



164268

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2021	.	
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	.	
	.	

The Committee on Rules (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 362 - 704
and insert:

Section 2. The Legislature finds that the opinion in *State v. James*, 298 So.3d 90 (Fla. 2d DCA 2020), is contrary to legislative intent and that a person's failure to pay a fine does not relieve him or her of the requirement to register as a sexual offender pursuant to s. 943.0435. The Legislature intends that a person must register as a sexual offender pursuant to s. 943.0435 when he or she has been convicted of a qualifying



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12 offense and, on or after October 1, 1997, has:

13 (1) No sanction imposed upon conviction; or

14 (2) Been released from a sanction imposed upon conviction.

15 Section 3. Paragraph (h) of subsection (1), paragraph (b)
16 of subsection (2), paragraphs (a) and (e) of subsection (4), and
17 subsections (7) and (11) of section 943.0435, Florida Statutes,
18 are amended to read:

19 943.0435 Sexual offenders required to register with the
20 department; penalty.—

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

22 (h)1. "Sexual offender" means a person who meets the
23 criteria in sub-subparagraph a., sub-subparagraph b., sub-
24 subparagraph c., or sub-subparagraph d., as follows:

25 a.(I) Has been convicted of committing, or attempting,
26 soliciting, or conspiring to commit, any of the criminal
27 offenses proscribed in the following statutes in this state or
28 similar offenses in another jurisdiction: s. 393.135(2); s.
29 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
30 the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former
31 s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.
32 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
33 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
34 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
35 s. 895.03, if the court makes a written finding that the
36 racketeering activity involved at least one sexual offense
37 listed in this sub-sub-subparagraph or at least one offense
38 listed in this sub-sub-subparagraph with sexual intent or
39 motive; s. 916.1075(2); or s. 985.701(1); or any similar offense
40 committed in this state which has been redesignated from a



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41 former statute number to one of those listed in this sub-sub-
42 subparagraph; and

43 (II) Has been released on or after October 1, 1997, from a
44 ~~the~~ sanction imposed for any conviction of an offense described
45 in sub-sub-subparagraph (I) and does not otherwise meet the
46 criteria for registration as a sexual offender under chapter 944
47 or chapter 985. For purposes of this sub-sub-subparagraph ~~(I)~~, a
48 sanction imposed in this state or in any other jurisdiction
49 means ~~includes, but is not limited to, a fine, probation,~~
50 community control, parole, conditional release, control release,
51 or incarceration in a state prison, federal prison, private
52 correctional facility, or local detention facility. If no
53 sanction is imposed the person is deemed to be released upon
54 conviction;

55 b. Establishes or maintains a residence in this state and
56 who has not been designated as a sexual predator by a court of
57 this state but who has been designated as a sexual predator, as
58 a sexually violent predator, or by another sexual offender
59 designation in another state or jurisdiction and was, as a
60 result of such designation, subjected to registration or
61 community or public notification, or both, or would be if the
62 person were a resident of that state or jurisdiction, without
63 regard to whether the person otherwise meets the criteria for
64 registration as a sexual offender;

65 c. Establishes or maintains a residence in this state who
66 is in the custody or control of, or under the supervision of,
67 any other state or jurisdiction as a result of a conviction for
68 committing, or attempting, soliciting, or conspiring to commit,
69 any of the criminal offenses proscribed in the following



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70 statutes or similar offense in another jurisdiction: s.
71 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
72 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
73 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
74 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
75 s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;
76 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;
77 s. 847.0145; s. 895.03, if the court makes a written finding
78 that the racketeering activity involved at least one sexual
79 offense listed in this sub-subparagraph or at least one offense
80 listed in this sub-subparagraph with sexual intent or motive; s.
81 916.1075(2); or s. 985.701(1); or any similar offense committed
82 in this state which has been redesignated from a former statute
83 number to one of those listed in this sub-subparagraph; or
84 d. On or after July 1, 2007, has been adjudicated
85 delinquent for committing, or attempting, soliciting, or
86 conspiring to commit, any of the criminal offenses proscribed in
87 the following statutes in this state or similar offenses in
88 another jurisdiction when the juvenile was 14 years of age or
89 older at the time of the offense:
90 (I) Section 794.011, excluding s. 794.011(10);
91 (II) Section 800.04(4)(a)2. where the victim is under 12
92 years of age or where the court finds sexual activity by the use
93 of force or coercion;
94 (III) Section 800.04(5)(c)1. where the court finds
95 molestation involving unclothed genitals;
96 (IV) Section 800.04(5)(d) where the court finds the use of
97 force or coercion and unclothed genitals; or
98 (V) Any similar offense committed in this state which has



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99 been redesignated from a former statute number to one of those
100 listed in this sub-subparagraph.

101 2. For all qualifying offenses listed in sub-subparagraph
102 1.d., the court shall make a written finding of the age of the
103 offender at the time of the offense.

104
105 For each violation of a qualifying offense listed in this
106 subsection, except for a violation of s. 794.011, the court
107 shall make a written finding of the age of the victim at the
108 time of the offense. For a violation of s. 800.04(4), the court
109 shall also make a written finding indicating whether the offense
110 involved sexual activity and indicating whether the offense
111 involved force or coercion. For a violation of s. 800.04(5), the
112 court shall also make a written finding that the offense did or
113 did not involve unclothed genitals or genital area and that the
114 offense did or did not involve the use of force or coercion.

115 (2) Upon initial registration, a sexual offender shall:

116 (b) Provide his or her name; date of birth; social security
117 number; race; sex; height; weight; hair and eye color; tattoos
118 or other identifying marks; fingerprints; palm prints;
119 photograph; employment information; address of permanent or
120 legal residence or address of any current temporary residence,
121 within the state or out of state, including a rural route
122 address and a post office box; if no permanent or temporary
123 address, any transient residence within the state, address,
124 location or description, and dates of any current or known
125 future temporary residence within the state or out of state; the
126 make, model, color, vehicle identification number (VIN), and
127 license tag number of all vehicles owned; home telephone numbers



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128 and cellular telephone numbers; electronic mail addresses;
129 Internet identifiers and each Internet identifier's
130 corresponding website homepage or application software name;
131 date and place of each conviction; and a brief description of
132 the crime or crimes committed by the offender. A post office box
133 may not be provided in lieu of a physical residential address.
134 The sexual offender shall also produce his or her passport, if
135 he or she has a passport, and, if he or she is an alien, shall
136 produce or provide information about documents establishing his
137 or her immigration status. The sexual offender shall also
138 provide information about any professional licenses he or she
139 has.

140 1. If the sexual offender's place of residence is a motor
141 vehicle, trailer, mobile home, or manufactured home, as defined
142 in chapter 320, the sexual offender shall also provide to the
143 department through the sheriff's office written notice of the
144 vehicle identification number; the license tag number; the
145 registration number; and a description, including color scheme,
146 of the motor vehicle, trailer, mobile home, or manufactured
147 home. If the sexual offender's place of residence is a vessel,
148 live-aboard vessel, or houseboat, as defined in chapter 327, the
149 sexual offender shall also provide to the department written
150 notice of the hull identification number; the manufacturer's
151 serial number; the name of the vessel, live-aboard vessel, or
152 houseboat; the registration number; and a description, including
153 color scheme, of the vessel, live-aboard vessel, or houseboat.

154 2. If the sexual offender is enrolled or employed, whether
155 for compensation or as a volunteer, at an institution of higher
156 education in this state, the sexual offender shall also provide



157 to the department the name, address, and county of each
158 institution, including each campus attended, and the sexual
159 offender's enrollment, volunteer, or employment status. The
160 sheriff, the Department of Corrections, or the Department of
161 Juvenile Justice shall promptly notify each institution of
162 higher education of the sexual offender's presence and any
163 change in the sexual offender's enrollment, volunteer, or
164 employment status.

165 3. A sexual offender shall report to the department through
166 the department's online system or in person to the sheriff's
167 office within 48 hours after any change in vehicles owned to
168 report those vehicle information changes.

169
170 When a sexual offender reports at the sheriff's office, the
171 sheriff shall take a photograph, a set of fingerprints, and palm
172 prints of the offender and forward the photographs, palm prints,
173 and fingerprints to the department, along with the information
174 provided by the sexual offender. The sheriff shall promptly
175 provide to the department the information received from the
176 sexual offender.

177 (4) (a) Each time a sexual offender's driver license or
178 identification card is subject to renewal, and, without regard
179 to the status of the offender's driver license or identification
180 card, within 48 hours after any change in the offender's
181 permanent, temporary, or transient residence or change in the
182 offender's name by reason of marriage or other legal process,
183 the offender shall report in person to a driver license office,
184 or through an authorized alternate method as provided by the
185 Department of Highway Safety and Motor Vehicles, and is subject



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186 to the requirements specified in subsection (3). The Department
187 of Highway Safety and Motor Vehicles shall forward to the
188 department all photographs and information provided by sexual
189 offenders. Notwithstanding the restrictions set forth in s.
190 322.142, the Department of Highway Safety and Motor Vehicles may
191 release a reproduction of a color-photograph or digital-image
192 license to the Department of Law Enforcement for purposes of
193 public notification of sexual offenders as provided in this
194 section and ss. 943.043 and 944.606. A sexual offender who is
195 unable to secure or update a driver license or an identification
196 card with the Department of Highway Safety and Motor Vehicles as
197 provided in subsection (3) and this subsection shall also report
198 any change in the sexual offender's permanent, temporary, or
199 transient residence or change in the offender's name by reason
200 of marriage or other legal process within 48 hours after the
201 change to the sheriff's office in the county where the offender
202 resides or is located and provide confirmation that he or she
203 reported such information to the Department of Highway Safety
204 and Motor Vehicles. The reporting requirements under this
205 paragraph do not negate the requirement for a sexual offender to
206 obtain a Florida driver license or an identification card as
207 required in this section.

208 (e)1. A sexual offender shall register all electronic mail
209 addresses and Internet identifiers, and each Internet
210 identifier's corresponding website homepage or application
211 software name, with the department through the department's
212 online system or in person at the sheriff's office within 48
213 hours after using such electronic mail addresses and Internet
214 identifiers. If the sexual offender is in the custody or



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215 control, or under the supervision, of the Department of
216 Corrections, he or she must report all electronic mail addresses
217 and Internet identifiers, and each Internet identifier's
218 corresponding website homepage or application software name, to
219 the Department of Corrections before using such electronic mail
220 addresses or Internet identifiers. If the sexual offender is in
221 the custody or control, or under the supervision, of the
222 Department of Juvenile Justice, he or she must report all
223 electronic mail addresses and Internet identifiers, and each
224 Internet identifier's corresponding website homepage or
225 application software name, to the Department of Juvenile Justice
226 before using such electronic mail addresses or Internet
227 identifiers.

228 2. A sexual offender shall register all changes to vehicles
229 owned, all changes to home telephone numbers and cellular
230 telephone numbers, including added and deleted numbers, all
231 changes to employment information, and all changes in status
232 related to enrollment, volunteering, or employment at
233 institutions of higher education, through the department's
234 online system; in person at the sheriff's office; in person at
235 the Department of Corrections if the sexual offender is in the
236 custody or control, or under the supervision, of the Department
237 of Corrections; or in person at the Department of Juvenile
238 Justice if the sexual offender is in the custody or control, or
239 under the supervision, of the Department of Juvenile Justice.
240 All changes required to be reported under this subparagraph must
241 be reported within 48 hours after the change.

242 3. The department shall establish an online system through
243 which sexual offenders may securely access, submit, and update



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244 all changes in status to vehicles owned; electronic mail
245 addresses; Internet identifiers and each Internet identifier's
246 corresponding website homepage or application software name;
247 home telephone numbers and cellular telephone numbers;
248 employment information; and institution of higher education
249 information.

250 (7) A sexual offender who intends to establish a permanent,
251 temporary, or transient residence in another state or
252 jurisdiction other than the State of Florida shall report in
253 person to the sheriff of the county of current residence at
254 least ~~within~~ 48 hours before the date he or she intends to leave
255 this state to establish residence in another state or
256 jurisdiction or at least 21 days before the date he or she
257 intends to travel ~~if the intended residence of 5 days or more is~~
258 outside of the United States. Any travel that is not known by
259 the sexual offender at least 48 hours before he or she intends
260 to establish a residence in another state or jurisdiction, or 21
261 days before the departure date for travel outside of the United
262 States, must be reported in person to the sheriff's office as
263 soon as possible before departure. The sexual offender shall
264 provide to the sheriff the address, municipality, county, state,
265 and country of intended residence. For international travel, the
266 sexual offender shall also provide travel information,
267 including, but not limited to, expected departure and return
268 dates, flight number, airport of departure, cruise port of
269 departure, or any other means of intended travel. The sheriff
270 shall promptly provide to the department the information
271 received from the sexual offender. The department shall notify
272 the statewide law enforcement agency, or a comparable agency, in



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273 the intended state, jurisdiction, or country of residence, or
274 the intended country of travel, of the sexual offender's
275 intended residence or intended travel. The failure of a sexual
276 offender to provide his or her intended place of residence or
277 intended travel is punishable as provided in subsection (9).

278 (11) Except as provided in s. 943.04354, a sexual offender
279 shall maintain registration with the department for the duration
280 of his or her life unless the sexual offender has received a
281 full pardon or has had a conviction set aside in a
282 postconviction proceeding for any offense that meets the
283 criteria for classifying the person as a sexual offender for
284 purposes of registration. However, a sexual offender shall be
285 considered for removal of the requirement to register as a
286 sexual offender only if the person:

287 (a)1. Has been lawfully released from confinement,
288 supervision, or sanction, whichever is later, for at least 25
289 years and has not been arrested for any felony or misdemeanor
290 offense since release, provided that the sexual offender's
291 requirement to register was not based upon an adult conviction:

- 292 a. For a violation of s. 787.01 or s. 787.02;
- 293 b. For a violation of s. 794.011, excluding s. 794.011(10);
- 294 c. For a violation of s. 800.04(4)(a)2. where the court
295 finds the offense involved a victim under 12 years of age or
296 sexual activity by the use of force or coercion;
- 297 d. For a violation of s. 800.04(5)(b);
- 298 e. For a violation of s. 800.04(5)(c)2. where the court
299 finds the offense involved the use of force or coercion and
300 unclothed genitals or genital area;
- 301 f. For a violation of s. 825.1025(2)(a);



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302 g. For any attempt or conspiracy to commit any such
303 offense;
304 h. For a violation of similar law of another jurisdiction;
305 or
306 i. For a violation of a similar offense committed in this
307 state which has been redesignated from a former statute number
308 to one of those listed in this subparagraph.
309 2. If the sexual offender meets the criteria in
310 subparagraph 1., the sexual offender may, for the purpose of
311 removing the requirement for registration as a sexual offender,
312 petition the criminal division of the circuit court of the
313 circuit:
314 a. Where the conviction or adjudication occurred, for a
315 conviction in this state;
316 b. Where the sexual offender resides, for a conviction of a
317 violation of similar law of another jurisdiction; or
318 c. Where the sexual offender last resided, for a sexual
319 offender with a conviction of a violation of similar law of
320 another jurisdiction who no longer resides in this state.
321 3. The court may grant or deny relief if the offender
322 demonstrates to the court that he or she has not been arrested
323 for any crime since release; the requested relief complies with
324 the federal Adam Walsh Child Protection and Safety Act of 2006
325 and any other federal standards applicable to the removal of
326 registration requirements for a sexual offender or required to
327 be met as a condition for the receipt of federal funds by the
328 state; and the court is otherwise satisfied that the offender is
329 not a current or potential threat to public safety. The state
330 attorney in the circuit in which the petition is filed must be



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331 given notice of the petition at least 3 weeks before the hearing
332 on the matter. The state attorney may present evidence in
333 opposition to the requested relief or may otherwise demonstrate
334 the reasons why the petition should be denied. If the court
335 denies the petition, the court may set a future date at which
336 the sexual offender may again petition the court for relief,
337 subject to the standards for relief provided in this subsection.

338 4. The department shall remove an offender from
339 classification as a sexual offender for purposes of registration
340 if the offender provides to the department a certified copy of
341 the court's written findings or order that indicates that the
342 offender is no longer required to comply with the requirements
343 for registration as a sexual offender.

344 (b) Maintains ~~As defined in sub-subparagraph (1)(h)1.b.~~
345 ~~must maintain~~ registration with the department as described in
346 sub-subparagraph (1)(h)1.b. for the duration of his or her life
347 until the person provides the department with an order issued by
348 the court that designated the person as a sexual predator, as a
349 sexually violent predator, or as any other ~~by another~~ sexual
350 offender designation in the state or jurisdiction in which the
351 order was issued which states that such designation has been
352 removed or demonstrates to the department that such designation,
353 if not imposed by a court, has been removed by operation of law
354 or court order in the state or jurisdiction in which the
355 designation was made, ~~and~~ provided that such person no longer
356 meets the criteria for registration as a sexual offender under
357 the laws of this state. To qualify for removal, all sexual
358 offenders as described in sub-subparagraph (1)(h)1.b. must not
359 only establish that their designation has been removed but also



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360 satisfy the requirements set forth in paragraph (11)(a).

361 ===== T I T L E A M E N D M E N T =====

362 And the title is amended as follows:

363 Delete lines 17 - 31

364 and insert:

365 punishable under certain provisions; providing
366 legislative findings and intent regarding the
367 construction of a provision in the definition of the
368 term "sexual offender" relating to release from
369 sanction; amending s. 943.0435, F.S.; redefining the
370 term "sexual offender" to clarify a provision related
371 to release from sanction; authorizing reporting of
372 certain registration information through the
373 Department of Law Enforcement's online system;
374 authorizing reporting of certain registration
375 information through an authorized alternate method
376 provided by the Department of Highway Safety and Motor
377 Vehicles; requiring the reporting of certain
378 additional vehicle information; clarifying a
379 requirement relating to the timing of reporting of
380 international travel or a change of residence to
381 another state or jurisdiction; specifying that failure
382 to report intended travel is punishable under certain
383 provisions; provides that an offender seeking removal
384 of the requirement to register as a sexual offender
385 must comply with current registration-removal
386 requirements; creating a process for a person to