



## Legislation Text

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**File #:** 11551, **Version:** 1

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### **TITLE**

Proposed Ordinance Creating New Article XIV of Chapter 21 of County Code, to be Entitled "Protection From Sexual Offenders and Sexual Predators"

### **BRIEF OVERVIEW**

Pursuant to Fla. Stat. § 944.606(2), the protection of the public from sexual offenders, particularly those who have committed offenses against minors, is a paramount governmental interest. To that end, Fla. Stat. §§ 947.1405 and 948.30 provide for 1,000-foot residency prohibitions from specified locations for certain sexual offenders and sexual predators. The Legislature has not preempted counties from adopting by ordinance their own requirements, provided, that the ordinance's requirements are not less restrictive than those imposed by the above-referenced statutes. Hernando County, however, has not adopted such an ordinance.

At the request of the Hernando County Sheriff's Office, the County has drafted the attached, proposed ordinance. The proposed ordinance, if enacted, will create a sexual offender and sexual predator residency prohibition article in the Hernando County Code, pursuant to which:

- A. Sexual offenders and sexual predators would be prohibited from residing within 1,000 feet of specified locations in the County. Distances shall be measured from the outermost property line of the parcel upon which the residence is located running in a direct line to the outermost property line of the prohibited location.
- B. To avoid violating the federal and state constitutions, the proposed ordinance exempts predators and offenders from the residency restrictions who: (1) established their permanent residence prior to the ordinance's effective date; (2) were minors at the time of their offense and were not convicted as adults; (3) are minors; or (4) established their personal residences before the prohibited location came into existence.
- C. The County and the Sheriff would be authorized to designate the Hernando County Jail as the emergency shelter for predators and offenders.
- D. The Sheriff would be authorized to impose a registration fee.
- E. Restricts predators and offenders from celebrating holidays in a manner that they could use to lure victims.
- F. With certain legally required exceptions, prohibits predators and offenders from loitering within 1,000 feet of a prohibited location.

Please note that while Hernando County can enact a distance restriction greater than 1,000 feet, it is constitutionally prohibited from adopting a restriction which, as applied, will effectively banish

predators and offenders from the County. Any ordinance adopted by Hernando County, therefore, must balance the prohibition on banishment with the duty to protect potential victims from unnecessary interactions with predators and offenders.

### **FINANCIAL IMPACT**

No financial impact for the Board of County Commissioners, however, the Sheriff's Office would be authorized to impose a registration fee.

### **LEGAL NOTE**

The Board is authorized to enact the proposed ordinance pursuant to Fla. Stat. § 125.01.

### **RECOMMENDATION**

It is recommended that the Board hear public comment on this matter after which it may vote to enact the proposed ordinance.