

By Senator Hutson

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1                                   A bill to be entitled  
2       An act relating to sexual offender registration;  
3       amending s. 943.0435, F.S.; redefining the term  
4       "sexual offender"; providing that certain persons are  
5       deemed released upon conviction; amending ss. 92.55,  
6       934.255, 943.0595, 947.1405, 948.30, and 948.31, F.S.;  
7       conforming cross-references; providing an effective  
8       date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

11  
12           Section 1. Paragraph (h) of subsection (1) of section  
13   943.0435, Florida Statutes, is amended to read:

14           943.0435 Sexual offenders required to register with the  
15   department; penalty.—

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

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

20           a.~~(1)~~ Has been convicted of committing, or attempting,  
21   soliciting, or conspiring to commit, any of the criminal  
22   offenses proscribed in the following statutes in this state or  
23   similar offenses in another jurisdiction: s. 393.135(2); s.  
24   394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where  
25   the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former  
26   s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.  
27   794.05; former s. 796.03; former s. 796.035; s. 800.04; s.  
28   810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,  
29   excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;

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30 s. 895.03, if the court makes a written finding that the  
31 racketeering activity involved at least one sexual offense  
32 listed in this sub-subparagraph ~~sub-sub-subparagraph~~ or at least  
33 one offense listed in this sub-subparagraph ~~sub-sub-subparagraph~~  
34 with sexual intent or motive; s. 916.1075(2); or s. 985.701(1);  
35 or any similar offense committed in this state which has been  
36 redesignated from a former statute number to one of those listed  
37 in this sub-subparagraph ~~sub-sub-subparagraph~~; and

38 ~~(H)~~ has been released on or after October 1, 1997, from  
39 incarceration and any postconviction supervision imposed for  
40 such conviction and does not meet the criteria for registration  
41 as a sexual offender under any other law of this state. For  
42 purposes of this sub-subparagraph, such a person who is not  
43 incarcerated and is not subject to postconviction supervision is  
44 deemed to be released upon conviction ~~the sanction imposed for~~  
45 ~~any conviction of an offense described in sub-sub-subparagraph~~  
46 ~~(I). For purposes of sub-sub-subparagraph (I), a sanction~~  
47 ~~imposed in this state or in any other jurisdiction includes, but~~  
48 ~~is not limited to, a fine, probation, community control, parole,~~  
49 ~~conditional release, control release, or incarceration in a~~  
50 ~~state prison, federal prison, private correctional facility, or~~  
51 ~~local detention facility;~~

52 b. Establishes or maintains a residence in this state and  
53 who has not been designated as a sexual predator by a court of  
54 this state but who has been designated as a sexual predator, as  
55 a sexually violent predator, or by another sexual offender  
56 designation in another state or jurisdiction and was, as a  
57 result of such designation, subjected to registration or  
58 community or public notification, or both, or would be if the

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59 person were a resident of that state or jurisdiction, without  
60 regard to whether the person otherwise meets the criteria for  
61 registration as a sexual offender;

62 c. Establishes or maintains a residence in this state who  
63 is in the custody or control of, or under the supervision of,  
64 any other state or jurisdiction as a result of a conviction for  
65 committing, or attempting, soliciting, or conspiring to commit,  
66 any of the criminal offenses proscribed in the following  
67 statutes or similar offense in another jurisdiction: s.  
68 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.  
69 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),  
70 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding  
71 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;  
72 s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;  
73 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;  
74 s. 847.0145; s. 895.03, if the court makes a written finding  
75 that the racketeering activity involved at least one sexual  
76 offense listed in this sub-subparagraph or at least one offense  
77 listed in this sub-subparagraph with sexual intent or motive; s.  
78 916.1075(2); or s. 985.701(1); or any similar offense committed  
79 in this state which has been redesignated from a former statute  
80 number to one of those listed in this sub-subparagraph; or

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

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

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

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

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

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

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

101  
102 For each violation of a qualifying offense listed in this  
103 subsection, except for a violation of s. 794.011, the court  
104 shall make a written finding of the age of the victim at the  
105 time of the offense. For a violation of s. 800.04(4), the court  
106 shall also make a written finding indicating whether the offense  
107 involved sexual activity and indicating whether the offense  
108 involved force or coercion. For a violation of s. 800.04(5), the  
109 court shall also make a written finding that the offense did or  
110 did not involve unclothed genitals or genital area and that the  
111 offense did or did not involve the use of force or coercion.

112 Section 2. Paragraph (b) of subsection (1) of section  
113 92.55, Florida Statutes, is amended to read:

114 92.55 Judicial or other proceedings involving victim or  
115 witness under the age of 18, a person who has an intellectual  
116 disability, or a sexual offense victim or witness; special

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117 protections; use of therapy animals or facility dogs.—

118 (1) For purposes of this section, the term:

119 (b) "Sexual offense" means any offense specified in s.  
120 775.21(4)(a)1. or s. 943.0435(1)(h)1.a. ~~s.~~  
121 ~~943.0435(1)(h)1.a.(I).~~

122 Section 3. Paragraph (a) of subsection (2) of section  
123 934.255, Florida Statutes, is amended to read:

124 934.255 Subpoenas in investigations of sexual offenses.—

125 (2) An investigative or law enforcement officer who is  
126 conducting an investigation into:

127 (a) Allegations of the sexual abuse of a child or an  
128 individual's suspected commission of a crime listed in s.  
129 943.0435(1)(h)1.a. ~~s. 943.0435(1)(h)1.a.(I)~~ may use a subpoena  
130 to compel the production of records, documents, or other  
131 tangible objects and the testimony of the subpoena recipient  
132 concerning the production and authenticity of such records,  
133 documents, or objects, except as provided in paragraphs (b) and  
134 (c).

135  
136 A subpoena issued under this subsection must describe the  
137 records, documents, or other tangible objects required to be  
138 produced, and must prescribe a date by which such records,  
139 documents, or other tangible objects must be produced.

140 Section 4. Paragraph (a) of subsection (2) of section  
141 943.0595, Florida Statutes, is amended to read:

142 943.0595 Automatic sealing of criminal history records.—

143 (2) ELIGIBILITY.—

144 (a) The department shall automatically seal a criminal  
145 history record that does not result from an indictment,

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146 information, or other charging document for a forcible felony as  
147 defined in s. 776.08 or for an offense enumerated in s.

148 943.0435(1)(h)1.a. ~~s. 943.0435(1)(h)1.a.(I)~~, if:

149 1. An indictment, information, or other charging document  
150 was not filed or issued in the case giving rise to the criminal  
151 history record.

152 2. An indictment, information, or other charging document  
153 was filed in the case giving rise to the criminal history  
154 record, but was dismissed or nolle prosequi by the state  
155 attorney or statewide prosecutor or was dismissed by a court of  
156 competent jurisdiction. However, a person is not eligible for  
157 automatic sealing under this section if the dismissal was  
158 pursuant to s. 916.145 or s. 985.19.

159 3. A not guilty verdict was rendered by a judge or jury.  
160 However, a person is not eligible for automatic sealing under  
161 this section if the defendant was found not guilty by reason of  
162 insanity.

163 4. A judgment of acquittal was rendered by a judge.

164 Section 5. Subsection (12) of section 947.1405, Florida  
165 Statutes, is amended to read:

166 947.1405 Conditional release program.—

167 (12) In addition to all other conditions imposed, for a  
168 releasee who is subject to conditional release for a crime that  
169 was committed on or after May 26, 2010, and who has been  
170 convicted at any time of committing, or attempting, soliciting,  
171 or conspiring to commit, any of the criminal offenses listed in  
172 s. 943.0435(1)(h)1.a. ~~s. 943.0435(1)(h)1.a.(I)~~, or a similar  
173 offense in another jurisdiction against a victim who was under  
174 18 years of age at the time of the offense, if the releasee has

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175 not received a pardon for any felony or similar law of another  
176 jurisdiction necessary for the operation of this subsection, if  
177 a conviction of a felony or similar law of another jurisdiction  
178 necessary for the operation of this subsection has not been set  
179 aside in any postconviction proceeding, or if the releasee has  
180 not been removed from the requirement to register as a sexual  
181 offender or sexual predator pursuant to s. 943.04354, the  
182 commission must impose the following conditions:

183 (a) A prohibition on visiting schools, child care  
184 facilities, parks, and playgrounds without prior approval from  
185 the releasee's supervising officer. The commission may also  
186 designate additional prohibited locations to protect a victim.  
187 The prohibition ordered under this paragraph does not prohibit  
188 the releasee from visiting a school, child care facility, park,  
189 or playground for the sole purpose of attending a religious  
190 service as defined in s. 775.0861 or picking up or dropping off  
191 the releasee's child or grandchild at a child care facility or  
192 school.

193 (b) A prohibition on distributing candy or other items to  
194 children on Halloween; wearing a Santa Claus costume, or other  
195 costume to appeal to children, on or preceding Christmas;  
196 wearing an Easter Bunny costume, or other costume to appeal to  
197 children, on or preceding Easter; entertaining at children's  
198 parties; or wearing a clown costume without prior approval from  
199 the commission.

200 Section 6. Subsection (4) of section 948.30, Florida  
201 Statutes, is amended to read:

202 948.30 Additional terms and conditions of probation or  
203 community control for certain sex offenses.—Conditions imposed

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204 pursuant to this section do not require oral pronouncement at  
205 the time of sentencing and shall be considered standard  
206 conditions of probation or community control for offenders  
207 specified in this section.

208 (4) In addition to all other conditions imposed, for a  
209 probationer or community controllee who is subject to  
210 supervision for a crime that was committed on or after May 26,  
211 2010, and who has been convicted at any time of committing, or  
212 attempting, soliciting, or conspiring to commit, any of the  
213 criminal offenses listed in s. 943.0435(1)(h)1.a. ~~s.~~  
214 ~~943.0435(1)(h)1.a.(I)~~, or a similar offense in another  
215 jurisdiction, against a victim who was under the age of 18 at  
216 the time of the offense; if the offender has not received a  
217 pardon for any felony or similar law of another jurisdiction  
218 necessary for the operation of this subsection, if a conviction  
219 of a felony or similar law of another jurisdiction necessary for  
220 the operation of this subsection has not been set aside in any  
221 postconviction proceeding, or if the offender has not been  
222 removed from the requirement to register as a sexual offender or  
223 sexual predator pursuant to s. 943.04354, the court must impose  
224 the following conditions:

225 (a) A prohibition on visiting schools, child care  
226 facilities, parks, and playgrounds, without prior approval from  
227 the offender's supervising officer. The court may also designate  
228 additional locations to protect a victim. The prohibition  
229 ordered under this paragraph does not prohibit the offender from  
230 visiting a school, child care facility, park, or playground for  
231 the sole purpose of attending a religious service as defined in  
232 s. 775.0861 or picking up or dropping off the offender's



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233 children or grandchildren at a child care facility or school.

234 (b) A prohibition on distributing candy or other items to  
235 children on Halloween; wearing a Santa Claus costume, or other  
236 costume to appeal to children, on or preceding Christmas;  
237 wearing an Easter Bunny costume, or other costume to appeal to  
238 children, on or preceding Easter; entertaining at children's  
239 parties; or wearing a clown costume; without prior approval from  
240 the court.

241 Section 7. Section 948.31, Florida Statutes, is amended to  
242 read:

243 948.31 Evaluation and treatment of sexual predators and  
244 offenders on probation or community control.—The court may  
245 require any probationer or community controllee who is required  
246 to register as a sexual predator under s. 775.21 or sexual  
247 offender under s. 943.0435, s. 944.606, or s. 944.607 to undergo  
248 an evaluation, at the probationer or community controllee's  
249 expense, by a qualified practitioner to determine whether such  
250 probationer or community controllee needs sexual offender  
251 treatment. If the qualified practitioner determines that sexual  
252 offender treatment is needed and recommends treatment, the  
253 probationer or community controllee must successfully complete  
254 and pay for the treatment. Such treatment must be obtained from  
255 a qualified practitioner as defined in s. 948.001. Treatment may  
256 not be administered by a qualified practitioner who has been  
257 convicted or adjudicated delinquent of committing, or  
258 attempting, soliciting, or conspiring to commit, any offense  
259 that is listed in s. 943.0435(1)(h)1.a. ~~s.~~

260 ~~943.0435(1)(h)1.a.(I).~~

261 Section 8. This act shall take effect upon becoming a law.