



Legislation Text

File #: 12377, Version: 1

TITLE

Proposed Ordinance Amending Article XIV of Chapter 21 of County Code, 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.

Since adoption of Article XIV of Chapter 21 of the County Code, concerns have been raised regarding potential vagueness of the prohibition against certain displays at the residences of sexual offenders and sexual predators as well as First Amendment issues related to posting of signs at the residences of sexual offenders and sexual predators on Halloween.

At the request of the Hernando County Sheriff's Office, the County has drafted the attached, proposed amended ordinance. The proposed ordinance, if enacted, will amend Article XIV of Chapter 21 of the Hernando County Code, pursuant to which:

- A. Restricts predators and offenders from celebrating holidays with specifically defined displays in a manner that they could use to lure victims; and
- B. Removes the requirement that sexual offenders and sexual predators post signs at their residences on Halloween or on any date when Halloween is celebrated.

Please note that while Hernando County can enact requirements that would achieve the compelling government interest of the protection of children from unnecessary interactions with sexual offenders and sexual predators, it must balance the ordinance's achievement of that interest with First Amendment rights under the United States Constitution. Moreover, the ordinance must be drafted in a way to reasonably inform a person of the conduct that it prevents.

FINANCIAL IMPACT

No financial impact for the Board of County Commissioners.

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.