street
Pensacola, FL 32501
Phone: (850) 436-9121
Fax: (850) 436-9148**

**Sexual Predators & Offenders
Community Notification**

COMMUNITY NOTIFICATION

REGARDING SEXUAL PREDATORS

**Community Notification of
Registered Sexual Predators is MANDATORY**

by the sheriff or chief of police of the jurisdiction where the sexual predator establishes or maintains a permanent or temporary residence, in a manner deemed appropriate by the sheriff or chief. *{Section 775.21(7)(a)}*

REGARDING SEXUAL OFFENDERS

**Community Notification of Registered Sexual
Offenders is AUTHORIZED but NOT MANDATORY.**

{Sections 943.043(1)-(3); 943.0435(12); 944.606(4)}

**Sexual Predators & Offenders
Community Notification**

**COMMUNITY NOTIFICATION
REGARDING SEXUAL PREDATORS**
{Section 775.21(7), Florida Statutes}

❖ **General notification to the community and the public**

Upon notification of the presence of a sexual predator, the **sheriff** of the county or the **chief of police** of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police.

❖ **Notification to Schools and Day Care Centers**

Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides **shall notify each**

- ❖ **licensed day care center,**
- ❖ **elementary school,**
- ❖ **middle school, and**
- ❖ **high school**

within a 1-mile radius of the temporary or permanent residence of the sexual predator, of the presence of the sexual predator.

{Section 775.21(7)(a)}

Sexual Predators & Offenders Community Notification

Information provided by law enforcement to the community and the public regarding a sexual predator **must include the following:**

- The **name** of the sexual predator;
- A **description** of the sexual predator, including a **photograph**;
- The sexual predator's current **address**, including the name of the county or municipality if known;
- The **circumstances of** the sexual predator's **offense** or offenses; and
- Whether the **victim** of the sexual predator's offense or offenses was, at the time of the offense, **a minor or an adult**.

**These requirements do NOT
authorize the release of the name
of any victim of the sexual predator.**

The sheriff or police chief may coordinate notification efforts with FDLE. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and FDLE.

{Section 775.21(7)}

❖ **Notifications to and by Institutions of Higher Education** (Campus Sex Crimes Prevention Act)

Upon receiving the required information from a sexual predator regarding such person's enrollment or employment status at an institution of higher learning, or any change thereto, the **sheriff** and the **Department of Corrections** shall **promptly notify each institution**

Sexual Predators & Offenders Community Notification

of higher education of the sexual predator's presence and of any change in the predator's enrollment or employment status.

{Section 775.21(6)(a)1.b.}

Institutions of higher education in Florida that must comply with federal law under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), must **issue a statement** **advising the campus community where to obtain law enforcement agency information provided** by a state concerning registered sex offenders/predators, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address. *20 U.S.C. § 1092(f)(1)(I).*

See *Campus Sex Crimes Prevention Act (CSCPA)* section for more information.

Sexual Predators & Offenders Community Notification

COMMUNITY NOTIFICATION REGARDING SEXUAL OFFENDERS

{Sections 943.043, 944.606(4)}

Notification of a sexual offender to the public is **authorized but not required**, as deemed appropriate by local law enforcement personnel and FDLE. {Sections 943.043, 944.606(4)}

❖ **Notifications to and by Institutions of Higher Education** (Campus Sex Crimes Prevention Act)

Upon receiving the required information from a sexual offender regarding such person's enrollment or employment status at an institution of higher learning, or any change thereto, the **sheriff** and the **Department of Corrections** shall **promptly notify each institution** of higher education of the sexual offender's presence and of any change in the offender's enrollment or employment status. {Sections 943.0435(2)(b)2.; 944.607(4)(b)}

Institutions of higher education in Florida that must comply with federal law under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), must **issue a statement advising the campus community where to obtain law enforcement agency information provided** by a state concerning registered sex offenders/predators, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address. 20 U.S.C. § 1092(f)(1)(I).

See Campus Sex Crimes Prevention Act (CSCPA) section for more information.

Sexual Predators & Offenders Community Notification

OTHER LAW ENFORCEMENT NOTIFICATION INFORMATION AND REQUIREMENTS

Notification of a sexual offender/predator to the public is authorized, as deemed appropriate by local law enforcement personnel and FDLE.

{Sections 775.21(6)(k)2., (7)(b), 943.043, 944.606(4)}

Upon receiving information regarding a sexual offender from the Florida Department of Corrections, the Department of Law Enforcement, the sheriff or the chief of police shall provide the information described in subparagraph (a)1. to any individual who requests such information and may release the information to the public in any manner deemed appropriate, unless the information so received is confidential or exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

{Section 944.606(3)(d)}

If a sexual offender or predator registers with the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender/predator and forward the photographs and fingerprints to the department, along with the other registration information that the offender/predator is required to provide.

{Sections 775.21(6)(a) and (e); 943.0435(2)}

If a sexual offender or predator notifies the sheriff of intent to establish residence in another state or the intent to remain in this state after previously reporting intent to leave, the sheriff shall promptly provide to FDLE the information received from the sexual offender/predator. FDLE shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender/predator's intended residence. {Sections 775.21(6)(i), 943.0435(7)}

**Sexual Predators & Offenders
Community Notification**

IMMUNITY

FDLE, DHSMV, FDC, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of these sections or for the release of information under these sections, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the FDLE, the DHSMV, the FDC, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator or offender fails to report or falsely reports his or her current place of permanent or temporary residence.

{Sections 775.21(9), 943.043 (4), 944.0435(10), 944.606(5), 944.607(11)}

**Sexual Predators & Offenders
Community Notification**

CRIMINAL VIOLATION:

**MISUSE OR MATERIAL ALTERATION OF
PUBLIC RECORDS INFORMATION
OR DISTRIBUTING FALSE INFORMATION**
{Section 775.21(10)(c), Florida Statutes}

Any person who

- ❖ misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender;
- ❖ knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information;
- ❖ who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication,

commits a **misdemeanor of the first degree.**

{Section 775.21(10)(c), Florida Statutes}

Sexual Predators & Offenders Community Notification

GEO MAPPING

FDLE has contracted for a geo-mapping system that will aide all law enforcement in the state in areas of tracking sexual offenders and predators within their jurisdiction. Additionally geo-mapping applications can be expanded to include automated community mail notifications and other helpful tools. Look for the sexual predator/offender geomapping application on the CJNet.

Several agencies have already established effective geo-mapping practices within their agencies for the purposes of community notification and analysis. Analysis may include weekly updated locator graphs of addresses and new predators along with crime trend information for investigative purposes.

General instructions to access and use FDLE's Geo-Mapping service

(NOTE: Access available for law enforcement only)

- Go to www.flcjin.net.
- Click on Sexual Predators Search link in the first box under Law Enforcement Links.
- Once on the Sexual Predator Search page, click the green letters that state "Sexual Offenders/Predators Search System. Click to search the database".
- This will take you to a new screen with many searchable fields.
- On this page, please read the disclaimer about Geo-Mapping before conducting a Geo-Mapping search.
- Go to the bottom of this page and click on the Advanced Options button. This button will bring you to a new page that allows you to select many different functions.

Sexual Predators & Offenders Community Notification

- By default, this page is set up to only query for certain status types. For searches that will include all status types please click the Select All status types button located at the top of the page.
- Once you have clicked this button, scroll down to the Geo-Mapping check boxes.
- Click the check box next to Geo-Mapping. This will select three check boxes at once. At this time, if for some reason you are only searching for schools, you can uncheck the box for care-centers. To receive all data available, leave all three check boxes selected.
- Scroll down and click on the Accept Changes button located at the bottom of the page. This will now bring you back to a search page.
- This new page can be searched by County, City or Zip Code. To search by County, enter the county desired. To search by city, enter the County and City desired. To search by zip codes, enter the County, City and Zip Code desired. In all instances, once the search criteria is entered, click the Submit button.
- After you have clicked the Submit button, the database will take a few moments to formulate the map that you have asked for.
- Once the map is loaded, please take a moment to look over the Help function located in the toolbar above the map. This function includes Toolbar 2. Legend 3. Status/Help Bar 4. Obtaining Technical Support 5. About the Application and 6. Disclaimer

For anyone that has ever had the opportunity to use an address mapping program on the Internet, you will find FDLE's Geo-Mapping service is comparable, including such functions as Zoom In/Out tool, Zoom to Full Extent and Panning.

Sexual Predators & Offenders Community Notification

FDLE has added several functions to its Geo-Mapping service, to further assist law enforcement. These additional tools include the following:

- **Identify** (lists attributes about a selected feature);
- **Sexual Offenders/Predators Search** (allows selection of specific and multiple offenders/predators for display on the map);
- **Radius Search** (permits display of offenders/predators, schools, or care centers within a specified distance from a point on the map);
- **Clear Selected Features** (permits clearing the map of selected or highlighted features);
- **Locate Address** (permits entering an address with street and zip code, to designate address on the map with a red star);
- **Mailing Labels** (provides list of mailing labels on the screen for selected features regarding schools and care centers);
- **Toggle Street Labels** (permits turning off or on the feature of labeling of local streets on the map);
- **View Mapped or Unmapped Features Lists** (provides a list of database information for all features visible on the map OR for all features not located geographically; only for local area searches, not regional level searches).

INTERNET

Local websites in conjunction with the FDLE sexual predator/offender website have proven to be an effective tool for public notification not only for the state of Florida but on a national level as well. While this is an efficient practice, Internet notification methods should be included as part of a more comprehensive notification policy.

Sexual Predators & Offenders Community Notification

ADDITIONAL IMPLICATIONS FOR SCHOOLS

Law enforcement should be aware of both those offenders and predators who are parents of school-aged children or who are school students themselves, thereby allowing increased access to the schools and their students.

Community notification efforts by law enforcement or schools that include photographs of the offenders should take care to provide a *legible image*. Early efforts at community notification have demonstrated that failure to provide *thorough* information, such as address, crime committed or photograph may have an overly alarming effect in the community and fail to provide the tools public information laws seek to furnish.

Sexual Predators & Offenders Community Notification

INTERAGENCY NOTIFICATION

Communication within agencies can be key in attaining a complete and effective policy regarding sexual offenders and predators.

Examples of agency units that should share sexual offender and predator information include:

Crime Prevention

To allow accurate information to community groups, day care centers, neighborhood watch groups, etc.

Community Policing Officers

To aid in ongoing address verification and possible implementation of more comprehensive contact programs with those offenders in the jurisdiction such as the Henrico County "Welcome Home" program.

Sex Crimes Unit

For tracking and investigative purposes.

School Resource Officers and DARE Officers

For school boards and administration who will be looking to these officers for information and answers regarding offenders and predators especially in regard to HB 3737 and the impact of this legislation.

Public Information Office

To provide accurate and timely information to public and media.

Sexual Predators & Offenders Community Notification

Community crime prevention meetings are opportunities to distribute information about local offenders and predators and explain public information laws and safe practices.

Conducting regular community meetings at which notifications are given to those present of all sexual predators and offenders in the area. Officers may discuss the purpose of notification laws and how they can work effectively to provide a safer community. Emphasis should be placed on empowering the public for protection and creating an effective community watch focus. Furnishing community participants with effective safety practices discourages vigilantism and alarmist reactions. Information packages distributed might include, flyers including a photograph of each sexual offender and predator in the area, an information brochure provided by FDLE on Sexual Predator and Offender laws with the criteria qualifications for offenders and predators, and other safety pamphlets.

Sheriff's offices can work closely with other police departments within the county to coordinate community meetings within municipalities.

Neighborhood Notification

Strategies include:

- Reverse 911: Automated telephone calls to the community notifying them of a sexual predator/offenders presence and where further information may be obtained.

For each registered sexual predator (and offender if allowable) within the jurisdiction, officers may canvas neighborhoods distributing doorknob bags or printed flyers

Sexual Predators & Offenders Community Notification

labeled with their agency insignia and contact information. Distributed information might include: a photo flyer of the predator/offender, information regarding his or her residence and qualifying offense(s), an explanation and purpose of the public notification laws, safety tips, and instructions on where to find further information including the FDLE website and toll free number.

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

New in 2004: Please note, legislative changes in 2004 now require that those individuals civilly committed under this act register as a sexual predator under s. 775.21, regardless of their specific criminal history. See Florida Law section for more specific information.

**INVOLUNTARY CIVIL COMMITMENT OF
SEXUALLY VIOLENT PREDATORS**
{Chapter 394, Part V, Florida Statutes}

*For more information, please contact the
Florida Department of Children and Family Services, at
(850) 921-4218 – Tallahassee, Florida.*

394.910 Legislative findings and intent.--The Legislature finds that a small but extremely dangerous number of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for involuntary treatment under the Baker Act, part I of this chapter, which is intended to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment under the Baker Act, sexually violent predators generally have antisocial personality features which are unamenable to existing mental illness treatment modalities, and those features render them likely to engage in criminal, sexually violent behavior. The Legislature further finds that the likelihood of sexually violent predators engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment procedures under the Baker Act for the treatment and care of mentally ill persons are inadequate to address the risk these sexually violent predators pose to society. The Legislature further finds that the prognosis for rehabilitating sexually violent predators in a prison

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

setting is poor, the treatment needs of this population are very long term, and the treatment modalities for this population are very different from the traditional treatment modalities for people appropriate for commitment under the Baker Act. It is therefore the intent of the Legislature to create a civil commitment procedure for the long-term care and treatment of sexually violent predators.

History.--ss. 2, 3, ch. 98-64; s. 3, ch. 99-222.

Note.--Former s. 916.31.

394.912 Definitions.--As used in this part, the term:

(1) "Agency with jurisdiction" means the agency that releases, upon lawful order or authority, a person who is serving a sentence in the custody of the Department of Corrections, a person who was adjudicated delinquent and is committed to the custody of the Department of Juvenile Justice, or a person who was involuntarily committed to the custody of the Department of Children and Family Services upon an adjudication of not guilty by reason of insanity.

(2) "Convicted of a sexually violent offense" means a person who has been:

(a) Adjudicated guilty of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere;

(b) Adjudicated not guilty by reason of insanity of a sexually violent offense; or

(c) Adjudicated delinquent of a sexually violent offense after a trial, guilty plea, or plea of nolo contendere.

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

(3) "Department" means the Department of Children and Family Services.

(4) "Likely to engage in acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(5) "Mental abnormality" means a mental condition affecting a person's emotional or volitional capacity which predisposes the person to commit sexually violent offenses.

(6) "Person" means an individual 18 years of age or older who is a potential or actual subject of proceedings under this part.

(7) "Secretary" means the secretary of the Department of Children and Family Services.

(8) "Sexually motivated" means that one of the purposes for which the defendant committed the crime was for sexual gratification.

(9) "Sexually violent offense" means:

(a) Murder of a human being while engaged in sexual battery in violation of s. [782.04](#)(1)(a)2.;

(b) Kidnapping of a child under the age of 13 and, in the course of that offense, committing:

1. Sexual battery; or

2. A lewd, lascivious, or indecent assault or act upon or in the presence of the child;

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

(c) Committing the offense of false imprisonment upon a child under the age of 13 and, in the course of that offense, committing:

1. Sexual battery; or

2. A lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(d) Sexual battery in violation of s. [794.011](#);

(e) Lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s. [800.04](#);

(f) An attempt, criminal solicitation, or conspiracy, in violation of s. [777.04](#), of a sexually violent offense;

(g) Any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense; or

(h) Any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under this part, has been determined beyond a reasonable doubt to have been sexually motivated.

(10) "Sexually violent predator" means any person who:

(a) Has been convicted of a sexually violent offense; and

(b) 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.

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

(11) "Total confinement" means that the person is currently being held in any physically secure facility being operated or contractually operated for the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Family Services. A person shall also be deemed to be in total confinement for applicability of provisions under this part if the person is serving an incarcerative sentence under the custody of the Department of Corrections or the Department of Juvenile Justice and is being held in any other secure facility for any reason.

History.--s. 4, ch. 98-64; s. 5, ch. 99-222; s. 3, ch. 2000-246.

Note.--Former s. 916.32.

394.917 Determination; commitment procedure; mistrials; housing; counsel and costs in indigent appellate cases.

(1) The court or jury shall determine by clear and convincing evidence whether the person is a sexually violent predator. If the determination is made by a jury, the verdict must be unanimous. If the jury is unable to reach a unanimous verdict, the court must declare a mistrial and poll the jury. If a majority of the jury would find the person is a sexually violent predator, the state attorney may refile the petition and proceed according to the provisions of this part. Any retrial must occur within 90 days after the previous trial, unless the subsequent proceeding is continued in accordance with s. [394.916](#)(2). The determination that a person is a sexually violent predator may be appealed.

(2) If the court or jury determines that the person is a sexually violent predator, upon the expiration of the

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

incarcerative portion of all criminal sentences and disposition of any detainers other than detainers for deportation by the United States Bureau of Citizenship and Immigration Services, the person shall be committed to the custody of the Department of Children and Family Services for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that it is safe for the person to be at large. At all times, persons who are detained or committed under this part shall be kept in a secure facility segregated from patients of the department who are not detained or committed under this part.

(3) The public defender of the circuit in which a person was determined to be a sexually violent predator shall be appointed to represent the person on appeal. That public defender may request the public defender who handles criminal appeals for the circuit to represent the person on appeal in the manner provided in s. [27.51](#)(4). If the public defender is unable to represent the person on appeal due to a conflict, the court shall appoint other counsel, who shall be compensated at a rate not less than that provided for appointed counsel in criminal cases. Filing fees for indigent appeals under this act are waived. Costs and fees related to such appeals, including the amounts paid for records, transcripts, and compensation of appointed counsel, shall be authorized by the trial court and paid from state funds that are appropriated for such purposes.

History.--s. 9, ch. 98-64; s. 12, ch. 99-222; s. 2, ch. 2002-59; s. 43, ch. 2004-5. **Note.**--Former s. 916.37.

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

394.913 Notice to state attorney and multidisciplinary team of release of sexually violent predator; establishing multidisciplinary teams; information to be provided to multidisciplinary teams.--

(1) The agency with jurisdiction over a person who has been convicted of a sexually violent offense shall give written notice to the multidisciplinary team, and a copy to the state attorney of the circuit where that person was last convicted of a sexually violent offense. If the person has never been convicted of a sexually violent offense in this state but has been convicted of a sexually violent offense in another state or in federal court, the agency with jurisdiction shall give written notice to the multidisciplinary team and a copy to the state attorney of the circuit where the person was last convicted of any offense in this state. If the person is being confined in this state pursuant to interstate compact and has a prior or current conviction for a sexually violent offense, the agency with jurisdiction shall give written notice to the multidisciplinary team and a copy to the state attorney of the circuit where the person plans to reside upon release or, if no residence in this state is planned, the state attorney in the circuit where the facility from which the person to be released is located. Except as provided in s. [394.9135](#), the written notice must be given:

(a) At least 545 days prior to the anticipated release from total confinement of a person serving a sentence in the custody of the Department of Corrections, except that in the case of persons who are totally confined for a period of less than 545 days, written notice must be given as soon as practicable;

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

(b) At least 180 days prior to the anticipated release from residential commitment of a person committed to the custody of the Department of Juvenile Justice, except that in the case of persons who are committed to low or moderate risk, written notice must be given as soon as practicable; or

(c) At least 180 days prior to the anticipated hearing regarding possible release of a person committed to the custody of the department who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense.

(2) The agency with jurisdiction shall provide the multidisciplinary team with the following information:

(a) The person's name; identifying characteristics; anticipated future residence; the type of supervision the person will receive in the community, if any; and the person's offense history;

(b) The person's criminal history, including police reports, victim statements, presentence investigation reports, postsentence investigation reports, if available, and any other documents containing facts of the person's criminal incidents;

(c) Mental health, mental status, and medical records, including all clinical records and notes concerning the person;

(d) Documentation of institutional adjustment and any treatment received and, in the case of an adjudicated delinquent committed to the Department of Juvenile Justice, copies of the most recent performance plan and performance summary; and

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

(e) If the person was returned to custody after a period of supervision, documentation of adjustment during supervision and any treatment received.

(3)(a) The secretary or his or her designee shall establish a multidisciplinary team or teams.

(b) Each team shall include, but is not limited to, two licensed psychiatrists or psychologists or one licensed psychiatrist and one licensed psychologist. The multidisciplinary team shall assess and evaluate each person referred to the team. The assessment and evaluation shall include a review of the person's institutional history and treatment record, if any, the person's criminal background, and any other factor that is relevant to the determination of whether such person is a sexually violent predator.

(c) Before recommending that a person meets the definition of a sexually violent predator, the person must be offered a personal interview. If the person agrees to participate in a personal interview, at least one member of the team who is a licensed psychiatrist or psychologist must conduct a personal interview of the person. If the person refuses to fully participate in a personal interview, the multidisciplinary team may proceed with its recommendation without a personal interview of the person.

(d) The Attorney General's Office shall serve as legal counsel to the multidisciplinary team.

(e) Within 180 days after receiving notice, there shall be a written assessment as to whether the person meets the definition of a sexually violent predator and a written recommendation, which shall be provided to the state attorney. The written recommendation shall be provided by

**Sexual Predator
Involuntary Civil Commitment
Of Sexually Violent Predators**

the Department of Children and Family Services and shall include the written report of the multidisciplinary team.

(4) The provisions of this section are not jurisdictional, and failure to comply with them in no way prevents the state attorney from proceeding against a person otherwise subject to the provisions of this part.

History.--s. 5, ch. 98-64; s. 6, ch. 99-222; s. 81, ch. 2000-139; s. 1, ch. 2002-59.

Note.--Former s. 916.33

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

787.01 Kidnapping; kidnapping of child under age 13, aggravating circumstances.--

(1)(a) The term "kidnapping" means forcibly, secretly, or by threat confining, abducting, or imprisoning another person against her or his will and without lawful authority, with intent to:

1. Hold for ransom or reward or as a shield or hostage.
2. Commit or facilitate commission of any felony.
3. Inflict bodily harm upon or to terrorize the victim or another person.
4. Interfere with the performance of any governmental or political function.

(b) Confinement of a child under the age of 13 is against her or his will within the meaning of this subsection if such confinement is without the consent of her or his parent or legal guardian.

(2) A person who kidnaps a person is guilty of a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(3)(a) A person who commits the offense of kidnapping upon a child under the age of 13 and who, in the course of committing the offense, commits one or more of the following:

1. Aggravated child abuse, as defined in s. [827.03](#);
2. Sexual battery, as defined in chapter 794, against the child;

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. [800.04](#);

4. A violation of s. [796.03](#) or s. [796.04](#), relating to prostitution, upon the child; or

5. Exploitation of the child or allowing the child to be exploited, in violation of s. [450.151](#), commits a life felony, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(b) Pursuant to s. [775.021](#)(4), nothing contained herein shall be construed to prohibit the imposition of separate judgments and sentences for the life felony described in paragraph (a) and for each separate offense enumerated in subparagraphs (a)1.-5.

History.--s. 1, ch. 5907, 1909; RGS 5058; CGL 7160; s. 1, ch 16063, 1933; s. 784, ch. 71-136; s. 8, ch. 72-724; s. 22, ch 74-383; s. 12, ch. 75-298; s. 1, ch. 77-174; s. 1, ch. 84-238; s. 2, ch. 90-120; s. 2, ch. 93-227; s. 9, ch. 96-322; s. 1813, ch. 97-102; s. 4, ch. 99-201; s. 3, ch. 2000-246.

Note.--Former s. 805.02.

787.02 False imprisonment; false imprisonment of child under age 13, aggravating circumstances.--

(1)(a) The term "false imprisonment" means forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against her or his will.

(b) Confinement of a child under the age of 13 is against her or his will within the meaning of this section if such confinement is without the consent of her or his parent or legal guardian.

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

(2) A person who commits the offense of false imprisonment is guilty of a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(3)(a) A person who commits the offense of false imprisonment upon a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in subparagraphs 1.-5., commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

1. Aggravated child abuse, as defined in s. [827.03](#);
2. Sexual battery, as defined in chapter 794, against the child;
3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. [800.04](#);
4. A violation of s. [796.03](#) or s. [796.04](#), relating to prostitution, upon the child; or
5. Exploitation of the child or allowing the child to be exploited, in violation of s. [450.151](#).

(b) Pursuant to s. [775.021](#)(4), nothing contained herein shall be construed to prohibit the imposition of separate judgments and sentences for the first degree offense described in paragraph (a) and for each separate offense enumerated in subparagraphs (a)1.-5.

History.--s. 43, sub-ch. 3, ch. 1637, 1868; RS 2399; GS 3225; RGS 5057; CGL 7159; s. 783, ch. 71-136; s. 23, ch. 74-383; s. 13, ch. 75-298; s. 1, ch. 84-238; s. 2, ch. 90-120; s. 1, ch. 93-156; ss. 2, 18, ch. 93-227; s. 9, ch. 96-322; s. 1814, ch. 97-102; s. 5, ch. 99-201; s. 3, ch. 2000-246. **Note.**--Former s. 805.01.

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

787.025 Luring or enticing a child.--

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

(a) "Structure" means a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof.

(b) "Dwelling" means a building or conveyance of any kind, either temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging together therein at night, together with the curtilage thereof.

(c) "Conveyance" means any motor vehicle, ship, vessel, railroad car, trailer, aircraft, or sleeping car.

(2)(a) A person over the age of 18 who, having been previously convicted of a violation of chapter 794 or s. [800.04](#), or a violation of a similar law of another jurisdiction, intentionally lures or entices, or attempts to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(b) For purposes of this section, the luring or enticing, or attempted luring or enticing, of a child under the age of 12 into a structure, dwelling, or conveyance without the consent of the child's parent or legal guardian shall be prima facie evidence of other than a lawful purpose.

(3) It is an affirmative defense to a prosecution under this section that:

Sexual Predators & Offenders Florida Law - Qualifying Offenses

(a) The person reasonably believed that his or her action was necessary to prevent the child from being seriously injured.

(b) The person lured or enticed, or attempted to lure or entice, the child under the age of 12 into a structure, dwelling, or conveyance for a lawful purpose.

(c) The person's actions were reasonable under the circumstances and the defendant did not have any intent to harm the health, safety, or welfare of the child.

History.--s. 1, ch. 95-228; s. 8, ch. 99-201; s. 3, ch. 2000-246

794.005 Legislative findings and intent as to basic charge of sexual battery.--The Legislature finds that the least serious sexual battery offense, which is provided in s. [794.011](#)(5), was intended, and remains intended, to serve as the basic charge of sexual battery and to be necessarily included in the offenses charged under subsections (3) and (4), within the meaning of s. [924.34](#); and that it was never intended that the sexual battery offense described in s. [794.011](#)(5) require any force or violence beyond the force and violence that is inherent in the accomplishment of "penetration" or "union."

History.--s. 2, ch. 92-135.

794.011 Sexual battery.--

(1) As used in this chapter:

(a) "Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.

Sexual Predators & Offenders Florida Law - Qualifying Offenses

(b) "Mentally defective" means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

(c) "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

(d) "Offender" means a person accused of a sexual offense in violation of a provision of this chapter.

(e) "Physically helpless" means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

(f) "Retaliation" includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.

(g) "Serious personal injury" means great bodily harm or pain, permanent disability, or permanent disfigurement.

(h) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(i) "Victim" means a person who has been the object of a sexual offense.

(j) "Physically incapacitated" means bodily impaired or handicapped and substantially limited in ability to resist or flee.

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

(2)(a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in ss. [775.082](#) and [921.141](#).

(b) A person less than 18 years of age who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a life felony, punishable as provided in s. [775.082](#), s. [775.083](#), s. [775.084](#), or s. [794.0115](#).

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in s. [775.082](#), s. [775.083](#), s. [775.084](#), or s. [794.0115](#).

(4) A person who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the following circumstances, commits a felony of the first degree, punishable as provided in s. [775.082](#), s. [775.083](#), s. [775.084](#), or s. [794.0115](#):

(a) When the victim is physically helpless to resist.

(b) When the offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.

(c) When the offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

(d) When the offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance which mentally or physically incapacitates the victim.

(e) When the victim is mentally defective and the offender has reason to believe this or has actual knowledge of this fact.

(f) When the victim is physically incapacitated.

(g) When the offender is a law enforcement officer, correctional officer, or correctional probation officer as defined by s. [943.10](#)(1), (2), (3), (6), (7), (8), or (9), who is certified under the provisions of s. [943.1395](#) or is an elected official exempt from such certification by virtue of s. [943.253](#), or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.

(5) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), s. [775.084](#), or s. [794.0115](#).

(6) The offense described in subsection (5) is included in any sexual battery offense charged under subsection (3) or subsection (4).

(7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for basic

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

gain-time under s. [944.275](#). This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

(8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:

(a) Solicits that person to engage in any act which would constitute sexual battery under paragraph (1)(h) commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(b) Engages in any act with that person while the person is 12 years of age or older but less than 18 years of age which constitutes sexual battery under paragraph (1)(h) commits a felony of the first degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(c) Engages in any act with that person while the person is less than 12 years of age which constitutes sexual battery under paragraph (1)(h), or in an attempt to commit sexual battery injures the sexual organs of such person commits a capital or life felony, punishable pursuant to subsection (2).

(9) For prosecution under paragraph (4)(g), acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.

(10) Any person who falsely accuses any person listed in paragraph (4)(g) or other person in a position of control or authority as an agent or employee of government of

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

violating paragraph (4)(g) is guilty of a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

History.--s. 2, ch. 74-121; s. 17, ch. 75-298; s. 1, ch. 84-86; s. 1, ch. 89-216; s. 3, ch. 92-135; s. 1, ch. 92-310; s. 3, ch. 93-156; s. 2, ch. 95-348; s. 99, ch. 99-3; s. 8, ch. 99-188; s. 1, ch. 2002-211.

794.0115 Dangerous sexual felony offender; mandatory sentencing.--

(1) This section may be cited as the "Dangerous Sexual Felony Offender Act."

(2) Any person who is convicted of a violation of s. [787.025](#); s. [794.011](#)(2), (3), (4), (5), or (8); s. [800.04](#)(4) or (5); s. [825.1025](#)(2) or (3); s. [827.071](#)(2), (3), or (4); or s. [847.0145](#); or of any similar offense under a former designation, which offense the person committed when he or she was 18 years of age or older, and the person:

(a) Caused serious personal injury to the victim as a result of the commission of the offense;

(b) Used or threatened to use a deadly weapon during the commission of the offense;

(c) Victimized more than one person during the course of the criminal episode applicable to the offense;

(d) Committed the offense while under the jurisdiction of a court for a felony offense under the laws of this state, for an offense that is a felony in another jurisdiction, or for an offense that would be a felony if that offense were committed in this state; or

(e) Has previously been convicted of a violation of s. [787.025](#); s. [794.011](#)(2), (3), (4), (5), or (8); s. [800.04](#)(4) or

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

(5); s. [825.1025](#)(2) or (3); s. [827.071](#)(2), (3), or (4); s. [847.0145](#); of any offense under a former statutory designation which is similar in elements to an offense described in this paragraph; or of any offense that is a felony in another jurisdiction, or would be a felony if that offense were committed in this state, and which is similar in elements to an offense described in this paragraph, is a dangerous sexual felony offender, who must be sentenced to a mandatory minimum term of 25 years imprisonment up to, and including, life imprisonment.

(3) "Serious personal injury" means great bodily harm or pain, permanent disability, or permanent disfigurement.

(4) The offense described in subsection (2) which is being charged must have been committed after the date of commission of the last prior conviction for an offense that is a prior conviction described in paragraph (2)(e).

(5) It is irrelevant that a factor listed in subsection (2) is an element of an offense described in that subsection. It is also irrelevant that such an offense was reclassified to a higher felony degree under s. [794.023](#) or any other law.

(6) Notwithstanding s. [775.082](#)(3), chapter 958, any other law, or any interpretation or construction thereof, a person subject to sentencing under this section must be sentenced to the mandatory term of imprisonment provided under this section. If the mandatory minimum term of imprisonment imposed under this section exceeds the maximum sentence authorized under s. [775.082](#), s. [775.084](#), or chapter 921, the mandatory minimum term of imprisonment under this section must be imposed. If the mandatory minimum term of imprisonment under this section is less than the sentence that could be imposed under s. [775.082](#), s. [775.084](#), or chapter 921, the sentence imposed must include the mandatory minimum term of imprisonment under this section.

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

(7) A defendant sentenced to a mandatory minimum term of imprisonment under this section is not eligible for statutory gain-time under s. [944.275](#) or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. [947.149](#), before serving the minimum sentence.

History.--s. 7, ch. 99-188; s. 1, ch. 2002-211; s. 1, ch. 2003-115.

794.02 Common-law presumption relating to age abolished.--The common-law rule "that a boy under 14 years of age is conclusively presumed to be incapable of committing the crime of rape" shall not be in force in this state.

History.--s. 1, ch. 4964, 1901; GS 3222; RGS 5052; CGL 7154; s. 2, ch. 74-121.

794.021 Ignorance or belief as to victim's age no defense.--When, in this chapter, the criminality of conduct depends upon the victim's being below a certain specified age, ignorance of the age is no defense. Neither shall misrepresentation of age by such person nor a bona fide belief that such person is over the specified age be a defense.

History.--s. 2, ch. 74-121.

794.023 Sexual battery by multiple perpetrators; reclassification of offenses.--

(1) The Legislature finds that an act of sexual battery, when committed by more than one person, presents a great danger to the public and is extremely offensive to civilized society. It is therefore the intent of the Legislature

Sexual Predators & Offenders Florida Law - Qualifying Offenses

to reclassify offenses for acts of sexual battery committed by more than one person.

(2) A violation of s. [794.011](#) shall be reclassified as provided in this subsection if it is charged and proven by the prosecution that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

(a) A felony of the second degree is reclassified to a felony of the first degree.

(b) A felony of the first degree is reclassified to a life felony.

This subsection does not apply to life felonies or capital felonies. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. [921.0022](#) or s. [921.0023](#) of the offense committed.

History.--s. 4, ch. 84-86; s. 17, ch. 93-156; s. 24, ch. 95-184; s. 20, ch. 97-194; s. 2, ch. 99-172.

794.0235 Administration of medroxyprogesterone acetate (MPA) to persons convicted of sexual battery.--

(1) Notwithstanding any other law, the court:

(a) May sentence a defendant to be treated with medroxyprogesterone acetate (MPA), according to a schedule of administration monitored by the Department of Corrections, if the defendant is convicted of sexual battery as described in s. [794.011](#).

(b) Shall sentence a defendant to be treated with medroxyprogesterone acetate (MPA), according to a

Sexual Predators & Offenders Florida Law - Qualifying Offenses

schedule of administration monitored by the Department of Corrections, if the defendant is convicted of sexual battery as described in s. [794.011](#) and the defendant has a prior conviction of sexual battery under s. [794.011](#).

If the court sentences a defendant to be treated with medroxyprogesterone acetate (MPA), the penalty may not be imposed in lieu of, or reduce, any other penalty prescribed under s. [794.011](#). However, in lieu of treatment with medroxyprogesterone acetate (MPA), the court may order the defendant to undergo physical castration upon written motion by the defendant providing the defendant's intelligent, knowing, and voluntary consent to physical castration as an alternative penalty.

(2)(a) An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment under subsection (1), shall be contingent upon a determination by a court appointed medical expert, that the defendant is an appropriate candidate for treatment. Such determination is to be made not later than 60 days from the imposition of sentence. Notwithstanding the statutory maximum periods of incarceration as provided in s. [775.082](#), an order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment shall specify the duration of treatment for a specific term of years, or in the discretion of the court, up to the life of the defendant.

(b) In all cases involving defendants sentenced to a period of incarceration, the administration of treatment with medroxyprogesterone acetate (MPA) shall commence not later than one week prior to the defendant's release from prison or other institution.

(3) The Department of Corrections shall provide the services necessary to administer medroxyprogesterone

Sexual Predators & Offenders Florida Law - Qualifying Offenses

acetate (MPA) treatment. Nothing contained in this section shall be construed to require the continued administration of medroxyprogesterone acetate (MPA) treatment when it is not medically appropriate.

(4) As used in this section, the term "prior conviction" means a conviction for which sentence was imposed separately prior to the imposition of the sentence for the current offense and which was sentenced separately from any other conviction that is to be counted as a prior conviction under this section.

(5) If a defendant whom the court has sentenced to be treated with medroxyprogesterone acetate (MPA) fails or refuses to:

(a) Appear as required by the Department of Corrections for purposes of administering the medroxyprogesterone acetate (MPA); or

(b) Allow the administration of medroxyprogesterone acetate (MPA), the defendant is guilty of a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

History.--s. 1, ch. 97-184.

794.05 Unlawful sexual activity with certain minors.--

(1) A person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). As used in this section, "sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; however, sexual activity does not include an act done for a bona fide medical purpose.

Sexual Predators & Offenders Florida Law - Qualifying Offenses

(2) The provisions of this section do not apply to a person 16 or 17 years of age who has had the disabilities of nonage removed under chapter 743.

(3) The victim's prior sexual conduct is not a relevant issue in a prosecution under this section.

(4) If an offense under this section directly results in the victim giving birth to a child, paternity of that child shall be established as described in chapter 742. If it is determined that the offender is the father of the child, the offender must pay child support pursuant to the child support guidelines described in chapter 61.

History.--RS 2598; s. 1, ch. 4965, 1901; GS 3521; s. 1, ch. 6974, 1915; s. 1, ch. 7732, 1918; RGS 5409; s. 1, ch. 8596, 1921; CGL 7552; s. 1, ch. 61-109; s. 759, ch. 71-136; s. 1, ch. 96-409.

796.03 Procuring person under age of 18 for prostitution.--A person who procures for prostitution, or causes to be prostituted, any person who is under the age of 18 years commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

History.--RS 2617; GS 3537; RGS 5435; CGL 7578; s. 765, ch. 71-136; s. 1, ch. 78-45; s. 1, ch. 93-227.

800.04 Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.--

(1) DEFINITIONS.--As used in this section:

(a) "Sexual activity" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

object; however, sexual activity does not include an act done for a bona fide medical purpose.

(b) "Consent" means intelligent, knowing, and voluntary consent, and does not include submission by coercion.

(c) "Coercion" means the use of exploitation, bribes, threats of force, or intimidation to gain cooperation or compliance.

(d) "Victim" means a person upon whom an offense described in this section was committed or attempted or a person who has reported a violation of this section to a law enforcement officer.

(2) PROHIBITED DEFENSES.--Neither the victim's lack of chastity nor the victim's consent is a defense to the crimes proscribed by this section.

(3) IGNORANCE OR BELIEF OF VICTIM'S AGE.--The perpetrator's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the perpetrator's bona fide belief of the victim's age cannot be raised as a defense in a prosecution under this section.

(4) LEWD OR LASCIVIOUS BATTERY.--A person who:

(a) Engages in sexual activity with a person 12 years of age or older but less than 16 years of age; or

(b) Encourages, forces, or entices any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity commits lewd or lascivious battery, a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

(5) LEWD OR LASCIVIOUS MOLESTATION.--

(a) A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

(b) An offender 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 years of age commits a felony of the first degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(c)1. An offender less than 18 years of age who commits lewd or lascivious molestation against a victim less than 12 years of age; or

2. An offender 18 years of age or older who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(d) An offender less than 18 years of age who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(6) LEWD OR LASCIVIOUS CONDUCT.--

(a) A person who:

1. Intentionally touches a person under 16 years of age in a lewd or lascivious manner; or

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

2. Solicits a person under 16 years of age to commit a lewd or lascivious act commits lewd or lascivious conduct.

(b) An offender 18 years of age or older who commits lewd or lascivious conduct commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(c) An offender less than 18 years of age who commits lewd or lascivious conduct commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(7) LEWD OR LASCIVIOUS EXHIBITION.--

(a) A person who:

1. Intentionally masturbates;
2. Intentionally exposes the genitals in a lewd or lascivious manner; or
3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition.

(b) A person who:

1. Intentionally masturbates;
2. Intentionally exposes the genitals in a lewd or lascivious manner; or
3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse,

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

sexual bestiality, or the simulation of any act involving sexual activity live over a computer on-line service, Internet service, or local bulletin board service and who knows or should know or has reason to believe that the transmission is viewed on a computer or television monitor by a victim in this state who is less than 16 years of age, commits lewd or lascivious exhibition. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this paragraph shall not constitute a defense to a prosecution under this paragraph.

(c) An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(d) An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(8) EXCEPTION.--A mother's breastfeeding of her baby does not under any circumstance constitute a violation of this section.

History.--s. 1, ch. 21974, 1943; s. 1, ch. 26580, 1951; s. 780, ch. 71-136; s. 66, ch. 74-383; s. 1, ch. 75-24; s. 40, ch. 75-298; s. 291, ch. 79-400; s. 5, ch. 84-86; s. 1, ch. 90-120; s. 5, ch. 93-4; s. 6, ch. 99-201; s. 1, ch. 2000-246.

825.1025 Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.--

(1) As used in this section, "sexual activity" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

(2)(a) "Lewd or lascivious battery upon an elderly person or disabled person" occurs when a person encourages, forces, or entices an elderly person or disabled person to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.

(b) A person who commits lewd or lascivious battery upon an elderly person or disabled person commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(3)(a) "Lewd or lascivious molestation of an elderly person or disabled person" occurs when a person intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of an elderly person or disabled person when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.

(b) A person who commits lewd or lascivious molestation of an elderly person or disabled person commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(4)(a) "Lewd or lascivious exhibition in the presence of an elderly person or disabled person" occurs when a person, in the presence of an elderly person or disabled person:

1. Intentionally masturbates;

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

2. Intentionally exposes his or her genitals in a lewd or lascivious manner; or

3. Intentionally commits any other lewd or lascivious act that does not involve actual physical or sexual contact with the elderly person or disabled person, including but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent to having such act committed in his or her presence.

(b) A person who commits a lewd or lascivious exhibition in the presence of an elderly person or disabled person commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

History.--s. 4, ch. 96-322; s. 1, ch. 2002-159.

827.071 Sexual performance by a child; penalties.--

(1) As used in this section, the following definitions shall apply:

(a) "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(b) "Performance" means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

(c) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

(d) "Sadomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(e) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, "sexual battery" does not include an act done for a bona fide medical purpose.

(f) "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(g) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(h) "Sexual performance" means any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

(i) "Simulated" means the explicit depiction of conduct set forth in paragraph (g) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(4) It is unlawful for any person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(5) It is unlawful for any person to knowingly possess a photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession of each such photograph, motion picture, exhibition, show, representation, or presentation is a separate offense. Whoever violates this subsection is guilty of a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

History.--s. 4, ch. 83-75; s. 1, ch. 85-273; s. 1, ch. 86-38; s. 1, ch. 91-33; s. 1, ch. 92-83; s. 1283, ch. 97-102; s. 1, ch. 2001-54.

847.0133 Protection of minors; prohibition of certain acts in connection with obscenity; penalty.--

(1) It is unlawful for any person knowingly to sell, rent, loan, give away, distribute, transmit, or show any obscene material to a minor. For purposes of this section "obscene material" means any obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing paper, card, picture, drawing, photograph, motion picture film, figure, image, videotape, videocassette, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose. The term "obscene" shall have the same meaning as set forth in s. [847.001](#).

(2) As used in this section "knowingly" has the same meaning set forth in s. [847.012](#)(1). A "minor" is any person under the age of 18 years.

(3) A violation of the provisions of this section constitutes a felony of the third degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

History.--s. 63, ch. 90-306; s. 7, ch. 93-4.

847.0135 Computer pornography; penalties.--

(1) SHORT TITLE.--This section shall be known and may be cited as the "Computer Pornography and Child Exploitation Prevention Act of 1986."

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

(2) COMPUTER PORNOGRAPHY.--A person who:

(a) Knowingly compiles, enters into, or transmits by use of computer;

(b) Makes, prints, publishes, or reproduces by other computerized means;

(c) Knowingly causes or allows to be entered into or transmitted by use of computer; or

(d) Buys, sells, receives, exchanges, or disseminates,

any notice, statement, or advertisement of any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct, commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(3) CERTAIN USES OF COMPUTER SERVICES PROHIBITED.--Any person who knowingly utilizes a computer on-line service, Internet service, or local bulletin board service to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in chapter 794, relating to sexual battery; chapter 800, relating to lewdness and indecent exposure; or chapter 827, relating to child abuse, commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

(4) OWNERS OR OPERATORS OF COMPUTER SERVICES LIABLE.--It is unlawful for any owner or operator of a computer on-line service, Internet service, or local bulletin board service knowingly to permit a subscriber to utilize the service to commit a violation of this section. Any person who violates this section commits a misdemeanor of the first degree, punishable by a fine not exceeding \$2,000.

(5) STATE CRIMINAL JURISDICTION.--A person is subject to prosecution in this state pursuant to chapter 910 for any conduct proscribed by this section which the person engages in, while either within or outside this state, if by such conduct the person commits a violation of this section involving a child residing in this state, or another person believed by the person to be a child residing in this state.

History.--s. 11, ch. 86-238; s. 213, ch. 91-224; s. 71, ch. 96-388; s. 3, ch. 2001-54.

847.0137 Transmission of pornography by electronic device or equipment prohibited; penalties.--

(1) For purposes of this section:

(a) "Minor" means any person less than 18 years of age.

(b) "Transmit" means the act of sending and causing to be delivered any image, information, or data from one or more persons or places to one or more other persons or places over or through any medium, including the Internet, by use of any electronic equipment or device.

(2) Notwithstanding ss. [847.012](#) and [847.0133](#), any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. [847.001](#), to another person in this state or

**Sexual Predators & Offenders
Florida Law - Qualifying Offenses**

in another jurisdiction commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(3) Notwithstanding ss. [847.012](#) and [847.0133](#), any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. [847.001](#), to any person in this state commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(4) This section shall not be construed to prohibit prosecution of a person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section, for the transmission of child pornography, as defined in s. [847.001](#), to any person in this state.

(5) A person is subject to prosecution in this state pursuant to chapter 910 for any act or conduct proscribed by this section, including a person in a jurisdiction other than this state, if the act or conduct violates subsection (3).

The provisions of this section do not apply to subscription-based transmissions such as list servers.

History.--s. 4, ch. 2001-54.

847.0138 Transmission of material harmful to minors to a minor by electronic device or equipment prohibited; penalties.--

(1) For purposes of this section:

(a) "Known by the defendant to be a minor" means that the defendant had actual knowledge or believed that the recipient of the communication was a minor.

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

(b) "Transmit" means to send to a specific individual known by the defendant to be a minor via electronic mail.

(2) Notwithstanding ss. [847.012](#) and [847.0133](#), any person in this state who knew or believed that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. [847.001](#), to a specific individual known by the defendant to be a minor in this state commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(3) Notwithstanding ss. [847.012](#) and [847.0133](#), any person in any jurisdiction other than this state who knew or believed that he or she was transmitting an image, information, or data that is harmful to minors, as defined in s. [847.001](#), to a specific individual known by the defendant to be a minor in this state commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

The provisions of this section do not apply to subscription-based transmissions such as list servers.

History.--s. 5, ch. 2001-54.

847.0145 Selling or buying of minors; penalties.--

(1) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, either:

(a) With knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(b) With intent to promote either:

Sexual Predators & Offenders
Florida Law - Qualifying Offenses

1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct; shall be guilty of a felony of the first degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(2) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor, either:

(a) With knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct;

(b) With intent to promote either:

1. The engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

2. The rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be guilty of a felony of the first degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

History.--s. 2, ch. 88-283.

Sexual Predators & Offenders Florida Law

NEW IN 2004:
SEXUAL PREDATOR/OFFENDER LEGISLATIVE UPDATE

**Please see the complete bill and statutory language for
comprehensive information.
<http://www.leg.state.fl.us/>**

SB 2054

- * Requires that a person civilly committed as a sexually violent predator (Jimmy Ryce Civil Commitment Act) be designated as a sexual predator for registration and notification purposes.
- * Provides registration requirements for sexual predators and sexual offenders who vacate a permanent residence and don't establish or maintain another residence. Creates a second-degree felony for a sexual predator or sexual offender who fails to report that he or she remains at a residence after he or she has reported vacating that residence.
- * Amends the definition of "conviction" under the registration statutes.
- * Clarifies where venue may occur for the purpose of prosecuting violations of the registration laws
- * Specifies what constitutes actual notice of the duty to register.
- * Requires the registration of sexual predators or sexual offenders who are charged with failure to register who assert a lack of notice of the duty to register.
- * Precludes lack of notice of duty to register defense on a subsequent charge of failure to register.
- * Designates that 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.

Sexual Predators & Offenders Florida Law

SB 1774 Not a registration statute change.

- * Requires state agencies or "governmental subdivisions" to search the sexual offender/predator registry prior to making any decision to appoint, employ or accept as a volunteer any person to work at any park, playground, day care center, or other place where children regularly congregate.

SB 120 Not a registration statute change

- * Prohibits certain sexual offenders (*less than 100 statewide at present*) subject to conditional release supervision where victim was under 18 from living within a 1,000 ft of a public school bus stop (school, daycare center park, playground or other place children congregate are already prohibited in pre-existing law);
- * Prohibits district school boards from establishing school bus stops within 1,000 feet of the residence of persons prohibited from living within 1,000 feet of a school bus stop;
- * Creates s. 794.065, F.S. prohibiting persons convicted of certain offenses (s.s. 794.011, 800.04, 827.091, 847.0145) on or after October 1, 2004, and whose victim was under 16, to reside within 1,000 ft of any school, daycare center, park or playground. Punishable (relative to classification of their conviction) from a First degree Misdemeanor to a Third degree Felony.

Chapter 394 – Involuntary Civil Commitment of Sexually Violent Predators – See *Involuntary Civil Commitment* section of this book for statutory references.

**Sexual Predators & Offenders
Florida Law**

775.13 Registration of convicted felons, exemptions; penalties.--

(1) As used in this section, the term "convicted" means, with respect to a person's felony offense, a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

(2) Any person who has been convicted of a felony in any court of this state shall, within 48 hours after entering any county in this state, register with the sheriff of said county, be fingerprinted and photographed, and list the crime for which convicted, place of conviction, sentence imposed, if any, name, aliases, if any, address, and occupation.

(3) Any person who has been convicted of a crime in any federal court or in any court of a state other than Florida, or of any foreign state or country, which crime if committed in Florida would be a felony, shall forthwith within 48 hours after entering any county in this state register with the sheriff of said county in the same manner as provided for in subsection (2).

(4) In lieu of registering with the sheriff as required by this section, such registration may be made with the Department of Law Enforcement, and is subject to the same terms and conditions as required for registration with the sheriff.

(5) This section does not apply to an offender:

(a) Who has had his or her civil rights restored;

(b) Who has received a full pardon for the offense for which convicted;

(c) Who has been lawfully released from incarceration or other sentence or supervision for a felony conviction for

**Sexual Predators & Offenders
Florida Law**

more than 5 years prior to such time for registration, unless the offender is a fugitive from justice on a felony charge or has been convicted of any offense since release from such incarceration or other sentence or supervision;

(d) Who is a parolee or probationer under the supervision of the United States Parole Commission if the commission knows of and consents to the presence of the offender in Florida or is a probationer under the supervision of any federal probation officer in the state or who has been lawfully discharged from such parole or probation;

(e) Who is a sexual predator and has registered as required under s. [775.21](#);

(f) Who is a sexual offender and has registered as required in s. [943.0435](#) or s. [944.607](#); or

(g) Who is a career offender who has registered as required in s. [775.261](#) or s. [944.609](#).

(6) Failure of any such convicted felon to comply with this section constitutes a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(7) All laws and parts of laws in conflict herewith are hereby repealed, provided that nothing in this section shall be construed to affect any law of this state relating to registration of criminals where the penalties are in excess of those imposed by this section.

History.--ss. 1, 2, 3, 4, 5, 6, 7, ch. 57-19; s. 1, ch. 57-371; s. 1, ch. 63-191; s. 1, ch. 65-453; s. 3, ch. 67-2207; ss. 20, 33, 35, ch. 69-106; s. 699, ch. 71-136; s. 11, ch. 77-120; s. 1, ch. 77-174; s. 18, ch. 79-3; s. 21, ch. 79-8; s. 161, ch. 83-216; s. 63, ch. 96-388; s. 4, ch. 97-299; s. 2, ch. 98-81; s. 1, ch. 2000-328; s. 1, ch. 2002-266; s. 5, ch. 2004-371.

**Sexual Predators & Offenders
Florida Law**

775.21 The Florida Sexual Predators Act.--

(1) SHORT TITLE.--This section may be cited as "The Florida Sexual Predators Act."

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

(a) "Chief of police" means the chief law enforcement officer of a municipality.

(b) "Community" means any county where the sexual predator lives or otherwise establishes or maintains a temporary or permanent residence.

(c) "Conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(d) "Department" means the Department of Law Enforcement.

(e) "Entering the county" includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

**Sexual Predators & Offenders
Florida Law**

(f) "Permanent residence" means a place where the person abides, lodges, or resides for 14 or more consecutive days.

(g) "Temporary residence" means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address; for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state; or a place where the person routinely abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence, including any out-of-state address.

(h) "Institution of higher education" means a community college, college, state university, or independent postsecondary institution.

(i) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

**(3) LEGISLATIVE FINDINGS AND PURPOSE;
LEGISLATIVE INTENT.--**

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes

Sexual Predators & Offenders Florida Law

the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.
2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. [947.1405](#)(7) and [948.30](#). The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.
3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.
4. Providing for community and public notification concerning the presence of sexual predators.
5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

Sexual Predators & Offenders Florida Law

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;
2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and
3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(4) SEXUAL PREDATOR CRITERIA.--

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:
 - a. A capital, life, or first-degree felony violation, or any attempt thereof, of s. [787.01](#) or s. [787.02](#), where the victim is a minor and the defendant is not the victim's parent, or of chapter 794, s. [800.04](#), or s. [847.0145](#), or a violation of a similar law of another jurisdiction; or

Sexual Predators & Offenders Florida Law

b. Any felony violation, or any attempt thereof, of s. [787.01](#), s. [787.02](#), or s. [787.025](#), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. [794.011](#)(10) and [794.0235](#); s. [796.03](#); s. [800.04](#); s. [825.1025](#)(2)(b); s. [827.071](#); or s. [847.0145](#); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. [787.01](#), s. [787.02](#), or s. [787.025](#), where the victim is a minor and the defendant is not the victim's parent; s. [794.011](#)(2), (3), (4), (5), or (8); s. [794.05](#); s. [796.03](#); s. [800.04](#); s. [825.1025](#); s. [827.071](#); s. [847.0133](#); s. [847.0135](#); or s. [847.0145](#), or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony. If the offender's prior enumerated felony was committed more than 10 years before the primary offense, it shall not be considered a prior felony under this subsection if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later.

Sexual Predators & Offenders Florida Law

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation as a sexual predator, and, for an offender described under this subparagraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent or temporary residence. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

**Sexual Predators & Offenders
Florida Law**

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a "sexual predator" under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) SEXUAL PREDATOR DESIGNATION.--An offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order;

2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent or temporary residence in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of

**Sexual Predators & Offenders
Florida Law**

Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent or temporary residence of the offender's presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record or record of civil commitment from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designating an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprint card shall be clearly marked, "Sexual Predator Registration Card." The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition or

Sexual Predators & Offenders Florida Law

restriction on the sexual predator which restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(c) If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence upon first entering the state for offenders described in subparagraph (a)3. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, shall register in the manner provided in s. [943.0435](#) or s. [944.607](#) and shall be

Sexual Predators & Offenders Florida Law

subject to community and public notification as provided in s. [943.0435](#) or s. [944.607](#). A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. [943.0435](#) or s. [944.607](#) until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(6) REGISTRATION.--

(a) A sexual predator must register with the department by providing the following information to the department:

1. Name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, photograph, address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box, date and place of any employment, date and place of each conviction, fingerprints, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

a. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also

Sexual Predators & Offenders Florida Law

provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, or the Department of Corrections if the sexual predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status. The sheriff or the Department of Corrections shall promptly notify each institution of the sexual predator's presence and any change in the sexual predator's enrollment or employment status.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator must register with the Department of Corrections.

Sexual Predators & Offenders Florida Law

The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator and forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the department for purposes of public notification.

(e) If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility, and establishes or maintains a residence in the state, the sexual predator shall register in person at an office of the department, or at the sheriff's office in the county in which the predator establishes or maintains a residence, within 48 hours after establishing permanent or temporary residence in this state. Any change in the sexual predator's

Sexual Predators & Offenders Florida Law

permanent or temporary residence or name, after the sexual predator registers in person at an office of the department or at the sheriff's office, shall be accomplished in the manner provided in paragraphs (g), (i), and (j). If a sexual predator registers with the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the predator and forward the photographs and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver's license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration. At the driver's license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent or temporary residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators. A post office box shall not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a

Sexual Predators & Offenders Florida Law

sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section.

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g)1. Each time a sexual predator's driver's license or identification card is subject to renewal, and, without regard to the status of the predator's driver's license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver's license office and shall be subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. [322.142](#), the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section.

2. A sexual predator who vacates a permanent residence and fails to establish or maintain another permanent or

Sexual Predators & Offenders Florida Law

temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the department or the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator must provide or update all of the registration information required under paragraph (a). The sexual predator must provide an address for the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

3. A sexual predator who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. If the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(h) If the sexual predator registers at an office of the department, the department must notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence within 48 hours after the sexual predator registers with the department.

(i) A sexual predator who intends to establish residence in another state or jurisdiction shall report in person to the sheriff of the county of current residence or the department within 48 hours before the date he or she intends to leave this state to establish residence in another state or

Sexual Predators & Offenders Florida Law

jurisdiction. The sexual predator must provide to the sheriff or department the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, report in person to the sheriff or the department, whichever agency is the agency to which the sexual predator reported the intended change of residence, of his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to reside in another state or jurisdiction, but who remains in this state without reporting to the sheriff or the department in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(k)1. The department is responsible for the on-line maintenance of current information regarding each registered sexual predator. The department must maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph and fingerprints do not have to be stored in a computerized format.

**Sexual Predators & Offenders
Florida Law**

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department is authorized to disseminate this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel must advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(l) A sexual predator must maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation. However, a sexual predator who was designated as a sexual predator by a court before October 1, 1998, and who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 10 years and has not been arrested for any felony or misdemeanor offense since release, may petition the criminal division of the circuit court in the circuit in which the sexual predator resides for the purpose of removing the sexual predator designation. A sexual predator who was designated a sexual predator by a court on or after October 1, 1998, who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years, and who has not been arrested for any felony or misdemeanor offense since

**Sexual Predators & Offenders
Florida Law**

release may petition the criminal division of the circuit court in the circuit in which the sexual predator resides for the purpose of removing the sexual predator designation. The court may grant or deny such relief if the petitioner demonstrates to the court that he or she has not been arrested for any crime since release, the requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the removal of the designation as a sexual predator or required to be met as a condition for the receipt of federal funds by the state, and the court is otherwise satisfied that the petitioner is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual predator may again petition the court for relief, subject to the standards for relief provided in this paragraph. Unless specified in the order, a sexual predator who is granted relief under this paragraph must comply with the requirements for registration as a sexual offender and other requirements provided under s. [943.0435](#) or s. [944.607](#). If a petitioner obtains an order from the court that imposed the order designating the petitioner as a sexual predator which removes such designation, the petitioner shall forward a certified copy of the written findings or order to the department in order to have the sexual predator designation removed from the sexual predator registry.

The sheriff shall promptly provide to the department the information received from the sexual predator.

(7) COMMUNITY AND PUBLIC NOTIFICATION.--

**Sexual Predators & Offenders
Florida Law**

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed day care center, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator. Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;
2. A description of the sexual predator, including a photograph;
3. The sexual predator's current address, including the name of the county or municipality if known;
4. The circumstances of the sexual predator's offense or offenses; and
5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

**Sexual Predators & Offenders
Florida Law**

(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

(d) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators.

(8) VERIFICATION.--The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections.

(9) IMMUNITY.--The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law

Sexual Predators & Offenders Florida Law

enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator fails to report or falsely reports his or her current place of permanent or temporary residence.

(10) PENALTIES.--

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver's license or identification card; who fails to provide required location information or change-of-name information; who fails to make a required report in connection with vacating a permanent residence; or who otherwise fails, by act or omission, to comply with the requirements of this section, commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. [787.01](#), s. [787.02](#), or s. [787.025](#), where the victim is a minor and the defendant is not the victim's parent; s. [794.011](#)(2), (3), (4), (5), or (8); s. [794.05](#); s. [796.03](#); s. [800.04](#); s. [827.071](#); s. [847.0133](#); or s. [847.0145](#), or a violation of a similar law of another jurisdiction, when the victim of the offense was a minor, and who works,

Sexual Predators & Offenders Florida Law

whether for compensation or as a volunteer, at any business, school, day care center, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. [943.0435](#) or s. [944.607](#), to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(d) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual predator, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

(e) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or

Sexual Predators & Offenders Florida Law

her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

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

History.--s. 1, ch. 93-277; s. 1, ch. 95-264; s. 54, ch. 95-283; s. 61, ch. 96-388; s. 5, ch. 97-299; s. 3, ch. 98-81; s. 1, ch. 98-267; s. 1, ch. 2000-207; s. 3, ch. 2000-246; s. 113, ch. 2000-349; s. 1, ch. 2002-58; s. 1, ch. 2004-371; s. 33, ch. 2004-373.

775.24 Duty of the court to uphold laws governing sexual predators and sexual offenders.--

(1) The Legislature finds that, for the purpose of approving a plea agreement or for other reasons, certain courts enter orders that effectively limit or nullify requirements imposed upon sexual predators and sexual offenders pursuant to the laws of this state and prevent persons or entities from carrying out the duties imposed, or exercising the authority conferred, by such laws. The laws relating to sexual predators and sexual offenders are substantive law. Furthermore, the Congress of the United States has expressly encouraged every state to enact such laws, and has provided that, to the extent that a state's laws do not meet certain federal requirements, the state will lose

Sexual Predators & Offenders Florida Law

significant federal funding provided to the state for law enforcement and public safety programs. Unless a court that enters such an order determines that a person or entity is not operating in accordance with the laws governing sexual predators or sexual offenders, or that such laws or any part of such laws are unconstitutional or unconstitutionally applied, the court unlawfully encroaches on the Legislature's exclusive power to make laws and places at risk significant public interests of the state.

(2) If a person meets the criteria in this chapter for designation as a sexual predator or meets the criteria in s. [943.0435](#), s. [944.606](#), s. [944.607](#), or any other law for classification as a sexual offender, the court may not enter an order, for the purpose of approving a plea agreement or for any other reason, which:

(a) Exempts a person who meets the criteria for designation as a sexual predator or classification as a sexual offender from such designation or classification, or exempts such person from the requirements for registration or community and public notification imposed upon sexual predators and sexual offenders;

(b) Restricts the compiling, reporting, or release of public records information that relates to sexual predators or sexual offenders; or

(c) Prevents any person or entity from performing its duties or operating within its statutorily conferred authority as such duty or authority relates to sexual predators or sexual offenders.

(3) If the court enters an order that affects an agency's performance of a duty imposed under the laws governing sexual predators or sexual offenders, or that limits the agency's exercise of authority conferred under such laws, the Legislature strongly encourages the affected agency to file a motion in the court that entered such order. The

Sexual Predators & Offenders Florida Law

affected agency may, within 1 year after the receipt of any such order, move to modify or set aside the order or, if such order is in the nature of an injunction, move to dissolve the injunction. Grounds for granting any such motion include, but need not be limited to:

- (a) The affected agency was not properly noticed.
- (b) The court is not authorized to enjoin the operation of a statute that has been duly adjudged constitutional and operative unless the statute is illegally applied or unless the statute or the challenged part of it is unconstitutional on adjudicated grounds.
- (c) Jurisdiction may not be conferred by consent of the parties.
- (d) To the extent that the order is based upon actions the agency might take, the court's order is premature and, if and when such actions are taken, these actions may be challenged in appropriate proceedings to determine their enforceability.
- (e) The injunction affects the public interest and would cause injury to the public.
- (f) The order creates an unenforceable, perpetual injunction.
- (g) The order seeks to restrict the agency in the performance of its duties outside the court's territorial jurisdiction.

History.--s. 4, ch. 98-81; s. 2, ch. 2002-58; s. 7, ch. 2004-371.

775.25 Prosecutions for acts or omissions.--A sexual predator or sexual offender who commits any act or omission in violation of s. [775.21](#), s. [943.0435](#), s. [944.605](#),

Sexual Predators & Offenders Florida Law

s. [944.606](#), s. [944.607](#), or ¹s. [947.177](#) may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual predator or sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

History.--s. 5, ch. 98-81; s. 8, ch. 2004-371.

¹**Note.**--Repealed by s. 7, ch. 2001-124.

943.043 Toll-free telephone number; Internet notification; sexual predator and sexual offender information.--

(1) The department may notify the public through the Internet of any information regarding sexual predators and sexual offenders which is not confidential and exempt from public disclosure under s. [119.07](#)(1) and s. 24(a), Art. I of the State Constitution.

(2) The department shall provide, through a toll-free telephone number, public access to registration information regarding sexual predators and sexual offenders and may provide other information reported to the department which is not exempt from public disclosure.

(3) The department shall provide to any person, upon request and at a reasonable cost determined by the department, a copy of the photograph of any sexual offender or sexual predator which the department maintains in its files and a printed summary of the

Sexual Predators & Offenders Florida Law

information that is available to the public under this section.

(4) The department, its personnel, and any individual or entity acting at the request or upon the direction of the department are immune from civil liability for damages for good faith compliance with this section and will be presumed to have acted in good faith by reporting information. The presumption of good faith is not overcome if technical or clerical errors are made by the department, its personnel, or any individual or entity acting at the request or upon the direction of the department in reporting the information, if the department and its personnel are unable to report information because the information has not been provided or reported by a person or agency required to provide or report the information to the department, or if the department, its personnel, or any individual or entity acting at the request or upon the direction of the department reports information that was falsely reported without the knowledge of the department, its personnel, or such individual or entity.

History.--s. 7, ch. 97-299; s. 6, ch. 98-81.

943.0435 Sexual offenders required to register with the department; penalty.--

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

(a) "Sexual offender" means a person who:

1. Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. [787.01](#), s. [787.02](#), or s. [787.025](#), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding

Sexual Predators & Offenders Florida Law

ss. [794.011](#)(10) and [794.0235](#); s. [796.03](#); s. [800.04](#); s. [825.1025](#); s. [827.071](#); s. [847.0133](#); s. [847.0135](#); s. [847.0137](#); s. [847.0138](#); s. [847.0145](#); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph; and

2. Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in subparagraph 1. For purposes of subparagraph 1., a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility; or

3. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction; or

4. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. [787.01](#), s. [787.02](#), or s. [787.025](#), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. [794.011](#)(10) and [794.0235](#); s. [796.03](#); s. [800.04](#); s. [825.1025](#); s. [827.071](#); s. [847.0133](#); s. [847.0135](#); s. [847.0137](#); s. [847.0138](#); s. [847.0145](#); or any similar

Sexual Predators & Offenders Florida Law

offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Permanent residence" and "temporary residence" have the same meaning ascribed in s. [775.21](#).

(d) "Institution of higher education" means a community college, college, state university, or independent postsecondary institution.

(e) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(2) A sexual offender shall:

(a) Report in person at an office of the department, or at the sheriff's office in the county in which the offender establishes or maintains a permanent or temporary residence, within 48 hours after establishing permanent or temporary residence in this state or within 48 hours after being released from the custody, control, or supervision of

Sexual Predators & Offenders Florida Law

the Department of Corrections or from the custody of a private correctional facility. Any change in the sexual offender's permanent or temporary residence or name, after the sexual offender reports in person at an office of the department or at the sheriff's office, shall be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name, date of birth, social security number, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, occupation and place of employment, address of permanent or legal residence or address of any current temporary residence, within the state and out of state, including a rural route address and a post office box, date and place of each conviction, and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the

Sexual Predators & Offenders Florida Law

department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at an office of the department, or at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

If a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card was previously secured or updated under s. [944.607](#). At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

Sexual Predators & Offenders Florida Law

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section.

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the predator's driver's license or identification card, within 48 hours after any change in the offender's permanent or temporary residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. [322.142](#), the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in ss. [943.043](#), [943.0435](#), and [944.606](#).

(b) A sexual offender who vacates a permanent residence and fails to establish or maintain another permanent or temporary residence shall, within 48 hours after vacating the permanent residence, report in person to the department or the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for

Sexual Predators & Offenders Florida Law

the residence or other location that he or she is or will be occupying during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. If the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. [775.21](#). A sexual predator must register as required under s. [775.21](#).

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state.

(7) A sexual offender who intends to establish residence in another state or jurisdiction shall report in person to the sheriff of the county of current residence or the department within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address,

Sexual Predators & Offenders Florida Law

municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to reside in another state or jurisdiction and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff or department, whichever agency is the agency to which the sexual offender reported the intended change of residence, of his or her intent to remain in this state. If the sheriff is notified by the sexual offender that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to reside in another state or jurisdiction but who remains in this state without reporting to the sheriff or the department in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction

Sexual Predators & Offenders Florida Law

occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

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

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or

Sexual Predators & Offenders Florida Law

clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent or temporary residence.

(11) A sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a) Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years and has not been arrested for any felony or misdemeanor offense since release; or

(b) Who was 18 years of age or under at the time the offense was committed and the victim was 12 years of age or older and adjudication was withheld for that offense, who is released from all sanctions, who has had 10 years elapse since having been placed on probation, and who has not been arrested for any felony or misdemeanor offense since the date of conviction of the qualifying offense may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender. The court may grant or deny such relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal

Sexual Predators & Offenders Florida Law

standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(c) As defined in subparagraph (1)(a)3. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

Sexual Predators & Offenders Florida Law

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

History.--s. 8, ch. 97-299; s. 7, ch. 98-81; s. 114, ch. 99-3; s. 3, ch. 2000-207; s. 3, ch. 2000-246; s. 3, ch. 2002-58; s. 2, ch. 2004-371.

944.606 Sexual offenders; notification upon release.--

(1) As used in this section:

(a) "Convicted" means there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine; probation;

Sexual Predators & Offenders Florida Law

community control; parole; conditional release; control release; or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(b) "Sexual offender" means a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. [787.01](#), s. [787.02](#), or s. [787.025](#), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. [794.011](#)(10) and [794.0235](#); s. [796.03](#); s. [800.04](#); s. [825.1025](#); s. [827.071](#); s. [847.0133](#); s. [847.0135](#); s. [847.0137](#); s. [847.0138](#); s. [847.0145](#); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, when the department has received verified information regarding such conviction; an offender's computerized criminal history record is not, in and of itself, verified information.

(2) The Legislature finds that sexual offenders, especially those who have committed their offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount governmental interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing sexual offender information to law enforcement agencies and to persons who request such information, and releasing such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety.

(3)(a) The department must provide information regarding any sexual offender who is being released after serving a period of incarceration for any offense, as follows:

Sexual Predators & Offenders Florida Law

1. The department must provide: the sexual offender's name, any change in the offender's name by reason of marriage or other legal process, and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender's social security number, race, sex, date of birth, height, weight, and hair and eye color; date and county of sentence and each crime for which the offender was sentenced; a copy of the offender's fingerprints and a digitized photograph taken within 60 days before release; the date of release of the sexual offender; and the offender's intended residence address, if known. The department shall notify the Department of Law Enforcement if the sexual offender escapes, absconds, or dies. If the sexual offender is in the custody of a private correctional facility, the facility shall take the digitized photograph of the sexual offender within 60 days before the sexual offender's release and provide this photograph to the Department of Corrections and also place it in the sexual offender's file. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this paragraph and any information specified in subparagraph 2. that the Department of Law Enforcement requests.

2. The department may provide any other information deemed necessary, including criminal and corrections records, nonprivileged personnel and treatment records, when available.

(b) The department must provide the information described in subparagraph (a)1. to:

1. The sheriff of the county from where the sexual offender was sentenced;

Sexual Predators & Offenders Florida Law

2. The sheriff of the county and, if applicable, the police chief of the municipality, where the sexual offender plans to reside;

3. The Florida Department of Law Enforcement;

4. When requested, the victim of the offense, the victim's parent or legal guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, or the next of kin if the victim is a homicide victim; and

5. Any person who requests such information,

either within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if an offender is released earlier than anticipated. All such information provided to the Department of Law Enforcement must be available electronically as soon as the information is in the agency's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center.

(c) Upon request, the department must provide the information described in subparagraph (a)2. to:

1. The sheriff of the county from where the sexual offender was sentenced; and

2. The sheriff of the county and, if applicable, the police chief of the municipality, where the sexual offender plans to reside,

either within 6 months prior to the anticipated release of a sexual offender, or as soon as possible if an offender is released earlier than anticipated.

(d) Upon receiving information regarding a sexual offender from the department, the Department of Law Enforcement,

Sexual Predators & Offenders Florida Law

the sheriff or the chief of police shall provide the information described in subparagraph (a)1. to any individual who requests such information and may release the information to the public in any manner deemed appropriate, unless the information so received is confidential or exempt from s. [119.07](#)(1) and s. 24(a), Art. I of the State Constitution.

(4) This section authorizes the department or any law enforcement agency to notify the community and the public of a sexual offender's presence in the community. However, with respect to a sexual offender who has been found to be a "sexual predator" under chapter 775, the Florida Department of Law Enforcement or any other law enforcement agency must inform the community and the public of the sexual predator's presence in the community, as provided in chapter 775.

(5) An elected or appointed official, public employee, school administrator or employee, or agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency, is immune from civil liability for damages resulting from the release of information under this section.

History.--s. 3, ch. 92-76; s. 20, ch. 95-283; s. 10, ch. 96-312; s. 65, ch. 96-388; s. 11, ch. 97-299; s. 10, ch. 98-81; s. 119, ch. 99-3; s. 10, ch. 99-201; s. 4, ch. 2000-207; s. 3, ch. 2000-246; s. 5, ch. 2001-209; s. 5, ch. 2002-58; s. 3, ch. 2004-371.

944.607 Notification to Department of Law Enforcement of information on sexual offenders.--

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

(a) "Sexual offender" means a person who is in the custody or control of, or under the supervision of, the

Sexual Predators & Offenders Florida Law

department or is in the custody of a private correctional facility:

1. On or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. [787.01](#), s. [787.02](#), or s. [787.025](#), where the victim is a minor and the defendant is not the victim's parent; chapter 794, excluding ss. [794.011](#)(10) and [794.0235](#); s. [796.03](#); s. [800.04](#); s. [825.1025](#); s. [827.071](#); s. [847.0133](#); s. [847.0135](#); s. [847.0137](#); s. [847.0138](#); s. [847.0145](#); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph; or

2. Who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction.

(b) "Conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine; probation; community control; parole; conditional release; control release; or

Sexual Predators & Offenders Florida Law

incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Institution of higher education" means a community college, college, state university, or independent postsecondary institution.

(d) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(2) The clerk of the court of that court which convicted and sentenced the sexual offender for the offense or offenses described in subsection (1) shall forward to the department and the Department of Law Enforcement a certified copy of any order entered by the court imposing any special condition or restriction on the sexual offender which restricts or prohibits access to the victim, if the victim is a minor, or to other minors. The Department of Law Enforcement may include on its Internet site such special conditions or restrictions.

(3) If a sexual offender is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual offender's fingerprints are taken and forwarded to the Department of Law Enforcement within 48 hours after the court sentences the offender. The fingerprint card shall be clearly marked "Sexual Offender Registration Card."

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated must register with the Department of Corrections and provide information as required by this subsection.

(a) The sexual offender shall provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying

Sexual Predators & Offenders Florida Law

marks; and permanent or legal residence and address of temporary residence within the state or out of state while the sexual offender is under supervision in this state, including any rural route address or post office box. The Department of Corrections shall verify the address of each sexual offender in the manner described in ss. [775.21](#) and [943.0435](#).

(b) If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall provide the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported to the department within 48 hours after the change in status. The Department of Corrections shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

(5) In addition to notification and transmittal requirements imposed by any other provision of law, the department shall compile information on any sexual offender and provide the information to the Department of Law Enforcement. The information shall be made available electronically to the Department of Law Enforcement as soon as this information is in the department's database and must be in a format that is compatible with the requirements of the Florida Crime Information Center.

(6) The information provided to the Department of Law Enforcement must include:

(a) The information obtained from the sexual offender under subsection (4);

(b) The sexual offender's most current address and place of permanent and temporary residence within the state or out of state while the sexual offender is under supervision

Sexual Predators & Offenders Florida Law

in this state, including the name of the county or municipality in which the offender permanently or temporarily resides and, if known, the intended place of permanent or temporary residence upon satisfaction of all sanctions;

(c) The legal status of the sexual offender and the scheduled termination date of that legal status;

(d) The location of, and local telephone number for, any Department of Corrections' office that is responsible for supervising the sexual offender;

(e) An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor;

(f) The offense or offenses at conviction which resulted in the determination of the offender's status as a sex offender; and

(g) A digitized photograph of the sexual offender which must have been taken within 60 days before the offender is released from the custody of the department or a private correctional facility by expiration of sentence under s. [944.275](#) or must have been taken by January 1, 1998, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If the sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this paragraph and shall provide the photograph to the department.

If any information provided by the department changes during the time the sexual offender is under the

Sexual Predators & Offenders Florida Law

department's control, custody, or supervision, including any change in the offender's name by reason of marriage or other legal process, the department shall, in a timely manner, update the information and provide it to the Department of Law Enforcement in the manner prescribed in subsection (2).

(7) If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender and forward the information to the Department of Law Enforcement. The custodian of the local jail shall also take a digitized photograph of the sexual offender while the offender remains in custody and shall provide the digitized photograph to the Department of Law Enforcement.

(8) If the sexual offender is under federal supervision, the federal agency responsible for supervising the sexual offender may forward to the Department of Law Enforcement any information regarding the sexual offender which is consistent with the information provided by the department under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the Department of Law Enforcement for purposes of public notification.

(9) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but who is not incarcerated shall, in addition to the registration requirements provided in subsection (4), register in the manner provided in s. [943.0435](#)(3), (4), and (5), unless the sexual offender is a sexual predator, in which case he or she shall register as required under s. [775.21](#). A sexual offender who fails to comply with the requirements of s. [943.0435](#) is subject to the penalties provided in s. [943.0435](#)(9).

(10)(a) The failure of a sexual offender to submit to the taking of a digitized photograph, or to otherwise comply

Sexual Predators & Offenders Florida Law

with the requirements of this section, is a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under s. [943.0435](#)(2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

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

(11) The department, the Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, the Department of Corrections, personnel of those departments, and any individual or entity acting at the

Sexual Predators & Offenders Florida Law

request or upon the direction of those departments are immune from civil liability for damages for good faith compliance with this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or providing information. The presumption of good faith is not overcome if technical or clerical errors are made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Law Enforcement, personnel of those departments, or any individual or entity acting at the request or upon the direction of those departments in compiling, recording, reporting, or providing information, or, if the information is incomplete or incorrect because the information has not been provided by a person or agency required to provide the information, or because the information was not reported or was falsely reported.

History.--s. 9, ch. 97-299; s. 11, ch. 98-81; s. 5, ch. 2000-207; s. 3, ch. 2000-246; s. 6, ch. 2002-58; s. 4, ch. 2004-371.

948.01 When court may place defendant on probation or into community control.--

(1) Any court of the state having original jurisdiction of criminal actions may at a time to be determined by the court, either with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of a defendant in a criminal case, except for an offense punishable by death, who has been found guilty by the verdict of a jury, has entered a plea of guilty or a plea of nolo contendere, or has been found guilty by the court trying the case without a jury. If the court places the defendant on probation or into community control for a felony, the department shall provide immediate supervision by an officer employed in compliance with the minimum qualifications for officers as provided in s. [943.13](#). In no circumstances shall a private entity provide probationary or supervision services to felony or misdemeanor offenders

Sexual Predators & Offenders Florida Law

sentenced or placed on probation or other supervision by the circuit court.

(2) If it appears to the court upon a hearing of the matter that the defendant is not likely again to engage in a criminal course of conduct and that the ends of justice and the welfare of society do not require that the defendant presently suffer the penalty imposed by law, the court, in its discretion, may either adjudge the defendant to be guilty or stay and withhold the adjudication of guilt; and, in either case, it shall stay and withhold the imposition of sentence upon such defendant and shall place the defendant upon probation. However, no defendant placed on probation for a misdemeanor may be placed under the supervision of the department unless the circuit court was the court of original jurisdiction.

(3) If, after considering the provisions of subsection (2) and the offender's prior record or the seriousness of the offense, it appears to the court in the case of a felony disposition that probation is an unsuitable dispositional alternative to imprisonment, the court may place the offender in a community control program as provided in s. [948.10](#). Or, in a case of prior disposition of a felony commitment, upon motion of the offender or the department or upon its own motion, the court may, within the period of its retained jurisdiction following commitment, suspend the further execution of the disposition and place the offender in a community control program upon such terms as the court may require. The court may consult with a local offender advisory council pursuant to s. [948.90](#) with respect to the placement of an offender into community control. Not later than 3 working days before the hearing on the motion, the department shall forward to the court all relevant material on the offender's progress while in custody. If this sentencing alternative to incarceration is utilized, the court shall:

Sexual Predators & Offenders Florida Law

(a) Determine what community-based sanctions will be imposed in the community control plan. Community-based sanctions may include, but are not limited to, rehabilitative restitution in money or in kind, curfew, revocation or suspension of the driver's license, community service, deprivation of nonessential activities or privileges, or other appropriate restraints on the offender's liberty.

(b) After appropriate sanctions for the offense are determined, develop, approve, and order a plan of community control which contains rules, requirements, conditions, and programs that are designed to encourage noncriminal functional behavior and promote the rehabilitation of the offender and the protection of the community. If the offense was a controlled substance violation, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. [943.10](#)(3).

(c) Require the department to provide notifications pursuant to s. [948.10](#)(7).

(4) The sanctions imposed by order of the court shall be commensurate with the seriousness of the offense. When community control or a program of public service is ordered by the court, the duration of community control supervision or public service may not be longer than the sentence that could have been imposed if the offender had been committed for the offense or a period not to exceed 2 years, whichever is less. When restitution or public service is ordered by the court, the amount of restitution or public service may not be greater than an amount which the offender could reasonably be expected to pay or perform.

(5) The imposition of sentence may not be suspended and the defendant thereupon placed on probation or into

Sexual Predators & Offenders Florida Law

community control unless the defendant is placed under the custody of the department or another public or private entity. A private entity may not provide probationary or supervision services to felony or misdemeanor offenders sentenced or placed on probation or other supervision by the circuit court.

(6) When the court, under any of the foregoing subsections, places a defendant on probation or into community control, it may specify that the defendant serve all or part of the probationary or community control period in a community residential or nonresidential facility under the jurisdiction of the Department of Corrections or the Department of Children and Family Services or any public or private entity providing such services, and it shall require the payment prescribed in s. [948.09](#).

History.--s. 20, ch. 20519, 1941; s. 7, ch. 22858, 1945; s. 1, ch. 59-130; s. 1, ch. 61-498; s. 1, ch. 65-453; s. 1, ch. 67-204; ss. 12, 13, ch. 74-112; s. 3, ch. 75-301; s. 3, ch. 76-238; s. 90, ch. 77-120; s. 1, ch. 77-174; s. 109, ch. 79-3; s. 13, ch. 83-131; s. 14, ch. 85-288; s. 1, ch. 86-106; s. 4, ch. 87-211; s. 69, ch. 88-122; s. 36, ch. 89-526; ss. 7, 16, ch. 90-337; ss. 2, 14, ch. 91-225; ss. 1, 15, ch. 91-280; s. 14, ch. 93-227; s. 17, ch. 96-322; s. 21, ch. 97-78; s. 1876, ch. 97-102; s. 6, ch. 97-239; s. 13, ch. 98-81; s. 121, ch. 99-3; s. 323, ch. 99-8; s. 3, ch. 2000-246; s. 4, ch. 2001-55; ss. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 40, ch. 2004-373.

**Sexual Predators & Offenders
Florida Law**

948.03 Terms and conditions of probation.--

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

- (a) Report to the probation and parole supervisors as directed.
- (b) Permit such supervisors to visit him or her at his or her home or elsewhere.
- (c) Work faithfully at suitable employment insofar as may be possible.
- (d) Remain within a specified place.
- (e) Make reparation or restitution to the aggrieved party for the damage or loss caused by his or her offense in an amount to be determined by the court. The court shall make such reparation or restitution a condition of probation, unless it determines that clear and compelling reasons exist to the contrary. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. [775.089](#), it shall state on the record in detail the reasons therefor.
- (f) Effective July 1, 1994, and applicable for offenses committed on or after that date, make payment of the debt due and owing to a county or municipal detention facility under s. [951.032](#) for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility. The court, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of

**Sexual Predators & Offenders
Florida Law**

the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the felony probationer, the present and potential future financial needs and earning ability of the probationer, and dependents, and other appropriate factors.

- (g) Support his or her legal dependents to the best of his or her ability.
- (h) Make payment of the debt due and owing to the state under s. [960.17](#), subject to modification based on change of circumstances.
- (i) Pay any application fee assessed under s. [27.52](#)(2)(a) and attorney's fees and costs assessed under s. [938.29](#), subject to modification based on change of circumstances.
- (j) Not associate with persons engaged in criminal activities.
- (k)1. Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances.
- 2. If the offense was a controlled substance violation and the period of probation immediately follows a period of incarceration in the state correction system, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. [943.10](#)(3).
- (l) Be prohibited from possessing, carrying, or owning any firearm unless authorized by the court and consented to by the probation officer.

Sexual Predators & Offenders Florida Law

(m) Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician. The probationer or community controllee shall not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

(n) Submit to the drawing of blood or other biological specimens as prescribed in ss. [943.325](#) and [948.014](#), and reimburse the appropriate agency for the costs of drawing and transmitting the blood or other biological specimens to the Department of Law Enforcement.

(2) The enumeration of specific kinds of terms and conditions shall not prevent the court from adding thereto such other or others as it considers proper. However, the sentencing court may only impose a condition of supervision allowing an offender convicted of s. [794.011](#), s. [800.04](#), s. [827.071](#), or s. [847.0145](#), to reside in another state, if the order stipulates that it is contingent upon the approval of the receiving state interstate compact authority. The court may rescind or modify at any time the terms and conditions theretofore imposed by it upon the probationer. However, if the court withholds adjudication of guilt or imposes a period of incarceration as a condition of probation, the period shall not exceed 364 days, and incarceration shall be restricted to either a county facility, a probation and restitution center under the jurisdiction of the Department of Corrections, a probation program drug punishment phase I secure residential treatment institution, or a community residential facility owned or operated by any entity providing such services.

History.--s. 23, ch. 20519, 1941; s. 5, ch. 77-452; s. 1, ch. 81-198; s. 3, ch. 83-75; s. 16, ch. 83-131; s. 192, ch. 83-216; s. 3, ch. 83-256; s. 8, ch. 84-363; s. 15, ch. 85-288; s. 5, ch. 87-211; s. 11, ch. 88-96; ss. 70, 71, ch. 88-122; s. 37, ch. 89-526; s. 10, ch. 90-287; ss. 8, 17, ch. 90-337; s. 11, ch. 91-225; s. 4, ch. 91-280; s. 23, ch. 92-310; s. 10, ch. 93-37; s. 15, ch. 93-227; s. 1, ch. 94-294; s. 1, ch. 95-189; ss. 53, 59, ch.

Sexual Predators & Offenders Florida Law

95-283; s. 1, ch. 96-170; s. 4, ch. 96-232; s. 54, ch. 96-312; s. 6, ch. 96-409; s. 22, ch. 97-78; s. 1877, ch. 97-102; s. 11, ch. 97-107; s. 27, ch. 97-234; s. 44, ch. 97-271; s. 3, ch. 97-308; s. 14, ch. 98-81; s. 15, ch. 98-251; s. 122, ch. 99-3; s. 13, ch. 99-201; s. 3, ch. 2000-246; s. 6, ch. 2001-50; s. 1045, ch. 2002-387; s. 1, ch. 2003-18; s. 1, ch. 2003-63; s. 136, ch. 2003-402; ss. 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, ch. 2004-373.

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.--

(1)(a) Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer or offender in community control has violated his or her probation or community control in a material respect, any law enforcement officer who is aware of the probationary or community control status of the probationer or offender in community control or any parole or probation supervisor may arrest or request any county or municipal law enforcement officer to arrest such probationer or offender without warrant wherever found and forthwith return him or her to the court granting such probation or community control.

(b) Any committing trial court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the probationer or offender, returnable forthwith before the court granting such probation or community control.

(c) Any parole or probation supervisor, any officer authorized to serve criminal process, or any peace officer of this state is authorized to serve and execute such warrant.

(d) Upon the filing of an affidavit alleging a violation of probation or community control and following issuance of a

Sexual Predators & Offenders Florida Law

warrant under s. [901.02](#), the probationary period is tolled until the court enters a ruling on the violation. Notwithstanding the tolling of probation as provided in this subsection, the court shall retain jurisdiction over the offender for any violation of the conditions of probation or community control that is alleged to have occurred during the tolling period. The probation officer is permitted to continue to supervise any offender who remains available to the officer for supervision until the supervision expires pursuant to the order of probation or community control or until the court revokes or terminates the probation or community control, whichever comes first.

(2)(a) The court, upon the probationer or offender being brought before it, shall advise him or her of such charge of violation and, if such charge is admitted to be true, may forthwith revoke, modify, or continue the probation or community control or place the probationer into a community control program.

(b) If probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he or she has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer on probation or the offender into community control.

(c) If such violation of probation or community control is not admitted by the probationer or offender, the court may commit him or her or release him or her with or without bail to await further hearing, or it may dismiss the charge of probation or community control violation.

(d) If such charge is not at that time admitted by the probationer or offender and if it is not dismissed, the court, as soon as may be practicable, shall give the probationer

Sexual Predators & Offenders Florida Law

or offender an opportunity to be fully heard on his or her behalf in person or by counsel.

(e) After such hearing, the court may revoke, modify, or continue the probation or community control or place the probationer into community control. If such probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he or she has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer or offender on probation or into community control.

(f) Notwithstanding s. [775.082](#), when a period of probation or community control has been tolled, upon revocation or modification of the probation or community control, the court may impose a sanction with a term that when combined with the amount of supervision served and tolled, exceeds the term permissible pursuant to s. [775.082](#) for a term up to the amount of the tolled period of supervision.

(g) If the court dismisses an affidavit alleging a violation of probation or community control, the offender's probation or community control shall continue as previously imposed, and the offender shall receive credit for all tolled time against his or her term of probation or community control.

(3) When the court imposes a subsequent term of supervision following a revocation of probation or community control, it shall not provide credit for time served while on probation or community control toward any subsequent term of probation or community control. However, the court may not impose a subsequent term of probation or community control which, when combined with any amount of time served on preceding terms of probation or community control for offenses before the court for sentencing, would exceed the maximum penalty allowable

Sexual Predators & Offenders Florida Law

as provided by s. [775.082](#). No part of the time that the defendant is on probation or in community control shall be considered as any part of the time that he or she shall be sentenced to serve.

(4) Notwithstanding any other provision of this section, a probationer or an offender in community control who is arrested for violating his or her probation or community control in a material respect may be taken before the court in the county or circuit in which the probationer or offender was arrested. That court shall advise him or her of such charge of a violation and, if such charge is admitted, shall cause him or her to be brought before the court which granted the probation or community control. If such violation is not admitted by the probationer or offender, the court may commit him or her or release him or her with or without bail to await further hearing. The court, as soon as is practicable, shall give the probationer or offender an opportunity to be fully heard on his or her behalf in person or by counsel. After such hearing, the court shall make findings of fact and forward the findings to the court which granted the probation or community control and to the probationer or offender or his or her attorney. The findings of fact by the hearing court are binding on the court which granted the probation or community control. Upon the probationer or offender being brought before it, the court which granted the probation or community control may revoke, modify, or continue the probation or community control or may place the probationer into community control as provided in this section.

(5) In any hearing in which the failure of a probationer or offender in community control to pay restitution or the cost of supervision as provided in s. [948.09](#), as directed, is established by the state, if the probationer or offender asserts his or her inability to pay restitution or the cost of supervision, it is incumbent upon the probationer or offender to prove by clear and convincing evidence that he

Sexual Predators & Offenders Florida Law

or she does not have the present resources available to pay restitution or the cost of supervision despite sufficient bona fide efforts legally to acquire the resources to do so. If the probationer or offender cannot pay restitution or the cost of supervision despite sufficient bona fide efforts, the court shall consider alternate measures of punishment other than imprisonment. Only if alternate measures are not adequate to meet the state's interests in punishment and deterrence may the court imprison a probationer or offender in community control who has demonstrated sufficient bona fide efforts to pay restitution or the cost of supervision.

(6) Any parolee in a community control program who has allegedly violated the terms and conditions of such placement is subject to the provisions of ss. [947.22](#) and [947.23](#).

(7) Any provision of law to the contrary notwithstanding, whenever probation, community control, or control release, including the probationary, community control portion of a split sentence, is violated and the probation or community control is revoked, the offender, by reason of his or her misconduct, shall be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided by law, earned up to the date of his or her release on probation, community control, or control release. This subsection does not deprive the prisoner of his or her right to gain-time or commutation of time for good conduct, as provided by law, from the date on which the prisoner is returned to prison. However, if a prisoner is sentenced to incarceration following termination from a drug punishment program imposed as a condition of probation, the sentence may include incarceration without the possibility of gain-time or early release for the period of time remaining in his or her treatment program placement term.

History.--s. 26, ch. 20519, 1941; s. 2, ch. 59-130; s. 2, ch. 61-498; s. 1, ch. 69-71; s. 20, ch. 83-131; ss. 2, 3, ch. 84-337; ss. 8, 9, 38, 48, ch. 89-

Sexual Predators & Offenders Florida Law

526; s. 13, ch. 89-531; s. 11, ch. 90-287; s. 2, ch. 91-225; s. 8, ch. 91-280; s. 23, ch. 97-78; s. 1687, ch. 97-102; s. 5, ch. 97-239; s. 13, ch. 97-299; s. 3, ch. 2000-246; s. 1, ch. 2001-109; s. 50, ch. 2004-11; ss. 27, 28, 41, ch. 2004-373.

948.30 Additional terms and conditions of probation or community control for certain sex offenses.--

Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(1) Effective for probationers or community controllees whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of chapter 794, s. [800.04](#), s. [827.071](#), or s. [847.0145](#), the court must impose the following conditions in addition to all other standard and special conditions imposed:

(a) A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and such alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.

(b) 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, as prescribed by the court. The 1,000-foot distance shall be measured in a straight line from the offender's place of residence to the nearest boundary line of the school, day care center, park, playground, or other place where children congregate. The distance may not be measured by a pedestrian route or automobile route.

(c) Active participation in and successful completion of a sex offender treatment program with therapists specifically

Sexual Predators & Offenders Florida Law

trained to treat sex offenders, at the probationer's or community controllee's own expense. If a specially trained therapist is not available within a 50-mile radius of the probationer's or community controllee's residence, the offender shall participate in other appropriate therapy.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.

(e) If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the sentencing court without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the sentencing court.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or other place where children regularly congregate.

(g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

(h) A requirement that the probationer or community controllee must submit a specimen of blood or other approved biological specimen to the Department of Law Enforcement to be registered with the DNA data bank.

(i) A requirement that the probationer or community controllee make restitution to the victim, as ordered by the

Sexual Predators & Offenders Florida Law

court under s. [775.089](#), for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

(j) Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(2) Effective for a probationer or community controllee whose crime was committed on or after October 1, 1997, and who is placed on sex offender probation for a violation of chapter 794, s. [800.04](#), s. [827.071](#), or s. [847.0145](#), in addition to any other provision of this ¹subsection, the court must impose the following conditions of probation or community control:

(a) As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid for by the sex offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of community supervision has occurred.

(b) Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

(c) A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

(d) If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

Sexual Predators & Offenders Florida Law

(e) Electronic monitoring when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.

History.--s. 59, ch. 95-283; s. 6, ch. 96-409; s. 3, ch. 97-308; s. 14, ch. 98-81; s. 13, ch. 99-201; s. 3, ch. 2000-246; s. 1, ch. 2003-18; s. 1, ch. 2003-63; s. 18, ch. 2004-373.

¹**Note.**--The referenced subsection was s. [948.03](#)(5), which was redesignated as s. [948.30](#) by s. 18, ch. 2004-373. **Note.**--Former s. 948.03(5).

948.32 Requirements of law enforcement agency upon arrest of persons for certain sex offenses.--

(1) When any state or local law enforcement agency investigates or arrests a person for committing, or attempting, soliciting, or conspiring to commit, a violation of s. [787.025](#), chapter 794, s. [796.03](#), s. [800.04](#), s. [827.071](#), s. [847.0133](#), s. [847.0135](#), or s. [847.0145](#), the law enforcement agency shall contact the Department of Corrections to verify whether the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release.

(2) If the law enforcement agency finds that the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release, the law enforcement agency shall immediately notify the person's probation officer or release supervisor of the investigation or the arrest.

History.--s. 13, ch. 97-299; s. 3, ch. 2000-246; s. 28, ch. 2004-373.

Note.--Former s. 948.06(2).

**Sexual Predators & Offenders
Federal Law**

42 USC Sec. 14071 01/02/01

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 136 - VIOLENT *CRIME* CONTROL AND LAW
ENFORCEMENT
SUBCHAPTER VI - *CRIMES* AGAINST CHILDREN**

**Sec. 14071. Jacob Wetterling *Crimes* Against Children
and Sexually**

Violent Offender Registration Program

-STATUTE-

(a) In general

(1) State guidelines

The Attorney General shall establish guidelines for State programs that require -

(A) a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense to register a current address for the time period specified in subparagraph (A) of subsection (b)(6) of this section; and

(B) a person who is a sexually violent predator to register a current address unless such requirement is terminated under subparagraph (B) of subsection (b)(6) of this section.

(2) Determination of sexually violent predator status; waiver; alternative measures

(A) In general

A determination of whether a person is a sexually violent predator for purposes of this section shall be made by a court after considering the recommendation of a board composed of experts in the behavior and treatment of sex offenders, victims' rights advocates, and representatives of law enforcement agencies.

(B) Waiver

The Attorney General may waive the requirements of subparagraph (A) if the Attorney General determines that the State has established alternative procedures or legal standards for designating a person as a sexually violent predator.

**Sexual Predators & Offenders
Federal Law**

(C) Alternative measures

The Attorney General may also approve alternative measures of comparable or greater effectiveness in protecting the public from unusually dangerous or recidivistic sexual offenders in lieu of the specific measures set forth in this section regarding sexually violent predators.

(3) Definitions

For purposes of this section:

(A) The term "criminal offense against a victim who is a minor" means any criminal offense in a range of offenses specified by State law which is comparable to or which exceeds the following range of offenses:

(i) kidnapping of a minor, except by a parent;

(ii) false imprisonment of a minor, except by a parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of a minor to engage in sexual conduct;

(v) use of a minor in a sexual performance;

(vi) solicitation of a minor to practice prostitution;

(vii) any conduct that by its nature is a sexual offense against a minor; or

(viii) an attempt to commit an offense described in any of clauses (i) through (vii), if the State -

(I) makes such an attempt a criminal offense; and

(II) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

For purposes of this subparagraph conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(B) The term "sexually violent offense" means any criminal offense in a range of offenses specified by State law which is comparable to or which exceeds the range of offenses encompassed by aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18 or as described in the State criminal code) or an offense that has as its elements engaging in physical contact with

Sexual Predators & Offenders Federal Law

another person with intent to commit aggravated sexual abuse or sexual abuse (as described in such sections of title 18 or as described in the State criminal code).

(C) The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(D) The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(E) The term "predatory" means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(F) The term "employed, carries on a vocation" includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(G) The term "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education.

(b) Registration requirement upon release, parole, supervised release, or probation

An approved State registration program established under this section shall contain the following elements:

(1) Duties of responsible officials

(A) If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, the court, or another responsible officer or official, shall -

Sexual Predators & Offenders Federal Law

(i) inform the person of the duty to register and obtain the information required for such registration;

(ii) inform the person that if the person changes residence address, the person shall report the change of address as provided by State law;

(iii) inform the person that if the person changes residence to another State, the person shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence, and inform the person that the person must also register in a State where the person is employed, carries on a vocation, or is a student;

(iv) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(v) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) In addition to the requirements of subparagraph (A), for a person required to register under subparagraph (B) of subsection (a)(1) of this section, the State prison officer, the court, or another responsible officer or official, as the case may be, shall obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person.

(2) Transfer of information to State and FBI; participation in national sex offender registry

(A) State reporting

State procedures shall ensure that the registration information is promptly made available to a law enforcement agency having jurisdiction where the person expects to reside and entered into the appropriate State records or data system.

State procedures shall also ensure that conviction data and fingerprints for persons required to register are promptly transmitted to the Federal Bureau of

**Sexual Predators & Offenders
Federal Law**

Investigation.

(B) National reporting

A State shall participate in the national database established under section 14072(b) of this title in accordance with guidelines issued by the Attorney General, including transmission of current address information and other information on registrants to the extent provided by the guidelines.

(3) Verification

(A) For a person required to register under subparagraph (A) of subsection (a)(1) of this section, State procedures shall provide for verification of address at least annually.

(B) The provisions of subparagraph (A) shall be applied to a person required to register under subparagraph (B) of subsection (a)(1) of this section, except that such person must verify the registration every 90 days after the date of the initial release or commencement of parole.

(4) Notification of local law enforcement agencies of changes in address

A change of address by a person required to register under this section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is promptly made available to a law enforcement agency having jurisdiction where the person will reside and entered into the appropriate State records or data system.

(5) Registration for change of address to another State

A person who has been convicted of an offense which requires registration under this section and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration.

(6) Length of registration

A person required to register under subsection (a)(1) of

**Sexual Predators & Offenders
Federal Law**

this section shall continue to comply with this section, except during ensuing periods of incarceration, until -
(A) 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation; or

(B) for the life of that person if that person -

(i) has 1 or more prior convictions for an offense

described in subsection (a)(1)(A) of this section; or

(ii) has been convicted of an aggravated offense described in subsection (a)(1)(A) of this section; or

(iii) has been determined to be a sexually violent predator pursuant to subsection (a)(2) of this section.

(7) Registration of out-of-state offenders, Federal offenders, persons sentenced by courts martial, and offenders crossing State borders

As provided in guidelines issued by the Attorney General, each State shall include in its registration program residents who were convicted in another State and shall ensure that procedures are in place to accept registration information from -

(A) residents who were convicted in another State, convicted of a Federal offense, or sentenced by a court martial; and

(B) nonresident offenders who have crossed into another State in order to work or attend school.

(c) Registration of offender crossing State border

Any person who is required under this section to register in the State in which such person resides shall also register in any State in which the person is employed, carries on a vocation, or is a student.

(d) Penalty

A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(e) Release of information

(1) The information collected under a State registration

Sexual Predators & Offenders Federal Law

program may be disclosed for any purpose permitted under the laws of the State.

(2) The State or any agency authorized by the State shall release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released.

(f) Immunity for good faith conduct

Law enforcement agencies, employees of law enforcement agencies and independent contractors acting at the direction of such agencies, and State officials shall be immune from liability for good faith conduct under this section.

(g) Compliance

(1) Compliance date Each State shall have not more than 3 years from September 13, 1994, in which to implement this section, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement this section.

(2) Ineligibility for funds

(A) A State that fails to implement the program as described in this section shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 3756 of this title.

(B) Reallocation of funds. - Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

(h) Fingerprints

Each requirement to register under this section shall be deemed to also require the submission of a set of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under section 14072(h) of this title.

(i) Grants to States for costs of compliance

(1) Program authorized

(A) In general

The Director of the Bureau of Justice Assistance (in this

Sexual Predators & Offenders Federal Law

subsection referred to as the "Director") shall carry out a program, which shall be known as the "Sex Offender Management Assistance Program" (in this subsection referred to as the "SOMA program"), under which the Director shall award a grant to each eligible State to offset costs directly associated with complying with this section.

(B) Uses of funds

Each grant awarded under this subsection shall be -

(i) distributed directly to the State for distribution to State and local entities; and

(ii) used for training, salaries, equipment, materials, and other costs directly associated with complying with this section.

(2) Eligibility

(A) Application

To be eligible to receive a grant under this subsection, the chief executive of a State shall, on an annual basis, submit to the Director an application (in such form and containing such information as the Director may reasonably require) assuring that -

(i) the State complies with (or made a good faith effort to comply with) this section; and

(ii) where applicable, the State has penalties comparable to or greater than Federal penalties for crimes listed in this section, except that the Director may waive the requirement of this clause if a State demonstrates an overriding need for assistance under this subsection.

(B) Regulations

(i) In general

Not later than 90 days after October 30, 1998, the Director shall promulgate regulations to implement this subsection (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this subsection. In allocating funds under this subsection, the Director may consider the annual number of sex offenders registered in each eligible State's monitoring and notification programs.

(ii) Certain training programs

Sexual Predators & Offenders Federal Law

Prior to implementing this subsection, the Director shall study the feasibility of incorporating into the SOMA program the activities of any technical assistance or training program established as a result of section 13941 of this title. In a case in which incorporating such activities into the SOMA program will eliminate duplication of efforts or administrative costs, the Director shall take administrative actions, as allowable, and make recommendations to Congress to incorporate such activities into the SOMA program prior to implementing the SOMA program.

(3) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection, \$25,000,000 for each of fiscal years 1999 and 2000.

(j) Notice of enrollment at or employment by institutions of higher education

(1) Notice by offenders

(A) In general

In addition to any other requirements of this section, any person who is required to register in a State shall provide notice as required under State law -

(i) of each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student; and

(ii) of each change in enrollment or employment status of such person at an institution of higher education in that State.

(B) Change in status

A change in status under subparagraph (A)(ii) shall be reported by the person in the manner provided by State law.

State procedures shall ensure that the updated information is promptly made available to a law enforcement agency having jurisdiction where such institution is located and entered into the appropriate State records or data system.

(2) State reporting

State procedures shall ensure that the registration

Sexual Predators & Offenders Federal Law

information collected under paragraph (1) -

(A) is promptly made available to a law enforcement agency having jurisdiction where such institution is located; and

(B) entered into the appropriate State records or data system.

(3) Request

Nothing in this subsection shall require an educational institution to request such information from any State.

-SOURCE-

(Pub. L. 103-322, title XVII, Sec. 170101, Sept. 13, 1994, 108 Stat. 2038; Pub. L. 104-145, Sec. 2, May 17, 1996, 110 Stat. 1345; Pub. L. 104-236, Sec. 3-7, Oct. 3, 1996, 110 Stat. 3096, 3097; Pub. L. 105-119, title I, Sec. 115(a)(1)-(5), Nov. 26, 1997, 111 Stat. 2461-2463; Pub. L. 105-314, title VI, Sec. 607(a), Oct. 30, 1998, 112 Stat. 2985; Pub. L. 106-386, div. B, title VI, Sec. 1601(b)(1), Oct. 28, 2000, 114 Stat. 1537.)

AMENDMENTS

2000 - Subsec. (j). Pub. L. 106-386 added subsec. (j).

1998 - Subsecs. (g), (h). Pub. L. 105-314, Sec. 607(a)(1), which directed the amendment of this section by redesignating the second subsection designated as subsection (g) as subsection (h), was executed by redesignating subsec. (g), relating to fingerprints, as (h) to reflect the probable intent of Congress.

Subsec. (i). Pub. L. 105-314, Sec. 607(a)(2), added subsec. (i).

1997 - Subsec. (a)(1)(A), (B). Pub. L. 105-119, Sec. 115(a)(1)(A), struck out "with a designated State law enforcement agency" after "current address".

Subsec. (a)(2). Pub. L. 105-119, Sec. 115(a)(1)(B), added par. (2) and struck out heading and text of former par. (2). Text read as follows: "A determination that a person is a sexually violent predator and a determination that a person is no longer a sexually violent predator shall be made by the sentencing court after receiving a report by a State board composed of experts in the field of the behavior and

Sexual Predators & Offenders Federal Law

treatment of sexual offenders, victim rights advocates, and representatives from law enforcement agencies."

Subsec. (a)(3)(A). Pub. L. 105-119, Sec. 115(a)(1)(C)(i), substituted "in a range of offenses specified by State law which is comparable to or which exceeds the following range of offenses:" for "that consists of - " in introductory provisions.

Subsec. (a)(3)(B). Pub. L. 105-119, Sec. 115(a)(1)(C)(ii), substituted "in a range of offenses specified by State law which is comparable to or which exceeds the range of offenses encompassed by" for "that consists of".

Subsec. (a)(3)(F), (G). Pub. L. 105-119, Sec. 115(a)(1)(D), added subpars. (F) and (G).

Subsec. (b)(1). Pub. L. 105-119, Sec. 115(a)(2)(A)(i), substituted "Duties of responsible officials" for "Duty of State prison official or court" in heading.

Subsec. (b)(1)(A). Pub. L. 105-119, Sec. 115(a)(2)(A)(ii)(I), substituted "the court, or another responsible officer or official" for "or in the case of probation, the court" in introductory provisions.

Subsec. (b)(1)(A)(ii). Pub. L. 105-119, Sec. 115(a)(2)(A)(ii)(II), substituted "report the change of address as provided by State law" for "give the new address to a designated State law enforcement agency in writing within 10 days".

Subsec. (b)(1)(A)(iii). Pub. L. 105-119, Sec. 115(a)(2)(A)(ii)(III), substituted "shall report the change of address as provided by State law and comply with any registration requirement in the new State of residence, and inform the person that the person must also register in a State where the person is employed, carries on a vocation, or is a student" for "shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement".

Subsec. (b)(1)(B). Pub. L. 105-119, Sec. 115(a)(2)(A)(iii),

Sexual Predators & Offenders Federal Law

substituted ", the court, or another responsible officer or official" for "or the court".

Subsec. (b)(2). Pub. L. 105-119, Sec. 115(a)(2)(B), added par.

(2) and struck out heading and text of former par. (2). Text read as follows: "The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit all information described in paragraph (1) to the Federal Bureau of Investigation for inclusion in the FBI database described in section 14072 of this title."

Subsec. (b)(3)(A). Pub. L. 105-119, Sec. 115(a)(2)(C)(i), in introductory provisions, substituted "State procedures shall provide for verification of address at least annually." for "on each anniversary of the person's initial registration date during the period in which the person is required to register under this section the following applies:".

Subsec. (b)(3)(A)(i) to (iv). Pub. L. 105-119, Sec. 115(a)(2)(C)(ii), which directed the amendment of par. (3)(A) by striking out cls. (i) through (v), was executed by striking out cls. (i) through (iv) to reflect the probable intent of Congress because no cl. (v) had been enacted. Prior to amendment, cls. (i) through (iv) read as follows:

"(i) The designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

"(ii) The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form.

"(iii) The verification form shall be signed by the person, and state that the person still resides at the address last

Sexual Predators & Offenders Federal Law

reported to the designated State law enforcement agency. The person shall include with the verification form, fingerprints and a photograph of that person.

"(iv) If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed the residence address."

Subsec. (b)(4). Pub. L. 105-119, Sec. 115(a)(2)(D), substituted "section shall be reported by the person in the manner provided by State law. State procedures shall ensure that the updated address information is promptly made available to a law enforcement agency having jurisdiction where the person will reside and entered into the appropriate State records or data system" for "section reported to the designated State law enforcement agency shall be immediately reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement".

Subsec. (b)(5). Pub. L. 105-119, Sec. 115(a)(2)(E), substituted "and who moves to another State, shall report the change of address to the responsible agency in the State the person is leaving, and shall comply with any registration requirement in the new State of residence. The procedures of the State the person is leaving shall ensure that notice is provided promptly to an agency responsible for registration in the new State, if that State requires registration" for "shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement".

Subsec. (b)(7). Pub. L. 105-119, Sec. 115(a)(2)(F), added par. (7). Subsec. (c). Pub. L. 105-119, Sec. 115(a)(3),

Sexual Predators & Offenders Federal Law

added subsec. (c). Former subsec. (c) redesignated (d). Subsec. (d). Pub. L. 105-119, Sec. 115(a)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 105-119, Sec. 115(a)(3), (4), redesignated subsec. (d) as (e) and in par. (2) substituted "The State or any agency authorized by the State" for "The designated State law enforcement agency and any local law enforcement agency authorized by the State agency". Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105-119, Sec. 115(a)(3), (5), redesignated subsec. (e) as (f) and substituted "and independent contractors acting at the direction of such agencies, and State officials" for ", and State officials". Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105-119, Sec. 115(a)(3), redesignated subsec. (f), relating to compliance, as (g).

1996 - Subsec. (a)(2). Pub. L. 104-236, Sec. 4, inserted before period at end ", victim rights advocates, and representatives from law enforcement agencies".

Subsec. (b)(2). Pub. L. 104-236, Sec. 7, amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation."

Subsec. (b)(3)(A)(iii). Pub. L. 104-236, Sec. 6, inserted at end "The person shall include with the verification form, fingerprints and a photograph of that person."

Subsec. (b)(6). Pub. L. 104-236, Sec. 3, amended heading and text of par. (6) generally. Prior to amendment, text read as follows: "(A) A person required to register under

Sexual Predators & Offenders Federal Law

subparagraph (A) of subsection (a)(1) of this section shall continue to comply with this section until 10 years have elapsed since the person was released from prison, placed on parole, supervised release, or probation. "(B) The requirement of a person to register under subparagraph (B) of subsection (a)(1) of this section shall terminate upon a determination, made in accordance with paragraph (2) of subsection (a) of this section, that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense."

Subsec. (d). Pub. L. 104-145 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "The information collected under a State registration program shall be treated as private data expect that –

"(1) such information may be disclosed to law enforcement agencies for law enforcement purposes;

"(2) such information may be disclosed to government agencies conducting confidential background checks; and

"(3) the designated State law enforcement agency and any local law enforcement agency authorized by the State agency may release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released."

Subsec. (g). Pub. L. 104-236, Sec. 5, added subsec. (g).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-386, div. B, title VI, Sec. 1601(b)(2), Oct. 28, 2000, 114 Stat. 1537, provided that: "The amendment made by this subsection (amending this section) shall take effect 2 years after the date of the enactment of this Act (Oct. 28, 2000)."

EFFECTIVE DATE OF 1997 AMENDMENT

Section 115(c) of Pub. L. 105-119 provided that: "This section (amending this section, section 14072 of this title,

Sexual Predators & Offenders Federal Law

and sections 3521, 3563, 3583, 4042, and 4209 of Title 18, **Crimes** and Criminal Procedure, enacting provisions set out as notes under section 14039 of this title and section 951 of Title 10, Armed Forces, and amending provisions set out as a note under this section) shall take effect on the date of the enactment of this Act (Nov. 26, 1997), except that - "(1) subparagraphs (A), (B), and (C) of subsection (a)(8) (amending sections 3563, 3583, 4042, and 4209 of Title 18, **Crimes** and Criminal Procedure, and enacting provisions set out as a note under section 951 of Title 10, Armed Forces) shall take effect 1 year after the date of the enactment of this Act; and "(2) States shall have 3 years from such date of enactment to implement amendments made by this Act (probably should be "this section") which impose new requirements under the Jacob Wetterling **Crimes** Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071 et seq.), and the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement these amendments."

EFFECTIVE DATE OF 1996 AMENDMENT

Section 10 of Pub. L. 104-236, as amended by Pub. L. 105-119, title I, Sec. 115(a)(7), Nov. 26, 1997, 111 Stat. 2464, provided that: "(a) In General. - This Act (enacting sections 14072 and 14073 of this title, amending this section, and enacting provisions set out as notes under this section and section 13701 of this title) and the amendments made by this Act shall become effective 1 year after the date of enactment of this Act (Oct. 3, 1996).

"(b) Compliance by States. - Each State shall implement the amendments made by sections 3, 4, 5, 6, and 7 of this Act (amending this section) not later than 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement such amendments.

"(c) Ineligibility for Funds. - "(1) A State that fails to implement the program as described in sections 3, 4, 5, 6, and 7 of this Act (amending this section) shall not receive

Sexual Predators & Offenders Federal Law

10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus **Crime** Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

"(2) Any funds that are not allocated for failure to comply with section 3, 4, 5, 6, or 7 of this Act shall be reallocated to States that comply with these sections. "(d) Effective Date. - States shall be allowed the time specified in subsection (b) to establish minimally sufficient sexual offender registration programs for purposes of the amendments made by section 2 (enacting section 14072 of this title). Subsections (c) and (k) of section 170102 of the Violent **Crime** Control and Law Enforcement Act of 1994 (42 U.S.C. 14072(c), (k)), and any requirement to issue related regulations, shall take effect at the conclusion of the time provided under this subsection for the establishment of minimally sufficient sexual offender registration programs."

REGULATIONS

Section 9 of Pub. L. 104-236 provided that: "Not later than 1 year after the date of enactment of this Act (Oct. 3, 1996), the Attorney General shall issue regulations to carry out this Act (see Effective Date of 1996 Amendment note above) and the amendments made by this Act."

SEVERABILITY

Section 11 of Pub. L. 104-236 provided that: "If any provision of this Act (see Effective Date of 1996 Amendment note above), an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby."

TRANSFER OF FUNCTIONS

Effective Aug. 1, 2000, all functions of Director of Bureau of Justice Assistance, other than those enumerated in section 3742(3) to (6) of this title, transferred to Assistant Attorney General for Office of Justice Programs, see

Sexual Predators & Offenders Federal Law

section 1000(a)(1) (title I, Sec. 108(b)) of Pub. L. 106-113, set out as a note under section 3741 of this title.

STUDY OF SEX OFFENDER MANAGEMENT ASSISTANCE PROGRAM

Pub. L. 105-314, title VI, Sec. 607(b), Oct. 30, 1998, 112 Stat. 2986, provided that: "Not later than March 1, 2000, the Director shall conduct a study to assess the efficacy of the **Sex** Offender Management Assistance Program under section 170101(i) of the Violent **Crime** Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)), as added by this section, and submit recommendations to Congress."

STUDY OF HOTLINES

Pub. L. 105-314, title IX, Sec. 902, Oct. 30, 1998, 112 Stat. 2991, provided that: "(a) In General. - Not later than 1 year after the date of the enactment of this Act (Oct. 30, 1998), the Attorney General shall conduct a study in accordance with subsection (b) and submit to Congress a report on the results of that study.

"(b) Contents of Study. - The study under this section shall include an examination of - "(1) existing State programs for informing the public about the presence of sexual predators released from prison, as required in section 170101 of the Violent **Crime** Control and Law Enforcement Act of 1994 (42 U.S.C. 14071), including the use of CD-ROMs, Internet databases, and Sexual Offender Identification Hotlines, such as those used in the State of California; and "(2) the feasibility of establishing a national hotline for parents to access a Federal Bureau of Investigation database that tracks the location of convicted sexual predators established under section 170102 of the Violent **Crime** Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) and, in determining that feasibility, the Attorney General shall examine issues including the cost, necessary changes to Federal and State laws necessitated by the creation of such a hotline, consistency with Federal and State case law pertaining to community notification,

**Sexual Predators & Offenders
Federal Law**

and the need for, and accuracy and reliability of, the information available through such a hotline."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14072 of this title; title 18 sections 3563, 3583; title 20 sections 1092, 1232g.

**Sexual Predators & Offenders
Federal Law**

42 USC Sec. 14072 01/02/01

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 136 - VIOLENT CRIME CONTROL AND LAW
ENFORCEMENT
SUBCHAPTER VI - CRIMES AGAINST CHILDREN
Sec. 14072. FBI database**

-STATUTE-

(a) Definitions

For purposes of this section -

(1) the term "FBI" means the Federal Bureau of Investigation;

(2) the terms "criminal offense against a victim who is a minor", "sexually violent offense", "sexually violent predator", "mental abnormality", "predatory", "employed, carries on a vocation", and "student" have the same meanings as in section 14071(a)(3) of this title; and

(3) the term "minimally sufficient sexual offender registration program" means any State sexual offender registration program that -

(A) requires the registration of each offender who is convicted of an offense in a range of offenses specified by State law which is comparable to or exceeds that described in subparagraph (A) or (B) of section 14071(a)(1) of this title;

(B) participates in the national database established under subsection (b) of this section in conformity with guidelines issued by the Attorney General;

(C) provides for verification of address at least annually;

(FOOTNOTE 1) So in original. Probably should be followed by "and".

(D) requires that each person who is required to register under subparagraph (A) shall do so for a period of not less than 10 years beginning on the date that such person was released from prison or placed on parole, supervised release, or probation.

(b) Establishment

The Attorney General shall establish a national database

Sexual Predators & Offenders Federal Law

at the Federal Bureau of Investigation to track the whereabouts and movement of -

- (1) each person who has been convicted of a criminal offense against a victim who is a minor;
- (2) each person who has been convicted of a sexually violent offense; and
- (3) each person who is a sexually violent predator.

(c) Registration requirement

Each person described in subsection (b) of this section who resides in a State that has not established a minimally sufficient sexual offender registration program shall register a current address, fingerprints of that person, and a current photograph of that person with the FBI for inclusion in the database established under subsection (b) of this section for the time period specified under subsection (d) of this section.

(d) Length of registration

A person described in subsection (b) of this section who is required to register under subsection (c) of this section shall, except during ensuing periods of incarceration, continue to comply with this section -

- (1) until 10 years after the date on which the person was released from prison or placed on parole, supervised release, or probation; or
- (2) for the life of the person, if that person -
 - (A) has 2 or more convictions for an offense described in subsection (b) of this section;
 - (B) has been convicted of aggravated sexual abuse, as defined in section 2241 of title 18 or in a comparable provision of State law; or
 - (C) has been determined to be a sexually violent predator.

(e) Verification

(1) Persons convicted of an offense against a minor or a sexually violent offense In the case of a person required to register under subsection (c) of this section, the FBI shall, during the period in which the person is required to register under subsection (d) of this section, verify the person's address in accordance with guidelines that shall be

Sexual Predators & Offenders Federal Law

promulgated by the Attorney General. Such guidelines shall ensure that address verification is accomplished with respect to these individuals and shall require the submission of fingerprints and photographs of the individual.

(2) Sexually violent predators

Paragraph (1) shall apply to a person described in subsection (b)(3) of this section, except that such person must verify the registration once every 90 days after the date of the initial release or commencement of parole of that person.

(f) Community notification

(1) In general

Subject to paragraph (2), the FBI may release relevant information concerning a person required to register under subsection (c) of this section that is necessary to protect the public.

(2) Identity of victim

In no case shall the FBI release the identity of any victim of an offense that requires registration by the offender with the FBI.

(g) Notification of FBI of changes in residence

(1) Establishment of new residence

For purposes of this section, a person shall be deemed to have established a new residence during any period in which that person resides for not less than 10 days.

(2) Persons required to register with the FBI

Each establishment of a new residence, including the initial establishment of a residence immediately following release from prison, or placement on parole, supervised release, or probation, by a person required to register under subsection (c) of this section shall be reported to the FBI not later than 10 days after that person establishes a new residence.

(3) Individual registration requirement

A person required to register under subsection (c) of this section or under a State sexual offender (FOOTNOTE 2) registration program, including a program established

Sexual Predators & Offenders Federal Law

under section 14071 of this title, who changes address to a State other than the State in which the person resided at the time of the immediately preceding registration shall, not later than 10 days after that person establishes a new residence, register a current address, fingerprints, and photograph of that person, for inclusion in the appropriate database, with -

(FOOTNOTE 2) So in original.

(A) the FBI; and

(B) the State in which the new residence is established.

(4) State registration requirement

Any time any State agency in a State with a minimally sufficient sexual offender registration program, including a program established under section 14071 of this title, is notified of a change of address by a person required to register under such program within or outside of such State, the State shall notify -

(A) the law enforcement officials of the jurisdiction to which, and the jurisdiction from which, the person has relocated; and

(B) the FBI.

(5) Verification

(A) Notification of local law enforcement officials

The FBI shall ensure that State and local law enforcement officials of the jurisdiction from which, and the State and local law enforcement officials of the jurisdiction to which, a person required to register under subsection (c) of this section relocates are notified of the new residence of such person.

(B) Notification of FBI

A State agency receiving notification under this subsection shall notify the FBI of the new residence of the offender.

(C) Verification

(i) State agencies

If a State agency cannot verify the address of or locate a person required to register with a minimally sufficient sexual offender registration program, including a program established under section 14071 of this title, the State

Sexual Predators & Offenders Federal Law

shall immediately notify the FBI.

(ii) FBI

If the FBI cannot verify the address of or locate a person required to register under subsection (c) of this section or if the FBI receives notification from a State under clause (i), the FBI shall -

(I) classify the person as being in violation of the registration requirements of the national database; and

(II) add the name of the person to the National Crime

Information Center Wanted person file and create a wanted persons record: Provided, That an arrest warrant which meets the requirements for entry into the file is issued in connection with the violation.

(h) Fingerprints

(1) FBI registration

For each person required to register under subsection (c) of this section, fingerprints shall be obtained and verified by the FBI or a local law enforcement official pursuant to regulations issued by the Attorney General.

(2) State registration systems

In a State that has a minimally sufficient sexual offender registration program, including a program established under section 14071 of this title, fingerprints required to be registered with the FBI under this section shall be obtained and verified in accordance with State requirements. The State agency responsible for registration shall ensure that the fingerprints and all other information required to be registered is registered with the FBI.

(i) Penalty

A person who is -

(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

(2) required to register under a sexual offender registration program in the person's State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

Sexual Predators & Offenders Federal Law

(3) described in section 4042(c)(4) of title 18, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or (4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law 105-119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second or subsequent offense under this subsection, be imprisoned for not more than 10 years.

(j) Release of information

The information collected by the FBI under this section shall be disclosed by the FBI -

(1) to Federal, State, and local criminal justice agencies for - (A) law enforcement purposes; and (B) community notification in accordance with section 14071(d)(3) (FOOTNOTE 3) of this title; and (FOOTNOTE 3) See References in Text note below.

(2) to Federal, State, and local governmental agencies responsible for conducting employment-related background checks under section 5119a of this title.

(k) Notification upon release

Any State not having established a program described in subsection (a)(3) of this section must -

(1) upon release from prison, or placement on parole, supervised release, or probation, notify each offender who is convicted of an offense described in subparagraph (A) or (B) of section 14071(a)(1) of this title of their duty to register with the FBI; and

(2) notify the FBI of the release of each offender who is convicted of an offense described in subparagraph (A) or (B) of section 14071(a)(1) of this title.

-SOURCE-

(Pub. L. 103-322, title XVII, Sec. 170102, as added Pub. L.

Sexual Predators & Offenders Federal Law

104-236, Sec. 2(a), Oct. 3, 1996, 110 Stat. 3093; amended Pub. L. 105-119, title I, Sec. 115(a)(6), Nov. 26, 1997, 111 Stat. 2463; Pub. L. 105-277, div. A, Sec. 101(b) (title I, Sec. 123), Oct. 21, 1998, 112 Stat. 2681-50, 2681-72.)

REFERENCES IN TEXT

Section 115(a)(8)(C) of title I of Public Law 105-119, referred to in subsec. (i)(4), is set out as a note under section 951 of Title 10, Armed Forces.

Section 14071(d)(3) of this title, referred to in subsec. (j)(1)(B), was redesignated section 14071(e)(3) of this title by Pub. L. 105-119, title I, Sec. 115(a)(3), Nov. 26, 1997, 111 Stat. 2463.

AMENDMENTS

1998 - Subsec. (a)(2). Pub. L. 105-277, Sec. 101(b) (title I, Sec. 123(1)), struck out "or" after "employed,".

Subsec. (g)(3). Pub. L. 105-277, Sec. 101(b) (title I, Sec. 123(2)), substituted "State sexual offender" for "minimally sufficient" in introductory provisions.

Subsec. (i). Pub. L. 105-277, Sec. 101(b) (title I, Sec. 123(3)), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: "A person required to register under paragraph (1), (2), or (3) of subsection (g) of this section or pursuant to section 14071(b)(7) of this title who knowingly fails to comply with this section shall - "(1) in the case of a first offense - "(A) if the person has been convicted of 1 offense described in subsection (b) of this section, be fined not more than \$100,000; or "(B) if the person has been convicted of more than 1 offense described in subsection (b) of this section, be imprisoned for up to 1 year and fined not more than \$100,000; or "(2) in the case of a second or subsequent offense, be imprisoned for up to 10 years and fined not more than \$100,000."

1997 - Subsec. (a)(2). Pub. L. 105-119, Sec. 115(a)(6)(A), substituted " 'predatory', 'employed, or carries on a vocation', and 'student' " for "and 'predatory' ".

Subsec. (a)(3)(A). Pub. L. 105-119, Sec. 115(a)(6)(B)(i), inserted "in a range of offenses specified by State law

**Sexual Predators & Offenders
Federal Law**

which is comparable to or exceeds that" before "described". Subsec. (a)(3)(B). Pub. L. 105-119, Sec. 115(a)(6)(B)(ii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "requires that all information gathered under such program be transmitted to the FBI in accordance with subsection (g) of this section;". Subsec. (a)(3)(C). Pub. L. 105-119, Sec. 115(a)(6)(B)(iii), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "meets the requirements for verification under section 14071(b)(3) of this title; and". Subsec. (i). Pub. L. 105-119, Sec. 115(a)(6)(C), inserted "or pursuant to section 14071(b)(7) of this title" after "subsection (g) of this section" in introductory provisions.

EFFECTIVE DATE

For effective date of section, see section 10 of Pub. L. 104-236, as amended, set out as an Effective Date of 1996 Amendment note under section 14071 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14071 of this title.

**Sexual Predators & Offenders
Federal Law**

20 USC Sec. 1232g 01/02/01

TITLE 20 - EDUCATION

**CHAPTER 31 - GENERAL PROVISIONS CONCERNING
EDUCATION**

**SUBCHAPTER III - GENERAL REQUIREMENTS AND
CONDITIONS CONCERNING OPERATION AND
ADMINISTRATION OF EDUCATION PROGRAMS:
GENERAL AUTHORITY OF SECRETARY**

**Part 4 - Records; Privacy; Limitation on Withholding
Federal Funds**

Sec. 1232g. Family educational and privacy rights

-STATUTE-

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

Sexual Predators & Offenders Federal Law

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

(C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

- (i) financial records of the parents of the student or any information contained therein;
- (ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;
- (iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (D), confidential recommendations -
 - (I) respecting admission to any educational agency or institution,
 - (II) respecting an application for employment, and
 - (III) respecting the receipt of an honor or honorary recognition.

(D) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (C), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

Sexual Predators & Offenders Federal Law

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which -

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) The term "education records" does not include -

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which

Sexual Predators & Offenders Federal Law

relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

Sexual Predators & Offenders Federal Law

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following -

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C)(i) authorized representatives of (I) the Comptroller General of the United States, (II) the Secretary, or (III) State educational authorities, under the conditions set forth in paragraph (3), or (ii) authorized representatives of the Attorney General for law enforcement purposes under the same conditions as apply to the Secretary under paragraph (3);

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted -

(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such

Sexual Predators & Offenders Federal Law

system's ability to effectively serve the student whose records are released, or

(ii) after November 19, 1974, if -

(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.

(FOOTNOTE 1) So in original. The period probably should be a semicolon.

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of title 26;

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons; and

(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or

Sexual Predators & Offenders Federal Law

contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.

Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless -

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, or (C) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the

Sexual Predators & Offenders Federal Law

Federal legal requirements which relate to such programs: Provided, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information.

Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph

(1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.

(5) Nothing in this section shall be construed to prohibit

Sexual Predators & Offenders Federal Law

State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

(6)(A) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(B) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(C) For the purpose of this paragraph, the final results of any disciplinary proceeding -

(i) shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student; and

(ii) may include the name of any other student, such as a victim or witness, only with the written consent of that other student.

(7)(A) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under section 14071 of title 42 concerning registered sex offenders who are required to register under such section.

Sexual Predators & Offenders Federal Law

(B) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in subparagraph (A) is permitted.

(c) Surveys or data-gathering activities; regulations
Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) Students' rather than parents' permission or consent
For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) Informing parents or students of rights under this section

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) Enforcement; termination of assistance

The Secretary shall take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter, except that action to

Sexual Predators & Offenders Federal Law

terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

(g) Office and review board; creation; functions

The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

(h) Disciplinary records; disclosure

Nothing in this section shall prohibit an educational agency or institution from -

(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or
(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

(i) Drug and alcohol violation disclosures

(1) In general

Nothing in this Act or the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall be construed to prohibit an institution of higher education from disclosing, to a parent or legal guardian of a student, information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, if -

(A) the student is under the age of 21; and

(B) the institution determines that the student has

Sexual Predators & Offenders Federal Law

committed a disciplinary violation with respect to such use or possession.

(2) State law regarding disclosure

Nothing in paragraph (1) shall be construed to supersede any provision of State law that prohibits an institution of higher education from making the disclosure described in subsection (a) of this section.

-SOURCE-

(Pub. L. 90-247, title IV, Sec. 444, formerly Sec. 438, as added Pub. L. 93-380, title V, Sec. 513(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 93-568, Sec. 2(a), Dec. 31, 1974, 88 Stat. 1858; Pub. L. 96-46, Sec. 4(c), Aug. 6, 1979, 93 Stat. 342; Pub. L. 101-542, title II, Sec. 203, Nov. 8, 1990, 104 Stat. 2385; Pub. L. 102-325, title XV, Sec. 1555(a), July 23, 1992, 106 Stat. 840; renumbered Sec. 444 and amended Pub. L. 103-382, title II, Sec. 212(b)(1), 249, 261(h), Oct. 20, 1994, 108 Stat. 3913, 3924, 3928; Pub. L. 105-244, title IX, Sec. 951, 952, Oct. 7, 1998, 112 Stat. 1835, 1836; Pub. L. 106-386, div. B, title VI, Sec. 1601(d), Oct. 28, 2000, 114 Stat. 1538.)

-REFTEXT-

REFERENCES IN TEXT

This Act, referred to in subsec. (i)(1), is Pub. L. 90-247, Jan. 2, 1968, 80 Stat. 783, as amended, known as the Elementary and Secondary Education Amendments of 1967. Title IV of the Act, known as the General Education Provisions Act, is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (i)(1), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (Sec. 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

-MISC2-

PRIOR PROVISIONS

Sexual Predators & Offenders Federal Law

A prior section 444 of Pub. L. 90-247 was classified to section 1233c of this title prior to repeal by Pub. L. 103-382.

AMENDMENTS

2000 - Subsec. (b)(7). Pub. L. 106-386 added par. (7).

1998 - Subsec. (b)(1)(C). Pub. L. 105-244, Sec. 951(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, or (iii) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;". Subsec. (b)(6). Pub. L. 105-244, Sec. 951(2), designated existing provisions as subpar. (A), substituted "or a nonforcible sex offense, the final results" for "the results", substituted "such crime or offense" for "such crime" in two places, and added subpars. (B) and (C).

Subsec. (i). Pub. L. 105-244, Sec. 952, added subsec. (i).

1994 - Subsec. (a)(1)(B). Pub. L. 103-382, Sec.

249(1)(A)(ii), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (a)(1)(C). Pub. L. 103-382, Sec. 249(1)(A)(i), (iii), redesignated subpar. (B) as (C) and substituted "subparagraph (D)" for "subparagraph (C)" in cl. (iii).

Former subpar. (C) redesignated (D).

Subsec. (a)(1)(D). Pub. L. 103-382, Sec. 249(1)(A)(i), (iv), redesignated subpar. (C) as (D) and substituted "subparagraph (C)" for "subparagraph (B)".

Subsec. (a)(2). Pub. L. 103-382, Sec. 249(1)(B), substituted "privacy rights" for "privacy or other rights".

Subsec. (a)(4)(B)(ii). Pub. L. 103-382, Sec. 261(h)(1), substituted semicolon for period at end.

Subsec. (b)(1)(A). Pub. L. 103-382, Sec. 249(2)(A)(i), inserted before semicolon ", including the educational interests of the child for whom consent would otherwise be required".

Subsec. (b)(1)(C). Pub. L. 103-382, Sec. 261(h)(2)(A), substituted "or (iii)" for "(iii) an administrative head of an education agency (as defined in section 1221e-3(c) of this

Sexual Predators & Offenders Federal Law

title), or (iv)".

Subsec. (b)(1)(E). Pub. L. 103-382, Sec. 249(2)(A)(ii), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;"

Subsec. (b)(1)(H). Pub. L. 103-382, Sec. 261(h)(2)(B), substituted "the Internal Revenue Code of 1986" for "the Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (b)(1)(J). Pub. L. 103-382, Sec. 249(2)(A)(iii)-(v), added subpar. (J).

Subsec. (b)(2). Pub. L. 103-382, Sec. 249(2)(B)(i), which directed amendment of matter preceding subpar. (A) by substituting ", unless - " for the period, was executed by substituting a comma for the period before "unless - " to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 103-382, Sec. 249(2)(B)(ii), inserted "except as provided in paragraph (1)(J)," before "such information".

Subsec. (b)(3). Pub. L. 103-382, Sec. 261(h)(2)(C), substituted "or (C)" for "(C) an administrative head of an education agency or (D)" and "education programs" for "education program".

Subsec. (b)(4). Pub. L. 103-382, Sec. 249(2)(C), inserted at end "If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years."

Subsec. (c). Pub. L. 103-382, Sec. 249(3), substituted "Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which" for "The

Sexual Predators & Offenders Federal Law

Secretary shall adopt appropriate regulations to".

Subsec. (d). Pub. L. 103-382, Sec. 261(h)(3), inserted a comma after "education".

Subsec. (e). Pub. L. 103-382, Sec. 249(4), inserted "effectively" before "informs".

Subsec. (f). Pub. L. 103-382, Sec. 261(h)(4), struck out ", or an administrative head of an education agency," after "The Secretary" and substituted "enforce this section" for "enforce provisions of this section", "in accordance with" for "according to the provisions of", and "comply with this section" for "comply with the provisions of this section".

Subsec. (g). Pub. L. 103-382, Sec. 261(h)(5), struck out "of Health, Education, and Welfare" after "the Department" and "the provisions of" after "adjudicating violations of".

Subsec. (h). Pub. L. 103-382, Sec. 249(5), added subsec. (h).

1992 - Subsec. (a)(4)(B)(ii). Pub. L. 102-325 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1) of this section, the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;"

1990 - Subsec. (b)(6). Pub. L. 101-542 added par. (6).

1979 - Subsec. (b)(5). Pub. L. 96-46 added par. (5).

1974 - Subsec. (a)(1). Pub. L. 93-568, Sec. 2(a)(1)(A)-(C), (2)(A)-(C), (3), designated existing par. (1) as subpar. (A), substituted reference to educational agencies and institutions for reference to state or local educational agencies, institutions of higher education, community colleges, schools, agencies offering preschool programs, and other educational institutions, substituted the generic term education records for the enumeration of such records, and extended the right to inspect and review such records to parents of children who have been in

Sexual Predators & Offenders Federal Law

attendance, and added subpars. (B) and (C).
Subsec. (a)(2). Pub. L. 93-568, Sec. 2(a)(4), substituted provisions making the availability of funds to educational agencies and institutions conditional on the granting of an opportunity for a hearing to parents of students who are or have been in attendance at such institution or agency to challenge the contents of the student's education records for provisions granting the parents an opportunity for such hearing, and inserted provisions authorizing insertion into the records a written explanation of the parents respecting the content of such records.
Subsec. (a)(3) to (6). Pub. L. 93-568, Sec. 2(a)(1)(G), (2)(F), (5), added pars. (3) to (6).
Subsec. (b)(1). Pub. L. 93-568, Sec. 2(a)(1)(D), (2)(D), (6), (8)(A)-(C), (10)(A), in provisions preceding subpar. (A), substituted "educational agency or institution which has a policy of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section)" for "state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of permitting the release of personally identifiable records or files (or personal information contained therein)", in subpar. (A), substituted "educational agency, who have been determined by such agency or institution to have" for "educational agency who have", in subpar. (B), substituted "the student seeks or intends to" for "the student intends to", in subpar. (C), substituted reference to "section 408(c)" for reference to "section 409 of this Act" which for purposes of codification has been translated as "section 1221e-3(c) of this title", and added subpars. (E) to (I).
Subsec. (b)(2). Pub. L. 93-568, Sec. 2(a)(1)(E), (2)(E), substituted "educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records

Sexual Predators & Offenders Federal Law

other than directory information, or as is permitted under paragraph (1) of this subsection" for "state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b)(1) of this section".
Subsec. (b)(3). Pub. L. 93-568, Sec. 2(a)(8)(D), substituted "information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements" for "data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected".
Subsec. (b)(4). Pub. L. 93-568, Sec. 2(a)(9), substituted provisions that each educational agency or institution maintain a record, kept with the education records of each student, indicating individuals, agencies, or organizations who obtained access to the student's record and the legitimate interest in obtaining such information, that such record of access shall be available only to parents, school officials, and their assistants having responsibility for the custody of such records, and as a means of auditing the operation of the system, for provisions that with respect to subsecs. (c)(1), (c)(2), and (c)(3) of this section, all persons, agencies, or organizations desiring access to the records of a student shall be required to sign forms to be kept with the records of the student, but only for inspection by the parents or the student, indicating specifically the

Sexual Predators & Offenders Federal Law

legitimate educational or other interest of the person seeking such information, and that the form shall be available to parents and school officials having responsibility for record maintenance as a means of auditing the operation of the system.

Subsec. (e). Pub. L. 93-568, Sec. 2(a)(1)(F), substituted "to any educational agency or institution unless such agency or institution" for "unless the recipient of such funds".

Subsec. (g). Pub. L. 93-568, Sec. 2(a)(7), (10)(B), struck out reference to sections 1232c and 1232f of this title and inserted provisions that except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1555(b) of Pub. L. 102-325 provided that: "The amendment made by this section (amending this section) shall take effect on the date of enactment of this Act (July 23, 1992)."

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-46 effective Oct. 1, 1978, see section 8 of Pub. L. 96-46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2(b) of Pub. L. 93-568 provided that: "The amendments made by subsection (a) (amending this section) shall be effective, and retroactive to, November 19, 1974."

EFFECTIVE DATE

Section 513(b)(1) of Pub. L. 93-380 provided that: "The provisions of this section (enacting this section and provisions set out as a note under section 1221 of this title)

Sexual Predators & Offenders Federal Law

shall become effective ninety days after the date of enactment (Aug. 21, 1974) of section 438 (now 444) of the General Education Provisions Act (this section)."

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1092, 1232i, 1417, 2304, 9274 of this title; title 8 section 1372; title 10 section 503; title 25 section 3205; title 29 section 2871; title 42 section 11432.

**Sexual Predators & Offenders
Federal Law**

**Final Guidelines for the
Campus Sex Crimes Prevention Act Amendment
to the Jacob Wetterling Crimes Against Children
and Sexually Violent Offender Registration Act**

**DEPARTMENT OF JUSTICE
Office of the Attorney General**

[OAG 103F; A.G. Order No. 2623-2002] RIN 1105-AA81
67 Fed. Reg. 65598 (Oct. 25, 2002)

SUMMARY: The United States Department of Justice is publishing Final Guidelines to implement an amendment to the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act enacted by the Campus Sex Crimes Prevention Act.

EFFECTIVE DATE: October 25, 2002.

FOR FURTHER INFORMATION CONTACT: C. Camille Cain, Deputy Director for Programs, Bureau of Justice Assistance, 810 Seventh Street NW, Washington, D.C. 20531. Telephone: (202) 514-6278. E-mail: cainc@ojp.usdoj.gov.

SUPPLEMENTARY INFORMATION: Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322, 108 Stat. 1796, 2038 (codified at 42 U.S.C. 14071) contains the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (the "Wetterling Act"). The Wetterling Act sets minimum national standards for state sex offender registration and community notification programs, and directs the Attorney General to issue guidelines for such programs. The current Wetterling Act guidelines were published in the Federal Register at 64 FR 572 (Jan. 5, 1999), with corrections at 64 FR 3590 (Jan. 22, 1999).

**Sexual Predators & Offenders
Federal Law**

States that fail to comply with the Wetterling Act's requirements (as implemented and explained in the Attorney General's guidelines) are subject to a mandatory 10% reduction of the formula grant funding available under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program (42 U.S.C. 3756), which is administered by the Bureau of Justice Assistance of the Department of Justice.

Subsequent to the publication of the current Wetterling Act guidelines, Congress amended the Wetterling Act in the Campus Sex Crimes Prevention Act (the "CSCPA"), Pub. L. 106-386, div. B, Sec. 1601, 114 Stat. 1464, 1537 (2000). The CSCPA provides special requirements relating to registration and community notification for sex offenders who are enrolled in or work at institutions of higher education. The CSCPA amendment to the Wetterling Act takes effect two years after its enactment date of October 28, 2000.

Supplementary guidelines are necessary to take account of the CSCPA amendment to the Wetterling Act. On March 8, 2002, the U.S. Department of Justice published Proposed Guidelines in the Federal Register (67 FR 10758) for that purpose.

Summary of Comments on the Proposed Guidelines

Following the publication of the Proposed Guidelines, the Department received several comments, all of which were carefully considered in finalizing the guidelines. A summary of the comments and responses to them are provided in the following paragraphs.

A. Availability of Information to the Campus Community

A number of comments noted that the Proposed Guidelines did not discuss the requirement under the CSCPA that information concerning the presence of registered sex offenders be made available to campus

Sexual Predators & Offenders Federal Law

communities, and recommended that this requirement be articulated more clearly in the Final Guidelines. Comments to this effect were received from Senator Jon Kyl, the sponsor of the CSCPA, and from Daniel S. Carter, Senior Vice President of Security On Campus, Inc.

This issue was not addressed at length in the Proposed Guidelines because responsibility for implementation of the CSCPA is divided between the Attorney General and the Secretary of Education, and this issue relates to federal education law amendments that are within the purview of the Secretary of Education.

In part, the CSCPA added a new subsection to the Wetterling Act, 42 U.S.C. 14071(j), which requires states to obtain information concerning registrants' enrollment or employment at institutions of higher education, and to provide this information to campus police departments or other appropriate law enforcement agencies. The Attorney General is responsible for issuing guidelines relating to the Wetterling Act amendment of the CSCPA as part of his general responsibility for the issuance of guidelines under the Wetterling Act. See 42 U.S.C. 14071(a). The detailed discussion in the Proposed Guidelines was accordingly limited to the portions of the CSCPA that affect the Wetterling Act.

The Proposed Guidelines explained: "These guidelines relate solely to the provisions of the CSCPA that amended the Wetterling Act, and hence affect state eligibility for full Byrne Grant funding." The Proposed Guidelines, however, also noted: "In addition to adding subsection (j) to the Wetterling Act, the CSCPA amended federal education laws to ensure the availability to the campus community of information concerning the presence of registered sex offenders." 67 FR at 10759. The Department of Education is responsible for the issuance of regulations relating to those laws.

Sexual Predators & Offenders Federal Law

The CSCPA's education law amendments include the addition of a new provision, section 485(f)(1)(I) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)(1)(I)). This provision requires a statement advising the campus community where it can obtain the information identifying registered sex offenders who are enrolled or employed at the institution of higher education--information that the state is required to provide to the campus police department or other appropriate law enforcement agency pursuant to 42 U.S.C. 14071(j):

- (I) A statement advising the campus community where law enforcement agency information provided by a State under section 170101(j) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(j)), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

In addition, the CSCPA added a provision to section 444(b) of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g(b)(7)(A)), which specifies that that Act does not prohibit educational institutions from disclosing information provided to them concerning registered sex offenders.

Thus, under the CSCPA's provisions, information identifying the registered sex offenders at an institution of higher education must be provided to the campus police department or other appropriate law enforcement agency, and the campus community must be advised where it can obtain this information. The net effect of these provisions is that information identifying the registered sex offenders at an institution of higher education must be made available to the campus community by some means, for otherwise it

Sexual Predators & Offenders Federal Law

would be impossible to comply with the requirement that the campus community be advised where this information can be obtained. The CSCPA affords discretion concerning the specific means by which this information will be made available to the campus community, and indicates more specifically by way of illustration that permissible options would include making the information available at an appropriate law enforcement office, or making the information available online. See 20 U.S.C. 1092(f)(1)(I) (quoted above).

In addition to the special provisions of the CSCPA concerning the availability of sex offender information to campus communities, the general community notification provision of the Wetterling Act, 42 U.S.C. 14072(e)(2), applies to registered sex offenders who are enrolled or employed at institutions of higher education just as it applies to other registered sex offenders. Subsection (e)(2) requires that relevant information be released concerning registrants as necessary to protect the public. The Attorney General's guidelines for the Wetterling Act explain the meaning and application of this requirement. See 64 FR 572, 581-82.

B. Mandatory or Discretionary Character of the CSCPA's Standards

James Thomas, Executive Director of the Pennsylvania Commission on Crime and Delinquency, provided comments on behalf of the Commonwealth of Pennsylvania. In part, the comments suggested that the CSCPA does not require states to obtain information concerning registered sex offenders' enrollment or employment at institutions of higher education, or to provide such information to law enforcement agencies.

Pennsylvania's comments pointed out that 42 U.S.C. 14071(j)(1)(A) states that persons required to register shall provide notice relating to their enrollment or employment at

Sexual Predators & Offenders Federal Law

institutions of higher education "as required under State law," and that 42 U.S.C. 14071(j)(1)(B) provides that such persons shall report changes in their enrollment or employment status "in the manner provided by State law." The comments interpreted these phrases to mean that the states have discretion under the CSCPA's standards as to whether they will impose such obligations on registrants at all. In support of this interpretation, the comments stated that other federal statutes uniformly use the phrase "as required under State law" in referring to pre-existing state duties-- citing 12 U.S.C. 1813(m)(4); 15 U.S.C. 1612(d); 26 U.S.C. 832(b)(7)(E)--rather than with the intent to impose a new federal obligation on states. (Only one of the cited statutes uses the exact phrase "as required under State law"; the other two use "as required by State law.") The comments also asserted that the phrase "in the manner provided by State law" is not used elsewhere in the United States Code.

However, the phrase "in the manner provided by State law" is used at an earlier point in the Wetterling Act itself, as part of a provision requiring change-of-address notice by registrants. Specifically, 42 U.S.C. 14071(b)(4) provides that a change of address by a person required to register under the Wetterling Act shall be reported by the person "in the manner provided by State law," and that "State procedures shall ensure" that the updated address information is promptly made available to an appropriate law enforcement agency and entered into the appropriate state records or data system. This provision does not mean that states have discretion under the Wetterling Act's standards as to whether or not they will require change of address notice by registrants, but only conveys state discretion as to the manner in which this notice will be effected--for example, specifying which particular agency or official must be given the notice. See 64 FR 572, 580 (explanation of 42 U.S.C. 14071(b)(4) in Attorney General's guidelines).

Sexual Predators & Offenders Federal Law

In parallel fashion, 42 U.S.C. 14071(j)(1)(B) provides that a change of enrollment or employment status shall be reported by the person "in the manner provided by State law," and that "State procedures shall ensure" that the updated information is promptly made available to an appropriate law enforcement agency and entered into the appropriate state records or data system. The similarity of language evidences a similarity of legislative intent. Like 42 U.S.C. 14071(b)(4), 42 U.S.C. 14071(j)(1)(B) conveys state discretion concerning the particular manner in which changes in registration information will be reported, but does not convey discretion as to whether or not the reporting of such information will be required at all.

The other qualifying phrase noted in Pennsylvania's comments appears in 42 U.S.C. 14071(j)(1)(A), which says that, in addition to any other requirements of the Wetterling Act, a person who is required to register shall provide notice "as required under State law" concerning enrollment or employment at an institution of higher education in the state. In effect, the comments suggest that "as required under State law" should be read to mean: "if required under State law."

The phrase "as required under State law" does not appear verbatim elsewhere in the Wetterling Act, but a similar phrase--"as provided by State law"--appears in 42 U.S.C. 14071(b)(1)(A)(ii)-(iii). Section 14071(b)(1)(A)(ii)-(iii) requires state officials to advise registrants that if they change address, they must "report the change of address as provided by State law." This phrase does not mean that registrants are to be told that they have an obligation to report a change of address only if the state, in its discretion, chooses to impose such an obligation by state law. Rather, "as provided by State law" in Sec. 14071(b)(1)(A)(ii)-(iii) evidently has the same meaning as "in the manner provided by State law" in Sec. 14071(b)(4),

Sexual Predators & Offenders Federal Law

referring to the specification by state law of the particular manner in which change of address information is to be reported.

Similarly, the requirement under Sec. 14071(j)(1)(A) that registrants are to provide notice "as required under State law" means that they are to provide notice in the manner required under state law, not if required under state law. The parallel usages elsewhere in the Wetterling Act are more persuasive on this point than the appearance of "as required under [or by] State law" in a few statutes (cited in Pennsylvania's comments) that use that phrase in entirely different contexts and that have no relationship to the Wetterling Act or its subject matter.

Beyond the foregoing textual points, the interpretation suggested in Pennsylvania's comments is clearly inconsistent with the understanding presented to Congress in its consideration of the CSCPA:

The purpose of [the CSCPA] is to guarantee that, when a convicted sex offender enrolls or begins employment at a college or university, members of the campus community will have the information they need to protect themselves. . . . The Campus Sex Crimes Prevention Act provides that offenders must register the name of any higher education institution where they enroll as a student or commence employment. It also requires that this information be promptly made available to law enforcement agencies in the jurisdictions where the institutions of higher education are located. . . .

In order to ensure that the information is readily accessible to the campus community, the Campus Sex Crimes Prevention Act requires colleges and universities to provide the campus community with clear guidance as to where this information can be found, and clarifies that federal laws governing the privacy of education records do

Sexual Predators & Offenders Federal Law

not prevent campus security agencies or other administrators from disclosing such information. *146 Cong. Rec. S10216 (Oct. 11, 2000) (remarks of Senator Kyl)*.

In contrast, under the interpretation suggested in Pennsylvania's comments, the CSCPA would not guarantee that information concerning the presence of registered sex offenders at institutions of higher education is obtained by or made available to anyone, because the decision whether to collect such information would be left to the discretion of individual states.

In addition to the interpretive issues discussed above, the comments received from Pennsylvania expressed a number of concerns about the practical impact of the CSCPA amendment to the Wetterling Act. Specifically, the comments expressed concern that: (1) Requiring employment and schooling information from registrants will complicate the registration process and result in fewer offenders registering properly and providing the required notifications concerning changes; (2) legislation will be needed to effectively implement the new requirements; and (3) the new requirements will have a fiscal impact in a tight budgetary situation, including the expense of modifying the registration database to add the fields and logic necessary to store and process the new data, and additional staff for the State Police Megan's Law section because of increased workload. The comments stated that Pennsylvania had not had sufficient time to implement the proposed guidelines and requested an extension of the implementation deadline, or if that could not be effected, an extension of the effective date of the reduction of Byrne Grant funding in case of noncompliance.

In response, the Department of Justice notes that the requirement to obtain information from registrants concerning enrollment or employment at institutions of higher education, and to make this information available to

Sexual Predators & Offenders Federal Law

appropriate law enforcement agencies, is integral to the CSCPA amendment to the Wetterling Act and cannot be changed by the guidelines. States have considerable latitude as to the particular procedures to be used in carrying out these requirements, and may adopt procedures consistent with the statute and guidelines that minimize resulting costs and burdens in the context of their registration systems. As with other provisions of the Wetterling Act, the Department provides advice and consultation to states on request concerning the consistency of measures they are considering to implement subsection (j) with the statute and the guidelines.

Under the original provisions of the Wetterling Act and most previous amendments, the legislation allowed states three years to come into compliance, and authorized the Attorney General to grant an additional two years to states that were making good faith efforts to come into compliance. *See 64 FR at 572 (explanation of deadlines in Attorney General's guidelines)*. However, the CSCPA provides that its amendment to the Wetterling Act takes effect two years after enactment, and does not give the Attorney General authority to grant additional time. The Department is accordingly required to reduce by 10% any formula Byrne Grant award to a state made after October 27, 2002, if the state is not in compliance with the requirements of 42 U.S.C. 14071(j) at the time of the award. Since the deadline is statutory and not subject to extension by the Attorney General, any request for additional time would need to be addressed to Congress.

C. Comments From the American Council on Education
David Ward, President of the American Council on Education (ACE), sent a letter on behalf of the ACE expressing support for the proposed guidelines for the CSCPA amendment to the Wetterling Act. The letter advised that the ACE had worked with Senator Kyl and

Sexual Predators & Offenders Federal Law

other members of Congress in developing the CSCPA so that community members at institutions of higher education could have access to information regarding registered sex offenders enrolled or employed at a particular college or university; that the ACE intended to offer more detailed comments to the Department of Education as it develops guidelines to ensure the availability of information concerning the presence of registered sex offenders; and that the proposed guidelines from the Department of Justice accurately and appropriately represent the intention of the law and that the ACE does not recommend any changes.

D. Comments From a Kansas Respondent

Tiffany Muller, Sexual Assault Advocacy Coordinator at the Kansas Coalition Against Sexual and Domestic Violence (hereafter, the "Kansas Coalition"), submitted comments reflecting discussion of the CSCPA by a Sexual Assault Task Group made up of representatives from rape crisis centers and other interested agencies. The comments stated that the CSCPA was well received in Kansas, and that it provides a number of benefits, but that there were concerns about implementation and effectiveness in light of other current barriers. The specific concerns and suggestions were as follows:

1. Time for Registration in Interstate Situations

The comments from the Kansas Coalition asked how the duration of registration, and the related requirement to report attendance at a university, would be handled in situations involving multiple states with different registration periods--e.g., a situation in which a person was initially registered in a state that requires registration for 10 years, but then attends a university in a neighboring state that requires registration for 15 years.

One type of situation this question covers is that in which a sex offender is convicted and initially registered in one

Sexual Predators & Offenders Federal Law

state, but then changes his residence to another state and attends a university in the new state of residence. Under the standards of the CSCPA amendment to the Wetterling Act, the offender would be required to notify the new state of residence concerning his enrollment or employment at institutions of higher education in that state for however long he is required to register in that state. See *42 U.S.C. 14071(j)* ("a person who is required to register in a State" shall provide notice concerning enrollment or employment at an institution of higher education in that state).

A second type of situation the question may refer to is one in which a sex offender continues to reside in the state in which he is convicted and initially registered, but attends a university in another state. This situation falls under another provision of the Wetterling Act, *42 U.S.C. 14071(b)(7)(B)*, which relates to registration by a state of non-residents who are in the state for purposes of employment or school attendance. The state of employment or school attendance must accept registration information from such non-residents for as long as they are required to be registered in their states of residence under the Wetterling Act's standards. See *64 FR 572, 585 (explanation of subsection (b)(7)(B) in Attorney General's guidelines)*.

The question may also be seeking more general information about the Wetterling Act's requirements regarding the duration of registration in interstate situations. In general, the Wetterling Act's standards require registration of at least 10 years for offenders in the offense categories covered by the Act, and lifetime registration for certain types of offenders. See *42 U.S.C. 14071(b)(6)*; *64 FR 572, 576, 582-83, 584*. These requirements apply regardless of whether the registrant moves from one state to another. If an offender who is subject only to the limited (ten-year) registration requirement of the Wetterling Act changes his state of

Sexual Predators & Offenders Federal Law

residence, the new state of residence may give him credit towards satisfaction of the ten-year requirement based on the amount of time he was registered in the previous state of residence. See 64 FR 572, 578, 580. In all circumstances, states are free to require registration for longer periods than the minimum required under the Wetterling Act's standards. See 64 FR 572, 575.

2. Breakdown in Communication

The comments from the Kansas Coalition stated that in some cities a campus police department would have immediate jurisdiction over the campus, but often would not patrol some student housing, and that campus police in Kansas often do not share information with local police departments. The comments suggested that the concerns raised by this breakdown in communication might be addressed by notifying both the campus and local law enforcement.

On this point, the Proposed Guidelines, and the Final Guidelines below, make it clear that states are free to notify both a campus police department and other law enforcement agencies: "Regardless of whether an institution of higher education has its own law enforcement unit, the Wetterling Act does not limit the discretion of states to make information concerning registrants enrolled or working at the institution available to other law enforcement agencies as well."

3. Use of Pamphlets in Notification

The comments from the Kansas Coalition suggested that schools could distribute pamphlets to help notify people that information is available about such matters as crime rates and registered offenders at institutions of higher education.

This comment relates to the means of carrying out provisions of the Higher Education Act of 1965, including

Sexual Predators & Offenders Federal Law

the CSCPA amendment to that Act (20 U.S.C. 1092(f)(1)(I)), rather than to the CSCPA amendment to the Wetterling Act.

4. Standardized Guidelines

The comments from the Kansas Coalition noted a suggestion that states should have more standardized sex offender registration guidelines.

On this point, it may be noted that the Wetterling Act, and the Attorney General's guidelines for the Wetterling Act, provide minimum national standards for state sex offender registration programs, and thereby establish a baseline of common features for the state programs.

5. Monitoring of Offenders

The comments from the Kansas Coalition expressed concern that it would be fairly easy for offenders to be without monitoring--especially those in a very transient college population--since updates come from the offenders themselves and states are only required to check in with registered offenders once a year.

The Wetterling Act's standards require annual address verification for registrants generally, but quarterly address verification for certain registrants. States are free to check or verify address information and other registration information with greater frequency than the minimum required by the Wetterling Act. See 42 U.S.C. 14071(b)(3); 64 FR 572, 575, 581, 584.

6. Inaccurate Reporting

The comments from the Kansas Coalition stated that many campuses are not accurately reporting and continue to cover up incidences of sexual assault, and that these same campuses may be resistant to reporting registered offenders to the public.

Sexual Predators & Offenders Federal Law

This comment relates to compliance with provisions of the Higher Education Act of 1965, including the CSCPA amendment to that Act (20 U.S.C. 1092(f)(1)(I)), rather than to the CSCPA amendment to the Wetterling Act.

E. Comments From a Tennessee Respondent

Tim Burchett, a state senator in Tennessee, sent a letter stating that he had recently learned that the U.S. Department of Justice, in a brief **filed** with the Supreme Court, had articulated a requirement that campus sex offender notifications must be made categorically without regard to any risk assessment. Senator Burchett stated that he had sponsored the law in Tennessee designed to achieve compliance with the campus notification requirements of the CSCPA, and that he wanted to make sure that Tennessee's law will meet this new requirement.

Senator Burchett further stated that Tennessee will make categorical notifications on campus for all registrants after the Tennessee law's effective date of October 27, 2002, and that for convictions prior to that date release of the information is at the discretion of law enforcement. He asked whether this would meet the CSCPA's requirements, or whether further amendment of the law would be needed requiring categorical notifications without regard to conviction date. He also suggested that it would be very helpful if an explanation of the categorical notification requirement could be included in the Final Guidelines, so that states will know exactly what is needed for compliance.

In three briefs **filed** with the Supreme Court, the Department of Justice has noted the CSCPA's requirements relating to the availability to campus communities of information concerning the presence of registered sex offenders. See Brief for the United States as Amicus Curiae Supporting Petitioner, at 2-3, 10, in Connecticut Department of Public Safety v. Doe, No. 01-

Sexual Predators & Offenders Federal Law

1231 (April 2002) (amicus brief supporting the granting of certiorari); Brief for the United States as Amicus Curiae Supporting Petitioners, at 2, 6, 22-23, in Godfrey v. Doe, No. 01-729 (June 2002) (amicus brief supporting petitioners on the merits); Brief for the United States as Amicus Curiae Supporting Petitioners, at 4-5, 27-28, in Connecticut Department of Public Safety v. Doe, No. 01-1231 (July 2002) (amicus brief supporting petitioners on the merits). These requirements are categorical in that information must be made available to a campus community concerning the identities of all registered sex offenders who are enrolled or employed at the institution of higher education. As explained above, this follows from the requirement of 42 U.S.C. 14071(j) that information identifying all registrants at an institution of higher education must be provided to the campus police department or other appropriate law enforcement agency, together with the requirement of 20 U.S.C. 1092(f)(1)(I) that the campus community must be told where it can obtain this information.

The Wetterling Act's requirements generally apply to registrants who are convicted at any time after a state's establishment of a registration system that conforms to these requirements. Hence, a state must at a minimum apply the requirements of 42 U.S.C. 14071(j) to all persons registered on the basis of convictions occurring after the effective date of state legislation that implements the requirements of 42 U.S.C. 14071(j) in the state's registration system. States are also free to apply the requirements of 42 U.S.C. 14071(j) more broadly to persons registered on the basis of convictions occurring before the enactment or effectiveness of such state legislation. See 64 FR 572, 575, 581, 583.

Final Guidelines

Sexual Predators & Offenders Federal Law

The Campus Sex Crimes Prevention Act (CSCPA) provisions appear in subsection (j) of the Wetterling Act (42 U.S.C. 14071(j)). As provided in subsection (j), any person required to register under a state sex offender registration program must notify the state concerning each institution of higher education (i.e., post-secondary school) in the state at which the person is a student or works, and of each change in enrollment or employment status of the person at such an institution. States can comply with the Wetterling Act's requirements concerning these registrants, in part, by: (1) Advising registrants concerning these specific obligations when they are generally advised of their registration obligations, as discussed in part II.A of the January 5, 1999, Wetterling Act guidelines (64 FR 572, 579), (2) including in the registration information obtained from each registrant information concerning any enrollment or employment at an institution of higher education in the state, and (3) establishing procedures for registrants to notify the state concerning any subsequent commencement or termination of enrollment or employment at an institution of higher education in the state. The failure of a registrant to notify the state concerning enrollment or employment at an institution of higher education or the termination of such enrollment or employment would constitute a failure to register or keep such registration current for purposes of subsection (d) of the Wetterling Act (42 U.S.C. 14071(d)), and must be subject to criminal penalties as provided in that subsection.

Under the requirements of subsection (j) of the Wetterling Act, state procedures must also ensure that information concerning a registrant enrolled or working at an institution of higher education is promptly made available to a law enforcement agency having jurisdiction where the institution is located, and entered into the appropriate state records or data system. This requirement applies both to any information initially obtained from registrants concerning enrollment or employment at institutions of

Sexual Predators & Offenders Federal Law

higher education in the state, and information concerning subsequent changes in such enrollment or employment status. As paragraph (3) of subsection (j) makes clear, subsection (j) does not place any burden on an educational institution to request information about registrants enrolled or employed at the institution from the state, and the requirement that the state make the information available to a law enforcement agency having jurisdiction where the institution is located is not contingent on a request from the institution.

Subsection (j)'s requirement to promptly make the information available to a law enforcement agency having jurisdiction where the institution is located is supplementary to the requirement under subsection (b)(2)(A) and (4) of the Wetterling Act (42 U.S.C. 14071(b)(2)(A), (4)) to promptly make information concerning registrants available to a law enforcement agency having jurisdiction where the registrant resides. The legislative history of the CSCPA explains subsection (j)'s requirement as follows:

Once information about an offender's enrollment *
* * or employment * * * [at] * * * an institution of
higher education has been provided to a state's
sex offender registration program, that information
should be shared with that school's law
enforcement unit as soon as possible.

The reason for this is simple. An institution's law enforcement unit will have the most direct responsibility for protecting that school's community and daily contact with those that should be informed about the presence of the convicted offender.

If an institution does not have a campus police department, or other form of state recognized law enforcement agency, the sex offender information could then be shared with a

Sexual Predators & Offenders Federal Law

local law enforcement agency having primary jurisdiction for the campus. *146 Cong. Rec. S10216 (Oct. 11, 2000) (remarks of Senator Kyl)*.

Thus, if an institution of higher education has a campus police department or other form of state recognized law enforcement agency, state procedures must ensure that information concerning the enrollment or employment of registrants at that institution (and subsequent changes in registrants' enrollment or employment status) is promptly made available to the campus police department or law enforcement agency. If there is no such department or agency at the institution, then state procedures must ensure that this information is promptly made available to some other law enforcement agency having jurisdiction where the institution is located. Regardless of whether an institution of higher education has its own law enforcement unit, the Wetterling Act does not limit the discretion of states to make information concerning registrants enrolled or working at the institution available to other law enforcement agencies as well.

The language of subsection (j) refers specifically to any registrant who "is employed, carries on a vocation, or is a student" at an institution of higher education in the state. These terms have defined meanings set forth in subsection (a)(3)(F)-(G) of the Wetterling Act (42 U.S.C. 14071(a)(3)(F)-(G)). In light of these definitions, the registrants to whom the requirements of subsection (j) apply are those who: (1) are enrolled in any institution of higher education in the state on a full-time or part-time basis, or (2) have any sort of full-time or part-time employment at an institution of higher education in the state, with or without compensation, for more than 14 days, or for an aggregate period exceeding thirty days in a calendar year.

Sexual Predators & Offenders Federal Law

The CSCPA provisions in subsection (j) of the Wetterling Act are supplementary to, and do not limit or supersede, the provisions in subsection (b)(7)(B) of the Wetterling Act that require states to accept registration information from offenders who reside outside a state but come into the state in order to work or attend school. Subsection (b)(7)(B) applies only to non-resident workers and students, but it is not limited in scope to those who work at or attend institutions of higher education (as opposed to other places of employment or schools). The requirements under subsection (b)(7)(B) are explained in part V.B.2 of the January 5, 1999, Wetterling Act guidelines (64 FR 572, 585).

The CSCPA's effective date for its amendment to the Wetterling Act is two years after enactment. Hence, following October 27, 2002, Byrne Formula Grant awards to states that are not in compliance with subsection (j) of the Wetterling Act will be subject to a mandatory 10% reduction. If a state's funding is reduced because of a failure to comply with the CSCPA amendment to the Wetterling Act or other Wetterling Act requirements by an applicable deadline, the state may regain eligibility for full funding thereafter by establishing compliance with all applicable requirements of the Wetterling Act. States are encouraged to submit information concerning existing and proposed sex offender registration provisions relating to compliance with the CSCPA amendment as soon as possible.

After the reviewing authority has determined that a state is in compliance with the Wetterling Act, the state has a continuing obligation to maintain its system's consistency with the Wetterling Act's standards, and will be required as part of the Byrne Formula Grant application process in subsequent program years to certify that the state remains in compliance with the Wetterling Act.

Sexual Predators & Offenders Federal Law

These guidelines relate solely to the provisions of the CSCPA that amended the Wetterling Act, and hence affect state eligibility for full Byrne Grant funding. In addition to adding subsection (j) to the Wetterling Act, the CSCPA amended federal education laws to ensure the availability to the campus community of information concerning the presence of registered sex offenders. The Department of Education is responsible for the issuance of regulations relating to those laws.

As noted above, the general guidelines for the Wetterling Act were published on January 5, 1999, and appear at 64 FR 572, with corrections at 64 FR 3590 (Jan. 22, 1999). The new CSCPA provisions in subsection (j), which these supplementary guidelines address, are only one part of the Wetterling Act. States must comply with all of the Wetterling Act's requirements in order to maintain eligibility for full Byrne Grant funding.

Dated: October 22, 2002.

Larry D. Thompson, Acting Attorney General.
[FR Doc. 02-27257 Filed 10-24-02; 8:45 am]

Sexual Predators & Offenders Federal Law

§ 4042. Duties of Bureau of Prisons

Release date: 2004-08-06

(a) In General.— The Bureau of Prisons, under the direction of the Attorney General, shall—

(1) have charge of the management and regulation of all Federal penal and correctional institutions;

(2) provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise;

(3) provide for the protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States;

(4) provide technical assistance to State and local governments in the improvement of their correctional systems; and

(5) provide notice of release of prisoners in accordance with subsections (b) and (c).

(b) Notice of Release of Prisoners.—

(1) At least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, written notice of the release or change of residence shall be provided to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside. Notice prior to release shall be provided by the Director of the Bureau of Prisons. Notice concerning a change of residence following release shall be provided by the probation officer responsible for the supervision of the released prisoner, or in a manner specified by the Director of the Administrative Office of the United States Courts. The notice requirements under this subsection do not apply in relation to a prisoner being protected under chapter 224.

(2) A notice under paragraph (1) shall disclose—

(A) the prisoner's name;

Sexual Predators & Offenders Federal Law

(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

(3) A prisoner is described in this paragraph if the prisoner was convicted of—

(A) a drug trafficking crime, as that term is defined in section [924 \(c\)\(2\)](#); or

(B) a crime of violence (as defined in section [924 \(c\)\(3\)](#)).

(c) Notice of Sex Offender Release.—

(1) In the case of a person described in paragraph (4) who is released from prison or sentenced to probation, notice shall be provided to—

(A) the chief law enforcement officer of the State and of the local jurisdiction in which the person will reside; and

(B) a State or local agency responsible for the receipt or maintenance of sex offender registration information in the State or local jurisdiction in which the person will reside.

The notice requirements under this subsection do not apply in relation to a person being protected under chapter 224.

(2) Notice provided under paragraph (1) shall include the information described in subsection (b)(2), the place where the person will reside, and the information that the person shall be subject to a registration requirement as a sex offender. For a person who is released from the custody of the Bureau of Prisons whose expected place of residence following release is known to the Bureau of Prisons, notice shall be provided at least 5 days prior to release by the Director of the Bureau of Prisons. For a person who is sentenced to probation, notice shall be provided promptly by the probation officer responsible for the supervision of the person, or in a manner specified by the Director of the Administrative Office of the United States Courts. Notice concerning a subsequent change of residence by a person described in paragraph (4) during any period of probation,

Sexual Predators & Offenders Federal Law

supervised release, or parole shall also be provided to the agencies and officers specified in paragraph (1) by the probation officer responsible for the supervision of the person, or in a manner specified by the Director of the Administrative Office of the United States Courts.

(3) The Director of the Bureau of Prisons shall inform a person described in paragraph (4) who is released from prison that the person shall be subject to a registration requirement as a sex offender in any State in which the person resides, is employed, carries on a vocation, or is a student (as such terms are defined for purposes of section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994), and the same information shall be provided to a person described in paragraph (4) who is sentenced to probation by the probation officer responsible for supervision of the person or in a manner specified by the Director of the Administrative Office of the United States Courts.

(4) A person is described in this paragraph if the person was convicted of any of the following offenses (including such an offense prosecuted pursuant to section [1152](#) or [1153](#)):

(A) An offense under section [1201](#) involving a minor victim.

(B) An offense under chapter 109A.

(C) An offense under chapter 110.

(D) An offense under chapter 117.

(E) Any other offense designated by the Attorney General as a sexual offense for purposes of this subsection.

(5) The United States and its agencies, officers, and employees shall be immune from liability based on good faith conduct in carrying out this subsection and subsection (b).

(d) Application of Section.— This section shall not apply to military or naval penal or correctional institutions or the persons confined therein.

Sexual Predators & Offenders Federal Law

Federal BOP Sex Offender Release Notification form (page 2):

PS 5141.02
12/14/98
Attachment A, Page 2

3) Final Release Date: _____

4) Offender's Projected Address:

5) Release Conditions or Restrictions: _____

Standard Conditions of Supervision for Federal Offenders (as revised September 1995)

1. You shall not leave the judicial district without the permission of the court or probation officer;
2. You shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3. You shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. You shall support your dependents and meet other family responsibilities;
5. You shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. You shall notify the probation officer ten days prior to any change in residence or employment;
7. You shall refrain from excessive use of alcohol;
8. You shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. You shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
10. You shall permit a probation officer to visit you at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. You shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12. You shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without permission of the court;
13. As directed by the probation officer, you shall notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm your compliance with such notification requirement.

Typed Name of Warden or Community Corrections Manager:

Signature: _____

Address and Telephone Number: _____

In the event you are not the law enforcement agency with jurisdictional authority consistent with the releasee's address, please forward these documents to the appropriate authority.

AGENCY CONTACTS

FDLE FIELD OFFICES & REGIONAL OPERATION CENTERS

Brooksville Field Office TBROC	800-358-5306
Candlelight Plaza	352-544-2384
19245 Cortez Blvd	FAX 352-797-5766
Brooksville, FL 34601	SC (663)
Broward County Field Office MROC	800-226-3024
1475 NW 62nd Street, Suite 203	954-958-5400
Ft. Lauderdale, FL 33309	FAX 954-958-5441
	SC (423)
Clearwater Field Office TBROC	800-226-7203
601 Cleveland Street, Suite 410	727-298-2482
Clearwater, FL 33755	FAX 727-298-2487
	SC 513-7901 Phone (none for Fax)
Daytona Beach Field Office OROC	800-226-1512
771 Fentress Blvd, Suite 12	386-274-3829
Daytona Beach, FL 32114	FAX 386-274-3458
	SC (370)
FT. MYERS REGIONAL OPERATIONS CENTER - FMROC	800-407-4880
4700 Terminal Drive	239-278-7170
Ft. Myers, FL 33907	FAX 239-278-7373
	SC (729)

AGENCY CONTACTS

Ft. Pierce Field Office OROC	800-226-1514
603 N. Indian River Drive, Suite 200	561-468-5692
Ft. Pierce, FL 34950	FAX 561-599-1361
	SC (240)
Gainesville Field Office JROC	800-226-8520
14101 NW U.S. Hwy 441, Suite 400	386-418-5400
Alachua, FL 32615	FAX 386-418-5421
JACKSONVILLE REGIONAL OPERATIONS CENTER - JROC	800-226-6481
921 N Davis Street, Bldg E	904-360-7100
Jacksonville, FL 32209-6804	FAX 904-360-7111
	SC (807)
Key West Field Office MROC	800-226-3018
3140 Flagler Avenue	305-292-6705
Key West, FL 33040	FAX 305-292-6758
	SC (464)
Lakeland Field Office TBROC	800-226-3133
5015 South Florida Avenue, Suite 200	863-701-1474
Lakeland, FL 33813	FAX 863-701-1480
	SC 515-8864 Phone (none for Fax)
Live Oak Field Office TROC	800-226-5630
815 North Ohio Avenue	386-330-2800

AGENCY CONTACTS

Live Oak, FL 32064	FAX 386-362-6341
Marianna Sub-Field Office PROC	850-482-9937
PO Box 1506 Marianna FL, 32447	FAX 850-482-9961
	SC (789)
Melbourne Field Office OROC	800-226-4880
700 S. Babcock Street, Suite 401	321-984-4880
Melbourne, FL 32901	FAX 321-984-4889
	SC (350)
MIAMI REGIONAL OPERATIONS CENTER - MROC	800-226-3023
1030 NW 111 th Avenue	305-470-5500
Miami, FL 33172	FAX 305-470-5515
	SC (429)
Northeast Florida Investigative Support Center	800-954-0202
8647 Bay Pine Road, Suite 333	904-256-5900
Jacksonville, FL 32256	FAX 904-346-5154
	SC 880-9900 Phone 870-5154 Fax

AGENCY CONTACTS

ORLANDO REGIONAL OPERATIONS CENTER - OROC	800-226-8521
500 W Robinson Street	407-245-0888
Orlando, FL 32801-1771	FAX 407-540-3806
	SC 344-0888 Phone 344-0889 Fax
Panama City Field Office PROC	800-226-4554
429 S. Tyndall Parkway, Suite G	850-872-4545
Panama City, FL 32404	FAX 850-872-7733
	SC 777-4545 Phone (none for Fax)
PENSACOLA REGIONAL OPERATIONS CENTER - PROC	800-226-8574
1301 N Palafox Street	850-595-2100
Pensacola, FL 32501-2640	FAX 850-595-5579
	SC (695)
Sarasota Field Office FMROC	800-226-9216
5899 Whitfield Avenue, Suite 203	941-359-5655
Sarasota, FL 34243	FAX 941-359-5638
	SC 516-1126 Phone 516-1125 Fax
Sebring Field Office FMROC	800-226-2028
6430 US 27 South	863-386-6085
Sebring, FL 33876	FAX 863-386-6090
	SC (742)

AGENCY CONTACTS

South Florida Investigative Support Center MROC	954-430-4700
3101 Commerce Parkway	FAX 954-430-4708
Miramar, FL 33025	
<i>(Continued on next page)</i>	
St. Augustine Field Office JROC	800-738-4635
2155 Old Moultrie Road, Suite 203	904-794-6600
St. Augustine, FL 32086	FAX 904-794-6609
	SC 865-6600 Phone (none for Fax)
TALLAHASSEE REGIONAL OPERATIONS CENTER - TROC	800-342-0820
2331 Phillips Road	850-410-7645
Tallahassee, FL 32308	FAX 850-410-7440
	SC (210)
TAMPA BAY REGIONAL OPERATIONS CENTER - TBROC	800-226-1140
4211 N Lois Avenue	813-878-7300
Tampa, FL 33614	FAX 813-878-7303
	SC (556)
West Palm Beach Field Office MROC	800-226-3019
1400 Centrepark Blvd, Suite 800	561-640-2840
West Palm Beach, FL 33401	FAX 561-640-6160
	SC (256)

