

HB 41

2021

1 A bill to be entitled
2 An act relating to sexual offender registration and
3 notification; amending ss. 943.0435, 944.606, and
4 944.607, F.S.; revising the definition of the term
5 "convicted" for purposes of sexual offender
6 registration requirements and notification upon
7 release of a sexual offender; providing an effective
8 date.

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

11
12 Section 1. Paragraphs (b) and (h) of subsection (1) of
13 section 943.0435, Florida Statutes, are 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 (b) "Convicted" means that there has been a determination
18 of guilt as a result of a trial or the entry of a plea of guilty
19 or nolo contendere, regardless of whether adjudication is
20 withheld, and includes an adjudication of delinquency of a
21 juvenile as specified in this section. Conviction of a similar
22 offense includes, but is not limited to, a conviction by a
23 federal or military tribunal, including courts-martial conducted
24 by the Armed Forces of the United States, and includes a
25 conviction or entry of a plea of guilty or nolo contendere

26 | resulting in a sanction in any state of the United States or
27 | other jurisdiction. A sanction includes, ~~but is not limited to,~~
28 | ~~a fine,~~ probation, community control, parole, conditional
29 | release, control release, or incarceration in a state prison,
30 | federal prison, private correctional facility, or local
31 | detention facility.

32 | (h)1. "Sexual offender" means a person who meets the
33 | criteria in sub-subparagraph a., sub-subparagraph b., sub-
34 | subparagraph c., or sub-subparagraph d., as follows:

35 | a.(I) Has been convicted of committing, or attempting,
36 | soliciting, or conspiring to commit, any of the criminal
37 | offenses proscribed in the following statutes in this state or
38 | similar offenses in another jurisdiction: s. 393.135(2); s.
39 | 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
40 | the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former
41 | s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.
42 | 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
43 | 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
44 | excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
45 | s. 895.03, if the court makes a written finding that the
46 | racketeering activity involved at least one sexual offense
47 | listed in this sub-sub-subparagraph or at least one offense
48 | listed in this sub-sub-subparagraph with sexual intent or
49 | motive; s. 916.1075(2); or s. 985.701(1); or any similar offense
50 | committed in this state which has been redesignated from a

51 former statute number to one of those listed in this sub-sub-
52 subparagraph; and

53 (II) Has been released on or after October 1, 1997, from
54 the sanction imposed for any conviction of an offense described
55 in sub-sub-subparagraph (I). For purposes of sub-sub-
56 subparagraph (I), a sanction imposed in this state or in any
57 other jurisdiction includes, ~~but is not limited to, a fine,~~
58 probation, community control, parole, conditional release,
59 control release, or incarceration in a state prison, federal
60 prison, private correctional facility, or local detention
61 facility;

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

72 c. Establishes or maintains a residence in this state who
73 is in the custody or control of, or under the supervision of,
74 any other state or jurisdiction as a result of a conviction for
75 committing, or attempting, soliciting, or conspiring to commit,

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

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

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

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

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

111
 112 For each violation of a qualifying offense listed in this
 113 subsection, except for a violation of s. 794.011, the court
 114 shall make a written finding of the age of the victim at the
 115 time of the offense. For a violation of s. 800.04(4), the court
 116 shall also make a written finding indicating whether the offense
 117 involved sexual activity and indicating whether the offense
 118 involved force or coercion. For a violation of s. 800.04(5), the
 119 court shall also make a written finding that the offense did or
 120 did not involve unclothed genitals or genital area and that the
 121 offense did or did not involve the use of force or coercion.

122 Section 2. Paragraph (a) of subsection (1) of section
 123 944.606, Florida Statutes, is amended to read:

124 944.606 Sexual offenders; notification upon release.—

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

126 (a) "Convicted" means there has been a determination of
 127 guilt as a result of a trial or the entry of a plea of guilty or
 128 nolo contendere, regardless of whether adjudication is withheld.
 129 A conviction for a similar offense includes, but is not limited
 130 to, a conviction by a federal or military tribunal, including
 131 courts-martial conducted by the Armed Forces of the United
 132 States, and includes a conviction or entry of a plea of guilty
 133 or nolo contendere resulting in a sanction in any state of the
 134 United States or other jurisdiction. A sanction includes, ~~but is~~
 135 ~~not limited to, a fine,~~ probation; community control; parole;
 136 conditional release; control release; or incarceration in a
 137 state prison, federal prison, private correctional facility, or
 138 local detention facility.

139 Section 3. Paragraph (b) of subsection (1) of section
 140 944.607, Florida Statutes, is amended to read:

141 944.607 Notification to Department of Law Enforcement of
 142 information on sexual offenders.—

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

144 (b) "Conviction" means a determination of guilt which is
 145 the result of a trial or the entry of a plea of guilty or nolo
 146 contendere, regardless of whether adjudication is withheld.
 147 Conviction of a similar offense includes, but is not limited to,
 148 a conviction by a federal or military tribunal, including
 149 courts-martial conducted by the Armed Forces of the United
 150 States, and includes a conviction or entry of a plea of guilty

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151 or nolo contendere resulting in a sanction in any state of the
152 United States or other jurisdiction. A sanction includes, ~~but is~~
153 ~~not limited to, a fine;~~ probation; community control; parole;
154 conditional release; control release; or incarceration in a
155 state prison, federal prison, private correctional facility, or
156 local detention facility.

157 Section 4. This act shall take effect upon becoming a law.