



December 2012

Report No. 12-12

Registered Sex Offenders in Florida Communities Increased to Over 23,000; Transient Offenders Present Challenges

at a glance

Since 2005, the number of registered sex offenders residing in Florida communities has increased by 28%, while the number of absconded offenders has continued to decline.

Florida is 1 of 15 states substantially compliant with federal requirements and county sheriffs' offices report compliance with statutorily required registration and public notification activities. However, local practices vary and some sheriffs could better coordinate with the Department of Corrections so as to not duplicate address verification efforts.

Almost 25% of sex offenders are unable to obtain identification cards because they lack the needed documentation or money. State and local agencies have developed a stopgap measure, providing sex offenders with a letter that acknowledges that they attempted to obtain identification.

Monitoring homeless sex offenders is problematic as it is time-consuming to verify their location and provide required public notice. In addition, some offenders may claim a transient address to avoid legal requirements and restrictions.

Approximately 1,100 registered sex offenders were minors at the time of their offense. While many youthful offenders are subject to registration requirements, Florida law provides some exemptions for "Romeo and Juliet" cases and some other juvenile offenders.

Scope

As directed by Chapter 2005-28, *Laws of Florida*, OPPAGA studied the effectiveness of Florida's sexual offender registration, address verification, public notification provisions, and monitoring of sex offenders.^{1, 2, 3}

Background

Beginning in 1994, the federal government passed multiple laws to establish guidelines and requirements for states to track sex offenders and inform the public of their presence. Over time, Florida's sex offender laws have evolved to meet, and in some cases exceed, federal requirements.

The 2005 Florida Legislature passed the Jessica Lunsford Act, requiring sex offenders to re-register twice a year in person with the sheriff of the county in which they reside.⁴ In 2007, the Legislature further required sexual predators, juvenile sex offenders adjudicated

¹ Chapter 2005-28, *Laws of Florida*.

² "Sex offender" is used in this report as an inclusive term to denote convicted felons who are sex offenders or predators having committed certain crimes. Generally, a sexual predator has committed a more serious or repeat sex crime than a sex offender and under Florida law, a court must make an official finding that an offender is a sexual predator.

³ As directed by this law, we previously published *Florida's State, County, Local Authorities Are Implementing Jessica Lunsford Act*, OPPAGA [Report No. 06-03](#), January 2006, and *Sex Offender Registration and Public Notification Improved; Some Aspects of the Process Could Be Streamlined*, OPPAGA [Report No. 08-60](#), October 2008.

⁴ Chapter 2005-28, *Laws of Florida*, is known as the Jessica Lunsford Act.

delinquent, and sex offenders convicted of certain crimes to re-register four times a year, and required driver license and identification cards issued to registered sex offenders to display distinctive information on the front to identify them as sexual offenders or predators.^{5,6}

All sex offenders and sexual predators that are required to register have been convicted of certain qualifying felonies set forth in Florida statutes. The sex offender registration laws do not apply to acts like public urination or “streaking,” which are typically punished as disorderly conduct or some other misdemeanor offense, and thus are not qualifying offenses for registration. Sexual predators are sex offenders who present an extreme threat to public safety as demonstrated through repeated sex offenses, the use of physical violence, or preying on child victims.

Some sex offenders are supervised in the community by the Department of Corrections.⁷ Most of these offenders are subject to high levels of supervision by specialized probation officers. Some sex offenders are also subject to statutorily defined conditions, including not being allowed to reside within 1,000 feet of a school, playground, or daycare center, or being required to submit to DNA testing or sex offender treatment.

The Florida Department of Law Enforcement (FDLE) maintains a sex offender registry, which is a statewide system for collecting and disseminating sex offender information to both the public and law enforcement agencies. Information available to the public includes the offender’s address, photo, and type of sex offense(s) as well as a description and tag number of all vehicles registered to the offender. Additional information available to law

enforcement includes work address, home or cellular telephone number, and any electronic mail address or instant message name.

Florida’s monitoring of sex offenders consists of four main activities:

- Registration requirements. Certain sex offenders who are released from prison or placed on supervision must register with the sheriff in the county where they live within 48 hours of establishing or changing a permanent, temporary, or transient residence. These offenders also must re-register two or four times a year based on their conviction(s) and status.
- Identification requirements. All sex offenders required to register must also attempt to obtain a driver license or identification card from the Department of Highway Safety and Motor Vehicles within 48 hours of registration and notify that agency within 48 hours of any change of address.^{8,9}
- Address verification. The Department of Corrections and local law enforcement agencies are responsible for verifying sex offender addresses in a manner that is consistent with federal laws and standards. The Department of Corrections is responsible for conducting address verifications for offenders under its supervision, while local law enforcement is responsible for verifying all others.
- Community notification. FDLE is responsible for statewide public notification efforts. FDLE informs the public of the location of sex offenders and provides information via the Internet and sex offender registry and a toll-free, nationwide hotline.¹⁰ In Fiscal Year 2011-12, the department handled approximately 15,400 incoming calls to the hotline, had almost 4

⁵ Sex offenders as defined in s. [943.0435](#), *F.S.*; sex offenders under the custody, control, or supervision of the Department of Corrections as defined in s. [944.607](#), *F.S.*; sexual predators as defined in s. [775.21](#), *F.S.*; and juvenile sex offenders adjudicated delinquent as described in s. [943.0435](#)(1)(a)d., *F.S.*

⁶ Section [322.141](#), *F.S.*

⁷ The Department of Juvenile Justice also supervises a small number of juvenile sex offenders.

⁸ Section [943.0435](#), *F.S.*

⁹ By June 30, 2015, local tax collectors will perform driver’s license related functions previously conducted by the Department of Highway Safety and Motor Vehicles, including processing sex offender identification requests, for 64 of Florida’s 67 counties.

¹⁰ Chapter [97-299](#), *Laws of Florida*.

million sex offender-related searches on its website, and sent over 2 million e-mail notifications regarding the addresses of sex offenders.

Local law enforcement agencies are required to notify the public of the presence of sexual predators living in their community. Within 48 hours, law enforcement agencies must notify licensed child care centers and schools within a one-mile radius of the predator’s residence. In addition, local law enforcement agencies, or the Department of Corrections if an offender is on community supervision, must also notify institutions of higher learning of a sex offender’s enrollment or employment at the institution of higher learning, such as a community college or state university.

Findings

The number of registered sex offenders has increased

Since 2005, the percentage increase in registered sex offenders in Florida communities has outpaced the percentage of state population growth and the number of predators has almost doubled. During this time, the number of absconded offenders has decreased 45%.

Over the past six years, the number of registered sex offenders has increased. The number of registered sex offenders residing in Florida communities has grown by 28%, from 18,607 in 2005 to 23,813 in 2012. (See Exhibit 1.) During this same time period, the state population grew by roughly 6.5%. The number of predators in Florida communities has increased 96%, from 1,222 in 2005 to 2,400 in 2012. For more information on the total number of offenders on the Florida sex offender registry, including those incarcerated or living in other states, see Appendix A.¹¹

¹¹ As of August 1, 2012, there were 58,390 total offenders on the registry, including offenders who were incarcerated or living out of state.

Exhibit 1 The Number of Registered Sex Offenders Residing in Florida Communities Has Increased to Approximately 23,800

Type of Offender	Number of Registered Sex Offenders by Year		
	2005	2008	2012
Predators	1,222	1,620	2,400
Offenders	17,385	19,090	21,413
Total	18,607	20,710	23,813

Source: OPPAGA analysis of Florida Department of Law Enforcement Florida Sex Offender Registry data as of August 1, 2012.

The number of Florida registered sex offenders classified as absconded has continued to decline. The number of sex offenders whose whereabouts are unknown has declined as monitoring and data collection efforts have increased.¹² As shown in Exhibit 2, the total number of absconded offenders decreased 45%, from 1,259 in 2005 to 693 in 2012. While the number of absconded predators has remained about the same, the total number of predators on the registry has almost doubled.

Exhibit 2 The Number of Registered Sex Offenders Classified as Absconded Has Decreased Over Time

Type of Offender	Number Absconded by Year		
	2005	2008	2012
Predators	45	45	47
Offenders	1,214	816	646
Total	1,259	861	693

Source: OPPAGA analysis of Florida Department of Law Enforcement Florida Sex Offender Registry data as of August 1, 2012.

According to FDLE staff, several factors appear to have contributed to this continued reduction in absconded sex offenders. These factors include the department’s hiring of absconder analysts to actively monitor the sex offender registry to identify absconders quickly. In addition, FDLE and local sheriffs’ offices are working with the U.S. Marshals Service to locate absconded sex offenders. Data access

¹² Florida’s State, County, Local Authorities Are Implementing Jessica Lunsford Act, OPPAGA Report No. 06-03, January 2006.

and quality has also improved. Local law enforcement agencies have increased access to information from other states' sex offender registries and also use federal and state databases to identify and locate absconders.

Florida is substantially compliant with federal requirements, with local practices varying; interagency coordination could be improved

Florida has satisfied federal standards for sex offender registration and public notification. Our survey of county sheriffs found that they are fulfilling these requirements with variations in local practices. While statewide standards for address verification are being met, utilization of officer resources could be improved through better interagency coordination.

Florida is 1 of 15 states substantially compliant with federal requirements. The federal Sex Offender Registration and Notification Act (SORNA) provides a comprehensive set of minimum standards for sex offender registration and notification in the United States.¹³ These minimum standards address elements such as the immediate transfer of information, requirements for website registries, and community notification. In May 2010, the U.S. Department of Justice found that Florida had substantially implemented the requirements of the act.¹⁴ Jurisdictions who fail to substantially implement SORNA requirements risk losing a portion of their federal Byrne/Justice Assistance Grant (JAG) funds.¹⁵ In Fiscal Year 2012-13, Florida's compliance resulted in \$435,709 of continued federal funding for FDLE's statewide sex offender registration efforts.

The Florida Legislature and FDLE continue efforts to further comply with federal

requirements. For example, the 2012 Legislature passed two bills that added offenses related to human trafficking and video voyeurism to the list of offenses that require convicted individuals to register as sex offenders. Also, FDLE is assisting the Seminole Tribe of Florida to implement SORNA requirements on tribal lands.

County sheriffs' offices report they are complying with minimum statewide requirements; however, local practices vary. In our survey of all 67 county sheriffs' offices, officials reported that they are routinely complying with statutorily required registration and public notification activities, such as requiring sex offenders to register and re-register in person at the sheriff's office, submitting information to the FDLE registry, and notifying licensed child care centers and schools within a one-mile radius of a predator's residence.¹⁶

County sheriffs' offices reported varying policies for offenders who are late or fail to re-register. For example, some sheriffs' offices reported that they allow a grace period while others will arrest an offender who is one day late for re-registration. Over half (41) of the sheriffs' offices exercise some discretion in arresting or applying for a warrant for first-time late registration, whereas 34% (23) always arrest late registrants or immediately seek a warrant for a failure to register offense.

The state does convict sex offenders for failure to register offenses. From August 1, 2011 to July 31, 2012, 916 offenders were convicted of offenses related to registration violations. Most were incarcerated, with approximately 53% (482) of the offenders convicted receiving a state prison sentence and 30% (276) a jail sentence.¹⁷ While most received sentences of

¹³ Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248).

¹⁴ In addition to Florida, 14 other states, Alabama, Delaware, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nevada, Ohio, South Carolina, South Dakota, Tennessee, and Wyoming, as well as two territories and 31 tribal jurisdictions, were found to be substantially implemented.

¹⁵ Jurisdictions include the 50 states, five principal U.S. territories, and Indian tribes that elect to function as registration jurisdictions under 42 U.S.C. § 16927.

¹⁶ We received completed survey responses from 66 of the 67 county sheriffs' offices. One survey respondent did not fully complete the survey section on public notification.

¹⁷ Failure to register is a third degree felony punishable by imprisonment in a state prison. However, if sentenced to less than one year and a day, an offender may be sentenced to imprisonment in a county jail. Sections [943.0435\(9\)\(a\)](#) and [775.08](#), F.S.

two years or less, some were sentenced to five years. Other offenders received probation.

Seven sheriffs' offices also reported that they have begun requiring offenders to pay for their registration and/or re-registration. Fees for initial registration range from \$10 to \$75 and re-registration from \$10 to \$25.¹⁸ While charging offenders may help offset the sheriff's expense for conducting registration and re-registration activities, it is unclear if the cost could act as a deterrent to timely compliance.

County sheriffs' offices continue to use different methods to notify their communities when a predator moves into an area. These include television, newspaper inserts, and social media such as Facebook and Twitter. Geographically targeted efforts include presentations to community watch meetings, postcard mail-outs, and door-to-door notification. Six county sheriffs' offices report contracting with A Child is Missing, a nonprofit organization based in Fort Lauderdale that delivers public service messages via telephone when a registered predator moves into a neighborhood. While notification strategies vary considerably across Florida's 67 counties, 94% of sheriffs' offices responding to our survey reported that statutory requirements for public notification are sufficient to inform their communities of the presence of sexual predators.

Address verification procedures of Florida's county sheriffs and the Department of Corrections exceed those required by federal law, but agency coordination could be improved. Florida law requires that local law enforcement and the Department of Corrections verify sex offender addresses in a manner consistent with federal laws and standards.¹⁹ The Adam Walsh Child Protection and Safety Act of 2006 at a minimum requires regular face-to-face contact between a law

enforcement official and the offender.²⁰ Florida's registration and re-registration activities fulfill this requirement as offenders must re-register two or four times a year based on their conviction(s) and status.

Most sheriffs' offices exceed federal and state verification requirements. In all but one county, sheriffs' offices reported conducting in-person address verifications at an offender's residence at least once a year. In addition, approximately 81% of sheriffs' offices reported conducting in-person address verifications for sexual predators three or more times a year and all reported conducting in-person address verifications for predators at least once a year.

Florida statute requires local law enforcement agencies to verify the addresses of sexual offenders who are not under the Department of Corrections supervision.²¹ However, most sheriffs' offices (76%) are conducting in-person address verifications of offenders supervised by the Department of Corrections, despite citing limited resources as an impediment to their address verification efforts.

Department of Corrections community corrections procedures are detailed and specific with regard to sex offender monitoring and address verification procedures. Probation officers are required to conduct frequent in-person address verifications for all sex offenders under departmental supervision.

While both sheriffs' offices and the Department of Corrections are conducting address verifications for supervised offenders in three-quarters of Florida counties, 31% of sheriffs' offices surveyed reported there was little or no coordination between their office and the department in regard to monitoring sex offenders. Typically, sheriffs' office staff can access information on the date and time of the department's in-person visits on the sex

¹⁸ Some counties reported that the fee could be waived for indigent offenders.

¹⁹ Section [943.0435\(6\)](#), *F.S.*

²⁰ The frequency of face-to-face contact is dependent on the seriousness of offense and may be annual, biannual, or quarterly.

²¹ Section [943.0435\(6\)](#), *F.S.*

offender registry within 24 hours; sheriffs' offices could use this data to avoid duplicative checks by their offices. Coordination activities such as periodic oversight meetings, protocols for information sharing, or joint address verification efforts could also be useful in some jurisdictions.

State and local agencies have developed a stopgap measure for sex offenders unable to obtain identification cards

Florida law requires sex offenders who are required to register to attempt to obtain valid state identification cards and keep their address information current. We found that approximately 25% of sex offenders are unable to obtain identification cards either because they lack the needed documentation or money to pay required fees.

Almost 25% of sex offenders are unable to obtain identification cards. Sex offenders legally required to register are also required to attempt to obtain a Florida license or identification card and keep their address information current.²²

In response to some sex offenders' inability to obtain the required license or identification cards, the Department of Highway Safety and Motor Vehicles (DHSMV) field offices issue letters stating that the offenders reported to DHSMV and attempted to comply but "could not produce the required identification, documentation and/or money needed." While issuance of this letter does not fulfill the offender's statutory requirement, local law enforcement agencies accept the letter as an indication that the offender has attempted to comply.²³ (See Appendix B for a sample sex offender identification card and letter.)

During the period from August 1, 2011, to July 31, 2012, local DHSMV offices processed requests for identification from 22,329 sex offenders. Of that number, the department provided a letter to 5,194 (23.3%) sex offenders who could not provide the required documentation and/or money to pay for the identification card or driver license.²⁴

Despite the addition of a transient residency status to the registry, the monitoring of homeless sex offenders continues to present special challenges for local law enforcement agencies

One of the purposes of the sex offender registry is to inform the public of the presence of sex offenders within their communities, including their addresses or locations. As we previously reported, homeless sex offenders present challenges to the registration and notification process.²⁵ Although the Legislature created a transient residency status in 2010, homeless offenders continue to be difficult for law enforcement agencies to locate and they consume a disproportionate amount of officer time. In addition, some stakeholders report that sex offenders may claim to be transient even though they have a permanent or temporary address.

²² The federal Real ID Act requires all applicants produce proof of identification, such as a valid passport or original birth certificate, as well as a social security card and two documents that show their address, in order to obtain identification.

²³ The sex offenders' inability to obtain the required license or identification cards does not prevent the registry and other relevant databases from being updated with offender information.

²⁴ The fees range from \$25.00 to \$54.25, depending on the type of identification (i.e., identification card or driver license) and the location where it is obtained.

²⁵ *Sex Offender Registration and Public Notification Improved: Some Aspects of the Process Could Be Streamlined*, OPPAGA Report No. 08-60, October 2008; *Florida's State, County, Local Authorities Are Implementing Jessica Lunsford Act*, OPPAGA Report No. 06-03, January 2006.

The 2010 Legislature added a “transient” residency status to Florida statutes for sex offenders. In our previous report on sex offender registration, we found that some sex offender addresses were listed on the registry as transient, with no location indicated.²⁶ The use of the term “transient” in lieu of an address or location description made it impossible for law enforcement to verify the address or provide public notification of the sex offender’s whereabouts.

The 2010 Legislature amended the sex offender statutes by creating a new “transient” address classification, defined as “a place or county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person’s permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.”²⁷ Under the amendment, offenders claiming a transient address are required to provide an address, location, or description of where they are staying.²⁸

Monitoring transient offenders is still problematic. Giving site-specific information for an address provides law enforcement and the public with better information about the likely location of these sex offenders. However, even when a geographic description is provided, the mobility of these offenders means that they may not be present at the locations when officers attempt to verify their addresses. As a result, these offenders may require a disproportionate amount of law enforcement time.

Approximately 40% of the sheriffs’ offices we surveyed reported that difficulty in locating transient offenders was a major impediment to address verification. Sheriffs’ offices report that homeless offenders move frequently due

to weather conditions, conflict with other homeless individuals, and transportation limitations. During the time between re-registrations (three months for predators, six months for offenders), the location of these sex offenders is difficult to determine, therefore making it challenging and time-consuming to verify addresses or provide the required public notice. In an effort to improve monitoring, some sheriffs’ offices require homeless offenders to call in weekly.

The transient status does not identify all homeless persons. As of August 1, 2012, the sex offender registry included 924 offenders who reported a transient residence in Florida. However, OPPAGA identified an additional 360 registered sex offenders with a homeless shelter or jail as their only permanent or temporary address. Homeless shelters and jails may meet the statutory criteria for a permanent or temporary residence since the statutory definition is based on a stay of five days.²⁹ Although law enforcement may be aware that the given address is a homeless shelter, its use as a permanent address gives the public the appearance that these sex offenders have a regular, fixed lodging place.

Offenders claiming a transient address status are a growing issue in some counties. Sheriff office staff in some counties also expressed concern that offenders may falsely classify themselves as transient to avoid address verification and public notification, and to circumvent residential restriction laws and ordinances.³⁰ For example, an offender may say that he is transient, but actually be residing with a family member or friend. While failure

²⁶ *Sex Offender Registration and Public Notification Improved: Some Aspects of the Process Could Be Streamlined*, OPPAGA Report No. 08-60, October 2008.

²⁷ Chapter 2010-92, *Laws of Florida*. Sections 775.21(2)(k)-(m), *F.S.*

²⁸ Section 775.21(6)(a)1., *F.S.*

²⁹ Sections 775.21(2)(k)-(m), *F.S.*, designates three residency categories: a “permanent residence” is a place where a person resides for five or more consecutive days; a “temporary residence” is a place that is not the sex offender’s permanent residence, but where they lodge for five or more days in a calendar year, including travel destinations, employment locations, and housing while enrolled as a student.

³⁰ Section 775.215(3)(a), *F.S.*, provides that individuals convicted of certain sexual crimes cannot reside within 1,000 feet of any school, day care center, park, or playground. Many municipalities and counties have also passed ordinances that further restrict where certain sex offenders can live. As of August 2012, there were 152 such ordinances in 43 counties.

to comply with registration requirements is punishable as a third degree felony, law enforcement officials stated that they lack the resources to detect offenders claiming to be transient but who may actually have what would qualify as a permanent residence.³¹

Many youthful offenders are subject to sex offender registration requirements, though Florida law allows for exemptions

Florida’s juvenile sex offenders are subject to the same registration requirements and registry disclosure as adult offenders. In some cases, Florida law does provide relief from registration requirements for certain juvenile and youthful offenders.

Juvenile offenders can be subject to Florida’s sex offender registration laws. Juvenile sex offenders who are required to register have the same responsibilities as adult offenders, including re-registration and identification requirements. They also are subject to address verification, public notification, and their information, including home address and photo, is made available to the public on the statewide sex offender registry. Juveniles qualify for sex offender status either by being adjudicated delinquent in a juvenile court or being tried and convicted as an adult in criminal court. As shown in Exhibit 3, most juvenile sex offenders required to register were convicted as adults.

**Exhibit 3
Most Juveniles Required to Register Were Convicted as Adults¹**

	Number of Registered Sex Offenders that were Minors at the Time of Offense
Adjudicated Delinquent	195
Convicted as an Adult in Criminal Court	905
Total	1,100

¹ Data includes only offenders convicted in Florida.
Source: Florida Department of Law Enforcement.

Any juvenile convicted as an adult of a qualifying sexual offense who meets the criteria specified in statute is required to register as a sexual offender or predator.^{32, 33} State attorneys make the decision on whether or not to try a juvenile as an adult. This decision is usually based on the type of crime, facts surrounding the case, as well as the juvenile’s prior record. While laws regarding criminal prosecution of juveniles in adult courts vary from state to state, all states have laws that allow juveniles to be tried as adults at least in some cases.

The federal Sex Offender Registration and Notification Act (SORNA) requires juveniles at least 14 years of age, who are adjudicated delinquent for a crime comparable to or more severe than an aggravated sexual abuse crime, to register as sex offenders. To comply with this requirement, Florida statute requires juveniles adjudicated delinquent on or after July 1, 2007, for committing or attempting certain sexual offenses when they were 14 years of age or older at the time of the offense to register as sexual offenders.³⁴ At least 37 states have statutory laws requiring sex offender registration of at least some juveniles adjudicated delinquent for qualifying offenses.

Florida law provides that juveniles adjudicated delinquent may petition for relief from registration requirements if they have been lawfully released from confinement, supervision, or sanction for at least 25 years, and if they have not been arrested for any felony or misdemeanor offense since release.³⁵ If the court denies the petition, the court may set a future date at which the offender may again petition for relief.

³² Sections [943.0435](#) and [775.21](#), F.S.

³³ Under Florida law, youth 14 years of age can be tried as adults, and youth of any age who have been charged with violation of a state law punishable by death or life imprisonment can be charged as an adult.

³⁴ Section [943.0435\(1\)\(a\)1.d.](#), F.S.

³⁵ Section [943.0435\(11\)\(a\)1.](#), F.S.

³¹ Section [943.0435\(9\)\(a\)](#), F.S.

Florida law provides relief for youthful offenders in “Romeo and Juliet” cases. The 2007 Legislature passed Florida’s “Romeo and Juliet” law, which created a mechanism for juvenile offenders to file a motion or petition in state court for the removal of the registration requirement if they meet certain criteria. Most notably, the victim must be at least 14 years-old, the offender no more than 4 years older than the victim at the time of the offense, and the victim must have consented to the sexual conduct.^{36, 37, 38}

State attorneys may object to an offender’s motion or petition for relief. Reasons for objection include the offender’s criminal history, if the offender provided drugs or alcohol to the victim, if the offender had multiple charged and uncharged relationships with minors, or if the offender was in a position of authority over the victim.

Under Florida’s “Romeo and Juliet” law, an offender is limited to one motion or petition. If the court does not grant the motion or petition, the offender must wait 25 years after completion of sentence before he or she can petition the court, but only if the offender was a minor at the time of the offense and adjudicated delinquent. As of August 2, 2012, registry records indicate 283 individuals had been granted relief from the requirement to register.

³⁶ Federal Sex Offender Registration and Notification Act (SORNA) provisions (42 U.S.C. 16911) allow the victim to be at least 13 years of age.

³⁷ Section [943.04354](#), *F.S.*, requires that a registration removal not conflict with federal law. Section 111(5)(C) of the Adam Walsh Act requires consensual sexual conduct. “Consent” as defined in s. [800.04\(1\)\(b\)](#), *F.S.*, “means intelligent, knowing, and voluntary consent, and does not include submission by coercion.” “Consent” as defined in s. [794.011\(1\)\(a\)](#), *F.S.*, “means intelligent, knowing, and voluntary consent and does not include coerced submission. ‘Consent’ shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.”

³⁸ Section [794.05](#), *F.S.*, only addresses an offender’s registry requirement and does not make any of the qualifying offenses legal. The sexual conduct associated with these offenses is still a crime when the victim is 15 years of age or younger, even if both of the participants are minors and the act was consensual. For minors ages 16 to 17, Florida law provides an age-gap provision that allows a 16- or 17-year-old to legally consent to sexual conduct with a person 16 to 23 years of age.

Policy Options

To maximize law enforcement resources, the Department of Corrections and county sheriffs’ offices could coordinate address verification efforts on offenders currently under the department’s supervision. The department has specific procedures with regard to supervising sex offenders in the community and is statutorily required to verify their addresses and transmit this information to the sex offender registry in a timely manner.³⁹ While sheriffs’ offices may wish to continue conducting address verifications for new sex offender residences, relying on the department for routine monitoring and address verification could help sheriffs’ offices that cited limited staff resources as an impediment to address verification. Coordination activities such as periodic oversight meetings, protocols for information sharing, or joint address verification efforts could also be useful in some jurisdictions.

To improve information available to the public and law enforcement about homeless and transient registered sex offenders, the Legislature could amend the statutory definition of “transient residence” to require even more specific information about an offender’s location within a county.

Agency Response

In accordance with the provisions of s. 11.51(2), *Florida Statutes*, a draft of our report was submitted to the Commissioner of the Florida Department of Law Enforcement. The department’s written response has been reproduced in Appendix C.

³⁹ Sections [944.607\(4\)\(a\)](#) and [944.607\(5\)](#), *F.S.*

Appendix A

The Florida Department of Law Enforcement's Registry Lists Over 58,000 Sex Offenders

As shown below, FDLE's registry listed 58,390 offenders as of August 1, 2012. The table shows all adult and juvenile (i.e., 17-years-old or younger as of August 1, 2012) sex offenders and sexual predators on the registry including those confined (incarcerated or civilly committed) and those who are non-Florida residents.

Approximately 41% of Registered Sex Offenders and Sexual Predators are Living in Florida Communities

Status		Sex Offenders	Sexual Predators	All
Adults	Living in Florida Communities			
	Sentence Served - Required to Register	16,553	1,129	17,682
	Community Supervision	4,840	1,271	6,111
	Department of Corrections	4,623	1,269	
	Department of Juvenile Justice	20	0	
	Federal	197	2	
	Total	21,393	2,400	23,793 40.8%
	Not Living in Florida Communities			
	Confined	11,038	6,002	17,040
	Incarcerated	10,689	5,747	
	Civilly Committed	349	255	
	Non-Florida Residents	15,797	1,020	16,817
	Total	26,837	7,022	33,854 58.0%
	Absconded¹	646	47	693 1.2%
Juveniles	Living in Florida Communities			
	Sentence Served - Required to Register	3	0	3
	Community Supervision	17	0	17
	Department of Corrections	1	0	
	Department of Juvenile Justice	16	0	
	Total	20	0	20 40.0%
	Not Living in Florida Communities			
	Confined	23	4	27
Non-Florida Residents	3	0	3	
Total	26	4	30 60.0%	
Total Persons on Registry as of August 1, 2012		48,917	9,473	58,390²

¹ Absconded offenders may or may not be in Florida communities as their whereabouts are unknown.

² The registry also includes 264 deceased persons: 237 sex offenders and 27 sexual predators, whose names are left on the registry so that victims will see that they have been reported as deceased.

Source: Florida Department of Law Enforcement.

Appendix B

Florida Department of Highway Safety and Motor Vehicles Issues Identification or Letters to Sex Offenders

As shown below, the Florida Department of Highway Safety and Motor Vehicles issues identification cards and driver licenses that display the statutory reference for either the sex offender or sexual predator designation. Registered offenders unable to obtain identification are issued a letter stating that they attempted to comply, that they can submit to their county sheriff's office.



Julie L. Jones
Executive Director

2900 Apalachee Parkway
Tallahassee, Florida 32399-0500
www.flhsmv.gov

Date

To Whom it May Concern:

Joseph A. Sample reported on this date to the Division of Motorist Services, Department of Highway Safety and Motor Vehicles as required under Chapter 943 or 775, Florida Statutes.

The above named individual at the time of reporting could not produce the required identification, documentation and/or money needed to secure a Florida driver license or a Florida identification card.

The issuance of this form does not fulfill the requirement to obtain a Florida driver's license or identification card as required in Chapter 943 or 775, Florida Statutes.

Please keep a copy of this letter for your records.

Sincerely,

Clayton B. Walden
DIRECTOR

Clayton Boyd Walden, Director
 Division of Motorist Services
 2900 Apalachee Parkway
 Tallahassee, Florida, 32399

Source: Florida Department of Highway Safety and Motor Vehicles.

Appendix C



Florida Department of
Law Enforcement

Gerald M. Bailey
Commissioner

Office of Executive Director
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Rick Scott, *Governor*
Pam Bondi, *Attorney General*
Jeff Atwater, *Chief Financial Officer*
Adam Putnam, *Commissioner of Agriculture*

December, 14, 2012

Phillip Twogood, Coordinator
OPPAGA
111 West Madison Street
Claude Pepper Building, Room 312
Tallahassee, FL 32399-1475

Mr. Twogood:

FDLE acknowledges receipt of *Registered Sex Offenders in Florida Communities Increased to Over 23,000; Transient Offenders Present Challenges*. Thank you for the opportunity to review, comment and suggest clarifications to the early draft.

It is important to note that while some registrants have difficulty paying fees or providing identification documentation to update or obtain a driver's license or identification card, critical information is immediately provided to the state registry, law enforcement systems and the registry website as it is collected by the Department of Highway Safety and Motor Vehicles. The physical license or identification card is not issued until the registrant returns and provides the fees or documentation. And while there may be a fiscal benefit to eliminating duplicate registrant address/location verifications, it should be noted that other public safety benefits are often gleaned from this part of the process.

Despite the complexities and challenges of administering the system, Florida remains a national model. The Florida registry maintains a remarkably low percentage of absconded registrants; it has decreased from 4.37 percent in 2005 to 1.23 percent, despite the 65 percent increase in number of registrants.

Thank you for the time and attention your staff provided in the development of this report.

Sincerely,



Gerald M. Bailey
Commissioner

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OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

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