

and affirmative obligations resembling penal supervision for life, with a minimum-mandatory six-month sentence of GPS-monitored community control and a maximum sentence of five years in prison. These sanctions apply to even trifling violations of the statute's rigid protocols, such as being an hour late or early in making an in-person report. Significantly, the Florida Legislature has never advanced any empirical basis to believe that any one of these additional burdens would reduce sexual reoffense by registrants or would otherwise protect the public from sexual harm.

3. FSORNA is premised on the notion that convicted sex offenders categorically represent an intractably high risk of sexual reoffense. This premise is widely acknowledged now to be false, particularly with respect to female registrants like Plaintiff, whose risk to reoffend is 1.8% within 5 years, after which it steeply declines. Plaintiff, whose conviction was incurred more than 5 years ago, and whose risk of reoffense was further reduced through post-conviction MDSO counseling, poses a trivial risk of reoffense, as is readily ascertainable through risk assessment instruments and psychological testing routinely used around the country, including in judicial proceedings in Florida.
4. Plaintiff was registered as a sex offender for fewer than 4 years preceding the filing of the original complaint. She has completed her sentence and brings this action for declaratory relief and seeks to enjoin enforcement against her of FSORNA's 2018 amendments restricting travel and imposing a minimum-

mandatory sentence.

Jurisdiction and Venue

5. This action arises under the Fifth, Eighth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.
6. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.
7. Supplemental jurisdiction over state law claims is authorized by 28 U.S.C. § 1367.
8. Venue properly lies within this District under 28 U.S.C. § 1391(b)(2), because Defendant resides in this District. Plaintiff now resides in the Middle District of Florida.

Parties

9. Plaintiff, 32 years old, was convicted for consensual sexual relations with a 16-year-old boy when she was 24. She was sentenced to probation, which she successfully completed, including a sex offender treatment program. She poses virtually no risk of reoffense. She is mother to a 13-year-old daughter and 4-year-old twins, a boy and a girl. She is barred from their schools and extra-curricular activities as a result of her status. She will be unable to take them for long weekends from home without making one or more in-person reports, and subjected to a minimum-mandatory criminal sentence if she inadvertently fails to comply with reporting requirements that are too vague to understand and are

enforced arbitrarily. The in-person reporting requirement generally, having to make in-person reports to the sheriff within 48 hours of any change to an ever-lengthening list of identifying information – such as hair color, weight, fresh scars, short-term car rentals, 3 days away from home in a year – is onerous, costly and time-consuming, forcing her to lose work and wages for the rest of her life. Her children will be ostracized, harassed, humiliated and shunned as the result of their mother’s status. She has been harassed and threatened at work as the result of her status. She lives in fear that she and her family will fall victim to widely-reported vigilantism against registrants, which is facilitated by FSORNA’s aggressive notification of her whereabouts. She is a “sexual offender” as defined by § 943.0435(1)(h), Florida Statutes.

10. Defendant Richard L. Swearingen is the Commissioner (also known as the Executive Director) of the Florida Department of Law Enforcement (FDLE), which is responsible for implementing many of Florida’s registration requirements. These requirements include creation and maintenance of the registry and the website containing information about the registrants; creation and maintenance of the forms specifying information that must be registered; and disclosure of the information to law enforcement agencies, commercial social networking websites, institutions of higher education and the public. He has statutory authority to implement the relief Plaintiff seeks. *See* § 943.03, Fla. Stat. (2018). References to the Commissioner or the FDLE in this Complaint are

referring to this Defendant. At all relevant times, Defendant Swearingen and his agents acted, and continue to act, under color of state law.

GENERAL FACTS

Historical Evolution of FSORNA

1997 Version of FSORNA

11. Prior to 1997, Florida had no sex offender registry or notification laws. The Florida Legislature first enacted FSORNA in 1997. § 943.0435, Fla. Stat. (1997). It applied retroactively to persons whose qualifying offenses occurred before 1997, where their sanctions were completed on or after October 1, 1997.² It required persons with qualifying convictions³ to register with their local sheriff in person, within 48 hours after establishing permanent or temporary residence in Florida,⁴ and to provide limited identifying information. Under FSORNA (1997), the FDLE was directed to provide a photograph of the registrant, and a summary of her sexual offense to the public on request. Fingerprints were also taken upon this initial registration. *See* §943.0435(2), Fla.

² Ch. 97-299, § 8, Laws of Fla., eff. Oct. 1, 1997.

³ 1997 Fla. Stat. §943.0435(1)(a) "Sex offender" means a person who has been. . . [c]onvicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or analogous offenses in another jurisdiction: § 787.025, chapter 794, § 796.03, § 800.04, § 827.071, § 847.0133, § 847.0135, § 847.0145, or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.

⁴ 1997 Fla. Stat. § 943.0435(2) defined a temporary residence as where the sex offender abides, lodges, or resides in a place for 2 consecutive weeks or less, excluding a stay of 2 consecutive weeks or less at a different residence due to a vacation or an emergency or special circumstance that requires the sex offender to leave his or her place of permanent or temporary residence for 2 weeks or less. 1997 Fla. Stat. § 943.0435(2) defines a permanent residence if the sex offender abides, lodges, or resides in a place for more than 2 consecutive weeks.

Stat. (1997). Change to the registrant's permanent or temporary address was to be reported in person within 48 hours to the Department of Highway Safety and Motor Vehicles ("DHSMV"). Failure to comply was a third-degree felony. Public notification was accomplished through a toll-free telephone number the public could use to inquire about an individual on the registry. *See* §943.043, Fla. Stat. (1997). FDLE was required to furnish anyone who asked a photo of a registrant and a summary of publicly-available information. § 943.043(3), Fla. Stat. (1997).

2021 Version of FSORNA: From Regulation to Punishment

12. FSORNA has evolved from a useful tool for police to investigate sex crimes, and for the public to take precautions around those who had committed them, into a labyrinthine trip-wired maze of ever-increasing affirmative requirements regardless of the nature of the qualifying offense, or the individual's actual or actuarial risk of reoffense.

Registration Requirements: From Minimal to Engulfing

13. As a result of multiple amendments since 1997,⁵ registration now entails an engulfing number of mandatory conditions: in-person reporting on an ever-lengthening list of occasions within ever-shortening deadlines; to multiple law enforcement agencies; of a burgeoning amount of personal information; as well

⁵ FSORNA was amended in 1998, 2000, 2002, 2004, 2005, 2007, 2009, 2010, 2012, 2013, 2014, 2016, 2017, 2018 and 2022. A chart of these amendments is attached as an Appendix to this Amended Complaint. The legislative history of these amendments does not reflect an empirical basis for any of them.

as any actual or intended changes to this information; regardless of the registrant's qualifying offense or risk to reoffend⁶; for the rest of her life.⁷ Failure to comply with any of these requirements is a third-degree felony, punishable by a **mandatory-minimum** of six months GPS-monitored community control, and a maximum of five years in prison and a \$5,000 fine.⁸ Conviction for failure to register is no remote contingency: in FY 2020-2021 alone, nearly 1,000 out of 30,180 registrants residing at liberty or under supervision in Florida – **3.3% of all registrants in the community** – were convicted of violating one of the dozens of FSORNA's requirements, 48% of whom were sentenced to prison, 23% to jail.⁹ Yet, failure-to-register violations do not predict sexual reoffense. Therefore, the costs expended in prosecuting, convicting and incarcerating registrants for technical violations of FSORNA do not protect the public from sexual reoffense. On the other hand, widespread incarceration of registrants for technical violations of FSORNA is catastrophic for their families. A registrant may invoke lack of notice as a defense for a first

⁶ §§ 943.0435(4)(c), (8), (9)(a), (14)(c)4; 943.0437(1), (2), (3), Fla. Stat. (2021).

⁷ § 943.0435(11), Fla. Stat. (2018) establishes lifetime registration unless the sexual offender has received a full pardon or has had a conviction set aside. After being lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years, some registrants, based on the nature of their qualifying offenses, may petition for removal from the registry, but only if they have not been arrested for any felony or misdemeanor since release. Other registrants must remain on the registry for life. The decision to grant removal is wholly within the trial court's discretion.

⁸ § 943.0435(11)(a)1.(a.-i.), Fla. Stat. (2021).

⁹ <https://oppaga.fl.gov/Products/ReportDetail?rn=21-10>, p. 15.

offense only, § 943.0435(9)(d), Fla. Stat. (2021),¹⁰ which no doubt adds to the high incarceration rate.

14. **Branded driver's license or other State identification.** FSORNA 1997 did not require a registrant to obtain a driver's license or other state-issued identification. FSORNA 2021 requires every registrant to obtain and to pay the associated costs for a driver's license or other state-issued identification, to report any changes to DSHMV, and to report to the sheriff when a driver's license or state identification is subject to renewal. § 943.0435(2)(b)3, Fla. Stat. (2021). Furthermore, the state-issued identification must now display her status as a sex offender through branding it with FSORNA's statute number. §§ 943.0435(3) & (3)(b), § 322.141(3), Fla. Stat. (2021). Because a driver's license is the document most frequently required to prove identity to the public, the registrant's public identity is fused with her status in even the most pedestrian transactions. There is no empirical evidence to suggest that branding a registrant's driver's license with FSORNA's statute number reduces the risk of sexual reoffense or assists police in investigating or preventing sex crimes by registrants. Routine police checks of a driver's vehicle tag or her driver's license reveals whether the tag or license owner is a registrant. Many hospitals, schools and businesses that cater to children deploy software that alerts to registrant

¹⁰ §§ 943.0435(9)(a) & (14)(c)(4), Fla. Stat. (2021). For a second offense, the mandatory-minimum sentence is one year of GPS-monitored community control; for a third, two years of GPS-monitored community control. § 943.0435(9)(b) 1., 2., 3., Fla. Stat. (2021).

status in a driver's license check. Indeed, "[f]orty-one other states do not require any designation on the identification cards of sex offenders." *Louisiana v. Hill*, 2020 WL 6145294 *1 (Oct. 20, 2020), -- So. 3d -- (La. 2020). (emphasis in original), another indication that branding Plaintiff's driver's license is unnecessary to protect the public.

15. **In-person report of changes to identifying information.** The 1997 version required in-person reporting to the DHSMV within 48 hours of changing a temporary or permanent address. § 943.0435, Fla. Stat. (1997).

16. In contrast, FSORNA 2021 requires in-person reporting within 48 hours to the sheriff and/or the DHSMV of any change to almost every item in the mountain of information divulged upon initial registration: a new tattoo (or removal of an old one) or a fresh scar; change of weight or hair color; a new or additional job, a new professional license, a change in status at an institution of higher education,¹¹ a new or newly-colored car or boat, known future temporary residences, return from temporary residences, etc. §§ 943.0435(2)(a)2, (4)(a), Fla. Stat. (2021). As noted, registrants expend considerable time and energy making multiple in-person reports of trivial changes to inessential information, even though the changes must be re-reported at re-registration. Notably, each county has only one sheriff's office. Because many Florida counties are vast and

¹¹ This includes commencement or termination of enrollment (even for online classes), a change in location of enrollment, a change in employment, paid or volunteer. § 775.21(2)(a), Fla. Stat. (2021).

sprawling, many registrants live and work at great distances from the county's only sheriff's office. Furthermore, the sheriff's offices are not necessarily open to registrants every day during business hours, but instead for fewer days and fewer hours, making it even more challenging to meet the 48-hour in-person reporting requirement. Therefore, the burden of in-person reporting multiple times a year is heavy.

17. **Temporary residence.** FSORNA 1997 defined a "permanent" residence as a place the registrant lives for **two consecutive weeks** or more, and a "temporary" residence as a place the registrant stays for two consecutive weeks or less. § 943.0435(2), Fla. Stat. (1997). It expressly exempted from the reporting requirement a stay of two weeks or less made for the purpose of vacation, hospitalization, emergency or other special circumstance. *Id.*

18. In contrast, FSORNA 2021 defines a "permanent" residence as a place the registrant lives for more than three days, and a "temporary" residence as a place the registrant stays for **three days or more in the aggregate** in any calendar year, including vacation, business or personal travel, in or out of state, and not

excluding emergencies. §§ 943.0435(1)(f) & 775.21(2)(n), Fla. Stat. (2021).¹² Legislative staff analyses of the 2018 amendment reveal no empirical basis for the change, nor any consideration whether the redefinition had any impact on the risk of registrant reoffense. The analysis noted, however, that the 2018 amendment would increase the need for prison beds,¹³ due in part to sheriffs’

¹² Some states have no definition of temporary residence as applied to state residents, but require registration of short-term residences only for visitors, employees or students. Other states require reporting of temporary residences by in-state registrants, but define temporary residence far more reasonably with respect to in-state travel. By way of comparison with FSORNA, Arizona defines temporary residence as 14 consecutive days, or an aggregate of 30 days per year, A.R.S. §§ 13-3822; Arkansas as 5 or more consecutive days in a year, A.C.A. § 12-12-903(10); California as any address at which a registrant “regularly reside[s],” Cal. Penal Code § 290.002; Colorado as 14 consecutive days or 30 days a year, C.R.S. §§ 16-22-105 - 16-22.108; Connecticut, as applied to visitors, “on a recurring basis for less than five days,” Conn. Gen. Stat. § 54-253; Delaware as greater than 2 weeks in a year, 11 Del. C. § 4120; Georgia, as applied to visitors, 14 consecutive days or more than 30 days in a year, O.C.G.A. § 42-1-12(e)(7); Hawaii, as applied to visitors, more than 10 days or an aggregate of 30 days in a year, H.R.S. §§ 846E-2, 846E-3; Idaho, as applied to temporary volunteers or employees, more than 10 consecutive days or 30 days in a calendar year, Idaho Code § 18-8303(6); Indiana, as applied to visitors, 7 days within 180-day period or 7 consecutive days or 14 days in the aggregate per year, I.C. § 11-8-8-12; Iowa, as applied to visitors, 5 calendar days in a year, Iowa Code § 692A.104-692A.105; Kansas as 3 consecutive days in one location or 10 days in a period of 30 consecutive days, K.S.A. § 22-4902; Kentucky, as applied to visitors, 14 consecutive days or 30 days in calendar year, K.R.S. § 17.510; Louisiana as 7 consecutive days, La. R.S. § 542.1.2(F)(1); Maine, as applied to visitors, 14 consecutive days or an aggregate of more than 30 days in a calendar year, MR.S. § 11224; Maryland as any place person visits for longer than 5 hours per visit more than 5 times within a 30-day period, Md. Code of Criminal Procedure, § 11-701(d)(2); Massachusetts as 14 or more aggregate days in a calendar year, or place routinely resided in for 4 or more consecutive or non-consecutive days per month, A.L.M. G.L. § 178C; Michigan as more than 7 days, M.C.L. § 28.722(p); Minnesota, as applied to visitors, more than 14 days, Minn. Stat. § 243.166(1b); Mississippi, as applied to visitors, 14 or more consecutive days in calendar year, Miss. Code Ann. § 45-33-27; Missouri, as applied to visitors, more than 7 days in 12-month period, R.S. Mo. § 589.400; Montana, as applied to visitors, 10 days or more or an aggregate of 30 days in calendar year, Mont. Code Ann. §§ 46-23-504, 46-23-505; Nebraska, as applied to visitors, 3 calendar days, N.S. Art. 40, §§ 29-4001.01, 4004; New Hampshire, as applied to visitors, more than 5 days during one-month period, R.S.A. § 65-B-1(XIII); New Jersey as 10 days, N.J. Stat. § 2C-7-2 New Mexico, 30 days or more in any 365-day period, as applied to out-of-state employees, more than 14 days or an aggregate of 30 days in a calendar year, N.M. Stat. Ann. §§ 29-11A-3(E), (H)(4); New York, as applied to in-state employees, more than 14 consecutive days or aggregate period exceeding 30 days in calendar year, N.Y. C.L.S. Corrections, § 168-a; North Carolina, as applied to new residents, 15 days in state, to employees, 14 days or more than 30 days in calendar year, N.C. Gen. Stat., Art. 27A, § 14-208.6; North Dakota as longer than 10 consecutive days, N.D. Century Code § 12-1-32-15(1)(I), (2); Oklahoma as 7 consecutive days or 14 days in 60-day period, 21 Okl. Stat. §§ 5581-590-.2; Pennsylvania as seven days or more, 42 Pa.C.S. § 9799.12; South Carolina as a place one “habitually resides” or resides for 30 or more days during a 12-month period, S.C. Code Ann. §§ 23-3-43-, 23-3-45-, 23-3-460; Tennessee as 14 or more aggregate days in calendar year, or 4 or more days in a month, Tenn. Code Ann. §§ 40-39-202, 40-39-203; Texas as 3 or more visits of 49 consecutive hours’ duration, Tex. Code Crim. Proc. 62.051, 62.055, 62.059; Vermont as 10 or more consecutive days, 13 V.S.A., C.V.R. 28-050-002 § 3.8; Virginia, as applied to visitors, 30 days or more, Va. Code Ann. § 9.1-905; Washington, as applied to visitors, 10 days or more, Rev. Code Wash. § 9A.44.130(4)(a)(iv). <https://www.google.com/search?client=safari&rls=en&q=summary+of+state+and+territorial+registration+laws+concerning+visiting+and+temporary+residence+by+adults&ie=UTF-8&oe=UTF-8>.

¹³ <https://www.flsenate.gov/Session/Bill/2018/1301/Analyses/h1301e.JDC.PDF>, pp. 1, 9.

limited days and hours for processing in-person reports.¹⁴ The implications of this definition for the registrant's ability to travel are explored next.

19. **Travel.** FSORNA 1997 did not regulate travel, except to report a new temporary or permanent residence. § 943.0435, Fla. Stat. (1997). FSORNA 2021 strictly regulates, thereby heavily burdening out-of-state and intra-state travel.
20. **Out-of-state Travel.** Under FSORNA 2021, the registrant must report in-person to the sheriff within 48 hours of leaving the state and disclose the details of her destination. § 943.0435(7), Fla. Stat. (2021). She must report to the DHSMV within 48 hours of her return, and possibly also to the sheriff, if “unable” to “update” this change of residence at the DHSMV, with proof to the sheriff that she had gone to the DHSMV first. §§ 943.0435(4)(a), (7), Fla. Stat. (2021). If she changes her mind about leaving, she must report her change of mind within 48 hours. Failure to report this change of mind is a second-degree felony. § 943.0435(8), Fla. Stat. (2021). If she had the intent to take this trip at the time of her last registration, she must report it then as well. § 943.0435(2)(b), Fla. Stat. (2021).
21. **Intra-state Travel.** FSORNA 2021 requires in-person reporting to the DHSMV “within 48 hours of any temporary residential change,” and also to the sheriff, if the DHSMV does not then “update” the change, with confirmation that she already made this report to the DHSMV. § 943.0435(4)(a), Fla. Stat.

¹⁴ <https://oppaga.fl.gov/Documents/Reports/18-08.pdf>.

(2021). Because FSORNA 2021 defines “temporary” residence to be a place the registrant stays for three days or more in the aggregate per year, the registrant must register at one or both offices in-person within 48 hours of leaving home for a three-day weekend. If she had the intent to take this trip at the time of her last registration, she must report it then as well. §§ 943.0435(2)(b) & (14)(c), Fla. Stat. (2021).

22. Unforeseen travel emergencies. Unlike FSORNA 1997, FSORNA 2021 has no provisions to accommodate unforeseen emergencies in the course of travel. For example, if the registrant intends to travel intra-state for two days, but her car breaks down, she is guilty of effecting an unreported change to her residence without having reported it. If she travels out-of-state for a one-day medical consultation, but is instead hospitalized for emergency surgical intervention, she is guilty of establishing a temporary residence without reporting it. If she has provided the hotel address for a temporary out-of-state residence, but the hotel is over-booked or crawling with bed bugs, she is guilty of changing her temporary residence without reporting it in person.¹⁵ If the sheriff’s office is closed for registration when the 48-hour reporting period has elapsed, she is guilty of failing to make a timely in-person report.

23. Ambiguity of Travel Restrictions. “Temporary residence” in § 943.0435(1)(f) (incorporating the meaning provided in § 775.21(2)(n)) is defined as “a place

¹⁵ This Court raised the same anomalies and questions in its order of partial dismissal. ECF 22, pp. 7-9.

where the person abides, lodges, or resides, including, but not limited to, vacation business or personal travel destinations in or out of this state, for a period of **3 or more days in the aggregate** during any calendar year and which is not the person's permanent address ...” A change to or from a temporary residence must be reported in person within 48 hours, first to DHSMV, then, if unable to “secure or update” a driver's license, to the sheriff's office with proof of inability to “secure or update” within the same 48 hours.

24. First, the statute does not define “day” for the purpose of the 3-day reporting requirement. Is it a full 24-hour day or a specific date? If a person arrives at a hotel destination ten minutes before midnight on May 1, is May 1 the first of three days? Or does the temporary residence consist of three consecutive 24-hour intervals commencing at check-in? Senate Bill 234 (2021) was clearly intended to resolve this ambiguity: “In calculating days for ‘temporary residence,’ the first day a person abides, lodges, or resides at a place is excluded. Each day following the first day is counted. A day includes any part of a calendar day.”¹⁶ That bill did not pass. Again, in 2022, Senate Bill 1932 was intended to resolve the ambiguity in calculating “temporary residence”: “For the purpose of calculating a day under this paragraph, the first day that a person abides, lodges, or resides at a place is excluded and each subsequent day is

¹⁶ <https://www.flsenate.gov/Session/Bill/2021/234/BillText/c2/PDF>.

counted. A day includes any part of a calendar day.”¹⁷ It likewise did not pass.

25. Second, the statute requires in-person reports “within 48 hours” of any change of residence. Does 48 hours mean 48 consecutive hours or 2 business days? And when does the 48-hour interval begin with respect to the third “day” of a 3-day trip from home?¹⁸

26. Countless registrants over the years have asked defendant the meaning of these and others travel-related words and phrases, in order to avoid getting arrested for violating the travel-related restrictions. He tells them to read the statute, hire a lawyer, or ask local law enforcement. Yet defendant provides no guidance to local law enforcement agencies about the meanings of these words and phrases, allowing individual agencies to construe the terms however they see fit. Individual agencies construe them differently. This is no surprise: as shown in the chart below, derived from pretrial discovery and the defendant’s pleadings in a similar pending case, *see Does v. Swearingen*, No. 18-cv-24145 (dismissed on statute of limitations grounds), defendant and high-ranking long-time employees Mary Coffee, Jeremy Gordon and Chad Hoffman **cannot agree among themselves** about the meaning of these words and phrases:

¹⁷ <https://www.flsenate.gov/Session/Bill/2022/1932/BillText/Filed/PDF>.

¹⁸ Most states avoid this vagueness problem by defining the reporting period in terms of business days, or increasing the number of days allowed for reporting changes, such as temporary travel. *See*, <https://www.google.com/search?client=safari&rls=en&q=summary+of+state+and+territorial+registration+laws+concerning+visiting+and+temporary+residence+by+adults&ie=UTF-8&oe=UTF-8>. This solution also avoids the impossibility problem that arises with a 48-hour reporting period, if the 48 hours elapse at a time when the sheriff’s office is closed.

Words and Phrases	Swearingen	Coffee	Gordon	Hoffman
3 days (as used in temporary residence)	Excludes first day	Different sheriffs may interpret differently	Includes first day	Includes first day
48 hours		48 consecutive hours but sheriffs may interpret differently	2 business days	48 consecutive hours
Within 48 hours before	No fewer than 48 hours before		During 48-hour interval before; could be 3-4 days before	During 48-hour interval before; could not be 3 days before
Within 48 hours after	No fewer than 48 hours after; No more than 48 hours after		During 48-hour interval after; but can do it before change	During 48-hour interval after
Secure or update driver's license	Get a new license	Not necessarily get a new license	Get a new license	No new license unless change permanent residence
When to get updated license	When vacate temporary residence	Discretion of DHSMV	After 3d day	On 3d day
When to report temporary residence		Before leaving for, upon establishing or when vacating	No need if temporary and permanent residence in Fla.; Sheriff's discretion	Must report in-person if temporary and permanent residence in Fla.; after establishing
In-Person			Could mean by phone	Could mean by phone
When "day" begins	Midnight		Upon arrival	Midnight
When "day" ends	Midnight		Close of business	Midnight
When 48-hour interval begins			After 3d day	On 3d day

27. Ambiguities like these, in the context of a third-degree felony statute with a maximum penalty of five years in prison and a minimum-mandatory penalty of six months GPS-monitored community control, deter Plaintiff from the exercise of her fundamental rights to intra-state travel, under the Florida Constitution, and to interstate travel and freedom of movement under the federal and state constitutions.

28. **Minimum-mandatory sentence.** FSORNA 1997 had no minimum-mandatory sentence for violations of its reporting requirements. FSORNA 2021 provides for a minimum-mandatory sentence of six months GPS-monitored community control for a first offense, one year for a second offense, and two years for a third or subsequent offense.

Empirical Evidence

Low risk of reoffense

29. Contrary to popular belief, convicted sex offenders have a far lower rate of recidivism than convicted felons generally. According to studies published by the United States government, an average of 5.3% of convicted sex offenders are arrested for reoffense within three years of release from prison, compared with 68% of convicted felons generally. Significantly, all convicted felons, including registrants, are at highest risk of reoffense during the first 3 years after release. But even the 5.3% reoffense rate overstates the average, because it comes from a

study consisting of only adult, male, violent offenders released from prison, a higher-risk group than registrants generally, many of whom committed non-violent offenses, and, like Plaintiff, were not sentenced to prison. Even among that study's subjects, the first-time offenders' rate of reoffense was only 3.3%. The risk that female registrants like Plaintiff will sexually reoffend is considerably lower even than that: 1.8% within five years.

30. A registrant's reoffense risk is easily ascertainable. In particular, the Static-99R, a 10-item actuarial scale that measures individual risk, can be administered within less than twenty minutes, and is more accurate than clinical assessments. It is the most widely used sex offense risk assessment tool in the world, including in Florida, which requires risk assessments to determine the right of registrants on probation to contact visitation with minors, § 948.30(e), Fla. Stat. (2021), and to identify "high-risk" registrants on community supervision. § 948.061, Fla. Stat. (2021). In addition, clinical evaluations and a battery of psychological tests already in use in a variety of judicial settings in Florida can further individualize risk determinations. As Florida's Office of Program Policy Analysis and Government Accountability (OPPAGA) reports, many states use risk assessment and other processes to determine actual risk of reoffense for the purpose of determining whether the person should be on the registry, if so for how long, and with what degree of notification and regulation.¹⁹

¹⁹ <https://oppaga.fl.gov/Products/ReportDetail?rn=21-10>, pp. 11-14.

31. Whatever risk a registrant presents on release from prison, it decreases with every year the registrant remains offense-free in the community, according to decades-long studies of large samples from around the world, including populations not subject to American-style registration statutes. After seventeen years offense-free in the community, even the highest-risk offenders, who comprise a small fraction of registrants generally, present virtually no risk of sexual reoffense.

32. Registrants like Plaintiff are statutorily required, as a condition of probation, to undergo evaluation and intensive sex offender counseling. § 948.31, Fla. Stat. (2021). The counseling, for which the registrant must pay, *id.*, and typically lasts for years, is conducted by persons who meet rigorous statutory criteria, § 948.001, Fla. Stat. (2021), and deploy polygraph tests designed to ensure their clients are not committing unreported offenses. These measures work as intended to further reduce a registrant's already-low risk of sexual reoffense. In fact, **95% of sex crime arrests are of people who have never been convicted of a sex offense, that is, people not on the registry.**

33. FSORNA, as originally enacted or as amended over the years, does not reduce whatever risk the registrant presents. A study conducted in Florida, comparing sexual reoffense rates in the eight years before and the eight years after FSORNA's original passage, found no statistically significant difference in those rates. These results are consistent with studies conducted in other states. These

results are unsurprising: most registrants are highly unlikely to sexually reoffend, and those that do account for only a tiny percentage of sex crimes generally. In fact, empirical studies establish that aggressive notification, such as that authorized by FSORNA, can increase the risk of reoffense by creating barriers to community reintegration, employment and housing.

Punitive Impacts

34. Aggressive notification falsely stigmatizes registrants as inherently dangerous persons, leading to mass revulsion towards and rejection of them, with devastating housing, economic, civic and psychosocial effects on registrants and their families. Registrants and their partners have trouble finding and keeping jobs. Landlords, condominium and housing associations do not want them as neighbors. They and their families are shamed, shunned, bullied, and ostracized. They are victimized by scammers pretending to be law enforcement officers who threaten and extort them. Their children are not invited to play dates and birthday parties; their teachers and classmates treat them with hostility; they cannot forge social ties. Worse yet, aggressive notification has led to numerous incidents of violence in Florida: vigilantes damage and deface registrants' property, threaten, attack, torture, even murder them.²⁰ Registrants and their families, including school-age children, suffer disproportionately high rates of

²⁰ See e.g., <https://twitter.com/hashtag/killyourlocalpedophile?src=hash>, a social media account that sells clothing and paraphernalia bearing this hashtag and other slogans intended to incite violence against registrants.

depression and suicidality as a result of these impacts, impeding the registrant's efforts at rehabilitation, thereby subverting FSORNA's stated purpose.

Burdens of Registration Statute on Plaintiff

35. Plaintiff pled guilty on February 6, 2017 to having consensual sexual relations when she was 24 with someone under 18 in exchange for a sentence of 7 years' probation, which was terminated early. She successfully completed sex offender treatment while on probation. Plaintiff is herself the victim of sexual abuse through childhood, suffered from depression throughout childhood, and was hospitalized for suicide attempts. She married at 14 after getting pregnant but lost her baby 8 weeks later. At 17, she gave birth to a daughter. At 21, she was divorced. She is presently separated from her second husband. They share custody of their 4-year-old twins from her second marriage.

36. Notwithstanding severe childhood sexual abuse, depression and suicidality, marriage at 14 and childbirth at 17, Plaintiff graduated high school, obtained an associate degree in law enforcement, became certified as a guard with the Department of Corrections, and got licensed as a CNA. She lost her certification and license due to her conviction. Her status as a sex offender has produced adverse impacts far more severe than conviction alone.

37. Due to her status, Plaintiff has lost opportunities for managerial training, promotion and wage increases. Three job applications were rejected due to her status. She is a very hard worker with real initiative who needs to support her

family. For the past year, she has worked full-time 7 days a week in sanitation at a chicken slaughterhouse, where co-workers who learned of her status harass her. She recently obtained a part-time job to supplement her income – 27 hours a week at a boat yard. It is reasonable to fear that her co-workers there will learn of her status and use it against her.

38. Plaintiff has also been subjected to verbal abuse outside the workplace about her status and has been threatened with beatings and car bombing. Right after the threat to her car, its tire was slashed. She was harassed at her workplace while pregnant with her twins. This kind of harassment has occurred repeatedly. She lives in fear of violent vigilantism against her and her family as the result of her status.

39. Due to her status as a sex offender, she is required to re-register in-person twice a year at the sheriff's office §§ 943.0435 (14)(a), (b), Fla. Stat. (2021). The sheriff's office in her county is open for in-person reporting only 2 days a week, with appointments possible for 3 other days, only when someone is available to take in-person reports.²¹ Occasionally she has had to return to the sheriff's office the following day when the employee assigned to registration is busy. In addition to twice-yearly in-person re-registration reports, she has had to make multiple additional in-person reports in connection with various reporting obligations. She will have to make in-person reports whenever she colors her

²¹ There are two DHSMV offices in the county, one of them open for registrant reporting only one day a week.

hair, gains weight, loses weight, gets a fresh scar, or if she borrows or rents a car for 5 days. She has to miss work and wages in connection with every in-person report.

40. As noted above, Plaintiff has to make anywhere between one and four in-person reports of a 3-day stay away from home, or three 1-day stays at the same location in one calendar year. In order to support her family, she works 7 days a week at both full-time and part-time jobs. The prospect of missing work and wages to make these in-person reports chills her from exercising her rights to travel and movement.

41. Furthermore, Plaintiff does not understand some of the terms used in FSORNA 2021's restrictions. She does not know whether 48 hours means 48 consecutive hours or 2 business days. She does not know the meaning of "day" for the purpose of the requirement to make an in-person report for as few as 3 days in the aggregate per year away from home, or when the 48-hour reporting requirement begins with respect to the third day from home. For example, she now lives in Columbia County, but her mother and sisters live in different counties. If she takes her children for three overnight visits a year to see their grandmother, aunts and cousins, at what hour after the third such visit must she report her "temporary residence"? In which county? And what if there is no place she can go to make a timely in-person report? Because her sheriff's office provides only limited days and hours for taking in-person reports, it is a virtual

certainty that, if 48 hours means 48 consecutive hours rather than 2 business days, she will frequently find it impossible to comply with the in-person reporting deadlines. A mistake about meaning, even if unwitting, or a belated report, even if unavoidable, could result in arrest and conviction for a third-degree felony with a minimum-mandatory sentence. As a result, she is chilled from exercising her fundamental rights to freedom of movement and travel.

42. As noted in the foregoing paragraph, Plaintiff wants her children to spend time with her mother, her sisters, and their children. If she spends three nights a year at her mother's or sisters' homes, she must report their addresses as temporary residences. Because a registrant's temporary residence is a public record, she fears that spending nights with her extended family will subject them to harassment or vigilantism. This implication of the travel-related restrictions further chills her exercise of this right.

43. Plaintiff is aggrieved by the requirement that she carry a driver's license branded with the sex offender statute number. Like everyone else with a driver's license, she uses it to prove her identity in a variety of commonplace transactions. She has already been victimized by harassment and vigilantism as the result of community notification of her status. She reasonably fears persecution as the result of being compelled to disclose her status to strangers who see her driver's license.

44. Another adverse impact of her status has been her virtual banishment from her

children's educational and recreational activities: when the State treats registrants like hazardous waste to be strictly contained, so does everyone else. When her 13-year-old daughter was in elementary school, Plaintiff was not allowed on campus for parent-teacher conferences or sporting events. When Plaintiff went to pick her daughter up, a school resource officer was assigned to monitor her until her daughter arrived at the front office. Her daughter is now in high school, staying late most days for sports, homework, or other activities. Plaintiff is not allowed to pick her daughter up from after-school programs. Plaintiff is prohibited from being present when her daughter participates in team sports, pep rallies and pageants. Her daughter has already been in therapy for depression, and is sad about her mother's exclusion from her school and after-school activities. When her 4-year-old twins start school this August, she will be banned from their campus, barred from visiting their classrooms or participating in other parents' activities. Because of her exclusion from her children's school life, and because her status socially isolates them, it is especially important for Plaintiff to be able to travel with her children to spend time with their grandparents, aunts, and cousins.

CLAIM I – EX POST FACTO

45. Plaintiff alleges that the 2018 amendments – redefining temporary residence from 5 days to 3 days in the aggregate per year and imposing a minimum-mandatory sentence for failure to register offenses – are penal in effect if not

intent, violating the federal guarantee against ex post facto laws, under the multi-factor intent-effects test set forth in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144 (1963) and applied in *Smith v. Doe*, 538 U.S. 84 (2003). Here are the factors:

46. Penal effects historically regarded as punishment. Having to make at least one and as many as four in-person reports for as little as a long weekend away from home resembles probation, during which a probationer must inform her probation officer of plans to leave home. The application of a minimum-mandatory community control sentence to a failure to register offense is significantly more severe than probation. Technical probation requirements resemble FSORNA 2021 requirements in demanding compliance with dozens of affirmative obligations regardless of whether the conduct itself is harmful. But a probationer cannot be punished unless the state has established that the violation was willful and substantial. In contrast, FSORNA violations need not be willful or substantial: being even an hour late to make an in-person report subjects registrants to a minimum-mandatory criminal sentence.

47. **Affirmative disability or restraint.** In contrast with ASORA's requirement of one in-person registration event followed by mailed-in annual updates, FSORNA 2021 requires Plaintiff to report in person to the Sheriff's Office and Department of Highway Safety and Motor Vehicles (DHSMV) multiple times for as few as 3 days away from home. By comparison, a probationer need only

call her probation officer before taking a comparable weekend trip.

48. Promotes the purpose of punishment. Although studies show no deterrent impact, FSORNA 2021 was enacted with the expressed intent to deter reoffense, based solely on a past crime, without regard to present risk, and imposes burdens that outpace its stated intent. In particular, the 2018 amendment requiring one or more in-person reports for as few as 3 days away from home and imposing a minimum mandatory sentence for any offense, in the absence of any empirical evidence that the amendment reduces the risk of sexual reoffense or otherwise protects the public, gives rise to “serious argument that the ulterior purpose is to revisit past crimes, not prevent future ones.” *Smith*, 538 U.S. at 109, Souter, J., *concurring in judgment*.

49. **No rational connection to non-punitive purpose.** The absence of a rational connection to a non-punitive purpose is a “most significant” factor. *Smith*, 538 U.S. at 102-03. Significantly, the legislature advanced no purpose at all for redefining temporary residence from 5 days to 3 in the aggregate per year. It relied on no data or studies in redefining temporary residence. Indeed, the only articulated impact of the amendment is to increase the number of prison beds.²² There is no empirical evidence, nor conceivable basis to believe that redefining temporary residence from 5 days to 3 does anything to reduce sexual reoffense or to otherwise protect the public from sexual harm. There is no empirical

²² <https://www.flsenate.gov/Session/Bill/2018/1301/Analyses/h1301e.JDC.PDF>, pp. 1, 9.

evidence, nor conceivable basis to believe that imposing a minimum-mandatory sentence for trivial or inadvertent violations of the statute does anything to reduce sexual reoffense or otherwise to protect the public from sexual harm. That is because there is no empirical basis to believe that people who violate the registration statute are more likely to reoffend sexually than people who do not violate the statute. Therefore, the imposition of a minimum-mandatory sentence for failure to register offenses does not deter sexual reoffense but serves only to increase Plaintiff's peril in the event she commits a technical violation of the statute.

50. **Excessive in relation to non-penal purpose.** Assuming *arguendo* some conceivably rational connection to a non-penal purpose, the 2018 amendment is grossly excessive in relation to it. Imposing formidable reporting burdens on short-term travel coupled with a minimum-mandatory sentence, in the absence of any empirical basis or individualized determination of risk, is excessive with respect to whatever its objectives may be.

51. The severe penal effects of the 2018 amendment render it a punishment under the ex post facto clauses of the state and federal constitutions. Striking this amendment, on its face and/or as applied to Plaintiff would ameliorate the harm.

CLAIM II – 14th AMENDMENT: Substantive Due Process

Claim II(A) - Right to Travel/Freedom of Movement

52. Plaintiff repeats and realleges all preceding paragraphs before the Claims for Relief Section, as if fully set forth herein.

53. Plaintiff has a fundamental federal right to interstate travel²³ and freedom of movement²⁴, and a fundamental state right to intrastate travel²⁵ and freedom of movement.²⁶ This right is abridged by the requirement to report in-person to an office (that is likely to be closed) within 48 hours of leaving and/or returning from as few as three days away in the aggregate per year. Her difficulty understanding the operation of these terms further burdens her rights: she is afraid she will be arrested, prosecuted and incarcerated for even inadvertent mistakes about their meanings.

54. Before burdening a fundamental liberty interest, the government must show that the burden is necessary to achieve a compelling public purpose. The government cannot meet this burden here. With respect to the 2018 amendments, defendant has no articulable, empirically-supported or even conceivable reason to believe that changing the definition of “temporary residence” from 5 days to 3 days with a minimum-mandatory penalty reduces a registrant’s risk of sexual reoffense or protects the public in any way. While the

²³ *United States v. Guest*, 383 U.S. 745, 758 (1966); *Saenz v. Roe*, 526 U.S. 489, 498 (1999); *Kolender v. Lawson*, 461 U.S. 352, 358 (1983); *Shapiro v. Thompson*, 394 U.S. 618, 638 (1969).

²⁴ *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972); *Aptheker v. Sec’y of State*, 378 U.S. 500, 520 (1964); *Edelman v. Jordan*, 415 U.S. 651 (1974); *Kolender v. Lawson*, 461 U.S. at 358.

²⁵ *State v. J.P.*, 907 So. 2d 1101, 1113 (Fla. 2004); *T.M. v. State*, 784 So. 2d 442, 444 (Fla. 2001).

²⁶ *Powell v. Holt*, 850 So. 2d 474, 480 (Fla. 2003).

government's interest in protecting the public from sexual harm is compelling, this measure does not advance that interest. On the other hand, redefining temporary residence from 5 days to 3, and imposing a minimum mandatory sentence for even inadvertent or unavoidable failures to make one or more in-person reports within 48 hours of a long weekend from home constitutes a staggering burden on plaintiff's fundamental rights, chilling her from exercising them. Striking these restrictions, on their face and/or as applied to Plaintiff will ameliorate this harm.

55. Plaintiff also challenges pre-2018 restrictions on travel: the requirement to make one or more in-person reports, the chilling vagueness of the words and phrases contained in the travel-related provisions, and felony liability for even inadvertent or unavoidable delays in making these multiple in-person reports. Her sheriff's office keeps limited days and hours for in-person reporting. As a result, it may often be impossible for her to travel without violating the statute. Each report costs her time from work and wages. These restrictions unreasonably burden and chill her in exercising fundamental rights. She poses a trivial risk of reoffense, a risk that declines with each year at liberty in the community. Defendant has no empirical basis to believe that requiring her to make multiple in-person reports about travel from home reduces her risk of sexual reoffense or protects the public in any way. Without an individualized determination of risk, defendant has no legitimate, let alone compelling reason

to burden her fundamental rights to travel and freedom of movement, especially as applied to someone whose children and extended family will bear the burden as well. Striking these requirements, on their face and/or as applied to Plaintiff, will ameliorate this harm.

Claim II (B) – No Rational Relationship

56. Plaintiff repeats and realleges all preceding paragraphs before the Claims for Relief Section, as if fully set forth herein.

57. In the absence of a fundamental liberty interest, substantive due process requires that a statute bear a rational relationship to a permissible legislative objective, that it not be arbitrary, capricious or oppressive. FSORNA's redefinition of temporary residence from 5 to 3 days fails to satisfy even this indulgent standard of scrutiny. There is no articulated or conceivable reason for this redefinition of travel time, and it imposes almost insuperable barriers to short-term travel. Striking these requirements, on their face and/or as applied to Plaintiff, will ameliorate this harm.

CLAIM III – First Amendment/Compelled Speech

58. Plaintiff repeats and realleges all preceding paragraphs before the Claims for Relief Section, as if fully set forth herein.

59. The First Amendment protects against prohibitions of speech, and also against laws or regulations that compel speech. "The compelled speech doctrine applies to ideological speech and purely factual, non-commercial speech." *McClendon*

v. Long, 22 F. 4th 1330, 1336 (11th Cir. 2022). Where the government compels a person to communicate content, whether fact or opinion, it is a content-based restriction: “[m]andating speech that a speaker would not otherwise make necessarily alters the content of the speech.” *Riley v. National Federation of the Blind of North Carolina, Inc.*, 487 U.S. 781, 795 (1988). Governmental regulation of speech content requires strict scrutiny, with the government having the burden to show that it could not achieve a compelling objective through less restrictive means.

60. Being compelled to display a governmental message on a vehicle license tag or a driver’s license runs afoul of the First Amendment if the government cannot establish a compelling objective which could not be achieved through less restrictive means. *Wooley v. Maynard*, 430 U.S. 705, 713 (1977); *John Doe I, et al. v. Marshall*, 367 F.Supp.3d 1310, 1326-27 (M.D. Ala. 2019).

61. Defendant has no empirical basis to believe that compelling registrants to carry driver’s licenses branded with their status reduces sexual reoffense by registrants, assists in investigating or preventing sex crimes, or otherwise protects the public. Police can determine a registrant’s status by running a check on her driver’s license. Patrol cars can alert to a registrant’s status through the license plate she is required to report. Forty-one other states do not compel registrants to carry driver’s licenses reflecting their status.

62. Therefore, Defendant cannot meet his heavy burden to show that his objective,

however compelling, cannot be met through less restrictive means. Forcing Plaintiff to carry a branded driver's license is injurious. Vigilantism against registrants is well-documented and widespread. Plaintiff, whose risk of sexual reoffense is trivial, has already been victimized by harassment and vigilantism as the result of community notification alone. Like being required to wear a scarlet letter in the public square, being required to display her branded driver's license to countless strangers in the course of commonplace transactions subjects her and her children to further risk of harm for the rest of her life. Striking this requirement on its face, or as applied to Plaintiff, will ameliorate this harm.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

Declare §§ 943.0435(1)(f), (incorporating by reference § 775.21(2)(n)), 943.0435(9)(b) 1., 2., 3., and 943.0435(3) & (3)(b) (incorporating by reference § 322.141(3), Fla. Stat. (2021) unconstitutional, facially and/or as applied to Plaintiff.

Permanently restrain and enjoin the Defendant, including all of Defendant's officers, agents, servants, employees, attorneys and other persons in active concert or participation with Defendant, from enforcing the aforesaid provisions against Plaintiff.

Award Plaintiff her attorneys' fees and expenses in this action pursuant to 42

U.S.C. § 1988(b).

Award Plaintiff her costs of suit.

Grant such other and further relief as this Court deems just and proper in the circumstances.

Respectfully submitted,

s/Valerie Jonas

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed today, April 25, 2022, the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all persons registered to receive electronic notification for this case, including all opposing counsel.

By:
Valerie Jonas
VALERIE JONAS

Appendix

Timeline of Amendments to Florida Statute 943.0435

1997: Florida Statute 943.0435 enacted

943.0435 Sex offenders required to report to the department; penalty.--

[Qualifying Offenses]

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

(a) "Sex offender" means a person who has been:

- 1.** Convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or analogous offenses in another jurisdiction: s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s. 847.0135, s. 847.0145, or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.
- 2.** Released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in subparagraph 1. For purposes of subparagraph 1., a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

[Definitions]

(b) "Convicted" means the person has been determined guilty as a result of a plea or a trial, regardless of whether adjudication is withheld.

[Reporting Requirements, Personal Identification Information, Definitions]

(2) A sex offender shall initially report in person at an office of the department, or at the sheriff's office in the county in which the offender permanently or temporarily resides, within 48 hours after establishing permanent or temporary residence in this state. A sex offender permanently resides in this state if the offender abides, lodges, or resides in a place for more than 2 consecutive weeks. A sex offender temporarily resides in this state if the offender abides, lodges, or resides in a place for 2 consecutive weeks or less, excluding a stay of 2 consecutive weeks or less at a different residence due to a vacation or an emergency or special circumstance that requires the sex offender to leave his or her place of permanent or temporary residence for 2 weeks or less. The sex offender shall provide his or her name, date of birth, race, sex, height, weight, hair and eye color, tattoos or other identifying marks, address of permanent or legal

residence, or address of any current temporary residence, date and place of each conviction, and a brief description of the crime or crimes committed by the offender. If a sex offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sex offender.

[Reporting Requirements]

(3) Subsequent to the initial report required under subsection (2), a sex offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles within 48 hours after any change in the offender's permanent or temporary residence. At the driver's license office the sex offender shall:

- (a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sex offender shall identify himself or herself as a sex offender who is required to comply with this section. The sex offender shall provide any of the information specified in subsection (2), if requested. The sex offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sex offenders.
- (b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section.
- (c) Provide, upon request, any additional information necessary to confirm the identity of the sex offender, including a set of fingerprints.

[Reporting Requirements]

(4) Each time a sex offender's driver's license or identification card is subject to renewal, the offender shall report in person to a driver's license office, regardless of whether the offender's residence has changed, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sex offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in ss. 943.043, 943.0435, and 944.606.

(5) This section does not apply to a sex offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

[Penalty for Failure to Comply]

(6) A sex offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

[Immunity]

(7) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, and the personnel of those departments are immune from civil liability for damages for good faith compliance with the requirements of this section, and shall be presumed to have acted in good faith in compiling, recording, and reporting information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, or the personnel of those departments in compiling or providing information, or if information is incomplete or incorrect because a sex offender fails to report or falsely reports his or her current place of permanent or temporary residence.

History.--s. 8, ch. 97-299.

1998:

Qualifying Offenses Expanded

-Fla. Stat. 943.0435(1)(a): Added s.787.01 (Kidnapping) or s.787.02 (False Imprisonment), where the victim is a minor and the defendant is not the victim's parent; 825.1025 (Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person).

-Fla. Stat. 943.0435 (1)(b) : Expanded definition of "convicted" to include "entry of a plea of guilty or nolo contendere" and to encompass convictions of similar offenses in US Armed Forces and in any state of the United States.

Definitions Added

-Fla. Stat. 943.0435 (1)(c): Permanent and temporary residence as in 775.21

-Added Fla. Stat. 775.21(f) "Permanent residence" means a place where the person abides, lodges, or resides for 14 or more consecutive days.

-Added Fla. Stat. 775.21 (g) "Temporary residence" means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address; for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state; or a place where

the person routinely abides, lodges, or resides for a period of 4 or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Personal Identification Information Expanded

-Fla. Stat. 943.0435 (2): Social security number, occupation and place of employment, rural route address and a post office box, post office box cannot be used in lieu of physical residential address, written notice of vehicle identification number, license tag number, registration number, a description including color scheme, hull identification number, manufacturer's serial number, name of vessel, registration number and description including color scheme.

Added Reporting Requirements

-Fla. Stat. 943.0435 (3): After initial report to sheriff's office required under subsection (2), registrant must report in person within 48 hours to the license office of the Department of Highway Safety Motor Vehicles ("DHSMV").

-Fla. Stat. 943.0435 (3)(a): Added that registrant shall provide proof to the DHSMV that the registrant initially reported in person to the sheriff's office as required in Paragraph (2).

-Fla. Stat. 943.0435 (4): Registrant must report in person to a driver's license office within 48 hours after any change in registrant's permanent or temporary residence.

-Fla. Stat. 943.0435 (6): The department ("FDLE") shall verify the addresses of registrants.

-Added Fla. Stat. 943.0435 (7): A registrant who intends to move out of Florida shall notify county sheriff or department within 48 hours before registrant intends to leave.

-Added Fla. Stat. 943.0435 (8): If registrant changes mind about leaving Florida, then must notify the prior agency to whom the registrant reported to within 48 hours after the registrant would have left Florida. Failure to comply is a second-degree felony.

-Added Fla. Stat. 943.0435 (10): Added paragraph granting immunity from civil liability.

Public Notification Expanded via Inter-related Statutes

-Fla. Stat. 943.043: Toll-free telephone number; Internet notification; sexual predator and sexual offender information.--

(1) The department may notify the public through the Internet of any information regarding sexual predators and sexual offenders which is not confidential and exempt from public disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

-Fla. Stat. 944.606 (d): “Upon receiving information regarding a sexual offender from the [D]epartment [of Corrections], the Department of Law Enforcement, the sheriff or the chief of police shall provide the information described in subparagraph (a)1. to any individual who requests such information and may release the information to the public in any manner deemed appropriate, unless the information so received is confidential or exempt from s.119.07(1) and s. 24(a), Art. I of the State Constitution.”

Lifetime Registration Requirement and Removal Petition Added

-Added Fla. Stat. 943.0435 (11): A registrant must maintain registration with the department for the duration of his or her life, unless the registrant has had his or her civil rights restored or has received a full pardon or has had a conviction set aside in a post-conviction proceeding for any felony sex offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a registrant who has been lawfully released for at least 20 years and has not been arrested for any felony or misdemeanor offense since release may petition for the purpose of removing the requirement for registration as a sexual offender.

2000:

Personal Identification Information Expanded

-Fla. Stat. 943.0435 (2): Reporting any residence within Florida or out of state.

Added Reporting Requirements

-Fla. Stat. 943.0435 (4): Registrant must report in person to a driver’s license office within 48 hours after any change in registrant’s name by reason of marriage or other legal process.

Public Notification Expanded

-Fla. Stat. 943.0435 (6): County and local law enforcement agencies shall verify the addresses of sexual offenders in a manner that is consistent with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state.

Immunity Expanded

-Fla. Stat. 943.0435 (10) Added to the list of those granted civil immunity: any law enforcement agency in this state and elected or appointed official, public employee, and school administrator.

Lifetime Registration Requirement and Removal Petition Added

-Fla. Stat. 943.0435 (11)(b): A registrant may petition for removal if he or she was 18 years of age or under at the time the offense was committed, adjudication was withheld, who has had 10 years elapse since having been placed on probation, and has not been arrested for any felony or misdemeanor offense since release.

2002:

Expanded Qualifying Offenses and Persons Subject to Registration

-Fla. Stat. 943.0435 (1)(a)1: s. 847.0137 (Transmission of pornography by electronic device or equipment prohibited); s. 847.0138 (Transmission of material harmful to minors by electronic device or equipment prohibited).

-Fla. Stat. 943.0435 (1)(a)3: Persons subject to registration in another state or jurisdiction but not designated as a registrant in Florida.

-Fla. Stat. 943.0435 (1)(a)4: Anyone who is in the custody, control or supervision of any other state or jurisdiction for convictions of the offenses listed in subsection (1)(a)1.

Definitions Added

-Fla. Stat. 943.0435 (1)(d): “‘Institution of higher education’ means a community college, college, state university, or independent postsecondary institution.”

-Fla. Stat. 943.0435 (1)(e): “‘Change in enrollment or employment status’ means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.”

Personal Identification Information and Reporting Requirements Expanded

-Added Fla. Stat. 943.0435 (2)(b)2: Requiring reporting in person within 48 hours after any change in enrollment or employment status, and that the registrant shall report the name, department, address, county, campus, and the registrant’s enrollment or

employment status for any vocation at an institution of higher education in this state. The sheriff shall promptly notify each institution of the registrant's presence and any change in the registrant's enrollment or employment status.

Expanded Lifetime Registration Requirement and Restrictions on Removal Petition by Juvenile Registrants

-Fla. Stat. 943.0435 (11)(b): Restricting ability to petition for removal by registrants who were minors upon conviction unless victim is 12 years of age or older.

-Added Fla. Stat. 943.0435 (11)(c): Persons subject to registration in another state, but not designated in Florida, who establish a residence (even temporary) in Florida must remain on Florida's registry for life. To be removed from the registry, the person must establish not only that his out-of-state designation has been legally removed by the other state, but that h/she no longer meets the criteria for registration as a sex offender under Florida law.

Legislative Intent Added

-Fla. Stat. 943.0435 (12): Florida legislature finds registrants pose a high risk of recidivism and that registrants have a reduced expectation of privacy because of public interest of public safety, and releasing information on registrants to law enforcement agencies and to public upon request. "The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes."

2004:

Added Reporting Requirements for Changes in Residence and Penalty for Failure to Comply

-Added Fla. Stat. 943.0435 (4)(b): Registrant shall report in person within 48 hours to sheriff's office after vacating a permanent residence and failing to establish a new permanent or temporary residence, and update all personal identification information required to be provided in Fla. Stat. 943.0435 (2)(b); the registrant must provide an address for the residence or other location that he/she is or will be occupying.

-Added Fla. Stat. 943.0435 (4)(c): A registrant who remains at a permanent residence after reporting intent to vacate it must report in person within 48 hours to the sheriff's office. Failure to report is a second-degree felony.

Prosecution and Strict Liability for Failure to Register

-Added Fla. Stat. 943.0435 (9)(b): Registrant may be prosecuted for any act or omission of this section in the county where the act or omission was committed, the county registrant last registered, or the county in which the original qualifying sexual offender conviction occurred.

-Added Fla. Stat. 943.0435 (9)(c): An arrest on charges of failure to register when the offender has been notified of his or her registration requirements, the service of an information or complaint for a violation of this section constitutes actual notice of duty to register. A registrant cannot assert in subsequent prosecution an affirmative defense of a lack of notice.

-Added Fla. Stat. 943.0435 (9)(d): Registration following arrest, service, or arraignment is not a defense.

2005:

Semi-Annual Re-registration Imposed

-Added Fla. Stat. 943.0435 (14): Registrant must report in person each year during birthday month and six months after birth month to sheriff's office. Re-registration shall include any changes to the personal identification information required at initial registration as listed in Fla. Stat. 943.0435 (14)(a)1, (14)(a)2, (14)(a)3, (14)(a)4.

Criminal Penalties for Failure to Re-register and to Respond to Address Verification Correspondence

-Fla. Stat. 943.0435 (14)(a)4: Any registrant who fails to semi-annually re-register in person at the sheriff's office, or fails to respond to any address verification correspondence from FDLE within three weeks constitutes a third-degree felony.

2007:

Expanded Qualifying Offenses and Juvenile Offenders Subject to Registration

-Fla. Stat. 943.0435 (1)(a)1: Added 794.05 ("Unlawful sexual activity with certain minors").

-Added Fla. Stat. 943.0435 (1)(d): A juvenile who was 14 years old or older at the time of their offense and has been adjudicated delinquent for committing, or attempting,

soliciting, or conspiring to commit, enumerated offenses in this state or similar offenses in another jurisdiction qualifies as a sexual offender.

Definitions Added

-Added Fla. Stat. 943.0435 (1)(f): “Email address” definition as provided in Fla. Stat. 668.602(6) means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

-Added Fla. Stat. 943.0435(1)(g): Instant message name means an identifier that allows a person to communicate in real time with another person using the Internet.

Personal Identification Information Expanded

-Fla. Stat. 943.0435 (2)(a): Added email address and instant message name

-Fla. Stat. 943.0435 (2)(b): Added email address and instant message name

Added Reporting Requirements

-Added Fla. Stat. 943.0435 (4)(d): Must register any email address or instant message name with FDLE prior to using them on or after October 1, 2007. FDLE to establish online system for securely updating this information.

-Added Fla. Stat. 943.0435(3): The face of the registrant’s driver’s license or identification card must have the marking "943.0435, F.S.”

Re-Registration Requirements Imposed Quarterly on Certain Registrants

-Fla. Stat. 943.0435 (14)(a),(b): Registrants convicted of certain offenses in Florida or similar offenses in other jurisdictions required to re-register in person at the sheriff’s office every 3 months for life.

Ability to Petition for Removal from Lifetime Registration: Denial and Constraint

-Fla. Stat. 943.0435 (11)(a)1. a.-g. Registrants permanently prohibited from filing for petition for removal from lifetime registration where their requirement to register was based upon an adult conviction of certain enumerated offenses.

-Fla. Stat. 943.0435 (11)(a)1: Period before otherwise qualified registrants may seek removal from lifetime registration increased from 20 years to “at least 25 years.”

2009:

Personal Identification Information Expanded

-Fla. Stat. 943.0435 (2)(b): Added home telephone number and any cellphone number

2010:

Definitions Added

-Fla. Stat. 943.0435 (1)(c), incorporating s. 775.21: “Transient residence” means 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.

Reporting Requirements Expanded

-Fla. Stat. 943.0435 (2)(a): Reporting in person at sheriff’s office within 48 hours transient residence within Florida, address, location or description, and dates of any current or known future temporary residence within Florida or out-of-state.

-Fla. Stat. 943.0435 (4)(b): A registrant who vacates a transient residence and fails to establish or maintain another residence must, within 48 hours after vacating transient residence, report in person to the sheriff’s office and update all registration information. Transient registrant “must provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.”

-Fla. Stat. 943.0435 (4)(c): A transient registrant who remains at a transient residence after reporting an intent to vacate it shall, within 48 hours after that reporting, report in person to the agency for the purpose of reporting his or her transient address. A transient who reports an intent to vacate his or her residence but fails to make a report that he or she has not changed his or her transient residence is guilty of a second-degree felony.

Personal Identification Information Expanded

-Fla. Stat. 943.0435 (2)(b): Transient residence address.

2012:

Qualifying Offenses Expanded

-Fla. Stat. 943.0435 (1)(a)a.(I): Added 810.145(8) Video Voyeurism; and s. 787.06(3)(b), (d), (f), (g), or (h) Human Trafficking.

2013:

Personal Identification Information Expanded

-Fla. Stat. 943.0435 (2)(b): Fingerprints and photograph.

2014:

Qualifying Offenses Expanded

-Fla. Stat. 943.0435 (1)(a)1. a. (I): Added s. 393.135(2) Sexual Misconduct with an Individual with a Developmental Disability; s. 394.4593(2) Sexual Misconduct with a Patient; s. 916.1075(2) Mentally Ill and Intellectually Disabled Defendants; Sexual Misconduct Prohibited.

Definitions Added

-Fla. Stat. 943.0435 (1)(a)(2)(g): Incorporating s. 775.21(i) “‘Internet identifier’ means all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN).”

-Fla. Stat. 943.0435 (1)(a)(2)(h): Incorporating s. 775.21(n) “‘Vehicles owned’ means any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a person or persons residing at a sexual predator’s or sexual offender’s permanent residence for 5 or more consecutive days.”

Personal Identification Information Expanded

-Fla. Stat. 943.0435 (2)(b): Palm prints and make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; all Internet identifiers; production of passport and documentation of immigration status; information regarding any professional licenses.

-Fla. Stat. 943.0435 (2)(b)2: Volunteer status

-Added Fla. Stat. 943.0435 (2)(c): Registrant to “[p]rovide any other information determined necessary by the department, including criminal and corrections records; non-privileged personnel and treatment records; and evidentiary genetic markers, when available.”

-Fla. Stat. 943.0435 (14)(c)(1): For reregistration: Added tattoos or other identifying marks; email addresses or Internet identifiers; vehicle identification number (VIN); palm prints; production of passport; if an alien, shall produce documents establishing his or her immigration status; information regarding any professional licenses.

-Fla. Stat. 943.0435 (14)(c)(2): Name, address, county of each institution and campus attended where registrant volunteers.

Reporting Requirements Expanded

-Fla. Stat. 943.0435 (2)(b)2: Volunteer status must be reported in person to sheriff’s office within 48 hours after any change.

-Added Fla. Stat. 943.0435 (2)(b)3: Registrant shall report in person to sheriff’s office within 48 hours after any change in vehicles owned.

-Added Fla. Stat. 943.0435(4)(b)(2): Transient registrant must report in person within 48 hours after establishing a transient residence and thereafter must report in person every 30 days. Must provide addresses and locations of transient residence. Reporting in person for this does not make the registrant exempt from the other reporting requirements.

-Added Fla. Stat. 943.0435 (4)(d): The failure of a registrant who maintains a transient residence to report in person to the sheriff’s office every 30 days as required in Fla. Stat. 943.0435 (b)2 is punishable as a third-degree felony.

-Added Fla. Stat. 943.0435 (4)(e): Registrant shall register all electronic mail addresses and Internet identifiers with the department before use.

-Fla. Stat. 943.0435 (6): County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are under the care, custody, control, or supervision of the Department of Corrections.

-Fla. Stat. 943.0435 (7): Must report in person to the sheriff's office within 21 days before planned departure date if the intended residence of 5 days or more is outside of the United States. Notification to include country of intended residence.

Restrictions on Removal Petition Added

-Fla. Stat. 943.0435 (11)(4)(e): If sentenced to more than 25 years' supervision, registrant may not petition for removal from registry until the term of supervision for that conviction is completed.

2016:

Qualifying Offenses Expanded

-Fla. Stat. 943.0435 (1): Added Fla. Stat. s. 895.03 Racketeering involving sexual offense. Including "where defendant is victim's parent or guardian" to s. 787.01, s. 787.02, or s. 787.025(2)(c).

Definitions Added

-Fla. Stat. 943.0435 (1)(a): Incorporating 775.21(i) "Institution of higher education' means a career center, a community college, a college, a state university, or an independent postsecondary institution."

-Fla. Stat. 943.0435 (1)(d): Incorporating 775.21(a) "Change in status at an institution of higher education' means the commencement or termination of enrollment, including, but not limited to, traditional classroom setting or online courses, or employment, whether for compensation or as a volunteer, at an institution of higher education or a change in location of enrollment or employment, whether for compensation or as a volunteer, at an institution of higher education."

-Fla. Stat. 943.0435 (1)(g): Incorporating 775.21(l) "Professional license' means the document of authorization or certification issued by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, to a person to engage in an occupation or to carry out a trade or business."

Personal Identification Information Expanded

-Fla. Stat. 943.0435(4)(e)1: Registrant must report electronic mail addresses and Internet identifiers through the department's online system or in person at the sheriff's office before use.

-Added Fla. Stat. 943.0435 (4)(e)2: Registrant shall register all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system or in person at the sheriff's office; in person at the Department of Corrections if the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes must be reported within 48 hours.

Added Reporting Requirements

-Fla. Stat. 943.0435 (7): For international travel, the sexual offender shall also provide travel information in person to the sheriff's office at least 21 days before he or she intends to travel, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel.

2017:

Personal Identification Information Expanded

-Fla. Stat. 943.0435 (2)(a),(2)(b): Added "each Internet identifier's corresponding website homepage or application software name."

Added Reporting Requirements

-Fla. Stat. 943.0435(4)(e)1: Registrant must report electronic email addresses, Internet identifiers, and each Internet identifier's corresponding website homepage or application software name within 48 hours after use.

Reregistration Reporting Requirements

-Fla. Stat. 943.0435 (14)(c)(1): Added each Internet identifier's corresponding website homepage or application software name

2018:

Definitions Added

-Fla. Stat. 943.0435 (1)(f), incorporating s. 775.21(k): “Permanent residence” means a place where the person abides, lodges, or resides for 3 (formerly 5) or more consecutive days.

-Fla. Stat. 943.0435 (1)(f), incorporating s. 775.21(n): “Temporary residence” means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 3 (formerly 5) or more days in the aggregate during any calendar year and which is not the person’s permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

-Fla. Stat. 943.0435 (1)(f), incorporating s. 775.21(o): “Transient residence” means a county where a person lives, remains, or is located for a period of 3 (formerly 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.

Mandatory Minimum Sentencing for Violations of Failure to Report

-Fla. Stat. 943.0435 (9)(b): For a felony violation of this section, committed on or after July 1, 2018, if the court does not impose a prison sentence, the court shall impose a mandatory minimum term of community control, as defined in s. 948.001, as follows:

1. For a first offense, a mandatory minimum term of 6 months with electronic monitoring.
2. For a second offense, a mandatory minimum term of 1 year with electronic monitoring.
3. For a third or subsequent offense, a mandatory minimum term of 2 years with electronic monitoring.

2021:

In response to a contrary Florida appellate court opinion, Section 943.0435(1)(h)1.a.(II), Fla. Stat. (2021) is amended to expressly clarify legislative intent that a person convicted of a qualifying offense must register on or after October 1, 1997 where either no sanction was imposed on conviction or the person has been released from a sanction on conviction. The word “sanction” is redefined to exclude a fine.

1997 original list of qualifying offenses:

1. 787.025 Luring or enticing a child;
2. Chapter 794 Sexual Battery;
3. 796.03 Procuring person under age of 18 for prostitution;
4. 800.04 Lewd, lascivious, or indecent assault or act upon or in presence of child;
5. 827.071 Sexual performance by a child;
6. 847.0133 Protection of minors; prohibition of certain acts in connection with obscenity
7. 847.0135 Computer pornography;
8. 847.0145 Selling or buying of minors.

2018 list of qualifying offenses:

1. 393.135(2) Sexual Misconduct with an individual with a developmental disability
2. 394.4593(2) Sexual Misconduct with a patient
3. 787.01 Kidnapping
4. 787.02 False Imprisonment
5. 787.025(2)(c), Luring or enticing a child, where victim is a minor
6. 787.06(3)(b), (d), (f), or (g) Human Trafficking (former 787.06(3)(h))
7. 794.011 Sexual Battery, excluding 794.011(10)
8. 794.05 Unlawful sexual activity with certain minors (former 796.03; former 796.035)
9. 800.04 Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age
10. 810.145(8) Video Voyeurism
11. 825.1025 Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person
12. 827.071 Sexual performance by a child
13. 847.0133 Protection of minors; prohibition of certain acts in connection with obscenity;
14. 847.0135 Computer pornography; prohibited computer usage; traveling to meet minor (excluding 847.0135(6))
15. 847.0137 Transmission of pornography by electronic device or equipment prohibited
16. 847.0138 Transmission of material harmful to minors to a minor by electronic device or equipment prohibited
17. 847.0145 Selling or buying of minors
18. 895.03 Racketeering involving sexual offense
19. 916.1075(2) Mentally Ill and Intellectually Disabled Defendants; Sexual misconduct prohibited
20. 985.701(1) Juvenile Justice; Interstate Compact on Juveniles; Sexual misconduct prohibited

2018 Statute (current as of 8.28.18)**943.0435 Sexual offenders required to register with the department; penalty.—**

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

(a) “Change in status at an institution of higher education” has the same meaning as provided in s. 775.21.

(b) “Convicted” means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) “Electronic mail address” has the same meaning as provided in s. 668.602.

(d) “Institution of higher education” has the same meaning as provided in s. 775.21.

(e) “Internet identifier” has the same meaning as provided in s. 775.21.

(f) “Permanent residence,” “temporary residence,” and “transient residence” have the same meaning as provided in s. 775.21.

(g) “Professional license” has the same meaning as provided in s. 775.21.

(h)

1. “Sexual offender” means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

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

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-

subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

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

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals;

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals; or

(V) Any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph.

2. For all qualifying offenses listed in sub-subparagraph 1.d., the court shall make a written finding of the age of the offender at the time of the offense. For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense involved force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(i) “Vehicles owned” has the same meaning as provided in s. 775.21.

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

(a) Report in person at the sheriff’s office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender’s permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier’s corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and any change in status at an institution of higher education after the sexual offender reports in person at the sheriff’s office must be reported in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; palm prints; photograph; employment information; address of permanent or legal residence or address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient

residence within the state, address, location or description, and dates of any current or known future temporary residence within the state or out of state; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; home telephone numbers and cellular telephone numbers; electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; date and place of each conviction; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

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

2. If the sexual offender is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

3. A sexual offender shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

(c) Provide any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers, when available.

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

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver license office of the Department of Highway Safety and Motor Vehicles, unless a driver license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or identification card as required by this section. The driver license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)

(a) Each time a sexual offender's driver license or identification card is subject to renewal, and, without regard to the status of the offender's driver license or identification card, within 48 hours after any change in the offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver license office, and is subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606. A sexual offender who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in subsection (3) and this subsection shall also report any change in the sexual offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this paragraph do not negate the requirement for a sexual offender to obtain a Florida driver license or an identification card as required in this section.

(b)

1. A sexual offender who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

2. A sexual offender shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual offender must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this subparagraph. Reporting to the sheriff's office as required by this subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual offender to the department.

(c) A sexual offender who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The failure of a sexual offender who maintains a transient residence to report in person to the sheriff's office every 30 days as required in subparagraph (b)2. is punishable as provided in subsection (9).

(e)

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

custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

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

3. The department shall establish an online system through which sexual offenders may securely access, submit, and update all changes in status to electronic mail addresses; Internet identifiers and each Internet identifier's corresponding website homepage or application software name; home telephone numbers and cellular telephone numbers; employment information; and institution of higher education information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual offenders who are under the care, custody, control, or supervision of the Department of Corrections, in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of

the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual offender 21 days before the departure date must be reported in person to the sheriff's office as soon as possible before departure. The sexual offender shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual offender shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of permanent, temporary, or transient residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)

(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) For a felony violation of this section, excluding subsection (13), committed on or after July 1, 2018, if the court does not impose a prison sentence, the court shall impose a mandatory minimum term of community control, as defined in s. 948.001, as follows:

1. For a first offense, a mandatory minimum term of 6 months with electronic monitoring.
2. For a second offense, a mandatory minimum term of 1 year with electronic monitoring.
3. For a third or subsequent offense, a mandatory minimum term of 2 years with electronic monitoring.

(c) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual offender, in the

county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender, in the county where the sexual offender was released from incarceration, or in the county of the intended address of the sexual offender as reported by the offender prior to his or her release from incarceration.

(d) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register. Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent, temporary, or transient residence.

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

(a)

- 1.** Has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or

misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

- a. For a violation of s. 787.01 or s. 787.02;
 - b. For a violation of s. 794.011, excluding s. 794.011(10);
 - c. For a violation of s. 800.04(4)(a)2. where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
 - d. For a violation of s. 800.04(5)(b);
 - e. For a violation of s. 800.04(5)(c)2. where the court finds the offense involved the use of force or coercion and unclothed genitals or genital area;
 - f. For a violation of s. 825.1025(2)(a);
 - g. For any attempt or conspiracy to commit any such offense;
 - h. For a violation of similar law of another jurisdiction; or
 - i. For a violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.
2. If the sexual offender meets the criteria in subparagraph 1., the sexual offender may, for the purpose of removing the requirement for registration as a sexual offender, petition the criminal division of the circuit court of the circuit:
 - a. Where the conviction or adjudication occurred, for a conviction in this state;
 - b. Where the sexual offender resides, for a conviction of a violation of similar law of another jurisdiction; or
 - c. Where the sexual offender last resided, for a sexual offender with a conviction of a violation of similar law of another jurisdiction who no longer resides in this state.
3. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.
4. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the

offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) As defined in sub-subparagraph (1)(h)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)

(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth

month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor;
2. Section 794.011, excluding s. 794.011(10);
3. Section 800.04(4)(a)2. where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
4. Section 800.04(5)(b);
5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;
6. Section 800.04(5)(c)2. where the court finds molestation involving the use of force or coercion and unclothed genitals or genital area;
7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;
8. Section 825.1025(2)(a);
9. Any attempt or conspiracy to commit such offense;
10. A violation of a similar law of another jurisdiction; or
11. A violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph, must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must be consistent with the reporting requirements of this subsection. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses or Internet identifiers and each Internet identifier's corresponding website homepage or application software name; all home telephone numbers and cellular telephone numbers; employment information; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.
2. If the sexual offender is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual

offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, who fails to report all electronic mail addresses and all Internet identifiers, and each Internet identifier's corresponding website homepage or application software name, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner prescribed by the department.

History.—s. 8, ch. 97-299; s. 7, ch. 98-81; s. 114, ch. 99-3; s. 3, ch. 2000-207; s. 3, ch. 2000-246; s. 3, ch. 2002-58; s. 2, ch. 2004-371; s. 9, ch. 2005-28; s. 3, ch. 2006-200; s. 4, ch. 2006-299; s. 159, ch. 2007-5; s. 10, ch. 2007-143; s. 4, ch. 2007-207; s. 2, ch. 2007-209; s. 3, ch. 2009-194; s. 4, ch. 2010-92; s. 4, ch. 2012-19; s. 11, ch. 2012-97; s. 11, ch. 2013-116; s. 10, ch. 2014-4; s. 5, ch. 2014-5; s. 26, ch. 2014-160; s. 99, ch. 2015-2; ss. 10, 51, ch. 2016-24; s. 3, ch. 2016-104; s. 2, ch. 2017-170; s. 2, ch. 2018-105.