

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/SB 234 — Sexual Offender Registration

by Rules Committee; Criminal Justice Committee; and Senators Book, Bradley, and Gibson

The bill amends s. 943.0435, F.S., relating to sexual offender registration, to clarify release from conviction sanctions for sexual offender registration and reporting purposes. Currently, a person convicted of a qualifying sexual offense must register as a sexual offender upon release from a court imposed sanction. In *State v. James*, 298 So.3d 90 (Fla. 2d DCA 2020), the Florida Second District Court of Appeal interpreted the word “sanction” to include any court imposed fines. As a result of this opinion, a person otherwise required to register as a sexual offender, may forgo registration by refusing to pay any court imposed fine.

The bill provides legislative findings that the opinion in *State v. James* interpreting the word “sanction” is contrary to legislative intent and that a person’s failure to pay a fine does not relieve him or her of the requirement to register as a sexual offender pursuant to s. 943.0435, F.S. The bill also specifies that the Legislature intends that a person must register as a sexual offender pursuant to s. 943.0435, F.S., when he or she has been convicted of a qualifying offense and, on or after October 1, 1997, has:

- No sanction imposed upon conviction; or
- Been released from a sanction imposed upon conviction.

Consistent with these legislative findings and intent, the bill also amends s. 943.0435(1)(h)1.a.(II), F.S., to:

- Specify that an offender who has been released on or after October 1, 1997, from a sanction imposed for any conviction for a qualifying sexual offense and who does not otherwise meet the criteria for registration as a sexual offender under ch. 944, F.S. (custody, control, or supervision of the Department of Corrections), or ch. 985, F.S. (supervision or commitment of the Department of Juvenile Justice), must register as a sexual offender;
- Amend the definition of “sanction” to exclude fines and to specify that “sanction” means probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility; and
- Provide that if no sanction is imposed the person is deemed to be released upon conviction.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 115-0