

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division**

**JOHN DOES, Nos. 1, 6 & JANE DOE,
As Next Friend on Behalf of John Doe 6**

Plaintiffs,

v.

Case No. 18-cv-24145-KMW

**MARK GLASS, in
his official capacity as
Commissioner of the Florida
Department of Law Enforcement,**

Defendant.

**FOURTH AMENDED VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

Introduction

1. The Florida Sex Offender Registration Law, Fla. Stat. § 943.0435, (hereinafter “FSORNA”), first went into effect on October 1, 1997. At that time, it required one-time in-person registration of basic identifying information and crime facts. It also required in-person reporting of temporary addresses, then defined as one in which the registrant resided for 14 consecutive days or less, with exemptions for vacation, emergency or other “special circumstance.” Fla. Stat. § 943.0435(2) (1997).

2. Since FSORNA's enactment, it has been amended to redefine temporary residence from 14 consecutive days or less, with exemptions for vacation, emergency or other "special circumstance" to 3 days in the aggregate per calendar year, expressly including vacation, business or personal travel. Fla. Stat. §§ 943.0435(1)(f) & 775.21(2)(k),(n) (2024). And unlike the original FSORNA, the 2024 version defines "day" in this context as including any part of a calendar day, no matter how small. Fla. Stat. § 943.0435(1)(f), incorporating by reference §§ 775.21(2)(k),(n).
3. Defendant, the premiere law enforcement agency in the state, opposed the 3-day redefinition of temporary residence: it would compel registrants to make an increased number of in-person reports, burdening sheriffs' agencies without increasing public safety.
4. For years following enactment of the 3-day amendment, Defendant repeatedly urged the Florida Legislature to allow for online reporting of both in-state and out-of-state temporary residences as advancing public safety, by reducing administrative burdens on law enforcement officers and facilitating more rapid reporting. No stakeholders objected to this proposal. Yet the Florida Legislature repeatedly rejected it.
5. On March 25, 2024, the Honorable Robert Hinkle, United States District Judge in the Northern District of Florida, issued an order finding the provision

regulating in-state travel, Fla. Stat. § 943.0435(4)(a) (2024) to be unconstitutional in violation of substantive due process, and ordering Defendant to provide online reporting of in-state temporary residences. *See Harper v. Glass*, Case No. 4:21-cv-85-RH-MJF (N.D. Fla. March 25, 2024). As Judge Hinkle noted, Defendant himself had long advocated for just this result, and FSORNA already provided online reporting of a wealth of other identifying information. *Harper v. Glass, supra*, at 17-19. Judge Hinkle upheld the in-person reporting requirement for out-of-state temporary residences. *Id.* at 21.

6. FSORNA is premised on the notion that convicted registrants categorically represent an intractably high risk of sexual reoffense, but that, paradoxically, its provisions reduce this risk. Fla. Stat. § 943.0435(12). As will be set forth in scientific reports and citations below, this premise is widely acknowledged now to be false: the average rate of registrant reoffense begins low – 5.3% within 3 years – a rate that declines by 50% for every five years free in the community without sexual reoffense. Furthermore, an individual registrant’s actual risk of reoffense is ascertainable through risk assessment instruments in universal use, including in Florida. Finally, long-term studies have established that statutes like FSORNA, that restrict registrants’ movements for the rest of their lives, do nothing to decrease the already-low rate of sexual reoffense, and may in fact increase it.

7. Plaintiffs are two registrants whose offenses were committed before the first version of FSORNA was enacted in October 1997. They have never since been arrested or convicted of any substantive offense, let alone a sexual offense. Their actuarial risk of reoffense is miniscule, as is their actual risk of reoffense, based on forensic evaluations attached as exhibits below.
8. Thus, FSORNA's requirement of in-person reporting of out-of-state temporary residences, based on the false belief that it would mitigate an egregiously inflated risk of reoffense, is irrational on its face and as applied to Plaintiffs.
9. This action arises under the Fifth 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.
10. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.
11. Venue properly lies within this District under 28 U.S.C. § 1391(b)(2).¹

¹ From the time the case was filed until recently, one or more of the John Does resided in the Southern District; for example, both John Doe 6 and John Doe 7 resided in this district. However, John Doe 6 has since moved to the Middle District, where John Doe 1 also resides, and John Doe 7 has been voluntarily dismissed due to his release from the registry. However, both defense and plaintiffs' counsel reside in this district, discovery was conducted in this district, and this Court has presided over this case since its 2018 filing. Plaintiffs prefer that the case remain in this forum. There are nine factors relevant to the court's decision to transfer a case:

(1) the convenience of the witnesses; (2) the location of relevant documents and the relative ease of access to sources of proof; (3) the convenience of the parties; (4) the locus of operative facts; (5) the availability of process to compel the attendance of unwilling witnesses; (6) the relative means of the parties; (7) a forum's familiarity with the governing law; (8) the weight accorded a plaintiff's choice of forum; and (9) trial efficiency and the interests of justice, based on the

Parties

12. John Doe 1, 51 years old, is subject to lifetime registration requirements because of a qualifying offense occurring in 1989-1990 against his sister, when both were minors in a household wracked by abuse and neglect. He received a withhold of adjudication, which reflects the sentencing court's determination that Doe was not likely to commit another crime. Fla. Stat. § 948.01(2) (2024). The court sentenced him to spend several weekends in jail, and ten years' probation, terminated after five years. He has committed no offense of any kind in the more than 35 years since his qualifying offense, consistent with forensic testing by Dr. Eric Imhof revealing him to pose virtually no risk of reoffense. Exhibit A. John Doe is a "sexual offender" as defined by Fla. Stat. § 943.0435(1)(h)1.a.(I)(II) (2024).

totality of the circumstances.

Manuel v. Convergys Corp., 430 F.3d 1132, 1135 n. 1 (11th Cir.2005) (citation omitted).” *Kelling v. Hartford Life and Acc. Ins. Co.*, 961 F.Supp.2d 1216, 1218 (M.D. Florida 2013). The purpose of § 1404 is to prevent the waste of time, energy and money and to protect litigants, witnesses and the public against unnecessary inconvenience and expense, citing ” *Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964) (citation and quotation marks omitted). *Id.* (2) The relevant documents and other sources of proof have, for the most part, already been secured through discovery. (3) Plaintiffs convenience is served by keeping this case in this forum, because that is where their counsel reside: transportation to a different district and associated travel and hotel costs are very high. (5) It is extremely unlikely that either side will seek to present unwilling witnesses: most defense witnesses are in his employ and his expert lives out of state. (6) Plaintiffs have considerably fewer means than defendant. (7) This court is already familiar with the governing law. (8) Plaintiffs choice is to remain in this forum. (9) Keeping the case in this district saves considerable time, energy and money, due to this Court s familiarity with the case and the money saved by plaintiffs and defendant s counsel by keeping the case where they reside.

13. Jane Doe is Next Friend on behalf of John Doe 6, the real party in interest. John Doe 6, 54 years old, is a registrant due to his conviction of a 1996 crime that was not a qualifying offense under FSORNA's first version: attempted kidnapping of a 16-year-old with sexual intent. *See* 1997 & 1998 versions of Fla. Stat. § 943.0435(1)(a)1. In the thirty years since commission of his qualifying offense, he has not been arrested for a substantive offense, consistent with forensic testing performed by Dr. Merry Haber reflecting virtually no risk of sexual reoffense. Exhibit B. But he has been arrested, convicted and punished for inadvertent registration and probation violations, including an unwitting failure to make an in-person report of a temporary in-state residence. These inadvertent arrests have subjected him to lifetime registration under Fla. Stat. § 943.0435(11)(a)1. Mr. Doe suffers from intellectual deficits (ID), with an IQ between 53 and 65. He is illiterate, with the memory and verbal processing abilities of a small child. Exhibit B. He was formally determined to be incompetent for trial by Miami-Dade Circuit Court Judge Milton Hirsch on January 8, 2016, in vacating a plea to failure to register. Exhibit C. Due to his severe intellectual deficits, John Doe 6 lacks the mental competency to appear on his own behalf and proceed with this litigation. John Doe 6 has never been and will never be able to register without supervision. His wife, who supervises his compliance with the registration requirements, also suffers from ID. He is a "sexual offender," as defined by Fla.

Stat. §§ 943.0435(1)(h)1.a(I)(II) (2024).

14. Next Friend Jane Doe is the older sister of Doe 6. She is thoroughly knowledgeable of her brother's cognitive deficits, having personally witnessed them since his early childhood until the present day. Jane Doe is fully aware of the overwhelming difficulties her brother faces in attempting to meet the reporting obligations imposed on him by FSORNA. By necessity and based on genuine, deep sibling love, Jane Doe has always been very protective of and dedicated to her brother's welfare and best interests. Her son, who lives in Washington, D.C., and who grew up in the home where John Doe 6 lived, shares her love for his uncle and interest in his well-being, managing his government assistance and finances. Jane Doe understands the purpose of this litigation and believes it is in John Doe 6's best interest to be a real party of interest.

15. Defendant Mark Glass 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. He has statutory authority to implement the relief Plaintiffs seek. *See Fla. Stat. § 943.03* (2024). References to the Commissioner or the FDLE in this Complaint are referring to this Defendant. At all relevant times, Defendant Glass and his agents acted, and continue to act, under color of state law.

GENERAL FACTS

16. Prior to 1997, Florida had no sex offender registry or notification laws. The Florida Legislature first enacted FSORNA in 1997. Fla. Stat. § 943.0435 (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. Changes to their permanent or temporary residences were to be reported in person within 48 hours to the Department of Highway Safety and Motor Vehicles (“DHSMV”). Fla. Stat. § 943.0435(3) (1997). A temporary address was then defined as one in which the registrant resided for 14 consecutive days or less, with exemptions for vacation, emergency or other “special circumstances.” Fla. Stat. § 943.0435(2) (1997). Failure to comply was a third-degree felony. Fla. Stat. § 943.0435(6) (1997).

17. As a result of multiple amendments since 1997, FSORNA required an increasing number of in-person reporting requirements of a burgeoning amount of

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

³ See 1997 Fla. Stat. § 943.0435(1)(a)1, defining a “sex offender” to mean someone “[c]onvicted of committing, or attempting, soliciting, or conspiring to commit” offenses proscribed in §§. 787.025, 796.03, 800.04, 827.071, 847.0133, 847.0135, 847.0145, or similar offenses committed in this state under a former statute to one of those listed, or similar offenses committed in another jurisdiction.

identifying information.⁴ With improvements in technology, FSORNA has since provided for online reporting as an alternative to in-person reporting of a quantity of identifying information: phone numbers, vehicles owned, email addresses, internet identifiers, employment information, and institutions of higher education information, *see* Fla. Stat. § 943.0435(4)(e)3. (2024). More recently, FSORNA was amended to allow online reporting of in-state temporary residences. Registrants are still required to re-register in person either two or four times a year, depending upon the offense at conviction. Fla. Stat. § 943.0435(14)(a), (b) (2025). At that time, a registrant must report any temporary residences he has established since his last re-registration, or that he intends to occupy in the future within this state or out-of-state. Fla. Stat. § 943.0435 (14)(c)1. (2025).

18. Nevertheless, at least 48 hours before departure for an out-of-state temporary residence, now defined as 3 days in the aggregate per calendar year, registrants must make an in-person report of that residence, § 943.0435(7), even if it was already reported in-person at re-registration. Registrants expend considerable time and energy making required in-person reports. Notably, 88% of sheriff's office have a single location for reporting.⁵ Because many Florida counties are

⁴ FSORNA was amended in 1998, 2000, 2002, 2004, 2005, 2007, 2009, 2010, 2012, 2013, 2014, 2016, 2017, 2018 and 2024. The legislative history of these amendments reflects no empirical basis for any of them.

⁵ OPPAGA Report (2024) <https://oppaga.fl.gov/Products/ReportDetail?rm=24-11> at 11.

vast and sprawling, many registrants live and work at great distances from the county's only reporting location. Furthermore, the sheriffs' offices are not necessarily open to registrants every day during business hours, but instead for fewer days and fewer hours, making it challenging to meet the in-person reporting requirement.⁶ For example, a registrant who learns of an out-of-state relative's accident, sudden illness or death, or a registrant evacuating the state due to weather emergency, may be unable to make an in-person report "at least 48 hours" before he needs to leave.⁷ Arrest for violating the in-person reporting provision is no idle threat: arrests for registration violations have increased by 38% over 10 years, from 1,612 in 2014 to 2,200 in 2023.⁸ Therefore, the burden of in-person reporting of out-of-state temporary residences under temporal constraints is heavy.

The Defendant has repeatedly stated that the requirement of in-person travel reporting is a burden on law enforcement that also delays public notification undermining public safety.

19. The burden of in-person reporting is not borne by registrants alone. Defendant opposed the 2018 amendment to redefine "temporary residence" from 5 days in

⁶ *Id.* at 11.

⁷ § 943.0435(7) provides that if the report cannot be made "at least 48 hours" before departure, it may be made within less time before departure, but it must be made before departure, whether or not the sheriff's office is then open.

⁸ OPPAGA Report (2024) *See* n.5 at 17.

the aggregate per calendar year to 3 days in the aggregate per calendar year precisely because it created a heavy burden on sheriffs' offices and undermined public safety. When confronted with this proposed amendment, Defendant's then-Planning and Policy Administrator warned that "[a] 3-day limitation might ... create a significant impact and burden on law enforcement who would be required to assign and make resources available to accommodate potential registrations." Exhibit D at 1. Defendant presented this analysis to the Florida Legislature, noting that almost 32% of Florida registrants reside in the 37% of sheriffs' offices with limited days and hours for reporting. Exhibit E at 5. He outlined other adverse impacts: to the Florida Department of Corrections due to the "increased minimum mandatory penalties"; to the sheriffs' offices "in terms of increased evidentiary support for failure to register (FTR) cases"; and to prosecutors in terms of "an increase in the number of FTR cases." *Id.* Defendant did not identify a single benefit to law enforcement or the public anticipated from the amendment.

20. Similarly, the legislative archives reveal no public support for the amendments, only opposition. Exhibit F. No studies were conducted prior to passage to establish the bills' efficacy in reducing registrant reoffense. Exhibit E at 3. Nevertheless, the bill went into effect on July 1, 2018.

21. For years thereafter, Defendant attempted to mitigate the damaging impacts of

the 3-day rule by advocating repeatedly for online, rather than in-person, reporting of temporary residences. In 2021, his then-legislative liaison argued that online reporting would “streamline updates to law enforcement and the public regarding a registrant’s residence.” Exhibit G at 3. In his 2022 Legislative Talking Points, he presented his proposal for online reporting of in-state and out-of-state temporary residences to the Legislature, as **“improv[ing] public safety in Florida”** by **“[a]llowing online registration of ... address changes ... to facilitate access to this critical information and reduce the impact on sheriffs’ offices.”** Exhibit H (emphasis added). He made the same proposal in his 2023 Legislative Talking Points, Exhibit I at 1, and again for FY 2023-24, to “reduc[e] strain on law enforcement agencies.” Exhibit J at 1.

22. Other evidence supporting Defendant’s advocacy of online reporting of out-of-state temporary residences:

- No criminal justice stakeholders – the Florida Sheriffs Association, Police Chiefs Association, Prosecuting Attorneys Association, Department of Corrections, Department of Juvenile Justice, not even members or staff of the Florida Legislature – expressed any opposition to Defendant’s proposals for online reporting of temporary residences. Exhibit K at 76, 87-89, 91-93, 98-99, 105-108.⁹
- FSORNA allows online reporting of information about locations in which registrants spend a considerably more time than 3 days in

⁹ This exhibit is the deposition of Heather Faulkner in *Harper v. Glass, supra*. Ms. Faulkner has been listed as a witness by Defendant in this case as well.

the aggregate per calendar year: where they work, where they go to school and where they volunteer. Fla. Stat. § 943.0435(4)(e)1.-3.

- There is no scientific research supporting the efficacy of in-person short-term travel reporting in reducing sexual reoffense among registrants. Exhibit L at 6.¹⁰

- There is scientific research that burdening travel by registrants, *e.g.*, by requiring in-person reports, impedes registrant rehabilitation and reintegration because the restrictions create obstacles to social interactions with friends and family, or other prosocial opportunities. *Id* at 5-23. Declarants required to make in-person reports prior to out-of-state visits missed funerals and memorials, bedside visits to gravely ill family members and out-of-town employment possibilities. *Id.* at 11-15. Registrants – who are forbidden entry to almost all emergency shelter – may be forced to evacuate the state immediately during severe weather events. The requirement to make an in-person report of an out-of-state temporary residence could endanger them. It will, at the very least, “increase the instability, stress and related difficulties placed on the registrants and their families in times of natural disasters.” *Id.* at 16. If allowed to report out-of-state emergency stays online, registrants could notify law enforcement of their whereabouts as soon as they find shelter.

- FSORNA’s requirement of in-person reporting of an out-of-state 3-day stay is not required by the federal government to qualify for federal funding. Federal SORNA defines a reportable temporary lodging as consisting of **7 or more days**, not 3. *See* 28 C.F.R. 72.6(c)(2). Furthermore, federal SORNA requires the registrant’s home state to inform a receiving state only that he is leaving to establish a **permanent residence** there, 34 U.S.C. § 20911 (13) & 34 U.S.C. § 20923(b)(3)., not a temporary residence. It is the registrant who is required to report his temporary lodging in another state.

¹⁰ This is the report of Professor Kelly Socia in *Harper v. Glass, supra*. Professor Socia has been listed as a witness by Plaintiff in this case as well.

23. The purpose of FSORNA, as set forth in § 943.0435(12), is to reduce sexual reoffense by people on the registry through notification to the police and public. As noted, Defendant, the premiere law enforcement agency in the state, whose job it is to secure public safety, has repeatedly said that access to online reporting of out-of-state temporary residences better protects the public than in-person reporting alone. It is difficult to conceive of any reason why he would be wrong.

Empirical Facts

24. Contrary to popular belief, registrants have a far lower rate of recidivism than convicted felons generally. Karl Hanson¹¹ is the world's leading expert on sex offense risk and recidivism. Exhibit M¹² at 11. Based on hundreds of aggregated studies of many thousands of registrants conducted by him and others over a period of decades, Hanson concludes that the recidivism risk of most registrants is low, and they are less likely to reoffend sexually the longer they remain offense-free in the community. After each five-year period of being sexual offense free in the community, the risk of reoffense is cut by half. Exhibit N at 6-13. The percentage of people with a criminal conviction but no history of sexual offending who go on to commit sex offenses is 1-2% during a 5-year follow-up period. *Id.* at 14. The percentage of all adult males in the general population who

¹¹ Dr. Hanson was listed as a witness in *Harper* as well as in this case.

¹² Dr. Jill Levenson, author of this exhibit, has been listed as a witness in this case.

will commit a sexual offense is between 1-2%. *Id.* at 13-16.¹³ Eventually, all registrants will be no more likely to commit a new sex offense than “the rate of spontaneous ‘out-of-the-blue’ sexual offenses in the general population.” Exhibit N ¶¶ 47-65.¹⁴

25. For perspective, it is important to note that the vast majority of sex crimes are committed by people who have never been arrested for a sex crime, that is, not by registrants. In Florida, for example, the number of sex crimes committed by people previously arrested for sex crimes was 6.5%. Exhibit O at 9. In other words, **93.5% of sex crimes in Florida are committed by persons who have never been arrested for a sex crime, that is, they are not on the registry.** Clearly, the vast majority of convicted sex offenders in Florida are not committing the vast majority of new sex crimes. *Id.*

26. Furthermore, as Hanson reports, the registrants responsible for the sex crimes committed are extremely unlikely to commit another if they are able to live offense-free in the community after release, no matter what a registrant’s reoffense risk is upon release from prison. Exhibit N ¶¶ 38, 47-65. A decline in

¹³ Dr. Hanson notes that studies supporting this statement have not “been subject to peer review, [but] their data and methods appear credible, and their results are reasonably consistent.” *Id.* at 16.

¹⁴ See Hanson, RK, Harris, AJF, Helmus, L, & Thornton, D. (2014) High risk sex offenders may not be high risk forever. *Journal of Interpersonal Violence*, 29, 2792-2813; and Hanson, RK, Harris, AJR, Letourneau, E, Helmus, LM & Thornton, D (2018). Reductions in risk based on time offense free in the community: Once a sexual offender, not always a sexual offender. *Psychology, Public Policy and Law*, 24(1), 48-63. Doi.10.1037/law0000135.

the likelihood of rearrest with each year arrest-free after release is the single most well-established finding in criminology, Blumstein & Nakamura, *Redemption in the Presence of Widespread Criminal Background Checks*, 47 *Criminology* 327 (2007); Kurlychek et al., *Long-Term Crime Desistance and Recidivism Patterns*, 50 *Criminology* 71, 75 (2012); and applies equally to those convicted of sexual offenses. Hanson et al, *Reductions in Risk Based on Time Offense-Free in the Community: Once a Sexual Offender, Not Always a Sexual Offender*, 24 *Psych. Pub. Pol’y & L.* 48, 50 (2018) (a meta-analysis with data from 21 studies following 7,740 adult males convicted of a sexual offense for up to 24 years following release). Very low risk registrants (Level I, as measured by the Static-99R, *see* below) pose less risk of sexual reoffense than nonsexual offenders do on the day of their release from custody. Below average risk registrant (Level II) pose the same risk of sexual offense as nonsexual offenders after five years arrest-free. Average risk registrants (Level III) after ten, and above average and well above average registrants (Levels IVa and IVb) after 15 and 20 years respectively. Exhibit M at 28-36. After 20 years sexual offense free in the community, “the likelihood of any further sexual offending is vanishingly small.” *Id.* at 12. Exhibit N, ¶¶ 38, 47-65.

27. On average, the sexual reoffense rates for registrants are in the 5% and 10% range after 5 years sex offense-free in the community, and in the 10% to 20% range

after 10 years. Therefore, out of an initial 100 registrants, between 80 and 90 would not reoffend if followed for 10 years. Exhibit M at 10. A Florida study echoes this finding: in a study of 474 individuals, 5.3% were rearrested for a sexual offense during the 5-year follow-up period.¹⁵

28. Recidivism rates are not uniform among those convicted of sexual offenses; their risk of reoffending depends on well-known factors, Exhibit M at 20-22, and can be reliably predicted by widely-used risk assessment tools, such as the Static-99R, which are used to classify individuals into various risk levels. Exhibit N at ¶ 24-27.

29. The Static-99R is an empirically-validated predictive tool, such as those used by insurance companies to assess the risk of loss. Empirically-validated actuarial tools are more accurate predictors than human judgments. For example, the Federal Post Conviction Risk Assessment, an actuarial tool developed by the federal system for assessing the reoffense risk of all federal probationers, is more accurate than the judgments of experienced federal probation officers. Oleson et al., *Training to See Risk: Measuring the Accuracy of Clinical and Actuarial Risk Assessments Among Federal Probation Officers*, 75 Fed. Prob. 53 (2011). The Static-99R is a specialized version of such an actuarial tool that assesses the risk

¹⁵ Zgoba, KM, Miner, M, Levenson, J, Knight, R, Letourneau, E & Thornton, D. (2016), "The Adam Walsh Act: An examination of sex offender risk classification systems." *Sexual Abuse: A Journal of Research and Treatment*, 28(8), 741-754. Doi:10.1177/107906321556943

of sexual recidivism. It is the most widely used actuarial tool in the world for assessing that risk. Society for the Advancement of Actuarial Risk Needs Assessment, *Static-99R Users*, <https://saarna.org/static-99/>. It is widely used in Florida, where all incarcerated sex offenders are screened for risk before release using the Static-99R. Exhibit O at 4. Those in high risk categories are evaluated to determine if they meet criteria for civil commitment. *Id.* They can be detained for civil commitment based on the Static-99R score and other assessments, and a mental disorder suggesting risk for reoffense, such as paraphilic disorders or antisocial personality disorder. *Id.* at 2. In 95% of cases, evaluators using the Static-99R made valid assessments in determining who should be released or detained for commitment. *Id.* at 5. *See also* § 948.30(e)1. (2024) (used to determine right of registrants on probation to contact visitation with minors); and § 948.061 (used to identify “high-risk” registrants on community supervision).

30. Regardless of the actuarial or actual risk posed by a registrant, multiple studies conducted over many years by experienced specialists publishing in respected peer-reviewed journals have concluded that broadly-inclusive regulatory and notification regimes do not reduce recidivism and may indeed increase it, making the public less safe. *See* Exhibit P. *See also* Agan & Prescott, Offenders and SORN Laws, in *Sex Offender Registration and Community Notification Laws:*

An Empirical Evaluation 120 (Logan & Prescott eds., 2021).¹⁶

The Plaintiffs

31. John Doe 1, a victim of childhood abuse himself, committed his qualifying offense against his sister in 1989-1990, when both were minors. He has never committed another offense.

32. Five years after committing that offense, John Doe 1 earned a Bachelor of Science degree, graduating at the top of his class. He became a computer engineer, starting a computer business in 1995, just before graduation and two years before FSORNA was originally passed. John Doe is now married with two children.

¹⁶ Among the studies reviewed in that chapter are: Agan, Sex Offender Registries: Fear Without Function? 54 J.L. & Econ. 207(2011) (finding sexual reoffense rates do not decline after a state adopts registration/public notification law; registrants do not reoffend less in states requiring registration); Bouffard & Askew, Time-Series Analyses of the Impact of Sex Offender Registration and Notification Law Implementation and Subsequent Modifications on Rates of Sexual Offenses, 65 Crime & Delinq. 1483 (2019) (registration law had no effect on number of sexual offenses committed by either repeat or first-time offenders); Zgoba et al., Ana Analysis of the Effectiveness of Community Notification and Registration: Do the Best Intentions Predict the Best Practices?, 27 Just. Q. 667 (2010) (no sexual reoffense rate difference between NJ registrants prior to registry compared with similar group after adoption of registry); Ackerman et al., Legislation Targeting Sex Offenders: Are Recent Policies Effective in Reducing Rape?, 29 Just. Q. 858 (2012) (no evidence that registration laws reduce rate of rape offenses); Sandler et al., Does a watched pot boil? A time-series analysis of New York's sex offender registration and notification law, 14 Psych. Pub. Pol'y 284 (2008); Prescott & Rockoff, Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?, 54 J.L. & Econ. 161 (2011) (notification may increase crime by impeding registrant rehabilitation); Tewkesbury & Jennings, Assessing the Impact of Sex Offender Registration and Community Notification on Sex-Offending Trajectories, 37 Crim. Just. & Behav. 570 (2010) (no effect on overall recidivism or reoffense rates of subgroups); Letourneau et al., Effects of South Carolina's Sex Offender Registration and Notification Policy on Adult Recidivism, 21 Crim. Just. Pol'y Rev. 435 (2010); Levenson & Zgoba, Community Protection Policies and Repeat Sexual Offenses in Florida, International Journal of Offender Therapy and Comparative Criminology, V. 60:10 (2015).

33. Each in-person report by John Doe 1 can take up to two-and-a-half hours out of his work day, costing him money and inconveniencing his customers. To avoid the time and expense occasioned by in-person reporting, when John Doe 1 and his family last left the state together, they changed hotels every two days. John Doe 1 had to fly to Chicago on April 7, 2026 for business. He was asked to purchase his ticket on April 2. His client had not finalized hotel arrangements by the time the 48-hour window for in-person reporting of the trip had closed. He therefore requested that his client reduce the trip to fewer than 3 days. During the second day in Chicago, his client asked him to extend the trip by an additional day or two as there was work remaining to be done. John Doe 1 declined: the extra day or two of work was not worth the risk of arrest. If John Doe 1 had been able to report his temporary residence online, he could have done so at least 48 hours before leaving for Chicago and would not have had to decline the additional work.

34. John Doe 1 had two years of court-ordered sex offender counseling, after which he was released from court-ordered therapy. He has now been on the registry more than half his life for an offense committed as a minor. He has lived offense-free ever since. Dr. Eric Imhof, a highly respected forensic psychologist, evaluated John Doe 1 in December 2019 to determine his risk of sexual reoffense. Exhibit A. Deploying multiple testing modalities – the Minnesota Multiphasic

Personality Inventory, Psychopathy Checklist, Abel Assessment for Sexual Interest, Static-99R, Stable-2007 (Dynamic Risk Assessment), *id.* at 8-12, Dr. Imhof concluded that John Doe 1's risk for future sexual offending "is negligible with probability estimates falling below 0.35%." *Id.* at 13. In contrast, the risk that a man who has never before been arrested for a sex crime will commit one is 1-2%, Exhibit M at 13-16, significantly higher than John Doe 1's .35%.

John Doe 6

35. John Doe 6 suffered a head injury when he was hit by a car at age 2, leading to seizures for which he was medicated until his teens. Exhibit B. Dr. Haber, a licensed psychologist for 60 years, who has completed thousands of forensic evaluations over the past 50 years, evaluated John Doe 6. *Id.* at 1. His IQ, tested three times when he was in school, varied between 53 and 65. *Id.* Although he attended special education programs through the age of 20, he never learned to read or write. *Id.* at 2. John Doe 6's wife also suffers from intellectual deficits disability, with an IQ of 65. *Id.* at 4. She now supervises John Doe 6's compliance with the registration requirements.

36. John Doe 6 was arrested after driving a car carrying his co-defendant; the car blocked a 16-year-old girl; the co-defendant grabbed her by the arms, but she escaped. In 1997, he pled guilty to attempted kidnapping and battery. His co-defendant, then a juvenile, was convicted of only misdemeanor battery. Doe 6

was sentenced to probation, which he violated through intellectual inability to understand or perform the conditions. He subsequently violated the registration statute, by failing to make an in-person report of a temporary residence, because his mother, who then supervised his registration compliance, did not know that his spending nights at his then-girlfriend's/now-wife's parents' house converted it into a temporary residence for the purpose of the reporting requirements. *Id.* at 15. He subsequently violated conditions of supervision, because he was unable to understand and properly service the GPS monitoring equipment. *Id.* at 9-12.

37. Using the WAIS-IV, Dr. Haber measured John Doe 6's Full Scale IQ to be 65, which "is considered extremely low and indicative of significantly impaired cognitive functioning." *Id.*, at 12. He ranks in the 1st percentile in working memory, verbal comprehension and general information and knowledge. *Id.* at 3. The Vineland-II, which measures adaptive functioning, placed him in the Mild to Moderate range, "within less than the 1st percentile rank when compared with other individuals." *Id.* at 13.

38. Dr. Haber also evaluated John Doe 6 for competency to proceed on a supervision violation, *id.* at 15-18, concluding that his deficits prevent him from having a factual or rational understanding of the legal process and of the ability to assist in his defense, a condition she determined to be permanent. *Id.* at 18.

39. Dr. Haber also administered the Static-99, which indicates that he represents "one

of the lowest possible risks . . .,” with only his qualifying offense as a risk factor. *Id.* at 13. “He has exhibited none of the behavioral, psychological, or personality traits associated with risk of sexual violence.” *Id.* at 13-14.

CLAIM I - 14TH AMENDMENT: Substantive Due Process
No Rational Relationship as Applied to Plaintiffs

40.Plaintiffs repeat and reallege all preceding paragraphs before the Claims for Relief Section, as if fully set forth herein.

41.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. *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974)) (noting that the “touchstone of due process is protection of the individual against arbitrary action of government”).

42.Registrants are likely the most despised group of people in the country today. Courts around the country have noted that “unlawful violence and threats” and other vigilante justice “happen with sufficient frequency and publicity that registrants justifiably live in fear of them.” *E.B. v. Verniero*, 119 F.3d 1077, 1102 (3d Cir. 1997). Public revelation that one is a sexual offender creates “increased risk of private violence that can result in damage to one’s property or injury to one’s person.” *Id.*; *See also State v. Robinson*, 873 So. 2d 1205, 1213-14 (Fla. 2004) (“[W]e cannot ignore that designated sexual predators are subject to social

ostracism, verbal (and sometimes physical) abuse, and the constant surveillance of concerned neighbors.”). This Court expressly relied on animus and violence towards registrants in granting Plaintiffs’ Motion for Anonymity. ECF 25 at 11-12.

43. Although a statute regulating non-fundamental conduct bears a presumption of constitutionality, the presumption may be weak when the government cannot plausibly explain how a law that heavily burdens an unpopular group rationally promotes a legitimate government interest. Both equal protection and substantive due process forbid irrational legislation that is motivated by hostility or prejudice.

44. In equal protection cases, the Supreme Court has long emphasized that hostility based on fear, stereotype or irrational prejudice, is not a constitutionally permissible legislative motivation. *Yick Wo v. Hopkins*, 118 U.S. 356, 374 (1886). As a result, it has carefully scrutinized reasons proffered in support of laws that target a pariah class, even if not suspect, because such laws raise the specter that animus rather than reason undergirds the law. *See Plyler v. Doe*, 457 U.S. 202 (1982) (withholding school funds for children who entered country illegally); *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432 (1985) (requiring special use permit to house the mentally handicapped); *U.S. Dep’t of Agric. v. Moreno*, 413 U.S. 528 (1973) (excluding unrelated household members from receiving food stamps); and *Romer v. Evans*,

517 U.S. 620 (1996) (repealing all laws enacted to protect gay people from discrimination). If the government offers no reasonable explanation to counter the inference of animus, then the law is grounded in irrational prejudice or stereotype and violates equal protection. *Plyler*, 457 U.S. at 230; *Moreno*, 413 U.S. at 538; *Romer*, 517 U.S. at 632; *Cleburne*, 473 U.S. at 450.

45. Principles of equal protection and substantive due process overlap in prohibiting laws based on fear or prejudice. *See Obergefell v. Hodges*, 576 U.S. 644, 673-74 (2015). Like the equal protection clause, substantive due process forbids legislatures from burdening liberty based on arbitrary or irrational grounds. *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (quoting *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974) ("touchstone of due process" is protection of individual against arbitrary action of government)). If the government cannot explain how a law that burdens an unpopular group rationally promotes a legitimate government interest, that law violates substantive due process and equal protection.

46. The challenged law in this case differs from the myriad of regulatory cases that do not raise alarms about animus: it regulates a class of persons, rather than activities or things; that class is reviled and politically powerless; it imposes undifferentiated burdens; and it conveys the message that the class consists of irremediably depraved perverts. This message is contradicted by a vast body of empirical scholarship which is virtually unchallenged. Registrants pose a much

lower risk upon release from prison than was previously believed. This risk declines with every year offense-free in the community, by about 50% for each five-year interval. This risk is measurable. The grave possibility that animus rather than reason undergirds the law cannot be ignored.

47. The factual allegations of this Complaint provide strong support for the proposition that it is animus not reason animating the in-person, out-of-state travel requirement:

The Defendant himself, the law enforcement agency charged to protect the safety of Florida's citizens, has long proposed that the Florida Legislature allow online reporting of out-of-state travel as a measure that better protects citizens than in-person reporting of out-of-state travel, because notification is more rapid with online reporting and online reporting allows law enforcement agents to spend more time fighting crime, less shuffling paperwork.

48. No criminal justice stakeholders have objected to Defendant's proposal in favor of online reporting of out-of-state travel.

49. No member of the Florida Legislature or its staff has articulated any basis for rejecting Defendant's proposals.

50. There is no scientific research to suggest that in-person reporting of out-of-state temporary residences reduces a registrant's risk of sexual reoffense, and it is impossible to imagine how it could. There is scientific research to suggest that imposing burdens on a registrant's travel impedes his rehabilitation and reintegration.

51.FSORNA already allows online reporting of locations in which registrants spend far more time than a long weekend: employment, schools, volunteer programs. It also allows online reporting of in-state temporary residences.

52.Federal SORNA does not require Florida to provide other states with notice of a registrant's temporary residence, there defined as 7 or more days. In any case, online reporting of out-of-state temporary residences would achieve the hypothetical objective of providing notice to other states of a registrant's 3-day stay there, and would do so more quickly than in-person reporting. Self-evidently, an in-person report that a Florida registrant is *leaving the state* in no way serves the safety interests of Florida's citizens.

53.The purpose of FSORNA is to reduce the risk that a registrant will sexually reoffend. It is difficult if not impossible to imagine how the requirement of in-person rather than online reporting of out-of-state temporary residences has any rational relationship with that purpose.

54.This case is readily distinguishable from *McGuire v. Marshall*, 50 F. 4th 986 (11th Cir 2022), which upheld an in-person reporting requirement for in-state and out-of-state travel. For one thing, Alabama does not allow online reporting of any travel, or of any locations in which a registrant spends a lot of time, such as employment, educational and volunteer positions. *See* Ala. Code §§ 15-20A-10, 15-20A-15. Second, that was an *ex post facto* challenge, in which five factors

must be weighed, not a substantive due process challenge, which looks only at the rational relationship factor. Third, travel reporting in Alabama entails disclosure of the registrant's entire itinerary, not just the first 3 days, which bears a rational relationship to the goal of monitoring registrants' locations. Fourth, the *McGuire* Court relied on that Defendant's reason for the requirement – to increase contacts between registrants and law enforcement officers – because this was a reason the Alabama Legislature cited in enacting the restriction. To the contrary, nothing in the language of FSORNA or its legislative history endorses this rationale, and the implementation of online reporting of a plethora of other information undermines it. One must assume that, if Defendant believed that to be a benefit of in-person reporting, he would not have persisted in opposing it for travel.

55. Given the widely-documented animus towards registrants, and the absence of conceivable reasons to believe that in-person reporting of out-of-state temporary residences better protects the public than online reporting, § 943.0435(7) is arbitrary, capricious, and oppressive.

56. This law is especially arbitrary as applied to John Doe 1 and John Doe 6. John Doe 1 has lived in his community for 35 years following his offense without being arrested for anything, let alone a sexual offense. A forensic evaluation reveals his risk of reoffense at 0.35%. John Doe 6, who has suffered from

crippling cognitive deficits since he was a toddler, has been arrested since his 1997 plea for a registration violation beyond his cognitive capability to understand, and for subsequent violations of supervision conditions beyond his cognitive capability to avoid. He has never been arrested for sexual reoffense. A forensic evaluation reveals that he poses “the lowest possible risk.”

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

Declare Fla. Stat. § 943.0435(7)(2025) unconstitutional, and as applied to Plaintiffs, in violation of the Fifth and Fourteenth Amendments to the United States Constitution;

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 Fla. Stat. § 943.0435(7)(2025), at the very least against them;

Award Plaintiffs their attorneys’ fees and expenses in this action pursuant to 42 U.S.C. § 1988(b);

Award Plaintiffs their costs of suit; and

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 14, 2026, 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: Todd G. Scher
TODD G. SCHER

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division**

**JOHN DOES, Nos. 1, 6 & JANE DOE,
As Next Friend on Behalf of John Doe 6**

Plaintiffs,

v.

Case No. 18-cv-24145-KMW

**MARK GLASS, in
his official capacity as
Commissioner of the Florida
Department of Law Enforcement,**

Defendant.

DECLARATION OF JOHN DOE 1

My name is John Doe 1. I have reviewed the Fourth Amended Verified Complaint set forth in the above matter and I find that the facts contained therein which pertain to me to be true and accurate to the best of my knowledge and belief.

I understand that a false statement in this declaration will subject me to penalties for perjury.

By: 
John Doe 1

Dated: April 13, 2026

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division**

**JOHN DOES, Nos. 1, 6 & JANE DOE,
As Next Friend on Behalf of John Doe 6**

Plaintiffs,

v.

Case No. 18-cv-24145-KMW

**MARK GLASS, in
his official capacity as
Commissioner of the Florida
Department of Law Enforcement,**

Defendant.

_____ /

**DECLARATION OF JANE DOE AS NEXT
FRIEND ON BEHALF OF JOHN DOE 6**

My name is Jane Doe. I have reviewed the Fourth Amended Verified Complaint set forth in the above matter and I find that the facts contained therein which pertain to me to be true and accurate to the best of my knowledge and belief.

I understand that a false statement in this declaration will subject me to penalties for perjury.

By: 
Jane Doe as Next Friend on Behalf of
John Doe 6

Dated: April 14, 2026