



CRIMINAL JUSTICE COMMITTEE MEETING

**Wednesday, January 11, 2006
11:15 a.m. – 11:45 a.m.
(404 HOB)**

Allan G. Bense
Speaker

Dick Kravitz
Chair

Wilbert "Tee" Holloway
Vice Chair



FLORIDA HOUSE OF REPRESENTATIVES

Allan G. Bense, Speaker

Justice Council Criminal Justice Committee

Dick Kravitz
Chair

Wilbert "Tee" Holloway
Vice Chair

Meeting Agenda
Wednesday, January 11, 2006
404 House Office Building
11:15 a.m. – 11:45 a.m.

- I. Opening remarks by Chair Kravitz**
- II. Roll call**
- III. Consideration of the following bills:**
 - HB 93 CS—Automated External Defibrillators by Henriquez
 - HB 303—Dart-Firing Stun Guns by Kravitz
 - HB 327—Sexual and Career Offenders by Porth
- IV. Closing comments / Meeting adjourned**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 93 CS Automated External Defibrillators
SPONSOR(S): Henriquez
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Health Care General Committee, 9 Y, 0 N, w/CS, Ciccone, Brown-Barrios. Row 2: Criminal Justice Committee, Ferguson KF, Kramer JK. Rows 3-5 are empty.

SUMMARY ANALYSIS

An Automatic External Defibrillator (AED) is a small, lightweight device used to assess a person's heart rhythm, and, if necessary, administer an electric shock to restore a normal rhythm in victims of sudden cardiac arrest.

HB 93 defines the term automated external defibrillator as referenced in s. 768.1325(2) (b), Florida Statutes, and also defines the term defibrillation. HB 93 also creates misdemeanor offenses related to abuse and tampering with AEDs and violation of local ordinances regarding AEDs.

HB 93 requires the Department of Health to implement an educational campaign to inform any person who acquires an automated external defibrillator device that the liability immunity under s. 768.1325, Florida Statutes, is contingent upon proper equipment maintenance, testing and user training.

Depending on the method of communication, a minimal fiscal impact may be incurred by the Department of Health to implement the educational campaign required in HB 93.

The effective date of HB 93 is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – HB 93 authorizes local governments to adopt an ordinance to require a person to obtain a license, permit, or inspection certificate for AEDs.

Promote personal responsibility – HB 93 creates criminal penalties for intentional or willful conduct.

B. EFFECT OF PROPOSED CHANGES:

Cardiac Arrest:

The American Heart Association (AHA) describes a cardiac arrest as:

Cardiac arrest is the sudden, abrupt loss of heart function. It is also called sudden cardiac arrest or unexpected cardiac arrest. Sudden death (also called sudden cardiac death¹) occurs within minutes after symptoms appear. The most common underlying reason for patients to die suddenly from cardiac arrest is coronary heart disease. Most cardiac arrests that lead to sudden death occur when the electrical impulses in the diseased heart become rapid (ventricular tachycardia) or chaotic (ventricular fibrillation) or both. This irregular heart rhythm (arrhythmia) causes the heart to suddenly stop beating.

According to the AHA, brain death and permanent death start to occur within 4 to 6 minutes after someone experiences cardiac arrest. Cardiac arrest can be reversed if it is treated within a few minutes with an electric shock to the heart to restore a normal heartbeat—a process called defibrillation. The AHA states that a victim's chances of survival are reduced by 7 to 10 percent with every passing minute without defibrillation, and few attempts at resuscitation succeed after 10 minutes.

An Automated External Defibrillator (AED) is an electronic device that can shock a person's heart back into rhythm when he or she is having a cardiac arrest. The AHA estimates that more than 95 percent of cardiac arrest victims die before reaching the hospital. In cases where defibrillation is provided within 5 to 7 minutes, the survival rate from sudden cardiac arrest can be up to 49 percent.

Section 401.2915, F.S., provides the minimum requirements for an individual who intends to use an AED in cases of cardiac arrest, as follows:

- A person must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an automated external defibrillator;
- A person or entity in possession of an automated external defibrillator is encouraged to register with the local emergency medical services medical director the existence and location of the automated external defibrillator; and
- A person who uses an automated external defibrillator is required to activate the emergency medical services system as soon as possible upon use of the automated external defibrillator.

¹ Heart Rhythm Society . See http://www.hrspatients.org/patients/heart_disorders/cardiac_arrest/

1990 Legislation

In 1990, based on the development of AED technology and in an effort to reduce the death rate associated with sudden cardiac arrest, the Legislature enacted s. 401.291, F. S. This law broadened the list of persons authorized to use an AED to include "first responders." First responders included police officers, firefighters and citizens who are trained as part of locally coordinated emergency medical service response teams. At that time, to use an AED, a first responder had to meet specific training requirements, including;

- Certification in CPR.
Or—
- Successful completion of an eight hour basic first aid course that included CPR training.
- Demonstrated proficiency in the use of an automatic or semiautomatic defibrillator.
- Successful completion of at least six hours of training, in at least two sessions, in the use of an AED.

At the time, the creation of s. 401.291, F.S., was intended to increase the availability of automatic external defibrillators and thereby reduce the death rate from sudden cardiac arrest in Florida. It is undocumented as to whether the intended effect was ever achieved; however, the law was repealed on October 1, 1992.

Deregulating AED

Chapter 97-34, Laws of Florida, repealed s. 401.291, F.S., thereby deregulating the use of an AED. The bill created s. 401.2915, F.S. (see above).

Tort Liability

Section 768.1325, F.S., the Cardiac Arrest Survival Act, provides immunity from liability for a person who uses or attempts to use an automated external defibrillator device in a perceived medical emergency. Under s. 768.1325(2) (b), F.S., "automated external defibrillation" device is defined as a defibrillator device that:

- Is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act;
- Is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed; and
- Upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.

Section 768.1325 (3) provides exceptions, in that, any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency is immune from civil liability. In addition, any person who acquired the device for a community organization is immune from civil liability if the harm was not due to the failure of such acquirer of the device to:

- Notify the local emergency medical services medical director of the most recent placement of the device within a reasonable period of time after the device was placed;
- Properly maintain and test the device; or
- Provide appropriate training in the use of the device to an employee or agent of the acquirer when the employee or agent was the person who used the device on the victim, except that such requirement of training does not apply if:
 1. The employee or agent was not an employee or agent who would have been reasonably expected to use the device; or

2. The period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm, or between the acquisition of the device and occurrence of the harm in any case in which the device was acquired after engagement of the employee or agent, was not a reasonably sufficient period in which to provide the training.

Effect of Bill

HB 93 amends s. 401.2915, F.S., to define the term automated external defibrillator as a lifesaving device that:

- Is commercially distributed as a defibrillation device in accordance with the Federal Food, Drug, and Cosmetic Act;
- Is capable of recognizing the presence or absence of ventricular fibrillation and is capable of determining, without intervention by the use of the device, if defibrillation should be performed; and
- Is capable of delivering an electrical shock to an individual, upon determining that defibrillation should be performed.

This definition conforms to the definition in s. 768.1325(2) (b), F.S.

HB 93 also defines defibrillation as the administration of a controlled electrical charge to the heart to restore a viable cardiac rhythm.

HB 93 provides it is a first degree misdemeanor for any person who intentionally or willfully:

- Tamper with or otherwise renders an automated external defibrillator inoperative except during such time as the automated external defibrillator is being serviced, tested, repaired, or recharged, except pursuant to court order.
- Obliterates the serial number on an automated external defibrillator for purposes of falsifying service records.

A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000.

HB 93 also provides that a local ordinance may require a person to obtain a license, permit, or inspection certificate regarding AEDs. Enforcement by the municipality may be as provided in s. 162.22, F.S. The ordinance may provide that it is an infraction or a criminal offense for any person to intentionally or willfully:

- Fail to properly service, recharge, repair, test, or inspect an automated external defibrillator.
- Use the license, permit or inspection certificate of another person.
- Hold a permit or inspection certificate and allow another person to use said permit or inspection certificate number.
- Use, or permit the use of, any license, permit or inspection certificate by any individual or organization other than the one to whom the license, permit or inspection certificate is issued.

Section 162.22, F.S., allows a municipality to impose penalties for violation of a municipal ordinance. Unless otherwise provided for in law, punishment for violation of a municipal ordinance may not exceed 60 days in jail and a \$500 fine (equivalent to a second degree misdemeanor).

HB 93 directs the Department of Health to implement an educational campaign to inform any person who acquires an automated external defibrillator device that his or her immunity from liability under s. 768.1325, F. S., for harm resulting from the use or attempted use of the device, does not apply if he or she fails to properly maintain and test the device or provide appropriate training in the use of the device.

C. SECTION DIRECTORY:

Section 1. Amends s. 401.2915, F.S., to define terms and provide criminal penalties.

Section 2. Requires the Department of Health to implement an educational campaign to inform any person who acquires an automated external defibrillator device that the liability immunity under s. 768.1325, Florida Statutes, is contingent upon proper equipment maintenance, testing and user training.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The Department of Health is uncertain as to cost to the department to implement the educational campaign outlined in HB 93. A minimal cost would be incurred if the department were to use the state's website to provide information regarding equipment maintenance, testing and user training.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

See above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because HB 93 does not appear to: require counties or municipalities to spend funds or to take actions 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:

B. RULE-MAKING AUTHORITY:

The Department of Health has sufficient rulemaking authority to implement HB 93.

C. DRAFTING ISSUES OR OTHER COMMENTS:

As drafted, HB 93 makes it a misdemeanor for *any person* to render an AED inoperable. It is possible that this could be interpreted to apply to an owner who acquires an AED and subsequently decides, for whatever reason, he or she no longer wants or needs the AED (rendering it inoperable).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On November 9, 2005, the House Health Care General Committee passed House Bill 93 with one amendment which referenced the definition of an Automatic External Defibrillator (AED) currently in s. 768.1325(2)(b) F.S.

The House Health Care General Committee passed House Bill 93 with this amendment as House Bill 93 with committee substitute.

This analysis reflects HB 93 as amended.

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CHAMBER ACTION

1 The Health Care General Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to automated external defibrillators;
7 amending s. 401.2915, F.S.; revising legislative intent
8 with respect to the use of an automated external
9 defibrillator; defining the term "automated external
10 defibrillator"; defining a related term; providing that it
11 is a first degree misdemeanor for a person to commit
12 certain acts involving the misuse of an automated external
13 defibrillator; authorizing a local government to adopt an
14 ordinance to license, permit, or inspect automated
15 external defibrillators; providing for enforcement of such
16 local ordinances; requiring the Department of Health to
17 implement an educational campaign to inform the public
18 about the lack of immunity from liability regarding the
19 use of automated external defibrillators under certain
20 conditions; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Section 401.2915, Florida Statutes, is amended
25 to read:

26 401.2915 Automated external defibrillators.--It is the
27 intent of the Legislature that an automated external
28 defibrillator may be used by any person for the purpose of
29 saving the life of another person in cardiac arrest. In order to
30 achieve that goal, the Legislature intends to encourage training
31 in lifesaving first aid and set standards for and encourage the
32 use of automated external defibrillators.

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

34 (a) "Automated external defibrillator" means a device as
35 defined in s. 768.1325(2) (b) .

36 (b) "Defibrillation" means the administration of a
37 controlled electrical charge to the heart to restore a viable
38 cardiac rhythm.

39 (2) In order to ensure public health and safety:

40 (a)-(1) All persons who use an automated external
41 defibrillator must obtain appropriate training, to include
42 completion of a course in cardiopulmonary resuscitation or
43 successful completion of a basic first aid course that includes
44 cardiopulmonary resuscitation training, and demonstrated
45 proficiency in the use of an automated external defibrillator.

46 (b)-(2) Any person or entity in possession of an automated
47 external defibrillator is encouraged to register with the local
48 emergency medical services medical director the existence and
49 location of the automated external defibrillator.

50 (c)-(3) Any person who uses an automated external
51 defibrillator shall activate the emergency medical services

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52 system as soon as possible upon use of the automated external
53 defibrillator.

54 (3) Any person who intentionally or willfully:

55 (a) Tamper with or otherwise renders an automated
56 external defibrillator inoperative, except during such time as
57 the automated external defibrillator is being serviced, tested,
58 repaired, recharged, or inspected or except pursuant to court
59 order; or

60 (b) Obliterates the serial number on an automated external
61 defibrillator for purposes of falsifying service records,
62
63 commits a misdemeanor of the first degree, punishable as
64 provided in s. 775.082 or s. 775.083.

65 (4) A local ordinance may require a person to obtain a
66 license, permit, or inspection certificate for an automated
67 external defibrillator. Such ordinance may provide for any
68 enforcement method authorized by s. 162.22. The ordinance may
69 provide that it is an infraction or a criminal offense for any
70 person to intentionally or willfully:

71 (a) Fail to properly service, recharge, repair, test, or
72 inspect an automated external defibrillator;

73 (b) Use the license, permit, or inspection certificate of
74 another person to service, recharge, repair, test, or inspect an
75 automated external defibrillator;

76 (c) Hold a license, permit, or inspection certificate and
77 allow another person to use that license, permit, or inspection
78 certificate number to service, recharge, repair, test, or
79 inspect an automated external defibrillator; or

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80 (d) Use or permit the use of any license, permit, or
81 inspection certificate by any individual or organization other
82 than the one to whom the license, permit, or inspection
83 certificate is issued to service, recharge, repair, test, or
84 inspect an automated external defibrillator.

85 ~~(5)-(4)~~ Each local and state law enforcement vehicle may
86 carry an automated external defibrillator.

87 Section 2. The Department of Health shall implement an
88 educational campaign to inform any person who acquires an
89 automated external defibrillator device that his or her immunity
90 from liability under s. 768.1325, Florida Statutes, for harm
91 resulting from the use or attempted use of the device, does not
92 apply if he or she fails to:

93 (1) Properly maintain and test the device; or

94 (2) Provide appropriate training in the use of the device
95 to his or her employee or agent when the employee or agent was
96 the person who used the device on the victim, except as provided
97 in s. 768.1325, Florida Statutes.

98 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 303
SPONSOR(S): Kravitz
TIED BILLS:

Dart-Firing Stun Guns

IDEN./SIM. BILLS: CS/SB 214, SB 560

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee		Cunningham <i>see</i>	Kramer JK
2) Justice Appropriations Committee			
3) Justice Council			
4)			
5)			

SUMMARY ANALYSIS

Approximately 230 law enforcement agencies in Florida have authorized their officers to use dart-firing stun guns. Although many of these agencies have developed policies and procedures regarding training and use of the devices, there is no state law requiring that officers receive such training. This bill would require the Criminal Justice Standards and Training Commission, housed within the Florida Department of Law Enforcement, to establish standards for instructing law enforcement, correctional, and correctional probation officers in the use of dart-firing stun guns, and incorporate dart-firing stun gun training into the Basic Recruit Training Programs for each discipline. This bill also sets forth the circumstances under which a law enforcement, correctional, or correctional probation officer may use a dart-firing stun gun.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill will require the Criminal Justice Standards and Training Commission to establish standards for instructing law enforcement, correctional, and correctional probation officers in the use of dart-firing stun guns.

Maintain Public Security – This bill requires that law enforcement, correctional, and correctional probation officers receive a minimum of 4 hours training in the use of dart-firing stun guns as part of their respective Basic Recruit Training Programs.

B. EFFECT OF PROPOSED CHANGES:

In recent years, there has been a growing interest in the use of less-than-lethal weapons by law enforcement agencies. One such weapon, the stun gun, is a hand-held weapon that delivers an electric shock, effectively incapacitating an individual. One of the most widely-used types of stun gun is the type that fires electrodes that are tethered to the device.¹ These “dart-firing” devices are currently in use by over 7,000 of the 18,000 law enforcement agencies in the United States.² This widespread use of dart-firing stun guns by law enforcement has drawn attention to the training officers receive in using the devices (or lack thereof), as well as whether the devices are being used properly in the field.³

Training:

In Florida, the Criminal Justice Standards and Training Commission (CJSTC), housed within the Florida Department of Law Enforcement, establishes uniform minimum standards for the employment and training of full-time, part-time, and auxiliary law enforcement, correctional, and correctional probation officers.⁴ Every prospective law enforcement officer (LEO), correctional officer (CO), and correctional probation officer (CPO) must successfully complete a CJSTC-developed Basic Recruit Training Program in order to receive their certification. At this time, the CJSTC does not include training in the use of dart-firing stun guns in the curricula for the LEO, CO, or CPO Basic Recruit Training Programs. In addition, Florida law does not require that LEOs, COs, CPOs receive any type of training in the use of dart-firing stun guns. Instead, the majority of agencies who authorize their officers to carry dart-firing stun guns have developed specific policies regarding their use, or have incorporated such training into their existing policies.

This bill requires the CJSTC to establish standards for instructing LEOs, COs, and CPOs in the use of dart-firing stun guns and to incorporate such training into the Basic Recruit Training Programs.⁵ The dart-firing stun gun training portion of the Basic Recruit Training Program must include instruction on the effects the device has on persons under the influence of drugs and alcohol, and must last a minimum of 4 hours. Once an LEO, CO, or CPO has completed the Basic Recruit Training Program, they must complete 1 hour of annual training in the use of dart-firing stun guns.

Use of Force:

¹ A number of new types of stun gun are being researched including stun guns that administer the electric shock through a stream of liquid, through a laser, and through rubber bullet-type projectiles. <http://en.wikipedia.org/wiki/Taser>.

² *Use of Tasers by Selected Law Enforcement Agencies*, Report to the Chairman, Subcommittee on National Security, Emerging Threats and International Relations, Committee on Government Reform, House of Representatives, May, 2005.

³ See, e.g., *Police Taser 6-Year-Old*, Fox News, November 12, 2004; *Police, Principal Defend Officer's Use Of Taser On 15-Year-Old Girl*, wftv.com, June 2, 2005; *Man Dies After Police Use Taser Gun To Subdue Him*, nbc6.net, June 29, 2005; *Florida Family Sues Sheriff Over Inmate Death, Claims Taser Used*, Associated Press, October 7, 2005.

⁴ <http://www.fdle.state.fl.us/cjst/commission/index.html>

⁵ The definitions of “law enforcement officer,” “correctional officer,” and “correctional probation officer,” found in s. 943.10, F.S., will apply to these terms as used in the bill.

Currently, Florida Statutes do not specify the circumstances under which any tool of police enforcement can legally be used. The responsibility to “establish uniform minimum training standards for the training of officers in the various criminal justice disciplines” has been statutorily assigned to the CJSTC.⁶ As stated above, the CJSTC currently does not include instruction in the use of dart-firing stun guns in its curricula for the Basic Recruit Training Programs for LEOs, COs, and CPOs. However, included in all three of these programs is instruction on the “Use of Force Resistance Matrix.” The matrix outlines six levels of resistance and six corresponding levels of response and is used as a guide for officers to apply in real life situations. It appears that Florida law enforcement agencies that use dart-firing stun guns teach their officers to deploy the weapon between Resistance Level 3 and Resistance Level 4 of the Matrix.⁷

This bill specifies that an LEO, CO, or CPO’s decision to use a dart-firing stun gun must involve an arrest or custodial situation during which the subject of the arrest or custodial situation escalates resistance to the officer from passive physical to active physical resistance and:

- has the apparent ability to physically threaten the officer or others; or
- is preparing or attempting to flee.

This language would appear to place the use of dart-firing stun guns within Level 4 of the Use of Force Resistance Matrix.

C. SECTION DIRECTORY:

Section 1. Creates s. 943.1717, F.S., providing that an LEO, CO, or CPO’s decision to use a dart-firing stun gun must involve an arrest or custodial situation where the person subject to the arrest or custody escalates resistance to active physical resistance and either has the apparent ability to physically threaten the officer or others or is preparing or attempting to flee or escape; requiring the CJSTC to establish standards for instructing LEOs, COs, and CPOs in the use of dart-firing stun guns and the effects of stun guns on persons under the influence of drugs or alcohol; requiring that basic skills courses for LEOs, COs, and CPOs include a minimum of four hours instruction on the use of dart-firing stun guns; requiring LEOs, COs, and CPOs to complete at minimum an annual one-hour training course on the use of dart-firing stun guns.

Section 2. This act takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

⁶ s. 943.12(5), F.S.

⁷ Resistance Level 3 (Passive Physical), is defined as “a subject refuses to comply with or respond physically...makes no attempt to physically defeat your actions but forces you to use physical maneuvers to establish control.” Resistance Level 4 (Active Physical) is where a subject makes physically evasive movements to prevent an officer from taking control (e.g. bracing or tensing themselves, pushing or pulling away, taking a fighting stance, not allowing the officer to approach, or running away). *Response to Resistance Matrix*, Basic Recruit Curriculum, Module 5, Unit 1, Lesson 1, Florida Department of Law Enforcement Instructor’s Manual, 2005.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Manufacturers and retailers of dart-firing stun guns may benefit in that dart-firing stun guns will be needed for training purposes.

D. FISCAL COMMENTS:

The Basic Recruit Training Program for LEOs consists of 672 hours of training, while COs and CPOs must undergo 532 and 424 hours of training, respectively.⁸ The Florida Department of Law Enforcement's (FDLE) analysis of this bill states that the bill's 4-hour dart-firing stun gun training requirement will have a negligible fiscal impact because the additional hours can be included among the flexible hours currently available in the Basic Recruit Training Programs. However, further discussion with various FDLE representatives revealed that there is a possibility that the 4 hours may have to be added to the current hourly requirements for all three disciplines (i.e. 676 hours of training for LEOs, 536 for COs, and 426 for CPOs). If this occurred, the fiscal impact on both the state and local level could be significant.

While some agencies require prospective employees to pay their own tuition to a Basic Recruit Training Program, other agencies elect to pay their students' tuition and salaries while enrolled.⁹ Thus, if the 4-hours of training required by the bill is in addition to the current hourly requirements, agencies that pay their students' tuition and salaries will be paying for an additional 4 hours worth of tuition/work-time. It is also a possibility that tuition rates for Basic Recruit Training Programs may increase if 4 hours is added to the total hourly curriculum. Additionally, both state and local law enforcement agencies will incur costs related to hiring instructors and purchasing equipment for the 4-hour dart-firing stun gun training, regardless of whether the 4 hours is added to or included within the current hourly training requirements.

It appears that the costs relating to the *annual* training of officers will be the responsibility of individual agencies rather than FDLE.¹⁰

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁸ Rule 11B-35.002, F.A.C.

⁹ The Florida Department of Corrections pays for its prospective COs and CPOs to attend their Basic Recruit Training Programs. The Department also pays its recruits a trainee salary while enrolled. The Department estimates that if the 4-hours of training required by this bill has is added to the current hourly requirements, it will cost more than \$500,000. This figure does not include the cost of equipment necessary for the training.

¹⁰ FDLE states that the annual one-hour dart-firing stun gun training requirement is not a mandate on the CJSTC or the Criminal Justice Professionalism Program (housed within FDLE and responsible for maintaining documentation on required continued education for criminal justice officers). Thus, the continuing education requirement has no impact on FDLE.

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take 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:

The bill does not specify whether the 4 hours of training would be included in the current hourly training requirements for LEOs (672), COs (532), and CPOs (424) or whether the 4 hours would be in addition to those training requirements.

It is unclear from the bill's provisions whether currently certified officers would be required to complete the 4 hours of dart-firing stun gun training, the one hour of annual training, or both.

The bill provides that COs and CPOs must undergo a minimum of 4-hours training in the use of dart-firing stun guns as part of their respective Basic Recruit Training Programs. The Department of Corrections reports that they do not use "dart-firing stun guns" and have no plans to use such devices in the future.¹¹ The Florida Highway Patrol has also reported that they do not use dart-firing stun guns.

The bill provides that an LEO, CO, or CPO's decision to use a "dart-firing stun gun" must involve an arrest or custodial situation where the person subject to the arrest or custody escalates resistance to the officer from "passive physical resistance" to "active physical resistance." The above-quoted terms are not defined in the bill or otherwise in statute.

As noted above, there are many different types of stun guns (touch guns, some that fire probes, etc...), and different types (guns that deliver the shock through a stream of water or via laser) are being developed. This bill specifically addresses the use of "dart-firing stun guns," thus excluding from its provisions any other type of stun gun that an LEO, CO, or CPO may carry.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

¹¹ The Department reports that although they currently use hand-held electronic immobilization devices (EIDs), such devices are not considered "dart-firing" and would not fall under the purview of the bill.

A bill to be entitled

An act relating to dart-firing stun guns; creating s. 943.1717, F.S.; providing circumstances during which law enforcement, correctional, and correctional probation officers may employ a dart-firing stun gun; requiring the Criminal Justice Standards and Training Commission to establish standards for instruction in the use of dart-firing stun guns in self defense and in the use of deadly force; requiring that a minimum number of hours in such training be included in the basic skills course required for certification; providing an effective date.

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

Section 1. Section 943.1717, Florida Statutes, is created to read:

943.1717 Use of dart-firing stun guns.--

(1) A law enforcement, correctional, or correctional probation officer's decision to use a dart-firing stun gun must involve an arrest or a custodial situation during which the person who is the subject of the arrest or custody escalates resistance to the officer from passive physical resistance to active physical resistance and the person:

(a) Has the apparent ability to physically threaten the officer or others; or

(b) Is preparing or attempting to flee or escape.

(2) The Criminal Justice Standards and Training Commission shall establish standards for instructing law enforcement,

29 correctional, and correctional probation officers in the use of
 30 dart-firing stun guns in self-defense and in the use of deadly
 31 force. The instructional standards must include the effect a
 32 dart-firing stun gun has on persons who are under the influence
 33 of alcohol or drugs.

34 (3) Each basic skills course required for certification as
 35 a law enforcement, correctional, or correctional probation
 36 officer must include instruction on the use of dart-firing stun
 37 guns. The portion of the basic skills course on the use of stun
 38 guns must be a minimum of 4 hours' duration.

39 (4) After completing the basic skills course, each law
 40 enforcement, correctional, and correctional probation officer
 41 must complete an annual training course on the use of dart-
 42 firing stun guns. The annual training course on the use of stun
 43 guns must be a minimum of 1 hour duration.

44 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 327 Sexual and Career Offenders
SPONSOR(S): Porth
TIED BILLS: IDEN./SIM. BILLS: SB 646

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Criminal Justice Committee, [blank], Kramer [signature], Kramer [signature].

SUMMARY ANALYSIS

HB 327 expands the list of criminal offenses which qualify an individual for sexual offender or sexual predator registration. The list is expanded to include the offense of selling or buying a minor into sex trafficking or prostitution and the offense of sexual misconduct by a Department of Juvenile Justice program employee with a juvenile offender.

HB 327 amends the definition of the term "institution of higher education" for the purposes of the sexual predator and sexual offender statutes to include career centers. This will require a sexual predator or sexual offender to notify law enforcement and require law enforcement, in turn, to notify the career center when a sexual offender or sexual predator is employed or enrolled there.

HB 327 revises the operational date used for career offender registration from January 1, 2003 to July 1, 2002.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill may require an increased number of individuals to register as sexual predators or sexual offenders.

Promote personal responsibility: Offenders who have been convicted of certain criminal offenses will be required to register as a sexual predator or sexual offender.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Sexual Predator Registration: As of November 17, 2005, there were 5,492 sexual predators in the state registry. 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 imprisonment¹ 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 child⁵ 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

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.]

sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony.

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 Florida Department of Law Enforcement (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 Department of Highway Safety and Motor Vehicles (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. This information is provided to FDLE which maintains the statewide registry of all sexual predators and sexual offenders (discussed further below). The department maintains a searchable web-site containing the names and addresses of all sexual predators and offenders as well as a toll-free telephone number.

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. A sexual predator must report in person every six months to the sheriff's office in the county in which he or she resides to reregister.¹¹

A sexual predator's failure to comply with registration requirements is a third degree felony.¹² 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.¹³

Sexual offender registration: As of November 17, 2005, there were 30,583 sexual offenders in the state registry. In very general terms, the distinction between a sexual predator and a sexual offender is based on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense and the date the offense occurred. Specifically, a sexual offender is a person who has been convicted of one of the following offenses and has been released on or after October 1, 1997 from the sanction imposed for the offense:

1. kidnapping, false imprisonment or luring or enticing a child¹⁴ where the victim is a minor and the defendant is not the victim's parent;
2. sexual battery;¹⁵

¹¹ s. 775.21(8), F.S.

¹² s. 775.21(10), F.S.

¹³ S. 775.21(10)(b), F.S.

¹⁴ s. 787.025, F.S.

3. procuring a person under the age of 18 for prostitution;¹⁶
4. lewd or lascivious offenses;
5. lewd or lascivious battery on an elderly person;¹⁷
6. promoting sexual performance by a child;¹⁸
7. selling or buying a minors for child pornography;
8. selling or showing obscenity to a minor;¹⁹
9. using a computer to solicit sexual conduct of or with a minor;²⁰
10. transmitting child pornography;²¹
11. transmitting material harmful to minors;²²
12. violating of a similar law of another jurisdiction.

A sexual offender is required to report and register in a manner similar to a sexual predator. Failure of a sexual offender to comply with the registration requirements is a third degree felony.

Effect of Proposed Changes

HB 327 amends the definition of "institution of higher education" within the sexual predator and sexual offender statutes to include career centers. As a result, a sexual predator or sexual offender who is enrolled, employed or carrying on a vocation at a career center will be required to provide to FDLE the name, address and county of the institution as well as additional information and will be required to report any change in enrollment or employment status to the sheriff or Department of Corrections as appropriate. The sheriff will be required to notify the career center of the sexual predator's presence and any change in enrollment or employment status. The change to the definition of institution of higher education is intended to ensure compliance with the federal Campus Sex Crimes Prevention Act.²³

HB 327 adds to the list of offenses that qualify a person for sexual offender or sexual predator registration the offense of sexual misconduct by a Department of Juvenile Justice program employee (or an employee of a program operated by a provider under a contract with the department) with a juvenile offender.²⁴ HB 327 also adds the offense of selling or buying of a minor into sex trafficking or prostitution.²⁵ As such, a person who commits one of these offenses and has a previous conviction for this offense, or another qualifying offense, must be designated a sexual predator. A person who has been convicted of one of these offenses (and has no other prior qualifying offense) will be considered a sexual offender. HB 327 also adds these offenses to the list of offenses which preclude a sexual predator from working or volunteering at a place where children regularly congregate.

The bill clarifies that a person who lives in Florida and has been designated as a sexual predator or sexual offender and who is subject to registration or public notification in another state must register as a sexual offender in Florida, even if the person does not otherwise qualify as a sexual predator or sexual offender under Florida law. According to the FDLE "[t]his change will help ensure compliance with the requirements of the Federal Jacob Wetterling Act mandating state to state notification upon the movement of offenders."

¹⁵ Excluded are offenses contained in ss. 794.011(10) and 794.0235, F.S.

¹⁶ s. 796.03, F.S.

¹⁷ s. 825.1025(2)(b), F.S.

¹⁸ s. 827.071, F.S.

¹⁹ s. 847.0133, F.S.

²⁰ s. 847.0135, F.S.

²¹ s. 847.0137, F.S.

²² s. 847.0138, F.S.

²³ Codified at 42 U.S.C. 14071(j)

²⁴ s. 985.4045(1), F.S.

²⁵ s. 796.035, F.S.

HB 327 revises the operational date used for career offender registration from January 1, 2003 to July 1, 2002.

C. SECTION DIRECTORY:

Section 1. Amends s. 775.21, F.S., relating to Florida Sexual Predators Act to add qualifying offenses.

Section 2. Amends s. 775.261, F.S., relating to Florida Career Offender Registration Act.

Section 3. Amends s. 943.0435, F.S., relating to sexual offender registration to modify definitions and add qualifying offenses.

Section 4. Amends s. 944.606, relating to sexual offender notification upon release.

Section 5. Amends s. 944.607, F.S. relating to sexual offender registration to add qualifying offenses.

Section 6. Provides effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

HB 327 will require a person who has been convicted of the offense of sexual misconduct by an employee of the Department of Juvenile Justice or of the offense of selling or buying a minor into sex trafficking to register as a sexual predator or a sexual offender. FDLE has indicated that the changes made by the bill to the sexual offender and sexual predator laws will have a minor impact on the functions of their respective registries. The department states that "[m]odifications and updates will be made to electronic and print training and educational materials and forms. Updates will disburse to local law enforcement, other criminal justice partners and registrants advising of modification to these laws."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

HB 327 may have a fiscal impact on a person who is required by the bill to register as a sexual predator or sexual offender.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

A bill to be entitled

An act relating to sexual and career offenders; amending s. 775.21, F.S.; revising the definition of "institution of higher education" to include a career center; revising provisions relating to use of prior felonies for sexual predator determination; amending s. 775.261, F.S.; revising an operational date used for career offender registration; expanding applicability of registration requirements; amending s. 943.0435, F.S.; revising language relating to the definition of "sexual offender"; revising the definition of "institution of higher education" to include a career center; revising a provision relating to an offender's driver license or identification card renewal; amending s. 944.606, F.S.; revising language relating to the definition of "sexual offender"; amending s. 944.607, F.S.; revising language relating to the definition of "sexual offender"; revising the definition of "institution of higher education" to include a career center; providing an effective date.

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

Section 1. Paragraph (h) of subsection (2), paragraphs (a) and (b) of subsection (4), paragraph (d) of subsection (5), and paragraph (b) of subsection (10) of section 775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.--

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

29 (h) "Institution of higher education" means a career
 30 center, community college, college, state university, or
 31 independent postsecondary institution.

32 (4) SEXUAL PREDATOR CRITERIA.--

33 (a) For a current offense committed on or after October 1,
 34 1993, upon conviction, an offender shall be designated as a
 35 "sexual predator" under subsection (5), and subject to
 36 registration under subsection (6) and community and public
 37 notification under subsection (7) if:

38 1. The felony is:

39 a. A capital, life, or first-degree felony violation, or
 40 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
 41 is a minor and the defendant is not the victim's parent, or of
 42 chapter 794, s. 800.04, or s. 847.0145, or a violation of a
 43 similar law of another jurisdiction; or

44 b. Any felony violation, or any attempt thereof, of s.
 45 787.01, s. 787.02, or s. 787.025, where the victim is a minor
 46 and the defendant is not the victim's parent; chapter 794,
 47 excluding ss. 794.011(10) and 794.0235; s. 796.03; s. 796.035;
 48 s. 800.04; s. 825.1025(2)(b); s. 827.071; ~~or~~ s. 847.0145; or s.
 49 985.4045(1); or a violation of a similar law of another
 50 jurisdiction, and the offender has previously been convicted of
 51 or found to have committed, or has pled nolo contendere or
 52 guilty to, regardless of adjudication, any violation of s.
 53 787.01, s. 787.02, or s. 787.025, where the victim is a minor
 54 and the defendant is not the victim's parent; s. 794.011(2),
 55 (3), (4), (5), or (8); s. 794.05; s. 796.03; s. 796.035; s.
 56 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135; ~~or~~ s.

57 | 847.0145; or s. 985.4045(1); ~~or~~ or a violation of a similar law of
 58 | another jurisdiction;

59 | 2. The offender has not received a pardon for any felony
 60 | or similar law of another jurisdiction that is necessary for the
 61 | operation of this paragraph; and

62 | 3. A conviction of a felony or similar law of another
 63 | jurisdiction necessary to the operation of this paragraph has
 64 | not been set aside in any postconviction proceeding.

65 | (b) In order to be counted as a prior felony for purposes
 66 | of this subsection, the felony must have resulted in a
 67 | conviction sentenced separately, or an adjudication of
 68 | delinquency entered separately, prior to the current offense and
 69 | sentenced or adjudicated separately from any other felony
 70 | conviction that is to be counted as a prior felony regardless of
 71 | the date of offense of the prior felony.

72 | (5) SEXUAL PREDATOR DESIGNATION.--An offender is
 73 | designated as a sexual predator as follows:

74 | (d) A person who establishes or maintains a residence in
 75 | this state and who has not been designated as a sexual predator
 76 | by a court of this state but who has been designated as a sexual
 77 | predator, as a sexually violent predator, or by another sexual
 78 | offender designation in another state or jurisdiction and was,
 79 | as a result of such designation, subjected to registration or
 80 | community or public notification, or both, or would be if the
 81 | person was a resident of that state or jurisdiction, without
 82 | regard to whether the person otherwise meets the criteria for
 83 | registration as a sexual offender, shall register in the manner
 84 | provided in s. 943.0435 or s. 944.607 and shall be subject to

85 community and public notification as provided in s. 943.0435 or
 86 s. 944.607. A person who meets the criteria of this section is
 87 subject to the requirements and penalty provisions of s.
 88 943.0435 or s. 944.607 until the person provides the department
 89 with an order issued by the court that designated the person as
 90 a sexual predator, as a sexually violent predator, or by another
 91 sexual offender designation in the state or jurisdiction in
 92 which the order was issued which states that such designation
 93 has been removed or demonstrates to the department that such
 94 designation, if not imposed by a court, has been removed by
 95 operation of law or court order in the state or jurisdiction in
 96 which the designation was made, and provided such person no
 97 longer meets the criteria for registration as a sexual offender
 98 under the laws of this state.

99 (10) PENALTIES.--

100 (b) A sexual predator who has been convicted of or found
 101 to have committed, or has pled nolo contendere or guilty to,
 102 regardless of adjudication, any violation, or attempted
 103 violation, of s. 787.01, s. 787.02, or s. 787.025, where the
 104 victim is a minor and the defendant is not the victim's parent;
 105 s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.
 106 796.035; s. 800.04; s. 827.071; s. 847.0133; ~~or~~ s. 847.0145; or
 107 s. 985.4045(1); ~~or~~ a violation of a similar law of another
 108 jurisdiction~~;~~ when the victim of the offense was a minor, and
 109 who works, whether for compensation or as a volunteer, at any
 110 business, school, day care center, park, playground, or other
 111 place where children regularly congregate, commits a felony of
 112 the third degree, punishable as provided in s. 775.082, s.

113 775.083, or s. 775.084.

114 Section 2. Paragraph (a) of subsection (3) of section
 115 775.261, Florida Statutes, is amended to read:

116 775.261 The Florida Career Offender Registration Act.--

117 (3) CRITERIA FOR REGISTRATION AS A CAREER OFFENDER.--

118 (a) A career offender released on or after July 1, 2002
 119 ~~January 1, 2003~~, from a sanction imposed in this state ~~for a~~
 120 ~~designation as a habitual violent felony offender, a violent~~
 121 ~~career criminal, or a three-time violent felony offender under~~
 122 ~~s. 775.084 or as a prison releasee reoffender under s.~~

123 ~~775.082(9)~~ must register as required under subsection (4) and is
 124 subject to community and public notification as provided under
 125 subsection (5). For purposes of this section, a sanction imposed
 126 in this state includes, but is not limited to, a fine,
 127 probation, community control, parole, conditional release,
 128 control release, or incarceration in a state prison, private
 129 correctional facility, or local detention facility, and:

130 1. The career offender has not received a pardon for any
 131 felony or other qualified offense that is necessary for the
 132 operation of this paragraph; or

133 2. A conviction of a felony or other qualified offense
 134 necessary to the operation of this paragraph has not been set
 135 aside in any postconviction proceeding.

136 Section 3. Paragraphs (a) and (d) of subsection (1),
 137 paragraph (a) of subsection (4), and paragraph (c) of subsection
 138 (11) of section 943.0435, Florida Statutes, are amended to read:

139 943.0435 Sexual offenders required to register with the
 140 department; penalty.--

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

142 (a) "Sexual offender" means a person who meets the
 143 criteria in subparagraph 1., subparagraph 2., or subparagraph
 144 3., as follows:

145 1.a. Has been convicted of committing, or attempting,
 146 soliciting, or conspiring to commit, any of the criminal
 147 offenses proscribed in the following statutes in this state or
 148 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
 149 or s. 787.025, where the victim is a minor and the defendant is
 150 not the victim's parent; chapter 794, excluding ss. 794.011(10)
 151 and 794.0235; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s.
 152 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s.
 153 847.0145; or s. 985.4045(1); or any similar offense committed in
 154 this state which has been redesignated from a former statute
 155 number to one of those listed in this sub-subparagraph
 156 subparagraph; and

157 b.2- Has been released on or after October 1, 1997, from
 158 the sanction imposed for any conviction of an offense described
 159 in sub-subparagraph a. subparagraph 1-. For purposes of sub-
 160 subparagraph a. subparagraph 1-, a sanction imposed in this
 161 state or in any other jurisdiction includes, but is not limited
 162 to, a fine, probation, community control, parole, conditional
 163 release, control release, or incarceration in a state prison,
 164 federal prison, private correctional facility, or local
 165 detention facility; ~~or~~

166 2.3- Establishes or maintains a residence in this state
 167 and who has not been designated as a sexual predator by a court
 168 of this state but who has been designated as a sexual predator,

169 as a sexually violent predator, or by another sexual offender
 170 designation in another state or jurisdiction and was, as a
 171 result of such designation, subjected to registration or
 172 community or public notification, or both, or would be if the
 173 person were a resident of that state or jurisdiction, without
 174 regard to whether the person otherwise meets the criteria for
 175 registration as a sexual offender; or

176 3.4. Establishes or maintains a residence in this state
 177 who is in the custody or control of, or under the supervision
 178 of, any other state or jurisdiction as a result of a conviction
 179 for committing, or attempting, soliciting, or conspiring to
 180 commit, any of the criminal offenses proscribed in the following
 181 statutes or similar offense in another jurisdiction: s. 787.01,
 182 s. 787.02, or s. 787.025, where the victim is a minor and the
 183 defendant is not the victim's parent; chapter 794, excluding ss.
 184 794.011(10) and 794.0235; s. 796.03; s. 796.035; s. 800.04; s.
 185 825.1025; s. 827.071; s. 847.0133; s. 847.0135; s. 847.0137; s.
 186 847.0138; s. 847.0145; or s. 985.4045(1); or any similar offense
 187 committed in this state which has been redesignated from a
 188 former statute number to one of those listed in this
 189 subparagraph.

190 (d) "Institution of higher education" means a career
 191 center, community college, college, state university, or
 192 independent postsecondary institution.

193 (4)(a) Each time a sexual offender's driver's license or
 194 identification card is subject to renewal, and, without regard
 195 to the status of the offender's ~~predator's~~ driver's license or
 196 identification card, within 48 hours after any change in the

197 offender's permanent or temporary residence or change in the
 198 offender's name by reason of marriage or other legal process,
 199 the offender shall report in person to a driver's license
 200 office, and shall be subject to the requirements specified in
 201 subsection (3). The Department of Highway Safety and Motor
 202 Vehicles shall forward to the department all photographs and
 203 information provided by sexual offenders. Notwithstanding the
 204 restrictions set forth in s. 322.142, the Department of Highway
 205 Safety and Motor Vehicles is authorized to release a
 206 reproduction of a color-photograph or digital-image license to
 207 the Department of Law Enforcement for purposes of public
 208 notification of sexual offenders as provided in ss. 943.043,
 209 943.0435, and 944.606.

210 (11) A sexual offender must maintain registration with the
 211 department for the duration of his or her life, unless the
 212 sexual offender has received a full pardon or has had a
 213 conviction set aside in a postconviction proceeding for any
 214 offense that meets the criteria for classifying the person as a
 215 sexual offender for purposes of registration. However, a sexual
 216 offender:

217 (c) As defined in subparagraph (1) (a) ~~2.3~~, must maintain
 218 registration with the department for the duration of his or her
 219 life until the person provides the department with an order
 220 issued by the court that designated the person as a sexual
 221 predator, as a sexually violent predator, or by another sexual
 222 offender designation in the state or jurisdiction in which the
 223 order was issued which states that such designation has been
 224 removed or demonstrates to the department that such designation,

225 | if not imposed by a court, has been removed by operation of law
 226 | or court order in the state or jurisdiction in which the
 227 | designation was made, and provided such person no longer meets
 228 | the criteria for registration as a sexual offender under the
 229 | laws of this state.

230 | Section 4. Paragraph (b) of subsection (1) of section
 231 | 944.606, Florida Statutes, is amended to read:

232 | 944.606 Sexual offenders; notification upon release.--

233 | (1) As used in this section:

234 | (b) "Sexual offender" means a person who has been
 235 | convicted of committing, or attempting, soliciting, or
 236 | conspiring to commit, any of the criminal offenses proscribed in
 237 | the following statutes in this state or similar offenses in
 238 | another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where
 239 | the victim is a minor and the defendant is not the victim's
 240 | parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.
 241 | 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
 242 | 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or
 243 | s. 985.4045(1); or any similar offense committed in this state
 244 | which has been redesignated from a former statute number to one
 245 | of those listed in this subsection, when the department has
 246 | received verified information regarding such conviction; an
 247 | offender's computerized criminal history record is not, in and
 248 | of itself, verified information.

249 | Section 5. Paragraphs (a) and (c) of subsection (1) of
 250 | section 944.607, Florida Statutes, are amended to read:

251 | 944.607 Notification to Department of Law Enforcement of
 252 | information on sexual offenders.--

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

254 (a) "Sexual offender" means a person who is in the custody
 255 or control of, or under the supervision of, the department or is
 256 in the custody of a private correctional facility:

257 1. On or after October 1, 1997, as a result of a
 258 conviction for committing, or attempting, soliciting, or
 259 conspiring to commit, any of the criminal offenses proscribed in
 260 the following statutes in this state or similar offenses in
 261 another jurisdiction: s. 787.01, s. 787.02, or s. 787.025, where
 262 the victim is a minor and the defendant is not the victim's
 263 parent; chapter 794, excluding ss. 794.011(10) and 794.0235; s.
 264 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
 265 847.0133; s. 847.0135; s. 847.0137; s. 847.0138; s. 847.0145; or
 266 s. 985.4045(1); or any similar offense committed in this state
 267 which has been redesignated from a former statute number to one
 268 of those listed in this paragraph; or

269 2. Who establishes or maintains a residence in this state
 270 and who has not been designated as a sexual predator by a court
 271 of this state but who has been designated as a sexual predator,
 272 as a sexually violent predator, or by another sexual offender
 273 designation in another state or jurisdiction and was, as a
 274 result of such designation, subjected to registration or
 275 community or public notification, or both, or would be if the
 276 person were a resident of that state or jurisdiction, without
 277 regard as to whether the person otherwise meets the criteria for
 278 registration as a sexual offender.

279 (c) "Institution of higher education" means a career
 280 center, community college, college, state university, or

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281 | independent postsecondary institution.

282 | Section 6. This act shall take effect July 1, 2006.