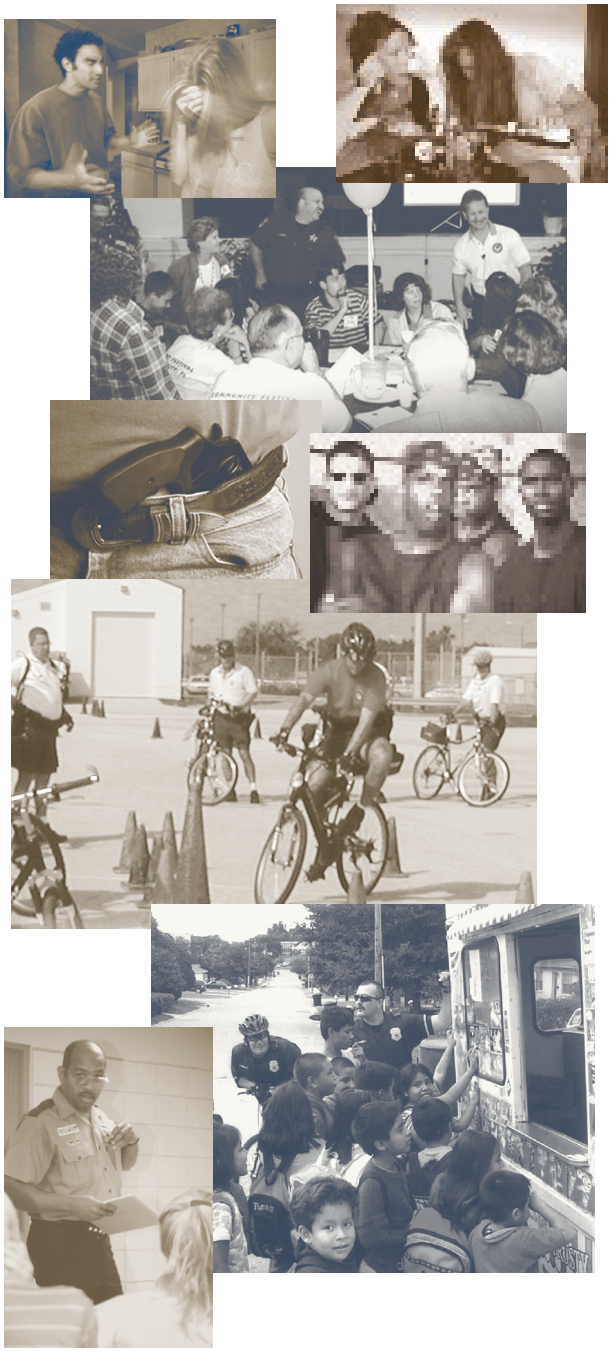
St. Petersburg College

FLORIDA REGIONAL COMMUNITY POLICING INSTITUTE



Sexual Predator and Offender Awareness

Course Manual

St. Petersburg College

Sexual Predator and Offender Awareness

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Forward

Who We Are

The Florida Regional Community Policing Institute (RCPI) at St. Petersburg College (SPC) operates under a cooperative agreement from the Department of Justice, Office of Community Oriented Policing Services (COPS). RCPI provides FREE community policing training to law enforcement officers, community residents, city employees, social services agencies, and private sector representatives throughout Florida.

Basic Courses

- Introduction to Community Policing
- Police-Community Partnerships
- Problem Solving for the Community Police Officer and Citizen
- Survival Skills for Community Policing Officers
- Ethical Issues and Decisions in Law Enforcement
- Professionalism and Leadership in Law Enforcement
- Reaching Your Goals Through Code Compliance
- Planning a Win for the Good Guys: Crime Prevention/Crime Displacement and Environmental Design
- Managing Encounters with the Mentally Ill
- Building Bridges: Community Policing Overview for Citizens
- Changing Roles: Supervising Today's Community Policing Officer
- Grantsmanship 101
- Sexual Predator and Offender Awareness
- Effective Media Skills for Law Enforcement
- Citizens' Community Policing Academies
- Police-Probation Partnerships
- Understanding the Dynamics of Violence in the Workplace
- Introduction to Human Trafficking
- Three-Part Community Policing Management Series

Specialty Courses

- Citizen Complaint Intake and Investigation Issues
- Bias-Based Policing: Issues and Dilemmas
- Use of Force Issues in a Community Policing Environment
- Early Identification and Intervention Strategies
- Criminal Justice Academy for Citizens: The Judicial Process
- Ethic Issues for Elected Officials and Public Servants
- Terror Within Series: A Local Community's Role in Homeland Security
- Anti-Terrorism Awareness Training for Law Enforcement

Online Courses

- Ethical Issues and Decisions in Law Enforcement
- Dynamics of Domestic Violence
- Understanding the Dynamics of Violence in the Workplace

Domestic Violence Courses

- Dynamics of Domestic Violence
- Legal Aspects of Domestic Violence
- Resources for Domestic Violence Teams

Multimedia Training Products

The Florida RCPI has introduced a line of youth crime prevention media created specifically for school resource officers, teachers, administrators, counselors and anyone with a need to communicate with today's youth.

- *AfterMath: Lessons in School Safety*
- *RetroGrade: How School Crime Sets You Back*
- *Fed Facts: The Real Deal*
- *About Face: Turning Away from Hate*

Course Material

Course material is provided at no charge to all participants. We can adapt our training to fit your agency/community/business needs. Evening and weekend classes are available. Most training modules are eight or 16 hours but may be modified to allow for limited time allotments.

Training Locations

Generally, classes are conducted at our SPC training site. However, we will arrange training at your facility or a training center in your area. Students who travel more than 50 miles to specified courses held at St. Petersburg College may be eligible for lodging reimbursement. See individual course brochure for eligibility.

Who Can Attend?

- Any law enforcement officer (community policing patrol, crime prevention, campus police), civilian employees, probation officers, and social service agencies
- Community leaders and citizens
- Chiefs and Sheriffs who are interested in starting and maintaining community policing in their communities
- Business managers, executives and employees
- Mayors, City Managers, Council members, trustees and government leaders

Registration

To register for classes, schedule on-site training or become part of our mailing list, please call:

Eileen LaHaie - Director
Florida Regional Community Policing Institute
3200 34th Street South
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Acknowledgements

Members of the Pinellas County Sheriff's Office Sexual Predator and Offender Tracking Unit (S.P.O.T.) embarked on an endeavor to enhance the original program developed by Sergeant Lisa Boeving of the Tampa Police Department. This re-design includes revisions to current sexual offender laws, The Jessica Lundsford Act, and the latest legislative changes.

The Pinellas County Sheriff's Office S.P.O.T. Unit was created in 2000 with the sole purpose of monitoring and tracking sexual predators and offenders. As of January 2006, the S.P.O.T. Unit has the proud distinction of being the largest unit in the state of Florida, dedicated solely to the tracking and monitoring of sexual predators and offenders.

The Florida Department of Law Enforcement (FDLE) has recognized the S.P.O.T Unit and its members as leaders and subject matter experts in the area of sex offender management. Members of the S.P.O.T. Unit have presented at several FDLE conferences, and have worked hand in hand with both FDLE and state representatives in revising and improving sex offender laws and management.

The redesigns and updates were completed by Deputy Kelly Lyons who has been employed with the Pinellas County Sheriff's Office since 1999. During her tenure, she has been assigned to Patrol Operations, the Field Training Unit and is currently assigned to the S.P.O.T. Unit. Deputy Lyons has earned both her Bachelors of Science and Masters of Science Degrees in Criminal Justice from Florida Gulf Coast University and the University of Central Florida respectively. Deputy Lyons is also a FDLE Certified Law Enforcement Instructor and holds a position with St. Petersburg College as an Adjunct Instructor.

Chapter One: Introduction

Course Description

The issue of Sexual Offenders, especially those who victimize children, has always been an emotionally charged subject in whatever forum it is discussed. These crimes are nearly the most universally feared and condemned offenses by citizens and law enforcement officers alike. Realistically however, we all are aware that the majority of these offenders will eventually be released from incarceration back into our communities.

Over the last 10 years legislation has been signed into law creating community notification and sex offender registries, both of which are designed to be readily available, and in some cases, required information for public distribution. In our age of Community Policing, it is incumbent upon the COP practitioner to utilize this important public safety information in the most proactive and positive manner.

This course is designed to give the officer or citizen the background information regarding the applicable state and federal guidelines pertaining to sex offenders. These include the responsibilities of the offender, law enforcement and citizens. The course then addresses proactive problem solving methods that agencies and communities can utilize to tailor a positive approach for their safety. Finally, the lesson plan will provide valuable factual information that officers can utilize to monitor the offender and suggest ways to prevent panic or vigilante activity by uninformed individuals through proper public education.

Over the last few years the terms Sexual Offender and Sexual Predator have become household commonly used words. Fortunately, as a result of the increase in media attention, families and communities are discussing this issue, becoming more vigilant, aware and educating their children and citizens in the communities to the dangers our world presents.

Unfortunately, the media attention is the result of the murders of such victims as Jessica Lundsford, Carlie Brucia and Sara Lunde, and victimization of other children such as Shasta Grone and the 14-year-old male victim of Debra Lafave. These

children and scores of others have fallen victim to court adjudicated sexual offenders or sexual predators who had become lost in the system and lost in society and were not under direct supervision or law enforcement monitoring.

Nowhere more than Florida has the reality of the presence of sexual offenders/predators surfaced. This course was developed and designed to bring the latest information, education, and preparedness to children, organizations, community groups and any citizen who wishes to become more familiar with the topic of sexual offenders/ predators because one more victim is one to many.

Goals and Objectives

- Upon completing this course a student will:
- Know the legal distinctions between predators and offenders
- Understand law enforcement responsibility for public notification, and the challenges it brings
- Know the federal and state laws that govern sex offender registration and community notifications
- Understand what local departments can do to increase public awareness about sex offenders
- Understand the compliance requirements for sex offenders and predators, as outlined in federal & state statutes
- Examine their agency's local policy on sex offender issues and collaborate with class participants to improve or implement new approaches
- Develop and practice conducting a sex offender community notification meeting
- Know that some computer related crimes are qualifiers for sex offender registries
- Understand the use of the state sex offender web site
- Explore innovative ways to apply sex offender laws with COP activities to improve communication with citizens and overall community safety

Chapter Two: Sexual Predators and Offenders

Safer Communities Through Community Policing

During the past ten years, the subject of released sexual offenders has become a very high profile issue in our society. Specifically, the risk factor associated with re-integrating these individuals into our community. The history of sex offender legislation began with horrific crimes that occurred in Washington, Minnesota and New Jersey. The response to these crimes became the catalyst for sex offender registration and community notification laws in effect nationwide today.

The Beginning of Sex Offender Laws

- Washington State
- 1987, Earl Shriner, career criminal, released from 10 year sentence for raping two teenage girls
- 1989, Shriner rapes, strangles 7-year-old boy, severs penis, leaves him to die

Washington State

- 1989, Gene Raymond Kane, serving 13-year sentence for attacking two women
- On prison work release
- Murders a young Seattle businesswoman

Washington State Con't

- 1989, Wesley Allen Dodd arrested during attempted abduction of 6-year-old boy
- Following investigation, Dodd confesses to killing two young boys riding bikes
- He also confesses to the kidnapping and murder of a 4-year-old boy he found playing in a playground

Washington State Con't

- July 1989, Police Chief in Mountlake Terrace, Washington, receives notice of sex offender's release
- Offender reportedly threatened to harm children once released
- Chief Turner conducts first known sex offender community notification

In July 1989, Mountlake Terrace, WA Police Chief John Turner is notified of the pending release of an inmate who had threatened to harm children when he was released. The inmate had documented these plans and specifically threatened to sexually molest school children. Chief Turner had to weigh the potential for harm to children in his community with the offender's right to privacy. Although no precedent was in place, Chief Turner courageously decided to conduct community notifications about the release of the offender.

This became the first known community notification in this country.

In response to a great public outcry for additional knowledge on the release of sexually violent offenders, Washington's governor appointed a task force to study the issue. The task force's recommendations became a bill enacted by the Washington State Legislature. The bill outlined wholesale changes in sex offender laws and the penalties for such crimes. The additions to the laws included civil commitment, sex offender registration and limited community notification.

Minnesota

- October 1989
- 11-year-old Jacob Wetterling abducted at gunpoint near his home
- Prompted the formation of the Jacob Wetterling Foundation by his mother, Patty
- Pushed the first national legislation on sex offender registration

In October 1989, Jacob Wetterling was abducted at gunpoint while riding his bicycle near his home. With overwhelming community support, a massive search was conducted and thousands of flyers distributed. Jacob was never found. The public support was the catalyst for the formation of the Jacob Wetterling Foundation, a non-profit organization to focus public attention on missing children and their families.

The Wetterling Foundation was the driving force for the legislative initiative in Minnesota, which became Minnesota's sex offender registration act in 1991. On September 13, 1994, the law was

signed nationally as the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act.

Federal Legislation

- The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act provided states with an outline to create sex offender registration programs.
- Became Law in 1994
- State compliance deadline 1997
- Sets *minimum* guidelines

Wetterling Act

- Passed on September 13, 1994
- Mandates that states set up sex offender registration programs by September 13, 1997
- Outlines *minimum* guidelines for registration systems
- Does not preclude states from exceeding the listed criteria

Legislation*

To make our world safer for children the Jacob Wetterling Foundation wants to build community awareness; support law enforcement and help the criminal justice system. Our advocacy is based on our mission to end child sexual exploitation, abuse and non-family abductions. We are non-partisan; we want to work collaboratively with people. The following legislation came into being because many people, with many different perspectives, came together in agreement -- because it was the right thing to do. If you have any questions or suggestions, please contact the Jacob Wetterling Foundation below.

Community Notification

History of the Jacob Wetterling Act
1991 -- Minnesota's sex offender registration act was the first legislative initiative of the Jacob Wetterling Foundation after it was incorporated in February, 1990. When Jacob was abducted in October, 1989 law enforcement had no comprehensive list of sex offenders to work from. The leads received by the investigators

* http://www.jwf.org/legislation.html

became the basis of an extensive computerized database. The Act went into effect 7/1/91.

1994 -- The Missing Child Response Act for cases of missing and endangered children was brought to the Minnesota Legislature by The Grant Hussey Foundation and supported by the Wetterling Foundation. The Act required the Bureau of Criminal Apprehension to assist any law enforcement agency; directed the Peace Officer Standards and Training Board to develop a model policy; directed each police chief and sheriff have a written policy; required pre-trial bail evaluations for suspects detained for violent crimes; require those suspects to surrender any firearms, and required an integrated electronic communication network for crime prevention information between state agencies, law enforcement and the private sector.

1994 -- The Federal 1994 Omnibus Crime Bill, including the Jacob Wetterling Crimes Against Children and Sex Offender Registration Act, becomes law. The bill mandates that each state create a very narrowly drawn specific program to register sex offenders. The compliance deadline was 9/30/97.

1996 -- Megan's Law, an amendment to the Wetterling Act, requires the release of relevant information to protect the public from sexually violent offenders. Otherwise known as Community Notification, this amendment passed 418-0 in the House and by a voice vote in the Senate.

1996 --The Pam Lynchner Sex Offender Tracking and Identification Act of 1996, another amendment to the Wetterling Act, allows the FBI to establish a national database of sex offender names and addresses who are released from prison.

1997 -- The Jacob Wetterling Improvements Act's requirements include: Members of the U.S. Armed Forces who have been convicted in any court, including military court, must register in their state of residence. Sex offenders required to register in their state of residence are required to register in the state where they work or go to school. Sex offenders convicted of a federal crime and imprisoned in a federal facility are required to register in their state of residence, upon their release. The Act also includes provisions that each state shall create laws prohibiting any stalking of juveniles.

1998 -- Jennifer's Law requires states to notify the National Crime Information Center when they find an unidentified body and cross-check the Missing Persons File with the Unidentified Persons File. The bill, which provides funding for the associated costs, is currently waiting to be signed into law.

2000 - The Campus Sex Crimes Prevention Act amends the Wetterling Act, requiring offenders to report information regarding

any enrollment or employment at an institution of higher education and to provide this information to a law enforcement agency whose jurisdiction includes the institution.

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The Jacob Wetterling Foundation

Jacob at 11

Jacob at 19

The Jacob Wetterling Foundation was established in February, 1990, four months after Jacob Wetterling, then 11 years old, was abducted by a masked man at gunpoint near his home in St. Joseph, Minnesota.

While returning home from a convenience store Jacob, 11, his brother Trevor, 10 and a friend Aaron, 11 were riding their bikes home when a masked man came out of a driveway, ordered the boys to throw their bikes into the ditch, turn off their flashlights, and lie face down on the ground. The gunman asked each of the boys their age. After the boys responded, he instructed Trevor to run into the woods and not to look back or he would shoot him. Next the gunman turned Aaron over, looked into his face, and told him to run into woods or he would shoot him. As Trevor and Aaron were running away, they glanced back to see the gunman grab Jacob's arm. When Aaron and Trevor reached the wooded area, they turned around again, and the gunman and Jacob were gone.

On October 22, 1989 neighbors, friends and strangers rallied to the family's aid and worked 24 hours a day, seven-days-a-week searching the area and distributing flyers all across the country. That outpouring of support led Jacob's parents, Jerry and Patty Wetterling, to establish a nonprofit foundation to focus national attention on missing children and their families. Jacob's abduction affected people because it happened in a small town and continues to touch them because they still do not know where he and his abductor are.
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To The Man Who Took Jacob...

I often wonder does October 22nd mean anything to you? Do you remember the young boy you took from us? Do you still have him with you? He's an adult now, but just as loved and still dearly missed. Do you know the person you took?

Jacob was born February 17, 1978. He has his Grandpa's middle name. He loved sports and was incredibly competitive, especially with his younger brother, Trevor. They played, and they'd fight and then they'd fall asleep, each with one arm wrapped around the other. He fished with his Dad, and he had lots of friends. He was most known for his sense of fairness. Even if it had nothing to do with him - it always bothered him when things weren't fair.
He tried hard at whatever he did. He was goalie for his hockey team. I remember asking him did it ever bother him when somebody scored on him? He said not really. If I stopped it, it was great save. If it went in, it was a great shot.

You took away a wonderful person. Someone who probably would have stood up for you if things weren't fair. Did no one do nice things for you?

I have found some comfort picturing you not as a mean old, ugly, bad guy, but at one time, you were an 11-year-old boy. Someone's son...possibly someone's brother needing and hopefully sharing the love an 11-year-old boy deserves. If this love wasn't shared in your family, I'm sorry. Every child is entitled to the love and caring that family and friends provide.

If you still have Jacob, I wish for something good to happen to you, like catching a really big fish. Hopefully then, you will treat him well. I hope you have peaceful moments where you can walk in the woods or on a beach, content, not miserable and vindictive.
I have a hard time getting through anniversary dates. Still not knowing where Jacob is, I continue to talk to him. Birthdays, holidays, but especially now. Where are you Jacob? What next? I talk to God, praying for Jacob, and even struggling with trying to pray for you. – If only I could talk to you.

I'm not sure what I would say, although after so much time, surprisingly, I don't hate you. I know nothing about you. I wonder, were you ever like Jacob? Did you also love peanut butter? Did you sneeze when you looked at the sun? Did you play jokes on April Fools Day? Jacob is not just a kid on a poster. His mom and dad, Amy, Carmen and Trevor miss him daily. He has dreams and hopes and potential.

I still have positive dreams. For my own survival, I have had to let go of a lot of anger or I would be swallowed up in it. But the questions persist. I pray that God will smile down on us all this year and bring us some peace. All I'm asking for is your response; a call to allow me and all the people whose lives Jacob touched to find peace and a sense of calm that disappeared that night on October 22, 1989. The peace that can't return until the questions surrounding Jacob's disappearance are answered. You have held the answers for so long. You also hold the pain. Please talk to me.

Patty Wetterling
Jacob's mom

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Please Help Us Bring Jacob Home!

Jacob Wetterling: DOB 2-17-78;
Brown hair, blue eyes, and mole on left check

For Further Information contact:

Jacob Wetterling Task Force
P.O. Box 217
St. Cloud, MN 56302
(320) 251-4240

Jacob Wetterling Foundation
P.O. Box 639
St. Joseph, MN 56374
(320) 363-0470
(800) 325-HOPE

Chapter Three: Megan's Law – Community Notification

New Jersey

- 1994, 7-year-old Megan Kanka was raped and murdered
- Twice convicted sex offender Jesse Timmendequas is arrested
- In 1979, Timmednequas had pled guilty to the attempted aggravated sexual assault of a 5-year-old girl in New Jersey. He was given a suspended sentence, but failed to go to counseling and spent 9 months in custody.

Timmendequas Verdict

- In 1981, he pled guilty in regards to the sexual assault of a 7-year-old girl and was imprisoned for 6 years.
- Lived two blocks from Megan's home
- No community notification in NJ

Timmendequas Verdict Con't

- 1997 convicted of Megan's murder
- Sentenced to death
- Currently on New Jersey's death row

Megan's Law

- Passed May 17, 1996
- Federal legislation on sex offender community notification

Megan's Law Con't

- Amends the Wetterling Act regarding release of registration information in two ways
- First - eliminates requirements that registration information be treated as private data
- Second - makes release of relevant information to the public mandatory

Megan's Law

- Passed on May 17, 1996
- Megan's Law amends the provisions of the Wetterling Act in two ways:
- Eliminates requirements that law enforcement treat registration information as private
- Makes the release of relevant information regarding offenders to the public mandatory.
- Mandates state's compliance no later than September 13, 1997.
- Community notification picks up where registration leaves off.
- Not only will law enforcement know where released sex offenders reside, but also so will the community.

Clinton Signs Tougher "Megan's Law" *

WASHINGTON (AllPolitics, May 17) President Bill Clinton signed legislation today requiring states to notify communities when a sex offender moves into a neighborhood.

The so-called "Megan's Law," which cleared the House 418-0 earlier this month, is named after 7-year-old Megan Kanka of Hamilton Township, N.J., who was killed two years ago. Charged with the crime was a convicted sex offender who the Kankas were unaware lived across the street from them.

The bill is named after Megan Kanka

Kanka's parents, Richard and Maureen, attended the White House ceremony, where Clinton said they "have lived through the greatest pain I know."

Clinton noted the rights of former offenders, but said "there is no greater right than a parent's right to raise a child in safety and love...Today America circles the wagons around our children." The president predicted the law will be upheld by the courts.

After the murder, New Jersey passed "Megan's Law," and a 1994 federal crime measure included similar provisions allowing states to inform a community when a convicted sex offender moves into the area.

The latest legislation goes a step further by requiring states to inform the public, although officials would determine how much public warning is necessary, based on the danger posed by the offender. States would have to establish a warning system by

* http://cnn.com/ALLPOLITICS/1996/news/9605/17/clinton.sign/index.shtml

September 1997 or they could lose some federal anti-crime funds. Clinton supported the tougher federal requirements as the bill moved through the legislative process, and in this election year, the president is sure to cite it as more evidence of his commitment to fighting crime.

"Megan's Law"

Requires states to notify law enforcement officials and the community when a convicted sex offender moves into a neighborhood.

The bill sponsor, Rep. Dick Zimmer (R-N.J.), told the Associated Press the measure "gives parents the information every parent has the right to know, which is whether there is somebody who can hurt their children living in their neighborhood."

Chapter Four: Pam Lynchner Act Offender Databases

Pam Lynchner Act

- Second amendment to Wetterling Act
- Requires FBI to create a national sex offender database registry
- Passed October 1996
- Set three year time frame for state compliance

Pam Lynchner, a Texas real estate agent, was sexually assaulted while showing a home to a man she thought was a potential buyer. Suspect was a previously convicted sex offender from another state. Due to this crime, in 1996, legislation was written requiring the FBI to develop and maintain a national sex offender registry. The Pam Lynchner Sexual Offender Tracking and Identification Act increased the requirements for repeat and violent offenders and require the sharing of information on a national level.

Final Wetterling Amendment

- 1998 Departments of Commerce, Justice, State, and Related Agencies Appropriations Act (CJSA)
- Increased requirements for sexually violent predators
- Requires registry of federal, military, & non-resident students and workers compliance

CJSA Con't

- Finally, CJSA requires that states participate in the national sex offender registry (NSOR)
- Purpose is that state registry information is tracked between jurisdictions
- NSOR launched in July 1999, part of NCIC 2000

The Departments of Commerce, Justice, State, Judiciary, and related Agencies Appropriations Act (CJSA), added in 1998. Purpose is to increase federal requirements and penalties on sexually violent predators, and to require the sharing of sex offender information through the interstate compact system.

CJSA requires the registration of federal, military and non-resident students and workers who fit the criteria as sex offenders. It also requires states to participate in the National Sex Offender Registry (NSOR). The purpose of NSOR is to properly disseminate the release of "relevant, accurate, complete and up to date" information on sexual offenders. It was established to allow state sex offender information to be tracked between jurisdictions.

If local jurisdictions aren't verifying the information that is in the database systems, then the registry, however well designed and intentioned, will always be flawed.

Chapter 5: Campus Sex Crimes Prevention Act

Effective October 28, 2002

This Campus Sex Crimes Prevention Act (CSCPA) is a federal law that amends part 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 (Wetterling Act). States must comply with Wetterling Act requirements in order to maintain eligibility for full certain 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.

Act Effective October 28, 2002

- Another amendment to the Wetterling Act
- Requires state compliance for grant funding
- Provides for tracking of convicted sex offenders enrolled or employed by institutions of higher education

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 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.

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 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 web site will not enable the campus community to obtain the CSCPA information, as this information is not available to the public on that web site.

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.

"Institution of higher education" includes a community college,

Requires sex offenders to provide:

- Name, location and county of each institution
- Each campus attended
- Enrollment and/or employment status
- Each change in enrollment or employment status, including an change in location of either

college, state university, or independent post-secondary institution.

"Change in enrollment" means commencement or termination of enrollment or employment OR a change in the location of enrollment or employment.

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.

Reporting Requirements

- If on Probation, sex offender must notify probation officer within 48 hours of any changes
- If off Probation, sex offender must provide all changes to Sheriff within 48 hours of the change

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 or to FDLE. 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.

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.

Chapter Six:
Florida Sex Offender Laws

Florida State Laws

- Sexual Predator Act
- Public Safety Information Act - 1997
- Both Acts amended in 1998 Legislative Session
- 1999 Language shifted in responsibility for verification

Amended Language

- 1998 amendments to sexual predator acts:

  - Address registration requirement in FL

  - Outlined community notification requirements

  - Requires sex offenders to submit DNA samples

Jimmy Ryce Act

- Effective January 1, 1999
- Outlines civil commitment for sexually violent offenders
- Chapter 916 of Florida Statutes

Florida State Laws

- Sexual Predator Act
- Public Safety Information Act, 1997
- Both Amended in 1998 Legislative Session to:
  - Address registration requirements and clarify what is meant by residence (temporary or permanent)
  - Outline community notification requirements for FL
  - Require sex offenders and predators to submit DNA samples
- Jimmy Ryce Act
  - Law became effective January 1, 1999
  - Civil Commitment of sexually violent offenders
  - Chapter 394 Florida Statutes. Legislative changes in 2004 require that those individuals civilly committed under this act register as a sexual predator.

Jimmy Ryce Story *

Don't forget Jimmy Ryce and the children he represents, who want to grow up without being molested!

Who is Jimmy Ryce?

On Monday, September 11, 1995, at 3:10 in the afternoon, Jimmy Ryce's school bus let him out at the corner of S.W. 232nd Street and 162nd Avenue in the rural Redlands, just south of Miami and north of Homestead, Florida. 9-year-old Jimmy began the short walk home, on the same side of the street, across five neighbors' yards and groves.

On Jimmy's school bus, there were only 10 or so kids, all with IQs over 130, as they were all in the gifted program. Most, like Jimmy, were let out alone, because they lived in widely scattered places in south Dade County.

According to the confession of Juan Carlos Chavez, who was convicted for kidnapping Jimmy Ryce, he cut Jimmy's path off with his truck, jumped out, grabbed Jimmy by the shirt, pointed a gun at him and said, "Do you want to die?"

Always a bottom-line kind of kid, Jimmy said, "No."

"Then, get in the truck and lie on the front seat floor, so no one will see you."

The man drove Jimmy to an abandoned trailer about two miles away and dragged Jimmy inside.

Puzzled by what was happening, Jimmy asked the man, "Why did you take me?" The man sneered back, "Why do you think?"

Don't leave the choice of whether your children live or die in the hands of a sexual predator!

What Jimmy thought was probably not what the man meant, not what Jimmy later learned. Jimmy would have guessed the man stole him because he wanted a little boy of his own to raise. Jimmy had no idea some grown men are so perverted they want to have sex with little boys and girls, much less now they would go about it.

Trying to gauge the danger he was in, Jimmy, then, asked his captor, "Are you going to kill me?"

Chavez did not answer or reassure Jimmy. Instead, he forced Jimmy to take off his clothes and anally raped him.

Jimmy never said another word to him, probably realizing Chavez enjoyed toying with him. Instead, when Chavez went to the window to look at a helicopter overhead, Jimmy made a break for the trailer door. Before he could get it all the way open, Chavez shot Jimmy. Chavez says, "Jimmy screamed and sank to the floor." Then, Chavez dropped to his knees beside Jimmy in time to hear what he said sounded like air escaping from Jimmy's side.

Three months later Jimmy's dismembered body was found, near Chavez' trailer, encased in cement in three plastic pots normally used to hold young trees. In the fall of 1998, Chavez was convicted of murdering, kidnapping, and sexual assaulting Jimmy Ryce.

* http://www.jimmyryce.org/who_we_are/jimmystory.html

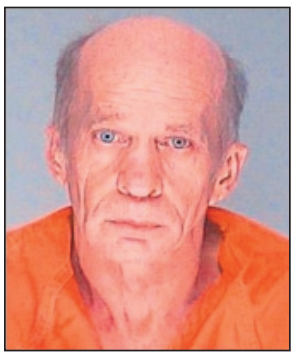
Chapter Seven:
Jessica Lundsford Act

In February of 2005, Jessica Lundsford became another victim of a sexual offender in the state of Florida. During the night registered sexual offender John Couey allegedly took Jessica from her home, raped her and then buried her alive just steps from her front door.

John Couey was living at an unregistered address with family members.

Jessica's Story

- Jessica was taken from her home during the night allegedly by convicted sex offender John Coney
- It is reported that she was raped and then buried alive just steps from her home.
- Couey was living at an unreported address with family members.



Jessica's father, Mark Lundsford spoke out for stricter laws against sexual offenders, and began lobbying for changes after Jessica's body was found.

The Jessica Lundsford Act was signed by Governor Jeb Bush on May 2, 2005 and became effective September 1, 2005.

Lundsford Act - Brief Overview

- Signed by Governor Bush May 2, 2005
- Widespread changes to sexual predator/ offender laws
- Effective 09/01/2005
  - Re-registration begins 12/01/2005

Beginning September 1, 2005

- Failure to correctly respond to an Address Verification letter from FDLE by the specified date is a 3rd degree felony.
- Valid vehicle and employment information must be provided to law enforcement during Reregistration. Failure to comply with this requirement is a 3rd degree felony.

Lundsford Act - Highlights

- Sex predators/offenders required to reregister in person at Sheriff's Office twice a year.
- Extends sexual predator waiting period for petition of removal of designation from 20 to 30 years (for those sexual predators designated after 9/1/05).
- 3rd degree felony for failure to respond to address verification letters

- Provides a criminal offense for anyone attempting to hide sexual offenders or predators from law enforcement officials. Commission of this crime is a 3rd degree felony.

- This could include:
    1. Withholding information from, or not notifying, law enforcement about an offender's or predator's noncompliance and, if known, his or her whereabouts

Lundsford Act Con't

- 3rd degree felony for those who assist, harbor, or conceal a sexual predator or offender in eluding law enforcement to provide false information.
    - No immunity for husbands, wives, etc.

    2. Harboring, attempting to harbor, or assisting another person in harboring or attempting to harbor offenders/predators

    3. Concealing, attempting to conceal, or assisting another person in concealing or attempting to conceal offenders/predators

    4. Providing information to law enforcement regarding offender(s)/predator(s) which the person knows to be false information

- Individuals designated as Sexual Predators on or after September 1, 2005 must wait 30 years (from the date sanctions for the qualifying sex offense terminated) before petitioning a court to remove the designation. To qualify for relief, the Sexual Predator cannot be arrested for any reason (misdemeanor or felony) during the 30 year period and the relief must satisfy Wetterling Act requirements.

- Provides a criminal offense for any person who alters, tampers, damages or destroys any court-ordered electronic monitoring equipment.

- Raised the degree of seriousness for the offense of lewd or lascivious molestation on a child under 12. Beginning

09/01/2005, when this offense is committed by someone 18 years of age or older it will be considered a life felony and carry a 25-year mandatory minimum term of imprisonment.

- If the person convicted of this crime is eventually released from prison then the use of an electronic monitoring device is authorized for the remainder of their natural life.

  Please note: The offense must be committed on or after September 1, 2005 to qualify.

Lundsford Act - Con't

- Provides a criminal offense for a person who alters, tampers, damages or destroys any court-ordered electric monitoring equipment.

- Lewd or lascivious molestation on a child under 12 when the offender is 18 or older *f.s.800/04(5)(b)*

Lundsford Act - Con't

- Lewd and lascivious molestation committed, convicted of a life felony on or after 09/01/05:

  - If not life imprisonment, split sentence to include electronic monitoring for the duration of the defendant's natural life.

Lundsford Act - Con't

- Registered sexual offender/predator probationers:

  - Requires court finding regarding danger of subject to public, prior to release on bail.

- If a registered sexual predator or offender is rearrested for any offense, the court must make an informed decision as to the dangerousness of the person to the public before he or she may be released on bail.

Lundsford Act - Con't

- Mandatory electric monitoring for conditional releases:

  1. Offense date on or after 9/1/05, for
  2. Specified offenses, and
  3. Victim 15 years or under, offender over 18 years old.

- Requires electronic monitoring for any person who is conditionally released from prison, for certain offenses, if his or her crime was committed on or after 09/01/05 and the victim was 15 years or younger. Offender must have been 18 years of age or older at the time of the offense to qualify.

- The Department of Corrections will be required to develop a risk assessment system to monitor certain offenders placed on probation or community control.

Lundsford Act - Con't

- Requires background screening for contractual personnel permitted access on school grounds when students are present, or if in direct contact with students present, or if in direct contact with students.

- Revises (expands) the requirements for registration as a repeat sexual predator in Florida.

Reregistration

- Began December 1, 2005
- Requires offenders to check-in at the Sheriff's Office twice a year (birth month and 6 months thereafter)
- Requires info to be electronically submitted to FDLE within 48 hours
- Employment and Vehicle information now required.

- Requires public and private misdemeanor probation entities to search each probationer against the Florida sexual offender registry.
- Requires background screening for all contractual personnel who are permitted access on school grounds when students are present or have direct contact with students.

Notification to Offenders of New Laws

- FDLE has sent notices to offenders/ predators beginning the week of July 25th

  - Through postcards
  - Multiple mailouts, at least one requiring signature

Chapter Eight: Sexual Predators

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;

Sexual Predators

- The designation of a person as a sexual predator ***requires*** a written finding by the court
- Qualifying offense must have occurred on or after October 1993.

Sexual Predator Criteria

- The "one is enough" sexual predator offense
- Any Capital, Life, First Degree Felony, or attempted violation of:
  - Chapter 794 - Sexual battery
  847.0145 Selling/buying of minors
  - 800.01 Lewd/Lascivious offense committed upon or in the presence of person under 16
  - 787.01* - Kidnapping
  - 787.05* - False imprisonment or
  - 787.025* - Luring or enticing a child

Sexual Predator Criteria Con't

- *Where the victim is a minor and the defendant is not the victim's parent
- Any Violation of a similar law in another jurisdiction
- Offense must have occurred on or after October 1, 1993

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,

Sexual Predator Criteria Con't

The "second offense" sexual predator offense

- Any felony or attempted felony violation of:
  - Chapter 794 Sexual battery
  - 847.0145 selling or buying of minors...
  - 827.071 sexual performance by a child
  - 825.01025 (2)(b) lewd/lascivious offense on elderly
  - 800.04 lewd/lascivious offense, offense committed upon or in the presence of person under 16
  - 793.03 procuring person under 18 for prostitution
  - 787.01 *kidnapping

Sexual Predator Criteria Con't

The "second offense" sexual predator offense

- 787.02* false imprisonment or
- 787.025 * luring or enticing of a minor
- Where the victim is a minor and the defendant is not the victim's parent
- Any Violation of a similar law in another jurisdiction
- Offense must have occurred on or after October 1, 1993

one or more of specified sexual offenses, and have a court enter a finding that such person is a sexual predator.

OR

Sexual Predator Designation

- An offender who has been determined to be a sexual violent predator pursuant to civil commitment proceedings under Chapter 394 (Jimmy Ryce Act) shall be designated as a sexual predator.
- Those committed on or after July 1, 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.

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."

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.

There are several law enforcement agencies in Florida that have some form of sexual predator and offender tracking units. Pinellas County Sheriff's Office, Hillsborough County Sheriff's Office, and Orange County Sheriff's Office, to name a few, all have some type of unit that specifically monitor sexual predators in some fashion.

Chapter Nine: Sexual Offenders

What Constitutes a Sexual Offender?

There are <u>several ways</u> 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);

<u>Sexual Offenders</u>

- Convicted of certain sex offenses
  -AND-
- Be in custody or control of, or under supervision by Department of Correction on or after October 1, 1997
  -OR-
- One or after October 1, 1997 be released from sanctions

Sexual Offenders Con't

- This also includes any person living in Florida who has been required to register or be subject to community or public notification in any other sate as a sex offender.

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).

Qualifying Offenses for Sexual Offender Designation

Commission of <u>OR</u> Attempt, Solicit, or Conspire to Commit	s. 787.01*	Kidnapping *Where the victim is a minor and the defendant is not the victim's parent*
	s. 787.02*	False imprisonment *Where the victim is a minor and the defendant is not the victim's parent*
	s. 787.025	Luring or enticing a child *Where the victim is a minor and the defendant is not the victim's parent*
	Chapter 794*	Sexual Battery **Excluding subsections 794.011(10) and 794.0235*
	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
	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.*

Qualifying Offenses for Sex Offenders

- Kidnapping - where the victim is a minor and the defendant is not the victim's parent
- False imprisonment - where the victim is a minor and the defendant is not the victim's parent
- Luring or enticing a child - where the victim is a minor and the defendant is not the victim's parent
- Sexual Battery - excluding subsections 794.011 (10) and 794.0235
- Procuring a person under the age of 18 for prostitution

Qualifying Offenses for Sex Offenders Con't

- Lewd/lascivious offense committed upon or in the presence of persons less than 16 years of age
- Lewd/lascivious offense committed upon or in the presence of an elderly person or disabled adult
- Sexual performance by a child
- Protection of minors; prohibition of certain acts in connection with obscenity
- Computer pornography
- Transmission of child pornography by electronic device/ equipment
- Transmission of material harmful to minors to a minor by electronic device/equipment
- Selling or buying of minors (for portrayal in a visual depiction engaging in sexually explicit conduct)

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.

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.

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.

- Are subject to community and public notification.

- 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.

- 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.

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

- Must report in person any change in permanent or temporary residence to DHSMV within 48 hours.

- Renew in person their driver's license or identification card when subject to renewal.

- 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

*Sexual Offender Obligations from Florida Guidelines to Sex Offender Laws

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).

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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 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.

- 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.

- 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.

- 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.

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;

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.

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 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.

Chapter Ten: Sexual Offender/Predator Registration Requirements

If Released from Probation:

- Register with the Sheriff of the county they are residing within 48 hours of establishing residence.
- The Sheriff's Office then forwards fingerprints, photographs, and registration paperwork to FDLE.
- Still required to report to DHSMV within 48 hours.

FDLE Registration Form

- Indicate predator or offender
- Check warrants
- Check criminal history
- See DL or ID card
- Employment information
- Scars, marks and/or tattoos
- Victim was adult or minor?
- Offender and witness sign form

The Florida Sexual Predator Act

- FSS.775.21 Outlines registration requirements for predators.
- All Individuals are required to sign a registration form upon registering with probation officer or sheriff's department.
- All offenders/predators are required by Wetterling Act to sign an acknowledgement form of their lawful responsibilities for registration prior to being released from prison.
- Probation Officers also have subject sign and will furnish copy if needed.

Failure to register within 48 hours or maintain an address is a 3rd degree felony.

Wetterling Act sets minimum guidelines for registration and the verification procedures that will follow. The Act then states:

- 1947- California was the first in the country to require registration of sex offenders
- The problem was that the registry was only available to law enforcement.
- More recently, the California registry has been made available on CD-ROM, for a fee.

"First, states that wish to achieve compliance with the Jacob Wetterling Act should understand that its requirements constitute a floor for state registration systems, not a ceiling… states may have systems which cover a broader class of sex offenders than defined in Wetterling, require address verification at more frequent intervals, or require offenders to register for longer periods of time…"

Megan's Law in California *

California for more than 50 years has required dangerous sex offenders to register with their local law enforcement agencies. However, information on the whereabouts of these sex offenders was not available to the public until the implementation of the Child Molester Identification Line in July 1995. California's Megan's Law further expanded the information available in 1996 (Chapter 908, Stats. of 1996).

Megan's Law is named after seven-year-old Megan Kanka, a New Jersey girl who was raped and killed by a known child molester

* http://www.caag.state.ca.us//megan/protect.htm

who had moved across the street from the family without their knowledge. In the wake of the tragedy, the Kanka's sought to have local communities warned about sex offenders in the area.

Now, California's Megan's Law arms the public with certain information on the whereabouts of dangerous sex offenders so that local communities may protect themselves and their children. The law also authorizes local law enforcement to notify the public about high-risk and serious sex offenders who reside in, are employed in, or frequent the community.

The law is not intended to punish the offender and specifically prohibits using the information to harass or commit any crime against the offender. It recognizes that public safety is best served when registered sex offenders are not concealing their location to avoid harassment.

How to Obtain Information *

Megan's Law makes available to adults and organizations information on "serious" and "high-risk" sex offenders in their local community. The information on a registered sex offender includes:

- Name and known aliases;
- Age and sex;
- Physical description, including scars, marks and tattoos;
- Photograph, if available;
- Crimes resulting in registration;
- County of residence;
- Zip code (based on last registration).

You may access the information by CD-ROM for free at a law enforcement agency viewing station; or by TELEPHONE at $10 per call for up to two names.

Florida

In Florida, all predators and offenders must register in the following ways:

- All must register in person with DHSMV within 48 hours of initial release or any change of residence. Failure to do so is a 3rd degree felony.

- Predators or offenders on probation/parole status must register their address with the Dept. of Corrections within 48 hours of release from prison, or any subsequent move. Failure to do so is a 3rd degree felony.

- Predators or offenders who are no longer on probation must

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http://www.caag.state.ca.us//megan/info.htm

register their address in person with the Sheriff's Office within 48 hours of their release from probation and any subsequent move thereafter. Failure to do so is a 3rd degree felony.

  - FSS 775.21 Outlines registration requirements for predators in Florida.

  - FSS 943.0435 and 944.607 Outlines registration requirements for offenders in Florida.

- Registration requirements are for life for predators and offenders.

  - However, a person designated a predator prior to October 1, 1998 and has not been arrested for any misdemeanor or felony for the past ten years may apply to the court to remove designation.

  - A person designated a sexual predator on or after October 1, 1998 and has not been arrested for 20 years may apply to the court for removal of designation.

  - A person designated a sexual predator on or after September 1, 2005 and has not been arrested for 30 years may apply to the court for removal of designation.

Chapter Eleven: Sexual Offender/Predator Address Change Issues

Change of Address

- All predators/offenders who intend to establish residence in another state must notify the Sheriff within 48 hours before leaving this state (moving to another state).

  - Failure to notify of move is a 3rd degree felony.

Change of Address Con't.

- FDLE will notify the state where the predator/offender reports he is moving
- If the predator/offender decides to remain in this state, they must report to the Sheriff within 48 hours after their intended date of leaving
  - Failure to report is a 2nd degree felony.

- All offenders and predators must report address changes within 48 hours of move as outlined in registration statutes.
- If predator or offender intends to leave the state, they must notify DOC, Sheriff, or FDLE office 48 hours prior to intended move date.
- Failure to comply with these provisions is a Third degree felony.

- If the predator or offender reports intent to leave state, then remains, they must notify DOC, Sheriff, or FDLE within 48 hours of the date when they originally said they would move.
  - Clearly, the intent of this provision is to prevent individuals from avoiding registration by falsely reporting their intent to move from a community.
  - The offender or predator would then remain in the state with the public and law enforcement unaware.
  - For this reason, failure to comply with this provision is a second-degree felony.

Permanent Addresses

- "Permanent Residence": a place where the person abides, lodges, or resides for 14 or more consecutive days

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

Temporary Address

- 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 students for any period of time in this state; or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not he person's permanent residence, including any out-of-state address.

resides for 14 or more consecutive days.

"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.

If a sex offender or predator stays at any other place besides their permanent residence 4 consecutive or non-consecutive days in a 30 day period of time, they must report this temporary address to DHSMV.

How is Law Enforcement Notified?

- FDLE notifies local agency by fax or teletype
- Inmate release information is sent by the department of corrections

Chapter Twelve: Sexual Offender/Predator Law Enforcement Notification

The FDLE web site gives the public several options for which to search for information regarding sex offenders in their community. Searches can be done by narrowing the choices. The most common are:

- Name of offender
- Address
- Zip code
- County
- City

As we will discuss further in our community notification meeting chapter, always be aware that this information is ever changing, and may be obsolete the moment it is downloaded. The public should be educated on this issue, as should all law enforcement officers, so that misinformation is kept to a minimum.

Additional Information Access

- FDLE maintains the state's internet web site
- www.fdle.state.fl.us
- Toll free number 1-888-357-7332

Chapter Thirteen: Sexual Offender/Predator Address Verification

Address Verification

- FDLE conducts verifications by mail to sexual predators and offenders not under DOC supervision
  - Predators are verified by mail quarterly
  - Offenders are verified by mail annually
  - Predators/Offenders not under supervision for original qualifying offense.

Wetterling Requirements:

- States will verify offenders' addresses at least annually.
- States will verify predators' addresses at least quarterly. *
- In Florida, FDLE is given statutory responsibility for verifications. Currently FDLE follows the Wetterling requirements, and conducts their verification process by certified mail.
- FDLE will then conduct sweeps to locate any individuals who have not responded to mail out.

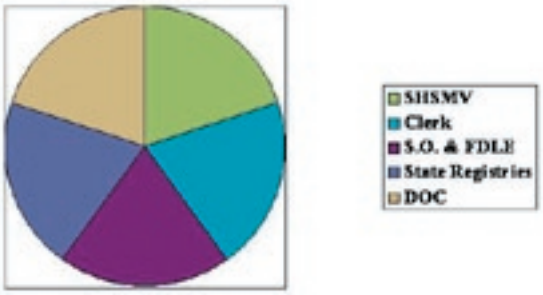
* Nothing in the Act prohibits states or local jurisdictions from conducting verifications more frequently.

Address Verification

- Statutory responsibility lies primarily with FDLE
- Sheer numbers of offenders in Florida make the task difficult
- Local agencies can fill in the gaps
- Responsibility to citizens in our jurisdiction

Chapter Fourteen: Agency Roles & Responsibilities

FDLE Primary Source of Data



Agency Roles in Process

- **Department of Corrections**

  - Registration information on incarcerated offenders to FDLE
  - Fingerprints, alias, crime information, photo
  - Electronically sends registration on release of inmates to FDLE

Agency Roles Con't

- DHSMV
  - Images
  - Address Information (temp/perm)
- Sheriff's Offices and FDLE Offices
  - Images
  - Fingerprints
  - Indentifiers/Aliases
  - Crime Information
  - Address Verification

Agency Roles Con't

- Clerk of the court
  - Fingerprints
  - Probation Restrictions
  - Court Findings of Predator Status
  - Disposition Information
- Out of State Registries
  - Incoming Offender/Predator Notifications

Local Agency Responsibility

- Law Enforcement agencies must notify probation when arresting sex offender under supervision.
- Sheriff's Office responsible for twice a year re-registration

Local Sources of Information

- Does you agency gather information on sex offenders and predators?
- If yes, what type?
- Information gained by proactive methods vs. reliance on state agencies
- Local Probation Offices
- Sheriff's Offices

Local Input

- FDLE - local agencies input field intelligence/address verification to FDLE database
- Updated information and photo electronically submitted at time of reregistration

- If a predator or offender moves, and does not notify Law Enforcement, that information may remain incorrect in the FDLE database for up to a year. Local agencies have a responsibility to their communities to be aware of where these individuals are.
- An agency that takes a proactive approach to address verification is better equipped to deal with the issue of offenders residing within their community. Furthermore, their intelligence information is greatly increased with the additional contacts that are made with the offenders, through the use of FIRs or other offender contact forms.

Chapter Fifteen: Sexual Offender/Predator Community Notification

Community Notification

Sexual Predator Act Language

- Sheriff or Chief of jurisdiction must notify the community of the presence of a sexual predator.
- Authorizes notification of offenders as deemed appropriate
- Must notify all licensed day cares and schools within 1 mile radius and within 48 hours.

Notification Requirements Con't

- There is NO specific manner spelled out to notify the community
- Can be completed "in any manner deemed appropriate"
- Methods vary from agency to agency and county to county

Required Information

- Community notification information must include:
  - Name
  - Address
  - Photograph
  - Description
  - Whether victim was a minor or adult
  - Circumstances of the event

Sexual Offender Notification

- Liability Issues:
  - Limited immunity from liability for law enforcement, schools, people acting at the discretion of these agencies.
  - Citizens can provide information to community that is based on FDLE web-site

How do we do it?

- Provide FDLE public internet address
- Provide FDLE toll-free number
- Mail out flyers?
  - To whom and how far?
- Reverse 911
- Deliver flyers in person?
- Can you think of other options?

Remember, the law is intentionally vague on how notifications should be conducted. This is to allow the Chief or Sheriff in each jurisdiction to tailor the response to their agency or community. Responses will vary based upon size of community or agency, resources available, public expectations, etc. There is no "one size fits all" approach to this issue.

How are notifications conducted in your jurisdiction?

_____

_____

_____

Is the notification procedure currently in place the result of a well thought out process or just a response to meet minimum requirements?

_____

_____

_____

Should we do more? Before we decide, let's look at some other important information that may help us decide.

Chapter Sixteen: Sexual Offender/Predator Community Impact/ Additional Facts

Community Impact

- FDLE stastics indicate an average of 300 new sex offenders registered per month
- Sex offenders traditionally have highest recidivism rates
- Their presence directly affects community safety

Community Impact

- 265,000 sex offenders on community supervision nationwide
- Represents only 10 percent of all sex offenders
- Only about 1/2 of all registered sex offenders are on supervision nationwide.

Links to and Summary of US Dept. of Justice, Bureau of Justice, Statistics on Child Sexual Abuse:

- Sex offender statistics
- 60 percent of convicted sex offenders on parole or probation
- Children and teenagers are victims
- Recidivism rates for crimes higher among sex offenders
- Violent offenders and their victims
- Two thirds of sex offenders in prisons victimized a child
- Family members of acquaintances most child murders
- Half of women raped were younger than 18(1992)

The July 2000 NIBRS report presents sexual assault in 4 categories:

- Forcible rape
- Forcible sodomy
- Sexual assault with an object, and
- Forcible fondling

Findings include statistics on the incidence of sexual assault, the victims, their offenders, gender, response to these crimes, locality, time of incident, the levels of victim injury, victims' perceptions of offenders' ages, and victim-offender relationships, and other detailed characteristics.

Highlights from 2000 include the following as reported to law enforcement:

- 67 percent of victims of sexual assault were under age 12;
- 1 of every 7 victims of sexual assault were under age 6;
- 40 percent of offenders who victimized children under age 6 were juveniles (under age 18).

Child Abuse & Child Sexual Abuse Substantiated

Composition of substantiated child abuse in 2000:

- 879,000 children were victims of child maltreatment
- Neglect – 63 percent
- Physical – 19 percent
- Sexual – 10 percent
- Psychological – 8 percent

Victimization rates declined as age increased.
Rate of victimization per 1,000 children of the same age group:

- Birth to 3 years old = 15.7 victims per 1,000
- Ages 16 and 17=5.7 victims per 1,000

Except for victims of sexual abuse, rates were similar for male and female victimization:

- 11.2 and 12.8 per 1,000 children respectively.
- Rate of sexual abuse by gender:
- 1.7 victims per 1,000 female children
- 0.4 victims per 1,000 male children

Rate of abuse by race:

- White = 51 percent
- African American = 25 percent
- Hispanic = 15 percent
- American Indian/Alaska Natives = 2 percent
- Asian/Pacific Islanders = 1 percent

The comparative annual rate of child victims:

- Decreased steadily from 15.3 victims per 1,000 children in 1993 to 11.8 victims per 1,000 children in 1999; then increased to 12.2 per 1,000 children in 2000.
- Whether this is a trend cannot be determined until additional data are collected.

Source: US Dept of Health and Human Services,
Administration for Children & Families,
National Clearinghouse on Child Abuse and Neglect, 2000

- The typical child sex offender molests an average of 117 children, most of who do not report the offence.

Source: National Institute of Mental Health, 1988.

- About 60 percent of the male survivors sampled report at least one of their perpetrators to be female.

Source: Mendel, 1993.

- About 95 percent of victims know their perpetrators.

Source: CCPCA, 1992.

- It is estimated that approximately 71 percent of child sex offenders were under 35 and knew the victim at least casually. About 80 percent of these individuals fall within normal intelligence ranges; 59 percent gain sexual access to their victims through seduction or enticement.

Source: Burgess & Groth, 1984.

Chapter Seventeen: Sexual Offender/Predator Community Impact

Myths and Facts about Sex Offenders:

There are many misconceptions about sexual offenses, sexual offense victims, and sex offenders in our society. Much has been learned about these behaviors and populations in the past decade and this information is being used to develop more effective criminal justice interventions throughout the country. This document serves to inform citizens, policy makers, and practitioners about sex offenders and their victims, addressing the facts that underlie common assumptions both true and false in this rapidly evolving field.

Myth:
"Most sexual assaults are committed by strangers."

Fact:
Most sexual assaults are committed by someone known to the victim or the victim's family, regardless of whether the victim is a child or an adult.

Adult Victims:
Statistics indicate that the majority of women who have been raped know their assailant. A 1998 national Violence against Women Survey revealed that among those women who reported being raped, 76 percent were victimized by a current or former husband, line-in partner, or date (Tjaden and Thoennes, 1998). Also, a Bureau of Justice Statistics study found that nearly 9 of 10 rape or sexual assault victimizations involved a single offender with whom the victim had a prior relationship as a family member, intimate, or acquaintance (Greenfeld, 1997).

Child Victims:
Approximately 60 percent of boys and 80 percent of girls who are sexually victimized are abused by someone known to the child or the child's family (Lieb, Quinsey, and Berliner, 1998). Relatives, friends, baby-sitters, persons in positions of authority over the child, or persons who supervise children are more likely than strangers to commit a sexual assault.

Myth:
"The majority of sexual offenders are caught, convicted, and in prison."

Fact:
Only a fraction of those who commit sexual assault are apprehended and convicted for their crimes. Most convicted sex offenders eventually are released to the community under probation or parole supervision.

Many women who are sexually assaulted by intimates, friends, or acquaintances do not report these crimes to police. Instead, victims are most likely to report being sexually assaulted when the assailant is a stranger, the victim is physically injured during the assault, or a weapon is involved in the commission of the crime.

A 1992 study estimated that only 12 percent of rapes were reported (Kilpatrick, Edmunds, and Seymour, 1992). The National Crime Victimization Surveys conducted in 1994, 1995, and 1998 indicated that only 32 percent of sexual assaults against persons 12 or older were reported to law enforcement. (No current studies indicate the rate of reporting for child sexual assault, although it generally is assumed that these assaults are equally under-reported.) The low rate of reporting leads to the conclusion that the approximate 265,000 convicted sex offenders under the authority of corrections agencies in the United States (Greenfeld, 1997) represent less than 10 percent of all sex offenders living in communities nationwide.

While sex offenders constitute a large and increasing population of prison inmates, most are eventually released to the community. Some 60 percent of those 265,000 convicted sex offenders noted above were supervised in the community, whether directly following sentencing or after a term of incarceration in jail or prison. Short of incarceration, supervision allows the criminal justice system the best means to maintain control over offenders, monitor their residence, and require them to work and participate in treatment. As a result, there is a growing interest in providing community supervision for this population as an effective means of reducing the threat of future victimization.

Myth:
"Most sex offenders re-offend."

Fact:
Reconviction data suggest that this is not the case. Further, re-offense rates vary among different types of sex offenders and are related to specific characteristics of the offender and the offense.

Persons who commit sex offenses are not a homogeneous group, but instead fall into several different categories. AS a result, research has identified significant differences in re-offense patterns from one category to another. Looking at reconviction rates alone, one large-scale analysis (Hanson and Bussiere, 1998) reported the following differences:

- Child molesters had a 13 percent reconviction rate for sexual offenses and a 37 percent reconviction rate for new, non-sex offenses over a five year period; and
- Rapists had a 19 percent reconviction rate for sexual offenses and a 46 percent reconviction rate for new, non-sexual offenses over a five year period.
- Another study found reconviction rates for child molesters to be 20 percent for rapists to be approximately 23 percent (Quinsey, Rice and Harris, 1995).

Individual characteristics of the crimes further distinguish recidivism rates. For instance, victim gender and relation to the offender have been found to impact recidivism rates. In a 1995 study, researchers found that offenders who had extra-familial female victims had a recidivism rate of 18 percent and those who had extra-familial male victims recidivated at a rate of 35 percent. This same study found a recidivism rate for incest offenders to be approximately 9 percent (Quinsey, Rice, and Harris, 1995).

It is noteworthy that recidivism rates for sex offenders are lower than for the general criminal population. For example, one study of 108,580 non-sex criminals released from prisons in 11 states in 1983 found that nearly 63 percent were rearrested for a non-sexual felony or serious misdemeanor within three years of their release from incarceration; 47 percent were reconvicted; and 41 percent were ultimately returned to prison or jail (Bureau of Justice Statistics).

It is important to note that not all sex crimes are solved or result in arrest and only a fraction of sex offenses are reported to police. The reliance on measures of recidivism as reflected through official criminal justice system data (i.e. re-arrest or reconviction rates) obviously omits offenses that are not cleared through an arrest (and thereby cannot be attributed to any individual offender) or those that are never reported to the police. For a variety of reasons, many victims of sexual assault are reluctant to invoke the criminal justice process and do not report their victimization to the police. For these reasons, relying on re-arrest and reconviction data underestimates actual re-offense numbers.

Myth:
"Sexual offense rates are higher than ever and continue to climb."

Fact:
Despite the increase in publicity about sexual crimes, the actual rate of reported sexual assault has decreased slightly in recent years.

The rate of reported rape among women decreased by 10 percent from 1990 to 1995 (80 per 100,000 compared to 72 per 100,000) (Greenfeld, 1997). In 1995, 97,460 forcible rapes were reported to the police nationwide, representing the lowest number of reported rapes since 1989.

More recently, when examining slightly different measures, it appears that rates have continued to drop. The arrest rate for all sexual offenses (including forcible rape and excluding prostitution) dropped 16 percent between 1993 and 1998. In 1998, 82,653 arrests were logged for all sexual offenses, compared to 97.955 arrests in 1993 (Federal Bureau of Investigations, 1997 and 1998).

Myth:
"All sex offenders are male."

Fact:
The vast majority of sex offenders are male. However, females also commit sexual crimes.

In 1994, less than 1 percent of all incarcerated rape and sexual assault offenders were female (fewer than 800 women) (Greenfeld, 1997). By 1997, however, 6,292 females had been arrested for forcible rape or other sex offenses, constituting approximately 8 percent of all rape and sexual assault arrests for that year (FBI, 1997). Additionally, studies indicate that females commit approximately 20 percent of sex offenses against children (ATSA, 1996). Males commit the majority of sex offenses but females commit some, particularly against children.

Myth:
"Sex offenders commit sexual crimes because they are under the influence of alcohol."

Fact:
It is unlikely that an individual who otherwise would not commit a sexual assault would do so as a direct result of excessive drinking.

Annual crime victim reports indicate that approximately 30 percent of all reported rapes and asexual assaults involve alcohol use by the offender (Greenfeld, 1998). Alcohol use, therefore, may increase the

likelihood that someone already predisposed to commit a sexual assault will act upon those impulses. However, excessive alcohol use is not a primary precipitant to sexual assaults.

Myth:
"Children who are sexually assaulted will sexually assault others when they grow up."

Fact:
Most sex offenders were not sexually assaulted as children and most children who are sexually assaulted do not sexually assault others.

Early childhood sexually victimization does not automatically lead to sexually aggressive behavior. While sex offenders have higher rates of sexual abuse in their histories than expected in the general population, the majority were not abused. Among adult sex offenders, approximately 30 percent have been sexually abused. Some types of offenders, such as those who sexually offend against young boys, have still higher rates of child sexual abuse in their histories (Becker and Murphy, 1998).

While past sexual victimization can increase the likelihood of sexually aggressive behavior, most children who were sexually victimized never perpetrate against others.

Myth:
"Youths do not commit sex offenses."

Fact:
Adolescents are responsible for a significant number of rape and child molestation cases each year.

Sexual assaults committed by youth are a growing concern in this country. Currently, it is estimated that adolescents (ages 13 to 17) account for up to one-fifth of all rapes and one-half of all cases of child molestation committed each year (Barbaree, Hudson, and Seto, 1993). In 1995, youth were involved in 15 percent of all forcible rapes cleared by arrest – approximately 18 adolescents per 100,000 were arrested for forcible rape. In the same year, approximately 16,100 adolescents were arrested for sexual offenses, excluding rape and prostitution (Sickmund, Snyder, Poe-Yamagata, 1997).

The majority of these incidents of sexual abuse involve adolescent male perpetrators. However, prepubescent youth also engage in sexually abusive behaviors.

Myth:
"Juvenile sex offenders typically are victims of child sexual abuse

and grow up to be adult sex offenders."

Fact:
Multiple factors, not just sexual victimization as a child, are associated with the development of sexually offending behavior in youth.

Recent studies show that rates of physical and sexual abuse very widely for adolescent sex offenders; 20 to 50 percent of these youth experiences physical abuse and approximately 40 to 80 percent experienced sexual abuse (Hunter and Becker, 1998). While many adolescents who commit sexual offenses have histories of being abused, the majority of these youth do not become adult sex offenders (Becker and Murphys, 1998). Research suggests that the age of onset and number of incidents of abuse, the period of time elapsing between the abuse and its first report, perceptions of how the family responded to the disclosure of abuse, and exposure to domestic violence all are relevant to why some sexually abused youths go on to sexually perpetrate while others do not (Hunter and Figueredo, in press).

Myth:
"Treatment for sex offenders is ineffective."

Fact:
Treatment programs can contribute to community safety because those who attend and cooperate with program conditions are less likely to re-offend than those who reject intervention.

The majority of sex offender treatment programs in the United States and Canada now use a combination of cognitive-behavioral treatment and relapse prevention (designed to help sex offenders maintain behavioral changes by anticipating and coping with the problem of relapse). Offense specific treatment modalities generally involve group and/or individual therapy focused on victimization awareness and empathy training, cognitive restructuring, learning about the sexual abuse cycle, relapse prevention planning, anger management and assertiveness training, social and interpersonal skills development, and changing deviant sexual arousal patterns.

Different types of offenders typically respond to different treatment methods with varying rates of success. Treatment effectiveness is often related to multiple factors, including:

- The type of sexual offender (e.g. incest offender or rapist);
- The treatment model being used (e.g., cognitive-behavioral, relapse prevention, psycho-educational, psycho-dynamic, or pharmacological);
- Related interventions involved in probation and parole community supervision.

Several studies present optimistic conclusions about the effectiveness of treatment programs that are empirically based, offense-specific, and comprehensive (Lieb, Quinsey, and Berliner, 1998). The only meta-analysis of treatment outcome studies to date has found a small, yet significant treatment effect – 8 percent reduction in the recidivism rate for offenders who participated in treatment (Hall, 1995). Research also demonstrates that sex offenders who fail to complete treatment programs are at increased risk for both sexual and general recidivism (Hanson and Bussiere, 1998).

Myth:

"The cost of treating and managing sex offenders in the community is too high – they belong behind bars."

Fact:

One year of intensive supervisions and treatment in the community can range in cost between $5,000 and $15,000 per offender, depending on treatment modality. The average cost for incarcerating an offender is significantly higher, approximately $22,000 per year, excluding treatment costs.

As noted previously, effective sex offender specific treatment interventions can reduce sexual offense recidivism by 8 percent. Given the tremendous impact of these offenses on their victims, any reduction in the re-offense rates of sex offenders is significant.

Without the option of community supervision and treatment, the vast majority of incarcerated sex offenders would otherwise serve their maximum sentences and return to the community without the internal (treatment) and external (supervision) controls to effectively manage their sexually abusive behavior. Managing those offenders who are amenable to treatment and can be supervised intensively in the community following an appropriate term of incarceration can serve to prevent future victimization while saving taxpayers substantial imprisonment costs (Lotke, 1996).

Statistics and Characteristics of Adult and Juvenile Sex Offenders

Sexual Assault Statistics*:

- 1995 estimates indicate that 260,300 rapes and attempted rapes and nearly 95,000 sexual assaults and threats of sexual assault were committed against persons 12 years of age or older (Greenfeld, 1997).
- In 1998, 20,608 arrests were made for forcible rape and 62,045 arrests were made for other sexual offenses (FBI 1998).
- 43 percent of all rapes/sexual assaults occur between 6 p.m.

* http://www.csom.org/pubs/mythsfacts.html

and midnight.
- Six out of every 10 rapes/sexual assaults occur in the homes of victims, family members, or friends (Greenfeld, 1997).
- Sexual assault victimizations are highest among young adults between the ages of 16 and 19, low income individuals, and urban residents (Greenfeld, 1997).

Criminal history characteristics of adult sex offenders:
In 1997, approximately 234,000 convicted sex offenders were under the care, custody or control of corrections agencies on an average day. Nearly 60 percent were under conditional supervision in the community (Greenfeld, 1997). By 1998, this number grew to 265,000.

Characteristics of juvenile sex offenders:
- Juvenile sex offenders are typically between the ages of 13 and 17.
- They are generally male.
- 30-60 percent exhibit learning disabilities and academic dysfunction.
- Up to 80 percent have a diagnosable psychiatric disorder.
- Many have difficulties with impulse control and judgment
- 20 – 50 percent have histories of physical abuse
- 40-80 percent has histories of sexual abuse.

The goal of the educational process is to calm the community and reassure citizens that law enforcement is monitoring the offender. A balance must be struck between informing the public and creating panic in the community.

Education within your agency is critical in ensuring that all personnel are aware of the department's policies. Additionally, it is important to send a unified message to the public, whether the information is coming from the PIO, Chief, mid-level supervisor, street officer or civilian employee.

Nationwide studies have shown high error rates in state sex offender registries, and consequently the public websites. If law enforcement does not act to correct this, at least from our local perspectives, then we are in jeopardy of someday losing these laws.
Being responsible for our own backyards is one way that all of us can help to ensure the accuracy of national sex offender database information. We can and should accurately verify, to the best of our ability, the whereabouts of registered sex offenders in our communities. In Florida, laws have recently shifted actually making local law enforcement more responsible for verifications, at a minimum of yearly. This applies to all offenders who are no longer on supervision with the Department of Correction.

We also have a responsibility to educate our personnel and the citizens in our community about this important public safety issue.

Education is the Key!

- Community meetings
- Departmental training (in-service)
- Formal training classes
- Share experiences with other agencies

Conducting a Sex Offender Community Meeting

Community Meetings

- Not an easy undertaking
- Must be fully prepared
- No room for error or uncertainty
- Knowledge of issue will reflect in confidence
- Lack of knowledge or hesitation may be viewed as weakness or incompetence

Community Meetings

- Confidence will reassure citizens in attendance
- Less likely to feel that they are on their own
- Don't need to take matters into their own hands

Who will Conduct the Meeting?

- Patrol?
- COP unit?
- Detective division?
- Neighborhood watch coordinator?

What Type of Meeting?

- General community education
- Specific Predator or issue
- Education within regular neighborhood watch meeting

General Community Meeting

- Laws
- Department Policies
- Procedures for notification
- Rights and responsibility of citizens
- Rights and responsibility of offender

Specific Predator or Issues

- Legal community notification requirement
- Risk level assessment of predator or offender
- Recommendation by probation
- Troublesome behavior by offender

Commonly Asked Questions

- What is the difference?
- Do all sex offenders have to register?
- Can sex offenders live near schools?
- Can sex offenders be around children?

Commonly Asked Questions

- How do I get information on sex offenders in my neighborhood?
- What if I receive a notification flyer or see that my neighbor is on the website?
- What are the police doing about them?
- What can I do to protect my family?

Difficult Crowds

- Emotions are high
- Notifications generate fear
- Must control meeting
- Educate to ease anxiety
- DO NOT let this get out of hand!
- Consider taking the Florida RCPI *Partnership and/or Problem Solving* course

What about the Media?

- Ally or adversary?
- Share or withhold information?
- Ignore or engage?
- Consider taking the Florida RCPI *Effective Media Skills* course

Local Predator/Offender Monitoring

- Utilize all available department resources
- Expand contact with predators/offenders in community
- Increase department's effectiveness by proactively utilizing information
- Form true working partnerships

Comprehensive Offender Program

- Begin with identification of offenders to be monitored
- Assign to designated unit or personnel
- Put written procedures into place
- Database to store information
- Educate and make all information available to all personnel

Appendix A:

Florida State Sex Offender Statutes:

FSS 775.21 Florida Sexual Predator Act (Outlines Registration & Driver's License Requirements, Community Notification Requirements, Legislative Intent)

FSS 943.0435 Registration Requirements for Sex Offenders (Includes Driver's License Requirement)

FSS 944.606 Notification Requirements for Sex Offenders Upon Release from Prison (DOC Requirements)

FSS 944.607 Registration Requirements for Sex Offenders with Dept. of Corrections (Probation Status)

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).

(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 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.

(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

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.

(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.

(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 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 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 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 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. 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 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 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 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 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.

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 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 as a sexual predator by a court on or after September 1, 2005, who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 30 years, and who 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. 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.--

(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.

(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.

(a) A sexual predator must report in person each year during the month of the sexual predator's birthday and during the sixth month following the sexual predator's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which shall be consistent with the reporting requirements of this paragraph. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent 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; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.

2. 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.

3. 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 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 predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide 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) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual predator to the department in a manner prescribed by the department. This procedure shall be implemented by December 1, 2005.

(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 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; who fails to reregister as required; who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence; 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, 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 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.

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

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

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

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

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

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

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; s. 3, ch. 2005-28; s. 5, ch. 2005-67.

NEW REQUIREMENTS FOR REGISTRANTS

On May 2, 2005, Governor Bush signed legislation that significantly alters Florida's Sexual Offender and Predator Registration laws. Below you will find a summary of some of the key changes, most of which will go into effect on September 1, 2005. Please note that any **requirements listed are in addition to the current requirements outlined in F. S. 775.21 and F. S. 943.0435**. Click on the link provided to read the Jessica Lunsford Act in its entirety.

Beginning December 1, 2005

Sexual predators and offenders* must report in person twice a year (during the month of his/her birth month and in the 6th month thereafter) to the sheriff's office in the county in which he or she resides. Failure to comply with this requirement is a **3rd degree felony.**

***Please note: This requirement applies both to sexual predator and offenders who have been released from sanctions for their qualifying sex offense, as well as those currently under some form of supervision with the Department of Corrections.**

Please refer to the chart below to find your specified yearly re-registration months:

If my month of birth is:	I must re-register in both:	If my month of birth is:	I must re-register in both:	If my month of birth is:	I must re-register in both:
January	**January & July**	May	**May & November**	September	**September & March**
February	**February & August**	June	**June & December**	October	**October & April**
March	**March & September**	July	**July & January**	November	**November & May**
April	**April & October**	August	**August & February**	December	**December & June**

For re-registration days, times and sheriff's office locations, please click on the link below.

ReRegistration Days, Times, and Locations by County

NEW/INCREASED PENALTIES*

***Please note: Penalties for violation of registration laws have been increased and may include months of incarceration.**

Beginning September 1, 2005

- Failure to correctly respond to an Address Verification letter from FDLE by the specified date is a **3rd degree felony.**
- Valid vehicle and employment information must be provided to law enforcement during re-registration. Failure to comply with this requirement is a **3rd degree felony.**
- Provides a criminal offense for anyone attempting to hide sexual offenders or predators from law enforcement officials. Commission of this crime is a **3rd degree felony.**

This could include:

1. Withholding information from, or not notifying, law enforcement about an offender's or predator's noncompliance and, if known, his or her whereabouts.
2. Harboring, attempting to harbor, or assisting another person in harboring or attempting to harbor offenders/predators.
3. Concealing, attempting to conceal, or assisting another person in concealing or attempting to conceal offenders/predators.
4. Providing information to law enforcement regarding offender(s)/ predator(s) which the person knows to be false information.

Individuals designated as Sexual Predators on or after September 1, 2005 must wait 30 years (from the date sanctions for the qualifying sex offense terminated) before petitioning a court to remove the designation. To qualify for relief, the Sexual Predator cannot be arrested for any reason (misdemeanor or felony) during the 30 year period and the relief must satisfy Wetterling Act requirements.

GENERAL REGISTRATION REQUIREMENTS FOR REGISTRANTS

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. I must report **in person** to the local Sheriff's Office for 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 my 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 requirement #1 above, I 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 my address or name. **Failure to comply with this requirement is a felony of the third degree.**
3. **Beginning December 1, 2005: I must report, in person each year, twice a year, to the Sheriff's Office in the county in which I reside or am located to re-register during the month of my birthday and during the sixth month following my birth month. Failure to comply with this requirement is a felony of the third degree.**

If my month of birth is:	I must re-register in both:	If my month of birth is:	I must re-register in both:	If my month of birth is:	I must re-register in both:
January	**January & July**	May	**May & November**	September	**September & March**
February	**February & August**	June	**June & December**	October	**October & April**
March	**March & September**	July	**July & January**	November	**November & May**
April	**April & October**	August	**August & February**	December	**December & June**

4. 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 my driver's license is subject to renewal, I 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.**
5. If I live in another state, but work or attend school in Florida, I MUST register my work or school address as a temporary address with the Florida Department of Law Enforcement. I 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.**
6. If I intend to establish residence in another state or jurisdiction, I must report **in person** to the local Sheriff's Office or FDLE office to notify of my 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.**
7. If I later decide to remain in this state (see #6 above), I must reporting **in person** back to the local Sheriff's Office or FDLE office to notify of my intention to remain in Florida. This report must occur within 48 hours after the date I indicated that I would leave. **Failure to comply with this requirement is a felony of the second degree.**
8. If I move from a permanent residence and do not have another permanent or temporary residence I must report this change **in person** to the Sheriff's Office or FDLE office within 48 hours. **Failure to comply with this requirement is a felon of the third degree.**
9. If I later decide to remain at the permanent residence (see #8 above), I must report **in person** back to the Sheriff's Office or FDLE office to notify of my intention. This report must occur within 48 hours after the date that I indicated that I would leave the permanent residence. **Failure to comply with this requirement is a felony of the second degree.**
10. **Beginning September 1, 2005, I MUST respond to any address verification correspondence from FDLE within three weeks of the date of the correspondence. Failure to comply with this requirement is a felon of the third degree.**
11. If I am employed, carry on a vocation, am a student, or become a resident of another state, I must also register in that state.
12. If I am enrolled, employed, or carrying on a vocation at an institution of higher education in this state, I shall also provide to the department the name, address and county of each institution, including each campus attended, and my enrollment or employment status. I shall report each change in enrollment or employment status **in person** at the Sheriff's Office within 48 hours after any change in statute. **Failure to comply with this requirement is a felony of the third degree.**

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 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 re-designated 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 offense committed in this state which has been re-designated 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 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 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.

(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 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, 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 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 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 post-conviction 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 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.

(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.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may

determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this paragraph. Re-registration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent 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; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.

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 department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.

3. 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 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 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.

4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner prescribed by the department. This procedure shall be implemented by December 1, 2005.

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; s. 9, ch. 2005-28.

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; 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:

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;

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, 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 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 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 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 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 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 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 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.

(12) Any person who has reason to believe that a sexual

offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply if the sexual offender is incarcerated in or is in the custody of a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

(13)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this paragraph. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent 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; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.

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 department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.

3. 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 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 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.

4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, and s. 775.084.

(b) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the Florida Department of Law Enforcement in a manner prescribed by the Florida Department of Law Enforcement. This procedure shall be implemented by December 1, 2005.

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; s. 11, ch. 2005-28.

Appendix B:

Billing Code: 4410-01

DEPARTMENT OF JUSTICE

Office of the Attorney General

[AG Order No.]

RIN 1105-AA36

Final Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

AGENCY: Department of Justice.

ACTION: Final guidelines.

SUMMARY: The United States Department of Justice (DOJ) is publishing Final Guidelines to implement the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

EFFECTIVE DATE: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Bonnie J. Campbell, Director, Violence Against Women Office, U.S. Department of Justice, Tenth and Pennsylvania Avenue, NW, Washington, DC 20530, 202-616-8894.

SUPPLEMENTARY INFORMATION: Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 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 (hereafter referred to as the "Jacob Wetterling Act" or "the Act"). The Act provides a financial incentive for states to establish 10-year registration requirements for persons convicted of certain crimes against minors and sexually violent offenses, and to establish a more stringent set of registration requirements for a sub-class of highly dangerous sex offenders, characterized as "sexually violent predators." States that fail to establish such systems within three years (subject to a possible two year extension) face a 10% reduction in their Byrne Formula Grant funding (under 42 U.S.C. 3756), and resulting surplus funds will be reallocated to states that are in compliance with the Act.

Summary of Comments on the Proposed Guidelines

On April 12, 1995, the U.S. Department of Justice published Proposed Guidelines in the Federal Register (60 FR 18613) to implement the Jacob Wetterling Act. The original 90 day comment period expired on July 11, 1995. To ensure the public ample opportunity to review and comment on the Proposed Guidelines, on September 14, 1995, the Department published a notice in the

Federal Register to reopen the comment period for an additional 45 days (60 FR 47760). In addition, the Department mailed copies of the Proposed Guidelines to state registration authorities and requested their comments. The extended comment period closed on October 30, 1995.

Following the publication of the Proposed Guidelines, the Department of Justice received 19 letters, mostly from state officials. These letters contained numerous comments, questions, and recommendations, all of which were carefully considered in developing the Final Guidelines. A summary of the comments and responses to them are provided in the following paragraphs.

A. Coverage of the Jacob Wetterling Act

One respondent expressed concern that the Act does not provide for sex offender registration and notification in relation to military offenders who are convicted in court martial proceedings, in prosecutions under the federal criminal code, or in prosecutions by foreign host nations. In order to extend registration as far as possible to categories of convicted sex offenders who may not be within the scope of the statute as presently formulated, the Guidelines have been revised to encourage states to consider including federal and military sex offenders within their registration programs.

B. "Sexually Violent Predator" Determinations

1. Necessity for Determination

A number of respondents questioned the need for a two-tier registration system under which states must adopt means for determining whether an offender is a "sexually violent predator" and follow more stringent registration procedures for offenders so classified. The Department recognizes that this scheme may require states to make changes in their existing registration systems. The two-tier scheme was established by the Act, however, and cannot be modified by the Guidelines, absent legislative changes. As explained in the Final Guidelines, a two-tier approach can be dispensed with only if a state is willing to subject all persons convicted of a "sexually violent offense" to the more stringent registration requirements and standards provided by the Act for "sexually violent predators."

2. State Board of Experts

A number of commenters posed questions about the composition and activities of the state boards of experts that will assist sentencing courts in determining whether an offender is a "sexually violent predator". In particular, respondents questioned the necessity for using such boards, inquired as to what qualifications experts must possess to serve on the boards, and raised concerns about the timing of the "sexually violent predator" determination. One commenter also expressed concerns about the ability of small states to assemble panels of experts.

States wishing to comply with the Act must utilize boards of experts to assist sentencing courts in making "sexually

violent predator" determinations because the statute expressly requires this procedure. The Guidelines have been clarified to address commenters' other concerns, however. In particular, the Guidelines make clear that states are free to (1) determine who qualifies as an expert for purposes of board participation, (2) utilize out-of-state experts, and (3) decide at what point the "sexually violent predator" determination will be made.

3. Definition of "Sexually Violent Predator"

A number of commenters expressed concerns about the definition of "sexually violent predator" and sought various clarifications in the definition. The Guidelines have not been changed to reflect these concerns. The Act itself contains definitions of "sexually violent predator" and the component term "mental abnormality." The Guidelines cannot alter definitions appearing in the statute. Since the Act does not define the component term "personality disorder," the Guidelines already provide that the definition of this term is a matter of state discretion.

4. Required Documentation

One respondent expressed concern about the extent of documentation required by the Act concerning treatment received by a "sexually violent predator" for a mental abnormality or personality disorder. The Guidelines have been modified to reflect this concern. Under the Final Guidelines, states may comply with the requirement to document an offender's treatment history simply by noting that the offender received treatment.

The respondent also proposed that the Guidelines clarify that documentation of treatment history is a one-time event. However, this change is unnecessary because nothing in the Act or Guidelines states or suggests that the treatment history of a "sexually violent predator" must be updated following the initial submission of information.

5. Interaction with Insanity Defense

One respondent raised questions about the possible interaction between a determination that an offender is a "sexually violent predator" and the insanity defense. The commenter questioned whether a state may classify an offender as a "sexually violent predator" only when the offender successfully raised an insanity defense, and also questioned whether a determination that an offender is a "sexually violent predator" could bolster the offender's insanity claim.

The Guidelines have not been revised to reflect these concerns because there is no relationship between the two legal categories. Of course, if an offender had successfully raised an insanity defense, he could not be convicted for the offense charged, and no registration requirement based on that offense would arise under the Jacob Wetterling Act. Further, because the elements in the statutory definition of "sexually violent predator"

do not establish the necessary elements of an insanity defense under state laws, a state could conclude that an offender is a "sexually violent predator," though the offender could not successfully raise an insanity defense. Finally, with regard to an offender who was classified as a "sexually violent predator" in connection with a previous prosecution and conviction, the Act does not contemplate any impact from that determination on the offender's ability to raise an insanity defense in a later prosecution.

C. State Law Enforcement Agency

1. Designation of Agency

One commenter posed questions concerning how, when, and by whom the state law enforcement agency responsible for registration matters is to be designated, and another expressed concerns about the types of entities that may be selected. The Guidelines have been revised to clarify that states have discretion with regard to the means by which an agency is designated as the state law enforcement agency, the timing of such a designation, and the agencies that may be designated.

2. Necessity for Using a State Agency

A number of respondents questioned the necessity for using a state agency to receive registration information and conduct address verification. These commenters noted that in several states, registration and verification is conducted at the county or local level, rather than at the state level.

The Guidelines have not been revised to reflect these concerns. Although the Act provides that registration information is to be shared with local law enforcement agencies, it requires that this information be submitted to a state law enforcement agency and that the state agency also conduct address verification. These procedures, which are set forth clearly in the Act, cannot be modified by the Guidelines, absent statutory changes.

D. Public Access to Registration Information

One commenter expressed concern about the effect of the Act on a state's ability to disseminate registration information to the public. The Guidelines have not been modified to reflect this concern because they already afford states the maximum discretion in this area that is consistent with the terms of the Act. The Guidelines make it clear that any restrictions placed by the Act on the disclosure of information do not constrain the release of information that a state would have independently of the operation of the registration system. Further, the Guidelines note and elaborate on the Act's provisions that registration information may be disclosed for certain law enforcement and background check purposes, and as necessary for public safety. The Guidelines also provide that states have discretion concerning the nature and extent of disclosure (including community notification and access to information on request by

members of the public) that is necessary for public safety.

E. Compliance Review

One commenter suggested that the Department provide states with written feedback concerning their compliance with the Act no later than the date on which a state receives its Byrne Formula Grant Funding. This recommendation has not been adopted in the Guidelines because the Department is still in the process of developing compliance review procedures. States will be notified about these procedures as they are developed.

Final Guidelines These guidelines carry out a statutory directive to the Attorney General, in § 170101(a)(1), to establish guidelines for registration systems under the Act. Before turning to the specific provisions of the Act, four general points should be noted concerning its interpretation and application.

First, states that wish to achieve compliance with the Jacob Wetterling Act should understand that its requirements constitute a floor for state registration systems, not a ceiling, and that they do not risk the loss of part of their Byrne Formula Grant funding by going beyond its standards. For example, a state may have a registration system that covers a broader class of sex offenders than those identified in the Jacob Wetterling Act, or requires address verification for such offenders at more frequent intervals than the Act prescribes, or requires offenders to register for a longer period of time than the period specified in the Act.

Exercising these options creates no problem of compliance, since the provisions in the Jacob Wetterling Act concerning duration of registration, covered offenders, and other matters, do not preclude states from imposing additional or more stringent requirements that encompass the Act's baseline requirements. The general objective of the Act is to protect people from child molesters and violent sex offenders through registration requirements. It is not intended, and does not have the effect, of making states less free than they were under prior law to impose registration requirements for this purpose.

Second, states that wish to achieve compliance with the Jacob Wetterling Act also should understand that they may, within certain constraints, use their own criminal law definitions in defining registration requirements, and will not necessarily have to revise their registration systems to use technical definitions of covered sex offenses based on federal law. This point will be explained more fully below.

Third, the Jacob Wetterling Act contemplates the establishment of programs that will impose registration requirements on offenders who are subsequently convicted of offenses in the pertinent categories. The Act does not require states to attempt to identify and impose registration requirements on offenders who were convicted of offenses in these categories prior to the establishment of a conforming registration system. Nevertheless, the Act does not preclude states from imposing any new registration requirements on offenders convicted prior to the establishment of the registration system.

Fourth, the Act gives states wide latitude in designing registration programs that best meet their public safety needs. For instance, the Act allows states to release relevant information necessary to protect the public, including information released through community notification programs. Some state registration and notification systems have been challenged on constitutional grounds. A few courts have struck down registration requirements in certain cases. See Rowe v. Burton, 884 F. Supp. 1372 (D. Alaska 1994) (on motion for preliminary relief); State v. Babin, 637 So.2d 814 (La. App. 1994), writ denied, 644 So.2d 649 (La. 1994); State v. Payne, 633 So.2d 701 (La. App. 1993), writ denied, 637 So.2d 497 (La. 1994); In re Reed, 663 P.2d 216 (Cal. 1983) (en banc). However, a majority of courts that have dealt with the issue have held that registration systems like those contemplated by the Jacob Wetterling Act do not violate released offenders' constitutional rights.

Some recent decisions have held that aspects of New Jersey's community notification program violate due process guarantees, or violate ex post facto guarantees as applied to persons who committed the covered offense prior to enactment of the notification statute. See Artway v. Attorney General of New Jersey, 876 F. Supp. 666 (D.N.J. 1995) (appeal pending); W.P. v. Poritz, No. 96-97 (JWB) (D.N.J. Mar. 15, 1996); Diaz v. Whitman, No. 94-6376 (JWB) (D.N.J. Jan. 6, 1995). However, the Department of Justice believes that the New Jersey community notification statute at issue in those cases does not violate the Ex Post Facto Clause and that the Fourteenth Amendment's Due Process Clause of its own force does not require recognition of such a liberty interest on the part of offenders affected by that statute, and has filed "friend of the court" briefs in cases challenging the New Jersey law. Moreover, the New Jersey Supreme Court, in John Doe v. Deborah Poritz, 662 A.2d 367 (N.J. 1995), upheld the New Jersey statute, although it imposed certain procedural protections under federal and state law.

There has been ongoing litigation over the validity of notification systems in other states as well. See, e.g., Doe v. Pataki, No. 96 Civ. 1657 (DC) (S.D.N.Y.); Nitz v. Otte, No. A95-486CI (JWS) (D. Alaska Jan. 25, 1996) (appeal pending).

The remainder of these guidelines address the provisions of the Jacob Wetterling Act in the order in which they appear in § 170101 of the Violent Crime Control and Law Enforcement Act of 1994.

General Provisions -- Subsection (a)(1)-(2)

Paragraph (1) of subsection (a) of § 170101 directs the Attorney General to establish guidelines for state programs that require:

(A) current address registration for persons convicted of "a criminal offense against a victim who is a minor" or "a sexually violent offense," and

(B) current address registration under a different set of requirements for persons who are determined to be "sexually violent predators."

For purposes of the Act, "state" should be understood to encompass the political units identified in the provision defining "state" for purposes of eligibility for Byrne Formula Grant funding (42 U.S.C. § 3791(a)(2)) in light of the tie-in between compliance with the Act and the allocation of Byrne Formula Grant funding. Hence, the "states" that must comply with the Act to maintain full eligibility for such funding are the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

Paragraph (2) of subsection (a) states that the determination whether a person is a "sexually violent predator" (which brings the more stringent registration standards into play), and the determination that a person is no longer a "sexually violent predator" (which terminates the registration requirement under those standards), 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 treatment of sexual offenders.

"State board" in paragraph (2) should be understood to mean a body or group containing two or more experts that is authorized by state law or designated under the authority of state law. Beyond the requirement that a board must be composed of experts in the field of the behavior and treatment of sexual offenders, the Act affords states discretion concerning the selection and composition of such boards. For example, a state could establish a single permanent board for this purpose, could establish a system of state-designated boards, or could authorize the designation of different boards for different courts, time periods, geographic areas or cases. In addition, the Act permits states to set their own standards concerning who qualifies as an expert in the field of the behavior and treatment of sexual offenders for purposes of board participation, and to utilize qualifying experts from outside the state to serve on the boards.

As noted above, subsection (a)(1) requires states to register persons convicted of certain crimes against minors and sexually violent offenses, but states are free to go beyond the Act's minimum standards and include other classes of offenders within their sex offender registration programs. For example, states are encouraged to require sex offenders convicted in federal or military courts who reside in their jurisdictions to register. Although the Act does not require states to register such offenders, the presence of any convicted sex offender in the state -- whether the offender was prosecuted in a state, federal, or military court -- raises similar public safety concerns. Some states, including Washington and California, already require sex offenders convicted in federal or military courts to register.

Definition of "Criminal Offense Against a Victim Who is a Minor" -- Subsection (a)(3)(A)

The Act prescribes a 10-year registration requirement for persons convicted of a "criminal offense against a victim who is a minor". Subparagraph (A) of paragraph (3) of subsection (a) defines the term "criminal offense against a victim who is a minor." "Minor" should be understood to mean a person below the age of 18, consistent with the normal understanding.

The specific clauses in the definition of "criminal offense against a victim who is a minor" are as follows:

1) Clauses (i) and (ii) cover kidnapping of a minor (except by a parent) and false imprisonment of a minor (except by a parent). All states have statutes that define offenses -- going by such names as "kidnapping," "criminal restraint," or "false imprisonment" -- whose gravamen is abduction or unlawful restraint of a person. States can comply with these clauses by requiring registration for persons convicted of these statutory offenses whose victims were below the age of 18. The Act does not require inclusion of these offenses in the registration requirement when the offender is a parent, but states may choose to require registration for parents who commit these offenses.

2) Clause (iii) covers offenses consisting of "criminal sexual conduct toward a minor." Such offenses include convictions under general provisions defining sexually assaultive crimes -- such as provisions defining crimes of "rape," "sexual assault," or "sexual abuse" -- in cases where the victim is in fact a minor. Coverage is not limited to cases where the victim's age is an element of the offense (such as prosecutions for specially defined child molestation offenses).

States can comply with clause (iii) by requiring registration for persons convicted of all statutory sex offenses under state law whose elements involve physical contact with a victim, where the victim was below the age of 18 at the time of the offense. Offenses that do not involve physical contact, such as exhibitionism, are not subject to the Act's mandatory registration requirements pursuant to clause (iii), but states are free to require registration for persons convicted of such offenses as well if they so choose.

3) Clause (iv) covers offenses consisting of solicitation of a minor to engage in sexual conduct. This covers any conviction for an offense involving the solicitation of conduct that would be covered by clause (iii) if carried out.

4) Clause (v) covers offenses consisting of using a minor in a sexual performance. This includes both live performances and using minors in the production of pornography.

5) Clause (vi) covers offenses consisting of solicitation of a minor to practice prostitution.

6) Clause (vii) covers offenses consisting of any conduct that by its nature is a sexual offense against a minor. This clause is intended to insure uniform coverage of convictions under statutes defining sex offenses in which the status of the victim as a minor is an element of an offense, such as specially defined child molestation offenses, and other offenses prohibiting sexual activity with underage persons. States can comply with this clause by including convictions under these statutes uniformly in the registration requirement.

7) Considered in isolation, clause (viii) gives states discretion whether to require registration for attempts to commit offenses described in clauses (i) through (vii). However, any verbal command or attempted persuasion of the victim to engage in

sexual conduct would bring the offense within the scope of the solicitation clause (clause (iv)), and make it subject to the Act's mandatory registration requirements. Moreover, this provision must be considered in conjunction with the Act's requirement of registration for persons convicted of a "sexually violent offense," which does not allow the exclusion of attempts if they are otherwise encompassed within the definition of a "sexually violent offense."

Hence, state discretion to exclude attempted sexual offenses against minors from registration requirements pursuant to clause (viii) is limited by other provisions of the Act. The simplest approach for states would be to include attempted sexual assaults on minors (as well as completed offenses) uniformly as predicates for the registration requirement.

At the conclusion of the definition of "criminal offense against a victim who is a minor," the Act states that (for purposes of the definition) 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. For example, suppose that state law prohibits sexual relations with a person below the age of 16, where the defendant is more than 4 years older than the victim. Suppose further that an 18-year-old is convicted of violating this prohibition by engaging in consensual sexual relations with a 13-year-old, where the conduct would not violate state law but for the victim's age. Under the provision, if a state did not require such an offender to register, the state would still be in compliance with the Act. However, here again, states are free to go beyond the Act's baseline requirements. The exemption of certain offenders based on age from the Act's mandatory registration requirements does not bar states from including such offenders in their registration systems if they wish. Moreover, the scope of subsection (a)(3)(A)'s exemption is also limited by other provisions of the Act that require registration of persons convicted of "sexually violent offenses" (as defined in (a)(3)(B)), with no provision excluding younger offenders where the criminality of the conduct depends on the victim's age.

Since the Act's registration requirements depend in all circumstances on conviction of certain types of offenses, states are not required to mandate registration for juveniles who are adjudicated delinquent -- as opposed to adults convicted of crimes and juveniles convicted as adults -- even if the conduct on which the juvenile delinquency adjudication is based would constitute an offense giving rise to a registration requirement if engaged in by an adult. However, states remain free to require registration for juvenile delinquents, and the conviction of a juvenile who is prosecuted as an adult does count as a conviction for purposes of the Act's registration requirements.

Definition of "Sexually Violent Offense" -- Subsection (a)(3)(B)

The Act prescribes a ten-year registration requirement for offenders convicted of a "sexually violent offense," as well as for those convicted of a "criminal offense against a victim who is a minor."

Subparagraph (B) of paragraph (3) defines the term "sexually violent offense" to mean any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code, or as described in the State criminal code), or an offense that has as its elements engaging in physical contact with another person with intent to commit such an offense. In light of this definition, there are two ways in which a state could satisfy the requirement of registration for persons convicted of "sexually violent offenses":

First, suppose that a state has offenses in its criminal code that are designated "aggravated sexual abuse" and "sexual abuse," or has a definitional provision that characterizes certain offenses in its criminal code (however denominated) as constituting "aggravated sexual abuse" and "sexual abuse" for registration purposes or other purposes. Such a state could comply simply by requiring registration for all offenders who are convicted of these state offenses, and all offenders convicted of any state crime that has as its elements engaging in physical contact with another person with intent to commit such an offense.

Second, a state could comply by requiring registration for offenders convicted for criminal conduct that would violate 18 U.S.C. § 2241 or § 2242 -- the federal "aggravated sexual abuse" and "sexual abuse" offenses -- if subject to federal prosecution. (The second part of the definition in subparagraph (B) of paragraph (3), relating to physical contact with intent to commit aggravated sexual abuse or sexual abuse, does not enlarge the class of covered offenses under the federal law definitions, since sections 2241 and 2242 explicitly encompass attempts as well as completed offenses.)

Specifically, 18 U.S.C. §§ 2241-42 generally proscribe non-consensual "sexual acts" with anyone, "sexual acts" with persons below the age of 12, and attempts to engage in such conduct. "Sexual act" is generally defined (in 18 U.S.C. § 2246(2)) to mean an act involving any degree of genital or anal penetration, oral-genital or oral-anal contact, or direct genital touching of a victim below the age of 16 in certain circumstances even without penetration.

States that elect this second option -- requiring registration for offenses that consist of aggravated sexual abuse or sexual abuse as defined in federal law provisions (18 U.S.C. §§ 2241-42) -- do not necessarily have to refer to these federal statutes in their registration provisions, but could alternatively achieve compliance by requiring registration for the state law offenses that encompass types of conduct proscribed by 18 U.S.C. §§ 2241-42. Moreover, a state does not have to have sex offenses whose scope is congruent with 18 U.S.C. §§ 2241-42 to take the latter approach. If state law does not criminalize some types of conduct that are covered by 18 U.S.C. §§ 2241-42, then a person who engages in the conduct will not be subject to prosecution and conviction under state law, and there will be no basis for a registration requirement. On the other hand, if state sex offenses are defined more broadly than 18 U.S.C. §§ 2241-42, then states are free to require registration for all offenders convicted under these state provisions (notwithstanding their greater breadth),

and this would be sufficient to ensure coverage of convictions for criminal conduct that would violate 18 U.S.C. §§ 2241-42 if subject to federal prosecution.

Definition of "Sexually Violent Predator" -- Subsection (a)(3)(C)-(E)

Offenders who meet the definition of "sexually violent predator" are subject to more stringent registration requirements than other sex offenders.

1) Subparagraph (C) defines "sexually violent predator" to mean 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.

2) Subparagraph (D) essentially defines "mental abnormality" to mean a condition involving a disposition to commit criminal sexual acts of such a degree that it makes the person a menace to others. There is no definition of "personality disorder" in the Act; hence, the definition of this term is a matter of state discretion. For example, a state may choose to utilize the definition of "personality disorder" that appears in the Diagnostic and Statistical Manual of Mental Disorders: DSM-IV. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994)*.

3) Subparagraph (E) defines "predatory" to mean an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

As noted earlier, the Act provides that the determination whether an offender is a "sexually violent predator" is to be made by the sentencing court with the assistance of a board of experts. The Act does not require, or preclude, that all persons convicted of a sexually violent offense undergo a determination as to whether they satisfy the definition of "sexually violent predator." It also does not specify under what conditions such an inquiry must be undertaken. A state that wishes to comply with the Act must adopt some approach to this issue, but the specifics are a matter of state discretion. For example, a state might provide that the decision whether to seek classification of an offender as a "sexually violent predator" is a matter of judgment for prosecutors, or might provide that a determination of this question should be undertaken routinely when a person is convicted of a sexually violent offense and has a prior history of committing such crimes.

Similarly, the Act affords states discretion with regard to the timing of the determination whether an offender is a "sexually violent predator." A state may, but need not, provide that a determination on this issue be made at the time of sentencing or as a part of the original sentence. It could, for example, be made instead by the sentencing court when the offender has served a term of imprisonment and is about to be released from custody. In addition, a determination whether an offender is a "sexually

violent predator" need not be made by the judge who imposed the original sentence, so long as the determination is made in the same court that imposed the sentence.

As with other features of the Jacob Wetterling Act, the sexually violent predator provisions only define baseline requirements for states that wish to maintain eligibility for full Byrne Formula Grant funding. States are free to impose these more stringent registration requirements on a broader class of offenders, and may use state law categories or definitions for that purpose, without contravening the Jacob Wetterling Act.

If a state chooses to subject all persons convicted of a "sexually violent offense" to the more stringent registration requirements and standards provided by the Act for "sexually violent predators," then a particularized determination that an offender is a "sexually violent predator" would have no practical effect and would be superfluous. Hence, if a state elected this approach, it would not be necessary for the state to have "sexually violent predator" determinations made by the sentencing court, or to constitute boards of experts to advise the courts concerning such determinations, prior to the commencement of registration. In a state that eschewed particularized "front end" determinations of "sexually violent predator" status in this manner, however, it would still be necessary to condition termination of the registration requirement on a determination by the sentencing court (assisted by a board of experts) pursuant to § 170101(b)(6)(B) of the Act that the person does not suffer from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

Specifications Concerning State Registration Systems under the Act -- Subsection (b)

Paragraph (1) of subsection (b) sets out duties for prison officials and courts in relation to offenders required to register who are released from prison, or who are placed on any form of post-conviction supervised release ("parole, supervised release, or probation").

The duties, set out in subparagraph (A) of paragraph (1), include: (i) informing the person of the duty to register and obtaining the information required for registration (i.e., address information), (ii) informing the person that he must give written notice of a new address within 10 days to a designated state law enforcement agency if he changes residence, (iii) informing the person that, if he changes residence to another state, he must inform the registration agency in the state he is leaving, and must also register the new address with a designated state law enforcement agency in the new state within 10 days (if the new state has a registration requirement), (iv) obtaining fingerprints and a photograph if they have not already been obtained, and (v) requiring the person to read and sign a form stating that these requirements have been explained.

Beyond these basic requirements, which apply to all registrants, subparagraph (B) of paragraph (1) of subsection (b) requires that additional information be obtained in relation to a person who is required to register as a "sexually violent predator." The

information that is specifically required under subparagraph (B) is 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. The Act does not require that prison officials or courts conduct an investigation to determine the offender's treatment history. For purposes of documenting the treatment received, prison officials and courts may rely on information that is readily available to them, either from existing records or the offender. In addition, prison officials and courts may comply with the requirement to document an offender's treatment history simply by noting that the offender received treatment for a mental abnormality or personality disorder. If states want to require the inclusion of more detailed information about the offender's treatment history, however, they are free to do so.

States that wish to comply with the Act will need to adopt statutes or administrative provisions to establish the duties specified in subsection (b)(1) and ensure that they are carried out. These informational requirements, like other requirements in the Act, only define minimum standards, and states may require more extensive information from offenders. For example, the Act does not require that information be obtained relating to registering offenders' employment, but states may legitimately wish to know if a convicted child molester is seeking or has obtained employment that involves responsibility for the care for children.

As a second example, although it is not required under the Act, states are strongly encouraged to collect DNA samples from registering offenders to be typed and stored in state DNA databases. States also are urged to participate in the FBI's Combined DNA Index System (CODIS). CODIS is the FBI's program of technical assistance to state and local crime laboratories that allows them to store and match DNA records from convicted offenders and crime scene evidence. The FBI provides CODIS software, in addition to user support and training, free of charge, to state and local crime laboratories for performing forensic DNA analysis. CODIS permits DNA examiners in crime laboratories to exchange forensic DNA data on an intrastate level, and will enable states to exchange DNA records among themselves through the national CODIS system. Thus, collection of DNA samples and participation in CODIS greatly enhances a state's capacity to investigate and solve crimes involving biological evidence, especially serial and stranger rapes.

Paragraph (2) of subsection (b) states that the responsible officer or court shall forward the registration information to a designated state law enforcement agency within three days after receipt of the information. The Act leaves states discretion in designating an agency as the responsible "state law enforcement agency," including the means by which such a designation is made, the timing of such a designation, and the agencies that may be designated. States are not required to select the state police as the designated agency, and may choose any agency with functions relating to the enforcement of law or protection of public safety. For example, states may designate as the pertinent "state law enforcement agency" a correctional agency, a crime

statistics bureau or criminal records agency, or a department of public safety. States also are permitted to employ a private contractor to carry out the functions of the designated state law enforcement agency.

After receiving the registration information from the responsible officer or court, the designated state law enforcement agency must immediately enter the information into the appropriate state law enforcement record system and notify a law enforcement agency having jurisdiction where the person expects to reside. The Act leaves states discretion in determining which state record system is appropriate for storing registration information. States that wish to achieve compliance with the Act, however, may need to modify state record systems if they are not currently set up to receive all the types of information that the Act requires from registrants.

The state law enforcement agency is also required to transmit immediately the conviction data and fingerprints to the Federal Bureau of Investigation. No changes will be required in the national records system because the Act only requires transmission of conviction data and fingerprints, which the FBI already receives. The Act should not be understood as requiring duplicative transmission of conviction data and fingerprints to the FBI at the time of initial registration if the state already has sent this information to the FBI (e.g., at the time of conviction).

Paragraph (3) of subsection (b) relates to verification of the offender's address. In essence, annual verification of address with the designated state law enforcement agency is required for offenders generally, through the return within ten days of an address verification form sent by the agency to the registrant. However, the verification intervals are 90 days (rather than a year) for "sexually violent predators." As noted earlier, these are baseline requirements which do not bar states from requiring verification of address at shorter intervals than those specified in the Act.

Paragraph (4) requires the designated state law enforcement agency to notify other interested law enforcement agencies of a change of address by the registrant. Specifically, when a registrant changes residence to a new address, the designated law enforcement agency must (i) notify a law enforcement agency having jurisdiction where the registrant will reside, and (ii) if the registrant moves to a new state, notify the law enforcement agency with which the offender must register in the new state (if the new state has a registration requirement).

Paragraph (5) further requires an offender who moves out of state to register within ten days with a designated state law enforcement agency in his new state of residence (if the new state has a registration requirement). This partially reiterates the requirements concerning notice of changes of address by the offender that were described above.

Subparagraph (A) of paragraph (6) states that the registration requirement remains in effect for ten years. As noted earlier, states may choose to establish longer registration periods.

Subparagraph (B) of paragraph (6) states that the registration requirement for "sexually violent predators" under the Act terminates upon a determination that the offender no longer suffers from a mental abnormality or personality disorder that would make him likely to engage in a predatory sexually violent offense. This provision does not require review of the offender's status at any particular interval. For example, a state could set a minimum period of 10 years before entertaining a request to review the status of a "sexually violent predator," the same period as the general minimum registration period for sex offenders under the Act.

Moreover, this termination provision only affects the requirement that a person register as a "sexually violent predator" under subparagraph (B) of subsection (a)(1) of the Jacob Wetterling Act. It does not limit states in imposing more extensive registration requirements under their own laws, and does not limit any registration requirement that arises independently under other provisions of the Jacob Wetterling Act from the person's conviction of a "criminal offense against a victim who is a minor" or a "sexually violent offense."

Criminal Penalties for Registration Violations --Subsection (c)

The Act provides that a person required to register under a state program established pursuant to the Act who knowingly fails to register and keep such registration current shall be subject to criminal penalties. Accordingly, states that wish to comply with the Act will need to enact criminal provisions covering this situation as part of, or in conjunction with, the legislation defining their registration systems, if they have not already done so. If the violation by a registrant consists of failing to return an address verification form within 10 days of receipt, the state may allow a defense if the registrant can prove that he did not in fact change his residence address, as provided in subsection (b)(3)(A)(iv).

Release of Registration Information -- Subsection (d)

Subsection (d) governs the disclosure of "information collected under a State registration program." Restrictions on the release of information under this subsection do not constrain the release of information that a state would have independently of the operation of the registration system. For example, a state will normally have criminal history information about an offender, and will often have current address information as part of general probation or parole supervision requirements, independently of any special requirements imposed as part of the sex offender registration system. The Act does not limit the release of such information.

Subsection (d) states specifically that the information collected under a state registration program shall be treated as private data, except under specified conditions.

The first condition under which disclosure is authorized -- paragraph (1) -- is that "such information may be disclosed to law enforcement agencies for law enforcement purposes." This

exemption permits use of the information for all law enforcement purposes, including all police, prosecutorial, release supervision, correctional, and judicial uses.

Paragraph (2) in subsection (d) says that registration information may be disclosed to government agencies conducting confidential background checks. "Confidential" should be understood to mean a background check where information is disclosed to an interested party or parties -- such as a background check conducted by a government agency that provides information concerning prospective employees to public or private employers -- as opposed to release of the information to the general public. Release to the public, and other non-law enforcement, non-background check uses, are governed by paragraph (3).

Paragraph (3) in subsection (d) says that 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. The Act does not impose any limitations on the standards and procedures that states may adopt for determining when public safety necessitates community notification. For example, states could implement this authority by engaging in particularized determinations that individual offenders are sufficiently dangerous to require community notification concerning the offender's presence. Alternatively, states could make categorical judgments that protection of the public necessitates community notification with respect to all offenders with certain characteristics or in certain offense categories.

Releases of information for public-protection purposes short of general community notification -- such as giving notice about an offender's location to the victims of his offenses, or to agencies or organizations in specified categories -- are also permitted under paragraph (3).

The language in paragraph (3), like that in paragraphs (1) and (2), is permissive, and does not require states to release information. Paragraph (3) also does not deprive states of the authority to exercise centralized control over the release of information, or if the state prefers, to generally authorize local agencies to release information as necessary. In addition to permitting proactive community notification and other notification, as discussed above, paragraph (3) and other provisions of the Act do not bar states from making registration information available upon request, if it is determined that such access is necessary for the protection of the public concerning persons who are required to register.

A proviso at the end of paragraph (3) in subsection (d) states that the identity of the victim of an offense that requires registration under the Act shall not be released. The purpose of this proviso is to protect the privacy of victims, and its restrictions may accordingly be waived at the victim's option. The proviso only applies to paragraph (3), and does not limit the disclosure of victim identity pursuant to paragraphs (1) and (2), relating to law enforcement uses and confidential background checks.

Immunity for Good Faith Conduct -- Subsection (e)

Subsection (e) states that law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under the Act.

Compliance -- Subsection (f)

States have three years from the date of enactment (i.e., September 13, 1994) to come into compliance with the Act unless the Attorney General grants an additional two years where a state is making good faith efforts at implementation. States that fail to come into compliance within the specified time period will be subject to a mandatory 10% reduction of Byrne Formula Grant funding, and any funds that are not allocated to noncomplying states will be reallocated to states that are in compliance. The reallocated funds will be distributed among complying states in proportion to their populations.

States are encouraged to submit descriptions of their existing or proposed registration systems for sex offenders to the Department of Justice as promptly as possible. States may find it convenient, for example, to submit such descriptions in conjunction with their applications for Byrne Formula Grant funding. These submissions will enable the Department of Justice to review the status of state compliance with the Act, and to suggest any necessary changes to achieve compliance before the funding reduction goes into effect.

To maintain eligibility for full Byrne Formula Grant funding following the end of the three-year implementation period provided by the Act, states will be required to submit information that shows compliance with the Act in at least one program year, or an explanation of why compliance cannot be achieved within that period and a description of good faith efforts that justify an extension of time (but not more than two years) for achieving compliance. States will also be required to submit information in subsequent program years concerning any changes in sex offender registration systems that may affect compliance with the Act.

Janet Reno Attorney General

Appendix C:
Megan's Law

About Violence Against Women Office (VAWO)
What's New
State-by-State VAWO Grant Activities

Press Releases and Remarks
Publications

Questions? Comments?
[illegible]
ojp.usdoj.gov

Back to VAWO Home
Back to OJP Home

VIOLENCE AGAINST WOMEN OFFICE

H.R.2137 As finally approved by the House and Senate (Enrolled)

H. R. 2137
One Hundred Fourth Congress
of the
United States of America
A T T H E SECOND S E S S I O N
Begun and held at the City of Washington on Wednesday, the third day of January, one thousand nine hundred and ninety-six
An Act
==========
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.
This Act may be cited as "Megan's Law ".
SEC. 2. RELEASE OF INFORMATION AND CLARIFICATION OF PUBLIC NATURE OF INFORMATION.
Section 170101(d) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(d)) is amended to read as follows:
"(d) Release of Information.--
"(1) The information collected under a State registration program may be disclosed for any purpose permitted under the laws of the State.
"(2) The designated State law enforcement agency and any local law enforcement agency authorized by the State agency 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.".
Speaker of the House of Representatives.
Vice President of the United States and
President of the Senate.

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http://www.ojp.usdoj.gov/vawo/whatsnew.htm

- Wetterling, as amended by Megan's Law, requires law enforcement to notify the community of the presence of a sexual predator.
- State of Florida Requirements:
- Effective July 1, 1998, Sheriff or Police Chief must notify the community of the presence of a sexual predator.
- Must notify all licensed day cares and schools in a one-mile radius of the predator's address within 48hours of notification from FDLE.
- Federal and State laws do not specify the manner in which agencies should conduct community notifications. The notifications, in fact, may be conducted "in any manner deemed appropriate" by the Sheriff or Chief.

- *The Florida Public Safety Information Act authorizes community notification on Sexual Offenders.*
- *Immunity form Civil Liability: In regard to sexual predators and sexual offenders, an elected or appointed official, public employee, school administrator or employee, agency or any individual or entity acting at the request or direction of any law enforcement agency is immune from civil liability for any damages resulting from the release of information under FSS 944.607.*

Appendix D:

[Federal Register: February 16, 1999 (Volume 64, Number 30)]

[Proposed Rules]

[Page 7562-7564]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr16fe99-21]

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 25

[A.G. Order No. 2206-99]

RIN 1105-AA56

Regulations Under the Pam Lychner Sexual Offender Tracking and Identification Act of 1996, as Amended

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Proposed rule.

SUMMARY: The United States Department of Justice is publishing proposed regulations to implement the Pam Lychner Sexual Offender Tracking and Identification Act of 1996, as amended. The proposed regulations describe the operation of the National Sex Offender Registry and set forth notification requirements to be followed by registered sex offenders who move to another state.

DATES: Submit comments on or before April 19, 1999.

ADDRESSES: Send comments to the Unit Chief, Office of Crimes Against Children, Federal Bureau of Investigation, 935 Pennsylvania Avenue, N.W., Room 4127, Washington, DC 20535.

FOR FURTHER INFORMATION CONTACT: Venetia Sims, Criminal Justice Information Systems Division, Federal Bureau of Investigation, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306.

SUPPLEMENTARY INFORMATION: The proposed regulations address two topics: (1) The operation of the National Sex Offender Registry (''NSOR'') established by the Federal Bureau of Investigation (''FBI'') in accordance with Pam Lychner Sexual

Offender Tracking and Identification Act of 1996, Pub. L. 104-236, 110 Stat. 3093, as amended (the "Pam Lychner Act'' or the "Act''); and (2) the action required of registered sex offenders who move to another state. With respect to the NSOR, the regulations describe how the interim and permanent registries will operate and what action can be taken by states to notify the FBI and update the NSOR if a convicted sex offender fails to comply with his or her state registration obligations. With respect to offenders who move interstate, the regulations notify such offenders that they should contact the local FBI office in their new state of residence so that the FBI can take the steps necessary to ensure that the new state of residence has also been informed of the move and that the offender is included in the NSOR. In a recent amendment, the Pam Lychner Act was modified so that states have additional time to establish "minimally sufficient'' sex offender registration programs. As a result, the proposed regulations do not address FBI registration of sex offenders in states that do not have minimally sufficient programs.

The proposed regulations also do not address the Pam Lychner Act's amendments to prior legislation, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, Pub. L. 103-322, Sec. 170101, 108 Stat. 1796, 2038 (codified at 42 U.S.C. 14071) (the "Jacob Wetterling Act''), which sets standards for state sex offender registration programs. On January 5, 1999, the Department published guidelines for the Jacob Wetterling Act (see 64 FR 572), that take those amendments into account.

Statutory Authority

The proposed regulations fulfill a statutory directive to the Attorney General in section 9 of the Pam Lychner Act to issue regulations to carry out the Act and the amendments made by the Act. The Pam Lychner Act amended subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 to add a new section, codified at 42 U.S.C. 14072. Since its enactment, the Pam Lychner Act has itself been amended, by section 115 of the General Provisions of Title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, Pub. L. 105-119, 111 Stat. 2440 (the "CJSA''). These proposed regulations relate to the amended provisions of the Pam Lychner Act that are now in effect.

Executive Order 12866

The proposed regulations have been drafted and reviewed in accordance with Executive Order 12866. The Department of Justice has determined that the proposed regulations do not constitute a "significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly the proposed regulations have not been reviewed by the Office of Management and Budget.

Executive Order 12612

The proposed regulations will not have substantial direct effect on states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that these rules do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed these proposed regulations and by approving them certifies that the regulations will not have a significant economic impact on a substantial number of small entities for the following reasons. The proposed regulations primarily address the operation of the NSOR established by the FBI. Recent amendments to the Jacob Wetterling Act in section 115 of the CJSA condition the receipt of certain federal funds on a state's participation in the NSOR. In order to impose the least financial burden on participating states, the FBI allows them to provide data for the NSOR in three ways: (1) By making a computer entry on the existing Interstate Identification Index ("III"); (2) by submitting a computer tape to the FBI; or (3) by submitting a written form containing all the necessary registration information. In addition, in order to facilitate broad participation in the NSOR, the FBI permits--but does not require--authorized local government agencies to enter, delete, and modify information in the registry using the III, as long as the state has implemented the necessary programming changes. This option allows those small government entities that provide data to the NSOR to do so in the most cost-effective manner possible. Unfunded Mandates Reform Act of 1995

As noted, recent amendments in the CJSA to the Jacob Wetterling Act make state participation in the NSOR a condition of receipt of certain federal funds. As a result, these regulations do not impose a "federal mandate" within the meaning of the Unfunded Mandates Reform Act of 1995. Moreover, these regulations will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandate Reform Act.

Small Business Regulatory Enforcement Fairness Act of 1996

These regulations do not qualify as a major role as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. The regulations will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Amendments to the Pam Lychner Act

Under the Pam Lychner Act, the FBI is required to register sex offenders who reside in states that have not established "minimally sufficient'' sex offender registration systems. The CJSA amended the criteria that state registration programs must satisfy in order to qualify as minimally sufficient and extended the time period for states to establish such programs. As assessment of minimal sufficiency to determine in which states the FBI must directly register sex offenders will be made by the extended date for establishing a minimally sufficient program provided under the CJSA, October 3, 1999.

Amendments to the Jacob Wetterling Act

The Pam Lychner's Act amendments to the Jacob Wetterling Act, which set standards for state sex offender registration programs, are not addressed in these regulations. The Department of Justice has published guidelines under the Jacob Wetterling Act, see 64 FR 572, that take account of the Pam Lychner Act's changes and subsequent amendments.

List of Subjects in Part 25

Crime, Law enforcement.

Proposed Regulations

For the reasons stated in the preamble, the Department of Justice proposes to amend 28 CFR by adding part 25, subpart B, to read as follows:

PART 25--DEPARTMENT OF JUSTICE INFORMATION SYSTEMS

Subpart B--The National Sex Offender Registry

Sec.

25.200 The interim sex offender registry.

25.201 The permanent sex offender registry.

25.202 Release of information from the National Sex Offender

Registry.

25.203 Non-compliant offenders.

25.204 Notice of an offender's move to another state.

Subpart B--The National Sex Offender Registry

Authority: 42 U.S.C. 14072; Pub. L. 104-236, 110 State. 3093;

Pub. L. 105-119, sec. 115, 111 Stat. 2440, 2461.

Sec. 25.200 The interim sex offender registry.

(a) The Pam Lychner Act, 42 U.S.C. 14072

(b), requires the Attorney General to establish a national database at the FBI 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, as defined in 42 U.S.C.

14071(a)(3)(A);

(2) Each person who has been convicted of a sexually violent offense, as defined in 42 U.S.C. 14071(a)(3)(B); and

(3) Each person who is a sexually violent predator, as defined in 42 U.S.C. 14071(a)(3)(C).

(b) In accordance with section 2 of the Pam Lychner Act, the Federal Bureau of Investigation (''FBI'') has established an interim National Sex Offender Registry (the ``Interim Registry'') in the

Fingerprint Identification Records System (''FIRS'').

(c) The Interim Registry functions as a ''pointer'' system, indicating on an individual's FBI Identification Record the fact that the individual is a registered sex offender and the name and location

of the state agency that maintains the offender's registration information.

(d) States may participate in the Interim Registry by submitting the following information to the FBI pertaining to individuals who are registered in state sex offender registries: the name under which the person is registered; the registering agency's name and location; the date of registration; and the date registration expires. A notice indicating that an individual is a registered sex offender and listing the information described in this paragraph will be included on the

individual's FBI Identification Record. In order to obtain more detailed information regarding a particular offender, an inquiring agency must contact the registering agency indicated on the FBI

Identification Record.

Sec. 25.201 The permanent sex offender registry.

(a) The FBI is in the process of modifying and improving its National Crime Information Center (''NCIC'') to establish a new crime information system that will be known as ''NCIC 2000.'' NCIC 2000, which is expected to go online in mid-1999, will include a Convicted Sexual Offender Registry File that will serve as the permanent National Sex Offender Registry (the ''Permanent Registry'').

(b) In the Permanent Registry, sex offender registration

information will be entered directly, via the NCIC Convicted Sexual Offender Registry File by federal, state, and local law enforcement agencies, and will include such information as the offender's name, address, and details regarding the conviction resulting in registration. This detailed information will be available to authorized agencies via the NCIC. The sex offender registration information will also be automatically posted to the individual's FBI Identification Record.

Sec. 25.202 Release of information from the National Sex Offender

Registry.

(a) The Pam Lychner Act, 42 U.S.C. 14072(j), requires the FBI to release the information contained in the National Sex Offender Registry to:

(1) Federal, state, and local criminal justice agencies for law enforcement purposes and community notification; and

(2) Federal, state, and local governmental agencies responsible for conducting employment-related background checks under the National Child Protection Act, 42 U.S.C. 5119a.

(b) Both the Interim and Permanent Registries are available for these purposes.

Sec. 25.203 Non-compliant offenders.

(a) The Pam Lychner Act, 42 U.S.C. 14072(g)(5), provides for state notification to the FBI if a state cannot verify the address of or locate a person required to register with the state's registration program. The Act further provides that once the FBI receives such a notification, the FBI shall classify the offender as being in violation of the requirements of the National Sex Offender Registry and add a Wanted Person record to the NCIC Wanted Person File, provided that an arrest warrant meeting the requirements for entry into that File is issued in connection with the violation.

(b) The purpose of the requirement that states notify the FBI of non-compliant offenders is to permit the FBI to indicate on the national system that a sex offender is not complying with his or her registration obligations. States can comply with the notice requirement by obtaining an arrest warrant for non-compliant offenders and entering records for such offenders into the Wanted Person File, as described in paragraph (c) of this section. Upon entry of a wanted person record on the Wanted Person File, that fact will automatically be indicated on the offender's FBI Identification Record and will be accessible on a search of the National Sex Offender Registry.

(c) Under existing FBI procedures, state and local law enforcement authorities add records of fugitives to the NCIC Wanted Person File upon issuance of a state or local arrest warrant. The FBI will continue to follow those same procedures with respect to registered sex offenders. Accordingly, if an offender fails to

comply with a state registration program requirement, state or local authorities should, if appropriate, seek an arrest warrant for that offender and then add a record for the offender to the NCIC Wanted Person File.

Sec. 25.204 Notice of an offender's move to another state.The Pam Lychner Act, 42 U.S.C. 14072(g), requires an offender who moves to a different state to notify both the FBI and the new state of residence so that his or her registration information may be included in the appropriate state and federal databases. No later than 10 days after the offender establishes a new residence, the offender should contact the local FBI office in his or her new state of residence. Once notified by an offender that he or she has moved to another state, the FBI will take the steps necessary to ensure that the offender's new state of residence has also been notified.

Dated: February 9, 1999.

Janet Reno,

Attorney General.

[FR Doc. **99**-**3613 Filed** 2-12-**99**; 8:45 am]

BILLING CODE 4410-19-M

Appendix E:
House Bill 1877CS
Jessica Lundsford Act

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1877c.JC.doc
DATE: 4/15/2005
HOUSE OF REPRESENTATIVES STAFF ANALYSIS
BILL #: HB 1877 CS PCB CRJU 05-08 Sexual predators and sexual offenders
SPONSOR(S): Criminal Justice Committee; Kravitz, Dean, & Rice
TIED BILLS: IDEN./SIM. BILLS:
REFERENCE ACTION ANALYST STAFF DIRECTOR
Orig. Comm.: Criminal Justice Committee 7 Y, 0 N Kramer Kramer
1) Justice Appropriations Committee 11 Y, 0 N, w/CS Sneed DeBeaugrine
2) Justice Council 10 Y, 0 N, w/CS Kramer De La Paz
3)
4)
5)

SUMMARY ANALYSIS
HB 1877, with committee substitute, requires electronic monitoring by the Department of Corrections for offenders on supervision who have committed a specified sexual offense or have been designated as a sexual predator. The bill specifies the type of electronic monitoring which must be used.

The bill also requires lifetime electronic monitoring of offenders who meet certain criteria.

This bill creates a new aggravating circumstance to be considered by the sentencing jury and judge in a capital case. The bill adds to the list of aggravating circumstances that the capital felony was committed by a person designated a sexual predator or a person previously designated a sexual predator who had the sexual predator designation removed.

Generally, a sexual predator is required to maintain registration for the duration of his or her life. Under certain circumstances, a sexual predator who has been released from confinement or supervision for at least 20 years may petition the circuit court for removal of the sexual predator designation. This bill applies a 30 year waiting period for a person who was designated a sexual predator by a court on or after October 1, 2005. The bill also removes the current requirement that in order to qualify for sexual predator designation, a prior sexual offense must have been sentenced separately from the most recent offense. Further, the bill removes language disqualifying a prior felony if it was committed more than 10 years before the primary offense.

This bill creates a third degree felony for any person who permits a sexual predator or sexual offender to reside with that person knowing that the sexual predator or sexual offender has failed to comply with the reporting requirements.

The bill will require the Criminal Justice Estimating Conference to develop official information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation, or conditional release.

The department estimates the cost for FY 2005-06 to be $2.5 million. The cost increases to $6.9 million in the second year and to $13.4 million in the third year. See Section II. FISCAL ANALYSIS AND ECONOMIC IMPACT STATEMENT for further detail.

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
Provide limited government: The bill will likely increase the number of offenders eligible for sexual predator designation and will require electronic monitoring of certain offenders.

Promote personal responsibility: The bill will require electronic monitoring of certain offenders.

B. EFFECT OF PROPOSED CHANGES:
Sexual Predator Registration: Section 775.21, F.S., provides that a person convicted of an enumerated sexual offense must be designated a "sexual predator." Specifically, a person must be designated a sexual predator if he or she has been convicted of:

1. A capital, life, or first-degree felony violation, or any attempt thereof, of one of the following offenses:
   a. kidnapping or false imprisonment[1] where the victim is a minor and the defendant is not the victim's parent;
   b. sexual battery;[2]
   c. lewd or lascivious offenses;[3]
   d. selling or buying a minors for child pornography;[4] or
   e. a violation of a similar law of another jurisdiction;

2. Any felony violation of one of the following offenses where the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication one of the following offenses:
   a. kidnapping, false imprisonment or luring or enticing a child[5] where the victim is a minor and the defendant is not the victim's parent,
   b. sexual battery;[6]
   c. procuring a person under the age of 18 for prostitution[7]
   d. lewd or lascivious offenses;
   e. lewd or lascivious battery on an elderly person;[8]
   f. promoting sexual performance by a child;[9]
   g. selling or buying a minors for child pornography; or
   h. a violation of a similar law of another jurisdiction;[10]

In order to be counted as a prior felony, 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 prior felony was committed more than 10 years before the primary offense, it is not considered a prior felony under this provision 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,

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1 s. 787.01, F.S. or s. 787.02, F.S.,
2 See chapter 794. F.S.
3 s. 800.04, F.S.
4 s. 847.0145, F.S.
5 s. 787.025, F.S.
6 Excluded are offenses contained in ss. 794.011(10) and 794.0235, F.S.
7 s. 796.03, F.S.
8 s. 825.1025(2)(b), F.S.
9 s. 827.071, F.S.
10 Additionally, a person must be designated as a sexual predator if he or she committed one of the offenses listed in a. through h. above and has previously been convicted of the offense of selling or showing obscenity to a minor or using a computer to solicit sexual conduct of or with a minor [ss. 847.0133 or 847.0135, F.S.]

supervision or sanction, whichever is later. This bill removes the language requiring that the prior felony has to have been sentenced separately from the most recent offense. Further, the bill removes language disqualifying a prior felony if it was committed more than 10 years before the primary offense. If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections (DOC), or is in the custody of a private correctional facility, the predator must register with the DOC and provide specified information. Private correctional facilities are also governed by these requirements.

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

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

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

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

A sexual predator's failure to comply with registration requirements is a third degree felony. s. 775.21, F.S. A sexual predator who has been convicted of one a list of enumerated offenses when the victim of the offense was a minor is prohibited from working or volunteering at any business, school, day care center, park, playground, or other place where children regularly congregate. A violation of this provision is a third degree felony.[11] The bill ranks several offenses relating to failure to comply with sexual predator requirements. Specifically, the offense of failure to register as a sexual predator is currently ranked within level 6. The bill ranks this offense in level 7. The bill ranks the offense of a sexual predator working where children regularly congregate in level 7.

A sexual predator is required to maintain registration 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. A sexual predator who was designated as a sexual predator by a court before October 1, 1998 and who has been released from confinement or supervision 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 where the sexual predator resides for removal of the sexual predator designation. For a person who was designated a sexual predator on or after October 1, 1998, a 20 year waiting period applies. This bill applies a 30 year waiting period for a person who was designated a sexual predator by a court on or after October 1, 2005.

Sexual offender: According to s. 943.0435, F.S., a "sexual offender" is a person who has been convicted of a specified sexual offense and who has been released on or after October 1, 1997 from the sanction imposed for any conviction of a specified offense. A sexual offender is required to report

and register in a manner similar to the registration of a sexual predator under s. 775.21, F.S. There are also somewhat similar registration requirements for sexual offenders under the custody or control of the DOC, or under its supervision, or in custody of a private correctional facility. s. 944.607, F.S. Failure of a sexual offender (under s. 943.0435, F.S., or s. 944.607, F.S.) to comply with the registration requirements is a third degree felony. The bill ranks these offenses in level 7 of the offense severity ranking chart.

Harboring a sexual predator or sexual offender: The bill creates a third degree felony for any person who permits a sexual predator or sexual offender to reside with that person knowing that the sexual predator or sexual offender has failed to comply with the reporting requirements.

Electronic monitoring*:* The Department of Corrections uses three different types of electronic monitoring of offenders on supervision. The primary differentiation between electronic monitoring approaches is whether it uses radio frequency technology or GPS technology. GPS-based electronic monitoring is further divided into active GPS monitoring and passive GPS monitoring. All varieties of electronic monitoring require the offender to wear an electronic device on his or her body.[12]

Radio frequency monitoring essentially provides a curfew check to verify whether an offender is within an area to which he or she has been restricted. Most commonly, RF monitoring is used to determine whether an offender on house arrest is in the home. The offender must wear a small transmitter, which can weigh as little as an ounce, that transmits a radio signal to a small receiving unit. The broadcast range of the transmitter is typically about 150 feet, but many systems allow the range to be adjusted depending upon individual circumstances. The receiving unit is linked to a telephone line. If the receiving unit does not receive the radio signal from the transmitter, it causes a telephone alert to be sent to the monitoring station. In turn, the monitoring station notifies the probation officer that the signal has been lost and the offender may have left the restricted area.

RF monitoring systems can be programmed to account for periods when the offender is permitted to be away from the restricted area, such as to go to work or to attend religious services. However, RF monitoring does not provide any information about the offender's location when the offender moves outside the range at which the receiver can detect the radio transmission.

The cost for this form of RF monitoring is approximately $2.75 per day, the least expensive of all forms of electronic monitoring.

Passive GPS monitoring systems require the monitored offender to wear a small radio transmitter on his or her body and to wear or carry a device that includes a radio receiver, a GPS receiver, and a storage unit. The transmitter and receiver combination ensures that the offender remains close to the GPS receiver. As is the case with RF monitoring systems, the transmitter is attached to the offender with a bracelet that has some type of tamper-resistant and/or tamper-alert technology.

Unlike RF monitoring, a passive GPS system is not restricted in range to a base location. It detects the offender's movements as he or she moves about. The device can record that the offender left an area and can pinpoint the offender's location during the day. Because the defendant's location can be accurately determined, the system parameters can be set to determine that the offender entered an area from which he or she is legally excluded, such as when a sex offender goes within 1000 feet of a school. The system is referred to as passive because it records the information for later examination by the probation officer. At the end of a specified interval, normally daily, the offender must download the information from the GPS receiver to another device. Depending on the sophistication of the system,

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12 Information regarding DOC's use of electronic monitoring was obtained from a interim report of the Senate Criminal Justice
Committee (2005-126) released in November 2004 entitled, Global Positioning System (GPS) Technology Use in Monitoring the
Activities of Probationers.

the information can either be sent to the monitoring station by telephone or stored for future retrieval.

When the data is compared against a set of known locations, such as a map with GPS coordinates, an analyst can determine where the offender was at any particular time.

Passive GPS monitoring is relatively inexpensive at approximately $4 per day.

Active GPS monitoring uses the same basic technology as passive GPS monitoring, but provides near real-time reporting of the offender's location. Active GPS monitoring incorporates a cell phone into the equipment in order to transmit the offender's location coordinates to a monitoring station. The system is designed to provide an alert to the probation officer when the offender either leaves an area to which he or she is restricted or enters an area from which he or she is barred. Because of the additional expense for cell phone service and 24-hour monitoring, active GPS monitoring systems cost approximately $9 per day.

For either type of GPS monitoring system, the department or its contractor maintains an archive of the GPS data points (locations) of offenders on either type of GPS monitoring. Therefore, a law enforcement agency can request a search of the database to determine whether a monitored offender was in the area when a crime was committed.

According to statistics from the Department of Corrections, in January 2005, the following number of offenders on supervision were electronically monitored[13]:

	Sex Offenders	**Other**	**Total**
Radio Frequency	27	158	185
Passive GPS	13	10	23
Active GPS	224	275	499
Total	264	443	707

Conditional release program: Section 947.1405, F.S., creates the conditional release program. This program requires an inmate convicted of repeated violent offenses that is nearing the end of his or her sentence to be released under close supervision.[14] The Parole Commission sets the length and conditions of release after reviewing information provided by the Department of Corrections. The Department of Corrections supervises the offender while on conditional release. There is a list of required conditions of release set forth in the section. For a releasee whose sexual offense was committed on or after October 1, 1997, the commission is statutorily authorized to order electronic monitoring.[15]

This bill requires that the commission order electronic monitoring for a releasee whose crime was committed on or after July 1, 2005 where the releasee committed a specified sexual offense[16] or was designated a sexual predator. The bill also creates s. 947.1406, F.S., to provide that for any conditional releasee placed on electronic monitoring pursuant to the newly created provision, the department must use a system of active electronic monitoring that identifies the location of a monitored offender and that can produce upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or the offender's departure from a specified geographic location.

13 http://www.dc.state.fl.us/pub/spop/0501/tab02.html
14 Inmates who qualify for conditional release include: 1) those who have previously served time in a correctional institution and are currently incarcerated for one a list of violent offenses including murder, sexual battery, robbery, assault or battery; 2) inmates sentenced as a habitual offender, a violent habitual offender or a violent career criminal; 3) inmates who were found to be a sexual predator. s. 947.1405(2), F.S
15 s. 947.1405(7)(b)5, F.S.
16 s. 794.05, s. 800.04, s. 827.071, or s. 847.0145

The bill also provides that for a releasee placed on electronic monitoring that the commission determines is in violation of any material condition of supervision, the commission must order the releasee returned to prison until the expiration of the sentence of imprisonment.

Probation and community control: The Department of Correction oversees several types of supervision, including probation and community control. Section 948.30, F.S., requires that a sentencing court impose certain conditions of probation or community control for offenders who are placed on sex offender probation for violating ch. 794, F.S. (sexual battery), s. 800.04, F.S. (lewd and lascivious offenses committed upon or in the presence of persons less than 16 years of age), s. 827.071, F.S. (sexual performance by a child), or s. 847.0145, F.S. (selling or buying of minors).

Subsection (1) of the section includes conditions for all such offenders whose offense date is on or after October 1, 1995. Subsection (2) of the section includes additional requirements that apply only to such offenders who are placed on sex offender probation and whose offense date was on or after October 1, 1997. Subsection (2) includes a provision for requiring electronic monitoring, but it is not a true statutory mandate because: (a) it only applies when the court places the offender on sex-offender probation, which is not done in all eligible cases; and (b) it may only be ordered "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." s. 948.30(2)(e), F.S.

The bill provides that effective for a probationer or community controllee whose crime was committed on or after July 1, 2005, and who was placed on supervision for a violation of s. 794, s. 800.04, s. 827.071, or s. 847.0145, or who is designated a sexual predator pursuant to s. 775.21, in addition to any other provision of this section, the court shall order electronic monitoring.

The bill amends s. 948.11, F.S., to provide that for any probationer or community controllee placed on electronic monitoring pursuant to s. 948.30(3), the department must use a system of active electronic monitoring that identifies the location of a monitored offender and that can produce upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or the offender's departure from a specified geographic location.

The bill also amends s. 948.06, F.S., relating to violations of probation or community control to provide that in any case when a violation of supervision is admitted or determined by the court to be proven, and the court returns the violator to probation or community control, the court must order electronic monitoring. This provision applies to any probationer or community controllee under supervision for a violation of s. 787.01 (kidnapping), 787.02 (false imprisonment), 787.025 (luring or enticing a child), 794.011 (sexual battery), 800.04 (lewd or lascivious), 827.071 (sexual performance by a child), or 847.0145 (selling or buying minors), F.S., or who is designated a sexual predator, regardless of when the crime was committed.

Lifetime electronic monitoring: The bill amends s. 775.082, F.S., to provide that any defendant convicted of any specified offense, in addition to any other penalty provided by law, must be subject to electronic monitoring supervised by the Department of Corrections for the remainder of his or her natural life. This will apply to eligible defendants whose crimes occur on or after July 1, 2005. The specified offenses included are kidnapping a child under the age of 13[17], false imprisonment of a child under the age of 13,[18] luring or enticing a child,[19] sexual battery,[20] and lewd or lascivious battery[21]. Any defendant convicted of lewd or lascivious molestation,[22] kidnapping,[23] sexual battery[24] or lewd or

17 s. 787.01(3), F.S.
18 s. 787.02(3), F.S.
19 s. 787.025, F.S.
20 s. 794.011(2),(3),(4) or (8), F.S.
21 s. 800.04(4), F.S.
22 s. 800.04(5), F.S.
23 s. 787.01(3), F.S.
24 s. 794.011(5), F.S.

lascivious battery on an elderly person[25] must, in addition to any other penalty provided, be subject to electronic monitoring supervised by the Department of Corrections for the remainder of the defendant's natural life if the court determines that the defendant has previously been convicted of an enumerated offense.[26]

The electronic monitoring must commence upon expiration of the defendant's sentence of imprisonment or after the period, if any, of probation, community control or conditional release supervision, whichever occurs later. The Department of Corrections must use a system of active electronic monitoring that identifies the location of a monitored offender and that can produce upon request, reports or records of the offender's presence near or within a crime scene or prohibited area or the offender's departure from a specified geographic location.

The bill also provides that any person subject to electronic monitoring pursuant to this provision who for the purpose of facilitating the commission of a crime, removes, defaces, alters, destroys or fails to maintain the electronic monitoring device in working order commits a first degree felony. Any person subject to lifetime electronic monitoring must follow instructions provided by DOC or the electronic monitoring device manufacturer to maintain the device in working order. Incidental damage or defacement must be reported to DOC within 2 hours. Failure to comply with this reporting requirement is a third degree felony.

The bill requires a sexual predator sentenced to electronic monitoring to provide that information to the FDLE. The Department of Corrections or the offender will be required to notify the Department of Law Enforcement when a sexual offender is sentenced to electronic monitoring.

Identifying, assessing and monitoring high-risk offenders: The bill creates s. 948.061, F.S. which provides that by December 1, 2005, the Department of Corrections must develop a graduated risk assessment and alert system that continuously identifies, assesses and closely monitors a high-risk offender who is placed on probation or in community control and who: (1) has previously been placed on community supervision and have a history of committing multiple community supervision violations, or have previously been incarcerated; and (2) has experienced more than one of the following risk factors that could make the offender more likely to pose a danger to other persons:

- Attempted suicide or severe depression
- Marital instability or a history of domestic violence
- History of substance abuse
- Unemployment or substantial financial difficulties
- History of violence or sex acts against children, particularly if it involved strangers
- Any other risk factor identified by the department

This section also requires a correctional probation officer to provide the court with certain criminal history and background information on high-risk offenders in each report submitted to the court and at each hearing before the court. The required information includes a cumulative chronology of the offender's criminal history and prior terms of community supervision, including all violations of community supervision. The department is given the authority to adopt rules that are necessary to implement this provision.

In monitoring the location of high risk offenders, the department is required to, no later than October 1, 2006, have fingerprint-reading equipment and capability.

Aggravating factors in capital case: When a defendant is convicted of a capital felony, a separate sentencing proceeding is conducted before the trial jury to determine whether the defendant should be

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25 s. 825.1025(2), F.S.

26 Included in this list of enumerated offenses is s. 800.04 (lewd or lascivious offenses), 794.011 (sexual battery), 787.01 (kidnapping),787.02 (false imprisonment), 787.025 (luring or enticing a child), 825.1025 (lewd or lascivious battery on an elderly person) or any burglary of a dwelling (s. 810.02).

sentenced to death or to life imprisonment. After hearing evidence, the jury renders an advisory sentence to the judge based on the following factors:

a) Whether sufficient aggravating circumstances exist
b) Whether sufficient mitigating circumstances exist which outweigh the aggravating circumstances found to exist; and
c) Based on these considerations, whether the defendant should be sentenced to life imprisonment or death.

The judge is not required to sentence a defendant as recommended by the jury. If the judge sentences a person to death, the judge must make written findings that there are sufficient aggravating circumstances and insufficient mitigating circumstances to outweigh the aggravating circumstances. Section 921.141, F.S., provides a list of aggravating factors to be considered by the jury and the judge as follows:

- The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.
- The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.
- The defendant knowingly created a great risk of death to many persons.
- The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.
- The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- The capital felony was committed for pecuniary gain.
- The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- The capital felony was especially heinous, atrocious, or cruel.
- The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.
- The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.
- The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.
- The victim of the capital felony was a person less than 12 years of age.
- The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.
- The capital felony was committed by a criminal street gang member, as defined in s. 874.03, F.S.

This bill adds to the list of aggravating circumstances that the capital felony was committed by a person designated a sexual predator pursuant to s. 775.21, F.S., or a person previously designated a sexual predator who had the sexual predator designation removed.

Criminal Justice Estimating Conference: Section 216.136, F.S., creates the Criminal Justice Estimating Conference which is required to develop forecasts of prison admissions and population and of supervised felony offender admissions and population in order to assist the state in planning and budgeting. HB 1877 will require the conference to also develop official information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation or conditional release who are subject to electronic monitoring.

C. SECTION DIRECTORY:
Section 1. Provides that act shall be known as the Jessica Lunsford Act.
Section 2. Amends s. 216.136, F.S., expanding responsibilities of the Criminal Justice Estimating Conference.

Section 3. Amends s. 775.082, F.S., to provide for lifetime electronic monitoring for certain offenders.
Section 4. Creates s. 775.0821, F.S., to prohibit tampering with or removing lifetime electronic monitoring device.
Section 5. Amends s. 775.21, F.S., relating to criteria for sexual predator designation.
Section 6. Creates s. 775.235, F.S., to prohibit harboring sexual predator or sexual offender.
Section 7. Amends s. 921.0022, F.S. relating to offense severity ranking chart.
Section 8. Amends s. 921.141, F.S., to add to list of aggravating circumstances in capital case.
Section 9. Amends s. 943.043, F.S. relating to FDLE information sharing with local law enforcement agencies.
Section 10. Amends s. 944.606, F.S. relating to sexual offender reporting.
Section 11. Amends s. 944.607, F.S. relating to sexual offender reporting.
Section 12. Amends s. 947.1405, F.S., to provide additional requirements of the Parole Commission for sexual offenders on conditional release.
Section 13. Creates s. 947.1406, F.S., to require active GPS monitoring for certain individuals on conditional release.
Section 14. Amends s. 948.06, F.S., to require electronic monitoring for certain probation violators.
Section 15. Creates s. 948.061, F.S. relating to risk assessment.
Section 16. Amends s. 948.11, F.S., to require active GPS monitoring for certain probationers.
Section 17 Amends s. 948.30, F.S., relating to terms of probation and community control for certain sex offenses.
Section 18. Provides for severability.
Section 19. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:
1. Revenues: None.
2. Expenditures: According to the Department of Corrections, 328 offenders will be impacted in the first year, 911 offenders will be impacted in the second year and 1,783 offenders will be impacted in the third year.
The department estimates that the bill will have the following fiscal impact on the department:

Total Fiscal Impact-Department of Corrections

	FY 2005-06	FY 2006-07	FY 2007-08
Recurring	$2,284,321	$6,521,212	$12,830,574
Non-recurring	$241,156	410,286	569,887
Total	$2,525,477	$6,931,498	$13,400,641

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:
1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
Current law provides that offenders being electronically monitored by the department as a result of placement on community control are required to pay an amount up to the full cost of the monitoring service in addition to the cost of supervision.

D. FISCAL COMMENTS:
The House version of the General Appropriations Act includes $3 million for additional electronic monitoring services.

There will be a long-term impact from provisions requiring lifetime electronic monitoring for some offenders. The impact is indeterminate and will likely not be realized until at least the fourth year. The

Criminal Justice Estimating Conference will regularly project the number of offenders affected by this legislation for planning and budgeting purposes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:
None
B. RULE-MAKING AUTHORITY:
None.
C. DRAFTING ISSUES OR OTHER COMMENTS:
None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Criminal Justice Committee adopted two amendments to the PCB as originally drafted. The amendments added the provision regarding harboring a sexual predator or sexual offender who is not in compliance with reporting requirements and clarified the type of electronic monitoring that will be used.

On April 12, 2005, the Justice Appropriations Committee adopted a strike-all amendment and seven amendments to that amendment which:

- To conform to current law, clarified that the Parole Commission and not the court would be required to order electronic monitoring for an offender on conditional release. Also clarified that the provisions requiring electronic monitoring would apply to all offenders on supervision for an enumerated sexual offense – not only offenders who are placed on sex offender probation or community control.
- Amended s. 948.06, F.S., to provide that in any case when a violation of supervision is admitted or determined by the court to be proven, and the court returns the violator to probation or community control, the court must order electronic monitoring. This provision applies to any probationer or community controllee under supervision for a violation of s. 787.01, 787.02, 787.025, 794.011, 800.04, 827.071, 847.0145, F.S., or who is designated a sexual predator, regardless of when the crime was committed.
- Amended s. 775.082, F.S., to provide for lifetime electronic monitoring of offenders meeting certain criteria as described in the above analysis.
- Amended s. 212.136, F.S., to require the Criminal Justice Estimating Conference to develop official information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation, or conditional release.
- Created a severability clause.
- Provided that if a person on conditional release for an enumerated sexual offense who has been placed on electronic monitoring is found to be in violation of any material condition of supervision, the commission must order the releasee returned to prison until the expiration of the sentence of imprisonment.
- Modified the description of the electronic monitoring to be used.

On April 14, 2005, the Justice Council adopted a strike-all amendment which:

- Increased the ranking of several offenses relating to failure to comply with sexual predator or sexual offender reporting requirements in the Offense Severity Ranking Chart of the Criminal Punishment Code.
- Modified the description of the electronic monitoring to be used.
- Clarified that the Criminal Justice Estimating Conference would develop official information relating to the number of sexual offenders and sexual predators on supervision who are subject to electronic monitoring.

• Clarified that the offense of tampering with a lifetime electronic monitoring device applies when a person commits the offense for the purpose of facilitating the commission of a crime.
• Requires that the fact that a sexual predator or sexual offender is on lifetime electronic monitoring be provided to the FDLE.
• Required the Department of Corrections to develop a graduated risk assessment and alert system as described in the analysis above.

Appendix F: Federal Campus Sex Crimes Prevention Act

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 (Wetterling Act)**. 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 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 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.

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).*

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.**

"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)(I); 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 or to FDLE**. 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.}*

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.

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}*

References:

Legislation, Community Notification, http://www.jwf.org/legislation.html

Clinton Signs Tougher Megan's Law, http://cnn.com/ALLPOLITICS/1996/news/9605/17/clinton.sign/index.shtml

Jimmy Ryce Story, http://www.jimmyryce.org/who_we_are/jimmystory.html

Sexual Predators Status Qualifiers and Obligations, Sexual Predator Obligations from Florida Guidelines to Sex Offender Laws

Sexual Offenders Status Qualifiers and Obligations, Sexual Offender Obligations from Florida Guidelines to Sex Offender Laws

Megan's Law in Califionia, http://www.caag.state.ca.us//megan/protect.htm

How to Obtain Information on Megan's Law in California, http://www.caag.state.ca.us//megan/info.htm

Megan's Law, http://www.ojp.usdoj.gov/vawo/whatsnew.htm

Summary of and Internet Links to US Department of Justice, Bureau of Justice Statistics on Child Sexual Abuse, http://www.preventabusenow.com/stats.htm

Additional References:

Florida Department of Law Enforcement Sexual Predator/Offender Unit, www.fdle.state.fl.us or 1-888-357-7332

FDLE DNA Database, 1-850-488-7071

The Jimmy Ryce Foundation, www.jimmyryce.org

The Jacob Wetterling Foundation, www.jwf.org

United States Department of Justice, www.us.doj.gov

cop.spcollege.edu/cop

Florida Regional Community Policing Institute

About This Project

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