Gerald T. Noel, Jr. *Legislative Service Commission*

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(As Introduced)

Sens. Hottinger, Latta

BILL SUMMARY

- Generally extends the Sex Offender Registration and Notification Law to children adjudicated delinquent children for committing sexually oriented offenses.

- Specifically authorizes a juvenile court that finds a child to be a delinquent child for committing a sexually oriented offense to make any determination, adjudication, or order authorized by the Sex Offender Registration and Notification Law and requires that court in a case of that type to make any determination, adjudication, or order required by that Law.

- Requires a delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense to register with the appropriate sheriff of the county in which the child resides or is temporarily domiciled (in accordance with the same procedures used for adults under existing law).

- Requires a delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense and who registers with a sheriff to give that sheriff notice of changes in the child's residence and to register the new residence with the appropriate sheriff and to periodically verify the child's residence address (in accordance with the same procedures used for adults under existing law).

- Requires a sheriff with whom a delinquent child who has committed a sexually oriented offense has registered to give the victim of the offense notice that the child has registered with the sheriff and of the child's residence address if the court that adjudicated the child a delinquent

child determines that the child is an habitual sex offender and specifically makes the child subject to victim notification and if the victim has requested that type of notice (in accordance with the same procedures used for adults under existing law).

- Specifically provides that the provisions of the Sex Offender Registration and Notification Law related to neighborhood notification do not apply to delinquent children.

- Extends to a supervising officer and an officer or employee of the Department of Youth Services the existing civil immunity for acts and omissions in connection with a power, duty, responsibility, or authorization under the Sex Offender Registration and Notification Law.

- Requires the Attorney General to include in the existing State Registry of Sex Offenders all registration, change of residence address, and verification information that the Bureau of Criminal Identification and Investigation receives under the Sex Offender Registration and Notification Law and that relates to children who are adjudicated delinquent children for committing sexually oriented offenses.

- Requires the Department of Youth Services to provide specified information to the Bureau of Criminal Identification and Investigation before releasing a delinquent child who is in the custody of the Department and has been adjudicated a delinquent child for committing a sexually oriented offense.

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CONTENT AND OPERATION

Overview

Chapter 2950. of the Revised Code (the Sex Offender Registration and Notification Law, hereinafter SORN Law) sets forth the registration requirements,

victim notification, and community notification requirements for certain specified offenders who have committed sexually oriented offenses. The bill generally makes the SORN Law apply to delinquent children who have committed sexually oriented offenses.[1]

Public policy declaration of the General Assembly

Existing law

Under existing law, the General Assembly has declared that it is its intent to protect the safety and general welfare of the people of this state by providing for the registration of sexual predators, habitual sex offenders, and offenders who have committed sexually oriented offenses and by providing for community notification regarding sexual predators and habitual sex offenders who will live in or near a particular neighborhood. Existing law further declares that it is the policy of this state to (1) require the exchange of relevant information about sexual predators and habitual sex offenders among public agencies and officials and (2) to authorize the release of necessary and relevant information about sexual predators and habitual sex offenders to members of the general public as a means of assuring public protection. Existing law states that the exchange or release of that information is not punitive. (R.C. 2950.02(B).) Under existing law, the General Assembly outlines six findings in support of the above declaration. (See **COMMENT**.) (R.C. 2950.02(A).)

Operation of the bill

The bill maintains the substance of the above-referenced declarations and findings and extends those statements to delinquent children who have committed sexually oriented offenses. Therefore, under the bill, it is the General Assembly's intent to protect the safety and general welfare of the people of this state by providing for the registration of sexual predators, habitual sex offenders, offenders, *and delinquent children* who have committed sexually oriented offenses and by providing for victim notification regarding sexual predators and habitual sex offenders, including such juveniles as fit in that category, who will live in or

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[1] *Sections 2950.01, 2950.04, 2950.06, 2950.07, 2950.09, 2950.10, 2950.11, and 2950.14 of the Revised Code were amended, effective March 30, 1999, by Am. Sub. H.B. 565. As presented in the bill, those sections do not reflect the most recent amendments. However, this analysis does discuss the most recent enactments to those sections under the "**Existing law**" sections of the analysis. Therefore, conflicts exist regarding what is stated as existing law in the analysis versus what is presented as existing law in the bill. The analysis contains the most up to date changes in the Sex Offender Registration Law. The bill will be updated at the first opportunity to reflect those changes.*

near a particular neighborhood. The bill maintains the substance of all of the General Assembly's declarations and findings and extends those statements to include delinquent children who have committed sexually oriented offenses. (R.C. 2950.02.)

Notice provided to the offender of the duty to register

Notice to offender

Existing law. Under existing law, a person who is guilty of a sexually oriented offense and who has a duty to register under the SORN Law must be provided notice of the following: (1) the duty to register, (2) the offender's duty to provide notice of any change in the offender's residence address and to register the new residence address, and (3) the offender's duty to periodically verify the offender's residence address (R.C. 2950.03(A)).

Operation of the bill. The bill modifies those provisions to include a child who is adjudicated a delinquent child for committing a sexually oriented offense (R.C. 2950.03(A)).

Who must provide the notice

Existing law. Existing law states that the notice to the offender must be provided by the following persons at the following time: (1) at least ten days before the offender is released pursuant to any type of supervised release or at least ten days before the offender otherwise is released from confinement by the official, or that official's designee, in charge of the institution where the offender serves the term, regardless of when the offender committed the sexually oriented offense, if the offender is sentenced for the sexually oriented offense to any type of confinement, and if, on or after January 1, 1997, the offender is under that confinement, (2) at the time of sentencing by the judge, if the offender is sentenced for that offense on or after January 1, 1997, and if (1) above does not apply, regardless of when the offender committed the sexually oriented offense, and (3) as soon as possible after January 1, 1997, by the chief of police or sheriff with whom the offender most recently registered if the offender committed the sexually oriented offense prior to January 1, 1997, if neither (1) nor (2) above applies, and if, immediately prior to January 1, 1997, the offender was a habitual sex offender who was required to register under Chapter 2950. of the Revised Code. If the offender who otherwise would fall under category (3) has not registered with a chief of police or sheriff under that chapter, the failure to register constitutes a waiver by the offender of any right to notice. If such an offender does not receive notice, the offender is not relieved of the duty to register, the duty to provide notice

of any change in residence address and to register the new residence address, or the duty to periodically verify the residence address. (R.C. 2950.03(A).)

Operation of the bill. The bill requires a judge to provide the notice to a delinquent child at the time of the adjudication of the child if the delinquent child committed the sexually oriented offense on or after the effective date of the bill (R.C. 2950.03(A)(4)).

Content of the notice

Existing law. The above-mentioned notice must inform the offender of the offender's duty to do the following: to register under R.C. 2950.04, to notify the appropriate officials of a change in the offender's residence address and to register the new residence address in accordance with R.C. 2950.05, and to periodically verify a residence address under R.C. 2950.06. The notice must comport with the following: (a) if the notice is provided under (3) under "***Who must provide the notice***," above, the notice must be on a form that is prescribed by the BCII and that states the offender's duties and that, if the offender has any questions concerning these duties, the offender may contact the chief of police or sheriff who sent the form for an explanation of the duties. If the offender appears in person before the chief of police or sheriff, the chief or sheriff must provide that same notice, and all provisions of (b) below apply regarding a notice provided by an official, official's designee, or judge in that manner, (b) if the notice is provided under (1) or (2) under "***Who must provide the notice***," above, the official, official's designee, or judge must require the offender to read and sign a form prescribed by the BCII, stating that the offender's duties have been explained to the offender. If the offender is unable to read, the official, official's designee, or judge must certify on the form that the official, designee, or judge specifically informed the offender of those duties and that the offender indicated an understanding of those duties. (R.C. 2950.03(B).)

Operation of the bill. The bill adds a provision stating that if the notice is provided to a delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense, the judge must require the delinquent child and the delinquent child's parent, guardian, or custodian to read and sign a form prescribed by BCII, stating that the delinquent child's duties to register, to register a new residence address, and to periodically verify a residence address have been explained to the delinquent child and the delinquent child's parent, guardian, or custodian. If the delinquent child or the delinquent child's parent, guardian, or custodian is unable to read, the judge must certify on the form that the judge specifically informed the delinquent child or the delinquent child's parent, guardian, or custodian of those duties and that the delinquent child or the

delinquent child's parent, guardian, or custodian indicated an understanding of those duties (R.C. 2950.03(B)(1)(c)).

Form for notice

Existing law. Existing law also states that the form used for the notice must contain all of the information required by BCII, including, but not limited to, a statement as to whether the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense in question, a statement as to whether the offender has been determined to be a habitual sex offender, an explanation of the periodic residence address verification process and of the frequency with which the offender will be required to verify the residence address under that process, and a statement that the offender must verify the residence address at the times specified under that process or face criminal prosecution.

After an offender has signed the form or the official, official's designee, or judge has certified on it that it has been explained to the offender and that the offender indicated an understanding of the duties, the official, official's designee, or judge must give one copy of the form to the offender, within three days must send one copy of the form to BCII, and must send one copy of the form to the sheriff of the county in which the offender expects to reside. After a chief of police or sheriff has sent a form to an offender, the chief or sheriff must send a copy of the form to BCII. (R.C. 2950.03(B)(2).)

Operation of the bill. The bill extends these provisions to juvenile sex offenders by stating that after a delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense and the delinquent child's parent, guardian, or custodian have signed the form or the judge has certified on the form that the form has been explained to the delinquent child or the delinquent child's parent, guardian, or custodian and that the delinquent child or the delinquent child's parent, guardian, or custodian indicated an understanding of the duties indicated on the form, the judge must give one copy of the form to the delinquent child and to the delinquent child's parent, guardian, or custodian, within three days must send one copy of the form to BCII, and must send one copy of the form to the sheriff of the county in which the delinquent child expects to reside (R.C. 2950.03(B)(2)(c)).

Duties of the official

Existing law. The official, official's designee, judge, chief of police, or sheriff who is required to provide notice to an offender must do all of the following (R.C. 2950.03(C)):

If the notice is provided by an official in charge of a detention facility, his or her designee, or a judge, the official, designee, or judge must determine the offender's name, identifying factors, and expected future residence address, must obtain the offender's criminal history, and must obtain a photograph and the fingerprints of the offender. If the notice is provided by a judge, the sheriff must provide the offender's criminal history to the judge. The official, official's designee, or judge must obtain this information and these items prior to giving the notice, except that a judge may give the notice prior to obtaining the offender's criminal history. Within three days after receiving this information and these items, the official, official's designee, or judge must forward the information and items to BCII and to the sheriff of the county in which the offender expects to reside. If it has not already done so, BCII must forward a copy of the fingerprints and conviction data received to the FBI.

If the notice is provided by a chief of police or sheriff, the chief of police or sheriff must determine the offender's name, identifying factors, and residence address, must obtain the offender's criminal history from BCII, and, to the extent possible, must obtain a photograph and the fingerprints of the offender. Within three days after receiving this information and these items, the chief or sheriff must forward the information and items to BCII and, in relation to a chief of police, to the sheriff of the county in which the offender resides. If it has not already done so, BCII must forward a copy of the fingerprints and conviction data so received to the FBI.

Operation of the bill. The bill makes these provisions applicable to children who are adjudicated delinquent for having committed a sexually oriented offense (R.C. 2950.03(C)).

Sex offender registration requirements

Time and place of registration

Existing law. Existing law provides that each offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense and who is described in (1), (2), or (3), below, must register with the sheriff of the appropriate county at the following time: (1) within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, regardless of when the sexually oriented offense was committed if the offender is sentenced for the sexually oriented offense to any type of confinement and if, on or after July 1, 1997, the offender is released in any manner from the confinement, with the sheriff of that county, (2) within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days,

regardless of when the sexually oriented offense was committed, if the offender is sentenced for a sexually oriented offense on or after July 1, 1997, and if (1), above, does not apply, with the sheriff of that county, (3) within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, if the sexually oriented offense was committed prior to July 1, 1997, if neither (1) nor (2), above, applies, and if, immediately prior to July 1, 1997, the offender was a habitual sex offender who was required to register under Chapter 2950. of the Revised Code, with the sheriff of that county, (4) within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, regardless of when the sexually oriented offense was committed, if (1), (2), and (3), above, do not apply, if the offender is convicted of or pleads guilty to a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, if, on or after July 1, 1997, the offender moves to and resides in this state or temporarily is domiciled in this state for more than seven days, and if, at the time the offender moves to and resides in this state or temporarily is domiciled in this state for more than seven days, and if the offender has a duty to register as a sex offender under the law of that other jurisdiction as a result of the conviction or guilty plea, with the sheriff of that county, and (5) within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, regardless of when the sexually oriented offense was committed, if (1), (2), and (3), above, do not apply, if the offender is convicted of or pleads guilty to a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, if, on or after July 1, 1997, the offender is released from imprisonment or confinement imposed for that offense, and if, on or after July 1, 1997, the offender moves to and resides in this state or temporarily is domiciled in this state for more than seven days, with the sheriff of that county. The duty to register applies regardless of whether the offender, at the time of moving to and residing in this state or temporarily being domiciled in this state for more than seven days, has a duty to register as a sex offender under the law of the jurisdiction in which the conviction or guilty plea occurred. (R.C. 2950.04(A).)

Operation of the bill. The bill would create new provisions applicable to juveniles as follows: each delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense that was committed on or after the effective date of the bill and who is described below must register at the following time and with the following official: (a) if the delinquent child is committed to the custody of the Department of Youth Services for committing the sexually oriented offense, and if, on or after the effective date of this amendment, the delinquent child is discharged from the custody of the Department, within seven days of the delinquent child's coming into any county in which the delinquent child resides or

temporarily is domiciled for more than seven days, the delinquent child must register with the sheriff of that county. If that provision does not apply, then within seven days of the delinquent child's coming into any county in which the delinquent child resides or temporarily is domiciled for more than seven days, the delinquent child must register with the sheriff of that county. (R.C. 2950.04(A)(2).)

Other requirements for completion of the form

Existing law. Existing law states that an offender who is required to register personally must obtain from the sheriff or from a designee of the sheriff a registration form, must complete and sign the form, and must return the completed form together with the offender's photograph to that sheriff or the designee. The sheriff or designee must sign the form and indicate on the form the date on which it was returned. The registration required is complete when the offender returns the form, containing the requisite information, photograph, signatures, and date, to the sheriff or designee.

Existing law further provides that the registration form to be used must contain the current residence address of the offender who is registering, the name and address of the offender's employer, if applicable, and any other information required by BCII and must include the offender's photograph. Additionally, if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense in question and the court has not subsequently determined that the offender no longer is a sexual predator or if the sentencing judge determined that the offender is a habitual sex offender, the offender must include on the signed, written registration form all of the following information: (1) a specific declaration that the person has been adjudicated as being a sexual predator or has been determined to be a habitual sex offender, whichever is applicable, and (2) if the offender has been adjudicated as being a sexual predator, the identification license plate number of each motor vehicle the offender owns and of each motor vehicle registered in the offender's name.

Existing law also states that after an offender registers with a sheriff, the sheriff must forward the signed, written registration form and photograph to BCII. The Bureau must include the information and materials forwarded to it in the state registry of sex offenders. No person who is required to register may fail to register as required. An offender who is required to register must register for the period of time specified below under "***Compliance dates and duration of the duty to register***." (R.C. 2950.04(B).)

Operation of the bill. The bill makes these provisions generally applicable to juvenile sex offenders (R.C. 2950.04(B)).

Notification of a residence address change

Existing law

Existing law states that, if an offender is required to register, the offender, at least seven days prior to changing the offender's residence address during the period during which the offender is required to register, must provide written notice of the residence address change to the sheriff with whom the offender most recently registered. If an offender is required to provide notice of a residence address change, the offender, at least seven days prior to changing the residence address, also must register the new residence address in the manner described above, with the sheriff of the county in which the offender's new residence address is located.

Under existing law, the preceding paragraph applies to a person who is required to register regardless of whether the new residence address is in this state or in another state. If the new residence address is in another state, the person must register with the appropriate law enforcement officials in that state in the manner required under the law of that state and within the earlier of the period of time required under the law of that state or at least seven days prior to changing the residence address.

Existing law further states that, upon receiving from an offender notice of a change of the offender's residence address, a sheriff promptly must forward the new residence address to BCII if the new residence address is in another state or, if the offender's new residence address is located in another county in this state, to the sheriff of that county. The Bureau must include all information forwarded to it in the State Registry of Sex Offenders and must forward notice of the offender's new residence address to the appropriate officials in the other state. When an offender registers a new residence address, the sheriff with whom the offender registers and BCII must comply with their respective duties outlined in "***Other requirements for completion of the form***," above.

No person who is required to notify a sheriff of a change of address must fail to notify the appropriate sheriff. No person who is required to register a new residence address with a sheriff or with an official of another state must fail to register with the appropriate sheriff or official of the other state.

An offender who is required to comply with the above must do so for the period of time specified below under "***Compliance dates and duration of the duty to register***." (R.C. 2950.05.)

Operation of the bill

The bill makes these provisions generally applicable to children who are adjudicated delinquent children for committing sexually oriented offenses (R.C. 2950.05)).

Verification of an offender's current address

Existing law

Existing law states that an offender who is required to register must periodically verify the offender's current residence address. The frequency and manner of verification is determined as follows: (1) the offender must verify the offender's current residence address every 90 days after the offender's initial registration date during the period the offender is required to register, regardless of when the sexually oriented offense for which the offender is required to register was committed, if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense, and if the court has not subsequently entered a determination that the offender no longer is a sexual predator, (2) the offender must verify the offender's current residence address on each anniversary of the offender's initial registration date during the period the offender is required to register in all circumstances not described in (1) above. (R.C. 2950.06(A) and (B).)

An offender who is required to verify the offender's current residence address must verify the address with the sheriff with whom the offender most recently registered by personally appearing before the sheriff or a designee of the sheriff, no earlier than ten days before the date on which the verification is required and no later than the date so required for verification, and completing and signing a copy of the verification form prescribed by BCII. The sheriff or designee must sign the completed form and indicate on the form the date on which it is completed. The verification is complete when the offender personally appears before the sheriff or designee and completes and signs the form.

Existing law further provides that, to facilitate the verification of an offender's current residence address, the sheriff with whom the offender most recently registered may mail a nonforwardable verification form prescribed by BCII to the offender's last reported address, with a notice that conspicuously states that the offender must personally appear before the sheriff or a designee of the sheriff to complete the form and the date by which the form must be so completed. Regardless of whether a sheriff mails a form to an offender, each offender who is required to verify the offender's current residence address must personally appear before the sheriff or a designee of the sheriff to verify the address.

The verification form to be used contains the current residence address of the offender, the name and address of the offender's employer if appropriate, and any other information required by BCII. (R.C. 2950.06(C) and (D).)

Upon an offender's personal appearance and completion of a verification form, a sheriff promptly must forward a copy of the verification form to BCII in accordance with the forwarding procedures adopted by the Attorney General. The Bureau must include all information forwarded to it under this division in the State Registry of Sex Offenders. No person who is required to verify a current residence address may fail to verify a current residence address by the date required for the verification, provided that no person may be prosecuted for such a failure prior to the expiration of the period of time outlined in the following paragraph. (R.C. 2950.06(E) and (F).)

If an offender fails to verify a current residence address by the date required, the sheriff with whom the offender is required to verify the current residence address, on the day following that date required for the verification, must send a written warning to the offender, at the offender's last known residence address, regarding the offender's duty to verify the offender's current residence address. The written warning must identify the sheriff who sends it and the date on which it is sent and must state conspicuously that the offender has failed to verify the offender's current residence address by the date required for the verification, that the offender has seven days from the date on which the warning is sent to verify the current residence address with the sheriff who sent the warning, that a failure to timely verify the current residence address is a felony offense, that, if the offender verifies the current residence address with that sheriff within that seven-day-period, the offender will not be prosecuted for a failure to timely verify a current residence address, and that, if the offender does not verify the current residence address with that sheriff within that seven-day-period, the offender will be arrested and prosecuted for a failure to timely verify a current residence address.

If an offender fails to verify a current residence address as required by the date required, the offender cannot be prosecuted for failure to register unless the seven-day-period subsequent to that date that the offender is provided to verify the current residence address has expired and the offender, prior to the expiration of that seven-day-period, has not verified the current residence address. Upon the expiration of the seven-day-period that the offender is provided, if the offender has not verified the current residence, all of the following apply: (a) the sheriff with whom the offender is required to verify the current residence address promptly must notify BCII of the failure, (b) the sheriff with whom the offender is required to verify the current residence address, the sheriff of the county in which the

offender resides, or a deputy of the appropriate sheriff, must locate the offender, promptly must seek a warrant for the arrest of the offender for the violation, and must arrest the offender, and (c) the offender is subject to prosecution for the violation.

A person who is required to verify the person's current residence address must do so for the period of time specified below under "***Compliance dates and duration of the duty to register***." (R.C. 2950.06(G) and (H).)

Operation of the bill

The bill makes these provisions generally applicable to children who are adjudicated delinquent children for committing sexually oriented offenses (R.C. 2950.06).

Compliance dates and duration of the duty to register

Compliance dates

Existing law. The duty of an offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense to comply with the SORN Law commences on whichever of the following dates is applicable (R.C. 2950.07(A)):

(1) The offender's duty to comply commences on the date of the offender's release from confinement or on July 1, 1997, whichever is later, if the offender is sentenced to a prison term or other confinement for the sexually oriented offense.

(2) The offender's duty to comply commences on the date of entry of the judgment of conviction of the sexually oriented offense or on July 1, 1997, whichever is later, if the offender was sentenced on or after July 1, 1997, and paragraph (1), above, does not apply.

(3) The offender's duty to comply commences 14 days after July 1, 1997, if the offender was an habitual offender and required to register prior to July 1, 1997.

(4) The offender's duty to comply commences on March 30, 1999, or on the date that the offender begins to reside or becomes temporarily domiciled in this state, whichever is later, if the offender was convicted of a sexually oriented offense in a jurisdiction outside Ohio.

Operation of the bill. The bill makes these provisions applicable to children adjudicated delinquent children for committing sexually oriented offenses by extending the duty to comply with the registration and residence verification

provisions of the SORN Law to a delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense. If the delinquent child's duty to register is imposed after the child has been in the custody of DYS, the delinquent child's duty to comply with those sections commences on the date of the delinquent child's discharge from the custody of the Department of Youth Services. If the delinquent child's duty to register is otherwise imposed, the delinquent child's duty to comply with those sections commences on the date of entry of the order of disposition for committing the sexually oriented offense. (R.C. 2950.07(A).)

Registration period

Existing law. The duty of an offender who is convicted of or pleads guilty to, or has been convicted of or pleads guilty to, a sexually oriented offense to comply with the SORN Law continues, after the date of commencement, for whichever of the following periods is applicable: (1) except as otherwise provided, the offender's duty to comply continues until the offender's death if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense. If the judge who sentenced the offender or that judge's successor in office subsequently enters a determination that the offender no longer is a sexual predator, the offender's duty to comply continues for the period of time that otherwise would have been applicable to the offender, (2) the offender's duty to comply continues for 20 years if the judge who sentenced the offender for the sexually oriented offense determined that the offender is a habitual sex offender, or (3) the offender's duty to comply continues for ten years if neither (1) nor (2), above, applies.

If an offender has been convicted of or pleaded guilty to a sexually oriented offense and if the offender subsequently is convicted of or pleads guilty to another sexually oriented offense, the period of time for which the offender must comply must be separately calculated for each of the sexually oriented offenses, and the separately calculated periods of time must be complied with independently.

The duty of an offender to register under the SORN Law is tolled for any period during which the offender is returned to confinement for any reason or imprisoned for an offense when the confinement or imprisonment occurs subsequent to the original date. The offender's duty to register under the SORN Law resumes upon the offender's release from confinement or imprisonment.

An offender who has been convicted of or pleaded guilty to a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court may apply to the sheriff of the county in which the offender resides or temporarily is domiciled for credit against the duty to register for the time that the offender has complied with the sex offender registration requirements of another

jurisdiction. The sheriff must grant the offender credit against the duty to register for time for which the offender provides adequate proof that the offender has complied with the sex offender registration requirements of another jurisdiction. If the offender disagrees with the determination of the sheriff, the offender may appeal the determination to the court of common pleas of the county in which the offender resides or is temporarily domiciled. (R.C. 2950.07.)

Operation of the bill. The bill makes these provisions generally applicable to children adjudicated delinquent children for committing sexually oriented offenses (R.C. 2950.07).

Classification as a sexual predator or habitual sex offender

Classification as a sexual predator

Existing law. Under existing law, if a person is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense that is a sexually violent offense and also is convicted of or pleads guilty to a sexually violent predator specification, the conviction of or plea of guilty to the specification automatically classifies the offender as a sexual predator for purposes of the SORN Law. If a person is convicted of or pleads guilty to a sexually oriented offense in another state, or in a federal court, military court, or an Indian tribal court and if, as a result of that conviction or plea of guilty, the person is required, under the law of the jurisdiction in which the person was convicted or pleaded guilty, to register as a sex offender until the person's death and is required to verify the person's address on at least a quarterly basis each year, that conviction or plea of guilty automatically classifies the offender as a sexual predator, but the offender may challenge that classification.

In all other cases, a person who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense may be classified as a sexual predator, regardless of when the sexually oriented offense was committed, if a person is to be sentenced on or after March 30, 1999, for a sexually oriented offense that is not a sexually violent offense, or if a person is to be sentenced on or after January 1, 1997, for a sexually oriented offense that is a sexually violent offense and a sexually violent predator specification was not included, the judge who is to impose sentence upon the offender must conduct a hearing to determine whether the offender is a sexual predator. The judge must conduct the hearing prior to sentencing and, if the sexually oriented offense is a felony, may conduct it as part of the sentencing hearing. The court must give the offender and the prosecutor who prosecuted the offender for the sexually oriented offense notice of the date, time, and location of the hearing. At the hearing, the offender and the prosecutor have an opportunity to testify, present evidence, call

and examine witnesses and expert witnesses, and cross-examine witnesses and expert witnesses regarding the determination as to whether the offender is a sexual predator. The offender has the right to be represented by counsel and, if indigent, the right to have counsel appointed to represent the offender. (R.C. 2950.09(A) and (B)(1).)

Operation of the bill. The bill makes these provisions generally applicable to children who are adjudicated delinquent children for committing sexually oriented offenses (R.C. 2950.09(A) and (B)(1)).

Determination of sexual predator status

Existing law. In making a determination as to whether an offender is a sexual predator, the judge must consider all relevant factors, including, but not limited to, all of the following: (1) the offender's age, (2) the offender's prior criminal record regarding all offenses, including, but not limited to, all sexual offenses, (3) the age of the victim of the sexually oriented offense for which sentence is to be imposed, (4) whether the sexually oriented offense for which sentence is to be imposed involved multiple victims, (5) whether the offender used drugs or alcohol to impair the victim of the sexually oriented offense or to prevent the victim from resisting, (6) if the offender previously has been convicted of or pleaded guilty to any criminal offense, whether the offender completed any sentence imposed for the prior offense and, if the prior offense was a sex offense or a sexually oriented offense, whether the offender participated in available programs for sexual offenders, (7) any mental illness or mental disability of the offender, (8) the nature of the offender's sexual conduct, sexual contact, or interaction in a sexual context with the victim of the sexually oriented offense and whether the sexual conduct, sexual contact, or interaction in a sexual context was part of a demonstrated pattern of abuse, (9) whether the offender, during the commission of the sexually oriented offense for which sentence is to be imposed, displayed cruelty or made one or more threats of cruelty, and (10) any additional behavioral characteristics that contribute to the offender's conduct (R.C. 2950.09(B)(2)).

After reviewing all testimony and evidence presented at the hearing and the factors specified above, the judge must make a determination by clear and convincing evidence whether the offender is a sexual predator. If the judge determines that the offender is not a sexual predator, the judge must specify in the offender's sentence and the judgment of conviction that contains the sentence the judge's determination. If the judge determines by clear and convincing evidence that the offender is a sexual predator, the judge must specify in the offender's sentence and the judgment of conviction that contains the sentence the judge's determination and must specify how the determination was achieved. The

offender and the prosecutor who prosecuted the offender for the sexually oriented offense in question may appeal as a matter of right the judge's determination as to whether the offender is, or is not, a sexual predator.

A hearing cannot be conducted regarding an offender if the sexually oriented offense in question is a sexually violent offense and the indictment, count in the indictment, or information charging the offense also included a sexually violent predator specification. (R.C. 2950.09(B)(3) and (4).)

Operation of the bill. The bill makes these provisions generally applicable to children who are adjudicated delinquent children for committing sexually oriented offenses (R.C. 2950.09(B)).

Department of Rehabilitation and Corrections recommendation of sexual predator status

If a person was convicted of or pleaded guilty to a sexually oriented offense prior to January 1, 1997, if the person was not sentenced for the offense on or after January 1, 1997, and if, on or after January 1, 1997, the offender is serving a term of imprisonment in a state correctional institution, prior to the offender's release from the term of imprisonment, the Department of Rehabilitation and Correction determines whether to recommend that the offender be adjudicated as being a sexual predator. In making such a determination, the Department must consider all relevant factors, including, but not limited to, all of the factors for consideration outlined above.

If the Department determines that it will recommend that the offender be adjudicated as being a sexual predator, it immediately must send the recommendation to the court that sentenced the offender and enter its determination and recommendation in the offender's institutional record. If, the Department sends to a court a recommendation that an offender who has been convicted of or pleaded guilty to a sexually oriented offense be adjudicated as being a sexual predator, the court is not bound by the Department's recommendation, and the court may conduct a hearing to determine whether the offender is a sexual predator. The court may deny the recommendation and determine that the offender is not a sexual predator without a hearing but may not make a determination that the offender is a sexual predator in any case without a hearing. If the court determines without a hearing that the offender is not a sexual predator, it must include its determination in the offender's institutional record and must determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the court determined that the offender is not a sexual predator.

The court may make the determination as to whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense without a hearing, but, if the court determines that the offender previously has been convicted of or pleaded guilty to such an offense, it cannot impose a requirement that the offender be subject to the community notification provisions regarding the offender's place of residence without a hearing. The court may conduct a hearing to determine both whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense and whether to impose a requirement that the offender be subject to the community notification provisions as described in this division, or may conduct a hearing solely to make the latter determination. The court must include in the offender's institutional record any determination made as to whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense, and, as such, whether the offender is a habitual sex offender.

If the court schedules the above-mentioned hearing, the court must give the offender and the prosecutor who prosecuted the offender for the sexually oriented offense, or that prosecutor's successor in office, notice of the date, time, and place of the hearing. In making a determination as to whether the offender is a sexual predator, the court must consider all relevant factors, including, but not limited to, all of the factors for consideration specified above. After reviewing all testimony and evidence presented at the sexual predator hearing and the factors, the court must make a determination by clear and convincing evidence whether the offender is a sexual predator. If the court determines that the offender is not a sexual predator, it also must determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the hearing is being conducted. (R.C. 2950.09(C)(1) and (2)(a).)

Upon making its determinations at the hearing, the court proceeds as follows: (1) if the hearing is to determine whether the offender is a sexual predator, and if the court determines that the offender is not a sexual predator and that the offender previously has not been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the hearing is being conducted, it must include its determinations in the offender's institutional record, (2) if the hearing is to determine whether the offender is a sexual predator, and if the court determines that the offender is not a sexual predator but that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the hearing is being conducted, it must include its determination that the offender is not a sexual predator but is a habitual sex offender in the offender's institutional record, must attach the determinations to the offender's sentence, must specify the authority of the

determinations, must provide a copy of the determinations to the offender, to the prosecuting attorney, and to DRC, and may impose a requirement that the offender be subject to the community notification provisions regarding the offender's place of residence. The offender may not be subject to those community notification provisions relative to the sexually oriented offense in question if the court does not so impose that requirement. If the court imposes those community notification provisions, the offender may appeal the judge's determination that the offender is a habitual sex offender, (3) if the hearing is to determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the hearing is being conducted and whether to impose a requirement that the offender be subject to the specified community notification provisions, and if the court determines that the offender previously has been convicted of or pleaded guilty to such an offense, the court must proceed as described in (2), above, and may impose a community notification requirement. The offender cannot be subject to the specified community notification provisions relative to the sexually oriented offense in question if the court does not so impose that requirement. If the court imposes those community notification provisions, the offender may appeal the judge's determination that the offender is a habitual sex offender, (4) if the court determined without a hearing that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the court determined that the offender is not a sexual predator, and, as such, is a habitual sex offender, and the hearing is solely to determine whether to impose a requirement that the offender be subject to the specified community notification provisions, after the hearing, the court may impose a community notification requirement. The offender cannot be subject to the specified community notification provisions relative to the sexually oriented offense in question if the court does not so impose those requirements. If the court imposes those community notification provisions, the offender may appeal the judge's determination that the offender is a habitual sex offender, and (5) if the hearing is to determine whether the offender is a sexual predator, and if the court determines by clear and convincing evidence that the offender is a sexual predator, it must enter its determination in the offender's institutional record, attach the determination to the offender's sentence, specify the authority for the determination, and provide a copy of the determination to the offender, to the prosecuting attorney, and to DRC. The offender and the prosecutor may appeal as a matter of right the judge's determination as to whether the offender is, or is not, a sexual predator. (R.C. 2950.09(C)(2)(b).)

Upon the expiration of the applicable period of time, an offender who has been convicted of or pleaded guilty to a sexually oriented offense and who has been adjudicated as being a sexual predator relative to the sexually oriented offense may petition the judge who made the determination that the offender was a

sexual predator, or that judge's successor in office, to enter a determination that the offender no longer is a sexual predator. Upon the filing of the petition, the judge may review the prior sexual predator determination that comprises the sexual violent predator adjudication, and, upon consideration of all relevant evidence and information, including, but not limited to, the factors for consideration set forth above, must either enter a determination that the offender no longer is a sexual predator or enter an order denying the petition. The court cannot enter a determination that the offender no longer is a sexual predator unless the court determines by clear and convincing evidence that the offender is unlikely to commit a sexually oriented offense in the future. If the judge enters a determination that the offender no longer is a sexual predator, the judge must notify BCII and the Parole Board of the determination. Upon receipt of the notification, BCII promptly must notify the sheriff with whom the offender most recently registered of the determination that the offender no longer is a sexual predator. If the judge enters an order denying the petition, the prior adjudication of the offender as a sexual predator remains in effect. An offender determined to be a sexual predator may file a petition prior to the expiration of the following periods of time: (a) the offender initially may file the petition not earlier than one year prior to the offender's release from confinement, regardless of when the sexually oriented offense was committed, if, on or after January 1, 1997, the offender is imprisoned or sentenced to confinement for the sexually oriented offense in relation to which the determination was made; the offender initially may file the petition upon the expiration of one year after the entry of the offender's judgment of conviction if the offender is sentenced on or after January 1, 1997, for the sexually oriented offense in relation to which the determination is made and is not imprisoned or sentenced to confinement for the sexually oriented offense, (b) an offender may file a petition upon the expiration of five years after the court has entered an order denying the most recent petition the offender has filed after the offender's initial filing of a petition. Except as otherwise provided, this does not apply to a person who is classified as a sexual predator. If a person who is so classified was sentenced to a prison term and if the sentencing court terminates the offender's prison term, the court's termination of the prison term automatically constitutes a determination by the court that the offender no longer is a sexual predator. If the court so terminates the offender's prison term, the court must notify the Bureau of Criminal Identification and Investigation and the Parole Board of the determination that the offender no longer is a sexual predator. Upon receipt of the notification, the Bureau promptly must notify the sheriff with whom the offender most recently registered that the offender no longer is a sexual predator. If an offender who is classified as a sexual predator is released from prison pursuant to a pardon or commutation, the classification of the offender as a sexual predator must remain in effect after the offender's release, and the offender may file one or more petitions in accordance with the appropriate procedures and

time limitations for a determination that the offender no longer is a sexual predator. (R.C. 2950.09(D).)

If a person is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense, the judge who is to impose sentence on the offender must determine, prior to sentencing, whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense. If the judge determines that the offender previously has not been convicted of or pleaded guilty to a sexually oriented offense, the judge must specify in the offender's sentence that the judge has determined that the offender is not a habitual sex offender. If the judge determines that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense, the judge must specify in the offender's sentence and the judgment of conviction that contains the sentence that the judge has determined that the offender is a habitual sex offender and may impose a requirement in that sentence and judgment of conviction that the offender be subject to the community notification provisions regarding the offender's place of residence. Unless the habitual sex offender also has been adjudicated as being a sexual predator relative to the sexually oriented offense in question, the offender cannot be subject to those community notification provisions if the court does not impose the requirement in the offender's sentence and the judgment of conviction. (R.C. 2950.09(E).)

Operation of the bill. The bill makes these provisions generally applicable to children who are adjudicated delinquent children for committing sexually oriented offenses (R.C. 2950.09(C), (D), and (E)).

Petition to rescind sexual predator status

Existing law. An offender classified as a sexual predator may petition the court of common pleas of the county in which the offender resides or temporarily is domiciled to enter a determination that the offender is not an adjudicated sexual predator in this state for purposes of the sex offender registration law or the community notification provisions if all of the following apply: (a) the offender was convicted of or pleaded guilty to a sexually oriented offense in another state or in a federal court, a military court, or an Indian tribal court, (b) as a result of the conviction or plea of guilty, the offender is required under the law of the jurisdiction under which the offender was convicted or pleaded guilty to register as a sex offender until the offender's death and is required to verify the offender's address on at least a quarterly basis each year, and (c) the offender was automatically classified as a sexual predator in relation to the conviction or guilty plea.

The court may enter a determination that the offender filing the petition is not an adjudicated sexual predator in this state for purposes of the sex offender registration requirements or the community notification provisions of the Revised Code only if the offender proves by clear and convincing evidence that the requirement of the other jurisdiction that the offender register as a sex offender until the offender's death and the requirement that the offender verify the offender's address on at least a quarterly basis each year is not substantially similar to a classification as a sexual predator for purposes of the Revised Code. (R.C. 2950.09(F).)

Operation of the bill. The bill makes these provisions generally applicable to children who are adjudicated delinquent children for committing sexually oriented offenses. The bill specifically provides that if the person committed and was adjudicated a delinquent child for committing the sexually oriented offense on or after the effective date of the bill and if the person was committed to the custody of the Department of Youth Services for the sexually oriented offense, the delinquent child initially may file the petition for a determination that the child is no longer a sexual predator not earlier than one year prior to the delinquent child's discharge from that custody. If the person committed and was adjudicated a delinquent child for committing the sexually oriented offense on or after the effective date of the bill and if the person was not committed to the custody of the Department of Youth Services for the sexually oriented offense, the delinquent child initially may file the petition upon the expiration of one year after the entry of the delinquent child's adjudication as a delinquent child. (R.C. 2950.09(D)(1)(a).)

Victim notification of offender registration

Existing law. If a person is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense, if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense, and the court has not subsequently determined that the offender no longer is a sexual predator or the offender has been determined to be a habitual sex offender and the court has imposed a requirement subjecting the habitual sex offender to registration requirements, if the offender registers with a sheriff and if the victim of the sexually oriented offense has made a request that specifies that the victim would like to be provided the notices described below, the sheriff must notify the victim of the sexually oriented offense, in writing, that the offender has registered and include in the notice the offender's name and residence address or addresses. The sheriff must provide the notice to the victim at the most recent residence address available for that victim, not later than 72 hours after the offender registers with the sheriff. (R.C. 2950.10(A)(1).)

If a person is convicted of or pleads guilty to or has been convicted of or pleaded guilty to, a sexually oriented offense, if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense or sexually violent offense and the court has not subsequently determined that the offender no longer is a sexual predator or the offender has been determined to be a habitual sex offender and the court has imposed a requirement subjecting the habitual sex offender to the registration requirements, if the offender registers with a sheriff, if the victim of the sexually oriented offense has made a request that specifies that the victim would like to be provided the notices described below, and if the offender notifies the sheriff of a change of residence address, the sheriff must notify the victim of the sexually oriented offense, in writing, that the offender's residence address has changed and include in the notice the offender's name and new residence address or addresses. The sheriff must provide the notice required by this division to the victim at the most recent residence address available for that victim, no later than 72 hours after the offender notifies the sheriff of the change in the offender's residence address. (R.C. 2950.10(A)(2).)

If an offender is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense and if the offender is adjudicated as being a sexual predator relative to the sexually oriented offense or the offender is determined to be a habitual sex offender and is made subject to the registration requirements, the victim of the offense may make a request that specifies that the victim would like to be provided the above-referenced notices. If the victim makes a request, the sheriff must provide the victim with the notices. (R.C. 2950.10(A)(3).)

If a victim makes a request that specifies that the victim would like to be provided specified notices, all information a sheriff obtains regarding the victim from or as a result of the request is confidential, and the information is not a public record. The notices described above are in addition to any notices regarding the offender that the victim is entitled to receive under the Victims Rights Law. (R.C. 2950.10(A)(4) and (5).)

A victim of a sexually oriented offense is not entitled to be provided any notice unless the offender is adjudicated as being a sexual predator relative to the sexually oriented offense and the court has not subsequently determined that the offender no longer is a sexual predator or the offender has been determined to be a habitual sex offender and the court has imposed a requirement subjecting the habitual sex offender to victim notification. A victim of a sexually oriented offense is not entitled to any notice unless the victim makes a request that specifies that the victim would like to be provided the notices. This does not affect any

rights of a victim of a sexually oriented offense to be provided notice regarding an offender that are described in the Victims Rights Law. (R.C. 2950.10(B).)

Operation of the bill. The bill makes these provisions generally applicable to children who are adjudicated delinquent children for committing sexually oriented offenses (R.C. 2950.10).

Geographical notification of sexual predators

Existing law

If a person is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense, and if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense and the court has not subsequently determined that the offender no longer is a sexual predator or the offender has been determined to be a habitual sex offender and the court has imposed a requirement under that division subjecting the habitual sex offender to geographical notification requirements, the sheriff with whom the offender has most recently registered, within the period of time specified below, must provide a written notice containing specified information to all of the following persons: (1) all occupants of residences adjacent to the offender's place of residence that are located within the county served by the sheriff and all additional neighbors of the offender who are within any category that the Attorney General requires to be provided the notice and who reside within the county served by the sheriff, (2) the executive director of the public children services agency that has jurisdiction within the specified geographical notification area and that is located within the county served by the sheriff, (3) the superintendent of each board of education of a school district that has schools within the specified geographical notification area and that is located within the county served by the sheriff, (4) the appointing or hiring officer of each chartered nonpublic school located within the specified geographical notification area and within the county served by the sheriff or of each other school located within the specified geographical notification area and within the county served by the sheriff and that is not operated by a board of education, (5) the director, head teacher, elementary principal, or site administrator of each preschool program that is located within the specified geographical notification area and within the county served by the sheriff, (6) the administrator of each child day-care center or type A family day-care home that is located within the specified geographical notification area and within the county served by the sheriff, and the provider of each certified type B family day-care home that is located within the specified geographical notification area and within the county served by the sheriff, (7) the president or other chief administrative officer of each institution of higher education that is located within the specified geographical notification area and within the county served by the

sheriff, and the chief law enforcement officer of the state university law enforcement agency or campus police department, if any, that serves that institution, (8) the sheriff of each county that includes any portion of the specified geographical notification area, and (9) if the offender resides within the county served by the sheriff, the chief of police, marshal, or other chief law enforcement officer of the municipal corporation in which the offender resides or, if the offender resides in an unincorporated area, the constable or chief of the police department or police district police force of the township in which the offender resides. (R.C. 2950.11(A).)

The notice required above must include all of the following information regarding the subject offender: (1) the offender's name, (2) the address or addresses at which the offender resides, (3) the sexually oriented offense of which the offender was convicted or to which the offender pleaded guilty, and (4) a statement that the offender has been adjudicated as being a sexual predator and that, as of the date of the notice, the court has not entered a determination that the offender no longer is a sexual predator, or a statement that the sentencing or reviewing judge has determined that the offender is a habitual sex offender (R.C. 2950.11(B)).

If a sheriff with whom an offender registers is required to provide notices regarding an offender and if, pursuant to that requirement, the sheriff provides a notice to a sheriff of one or more other counties, the sheriff of each of the other counties who is provided the notice must provide the proper notices to each person or entity entitled to the notices that is located within the geographical notification area and within the county served by the sheriff in question. A sheriff who is required to provide notices regarding an offender must provide the notice to the neighbors and to law enforcement personnel that are entitled to those notices no later than 72 hours after the offender registers with the sheriff or, as applicable, no later than 72 hours after the sheriff is provided the notice. A sheriff required to provide notices regarding an offender must provide the notices to all other specified persons not later than seven days after the offender registers with the sheriff, or no later than 72 hours after the sheriff is provided the notice.

If a sexual predator verifies his or her current residence address with a sheriff, the sheriff may provide a written notice containing the information to the persons identified in (1) to (9), above. If a sheriff provides that notice to the sheriff of one or more other counties, the sheriff of each of the other counties who is provided the notice may provide, but is not required to provide, a written notice containing the information to the persons identified in (1) to (7) and (9), above. (R.C. 2950.11(C) and (D).)

All information that a sheriff possesses regarding a sexual predator or a habitual sex offender and that must be provided in certain specified notices or that may be provided in other specified notices is a public record that is open to inspection (R.C. 2950.11(E)).

These notification provisions do not apply regarding a person who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense, who has not been adjudicated as being a sexual predator relative to that sexually oriented offense, and who is determined to be a habitual sex offender unless the sentencing or reviewing court imposes a requirement in the offender's sentence and in the judgment of conviction that contains the sentence, or imposes a requirement that subjects the offender to the geographical notification provisions of the SORN Law (R.C. 2950.11(F)(1)).

Operation of the bill

The bill provides that the notification provisions set forth above "do not apply" to the records of delinquent children (R.C. 2950.11(F)(2)).

Immunity of certain specified persons

Existing law

Except as provided below, any of the following persons are immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by an act or omission in connection with a power, duty, responsibility, or authorization under the SORN Law or under rules adopted under authority of the SORN Law (R.C. 2950.12(A)):

(1) An officer or employee of BCII;

(2) The Attorney General, a chief of police, marshal, or other chief law enforcement officer of a municipal corporation, a sheriff, a constable or chief of police of a township police department or police district police force, and a deputy, officer, or employee of the office of the Attorney General, the law enforcement agency served by the marshal or the municipal or township chief, the office of the sheriff, or the constable;

(3) A prosecutor and an officer or employee of the office of a prosecutor;

(4) A supervising officer and an officer or employee of the Adult Parole Authority of DRC;

(5) A person identified in (2), (3), (4), (5), (6), or (7) of "***Geographical notification of sexual predators***," above, or the agent of that person.

The immunity does not apply to the above persons if, in relation to the act or omission in question, any of the following applies (R.C. 2950.11(B)):

(1) The act or omission was manifestly outside the scope of the person's employment or official responsibilities.

(2) The act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner.

(3) Liability for the act or omission is expressly imposed by a section of the Revised Code.

Operation of the bill

The bill adds to the list of individuals with the above immunity, a supervising officer and an officer or employee of the Department of Youth Services (R.C. 2950.12(A)(5)).

Attorney General duties under the SORN Law

State Registry of Sex Offenders

Existing law. The Attorney General must, no later than July 1, 1997, establish and maintain a State Registry of Sex Offenders that is housed at BCII and that contains all of the registration, change of residence address, and verification information the Bureau receives pursuant to the SORN Law regarding a person who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense and all of the information BCII receives pursuant to DRC/DYS duties under the SORN Law (R.C. 2950.13(A)).

Operation of the bill. The bill requires the Attorney General to add children adjudicated delinquent for committing sexually oriented offenses to the Registry (R.C. 2950.13(A)(1)).

Victims rights pamphlet

Existing law. The Attorney General must publish a victims rights pamphlet that informs a victim of the right of a victim of a sexually oriented offense that is committed by a person who is adjudicated as being a sexual predator or, in certain cases, by a person who is determined to be an habitual sex offender, to receive notice that the offender has registered with a sheriff under the SORN Law, notice

of the offender's name and residence address or addresses, and a summary of the manner in which the victim must make a request to receive the notice (R.C. 109.42).

Operation of the bill. The bill changes the term "offender" to "person" in the provisions dealing with the above SORN Law notice with the result that children adjudicated delinquent for committing sexually oriented offenses are included within that notice (R.C. 109.42(A)(16)).

Other duties

Existing law. The Attorney General must do all of the following (R.C. 2950.13(A)):

(1) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules that contain guidelines necessary for the implementation of the SORN Law;

(2) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules for the implementation and administration of the provisions of the SORN Law that pertain to the notification of neighbors of a person who has committed a sexually oriented offense and has been adjudicated as being a sexually violent predator or determined to be an habitual sex offender, and rules that prescribe a manner in which victims of a sexually oriented offense committed by a person who has been adjudicated as being a sexual predator or determined to be an habitual sex offender may make a request that specifies that the victim would like to be provided certain specified notices under the SORN Law;

(3) In consultation with local law enforcement representatives and through BCII, prescribe the forms to be used by judges and officials to advise offenders of their duties of registration, notification of a change of residence address and registration of the new residence address, and residence address verification, and prescribe the forms to be used by sheriffs relative to those duties of registration, change of residence address notification, and residence address verification;

(4) Make copies of the forms available to judges, officials, and sheriffs;

(5) Through BCII, provide the notifications, the information, and the documents that the Bureau is required to provide to appropriate law enforcement officials and to the FBI;

(6) Through BCII, maintain the verification forms returned under the residence address verification mechanism set forth in the SORN Law;

(7) In consultation with representatives of the officials, judges, and sheriffs, adopt procedures for officials, judges, and sheriffs to use to forward information, photographs, and fingerprints to BCII;

(8) In consultation with the Director of Education, the Director of Human Services, and the Director of Rehabilitation and Correction and no later than July 1, 1997, adopt rules that contain guidelines to be followed by boards of education of a school district, chartered nonpublic schools or other schools not operated by a board of education, preschool programs, child day-care centers, type A family day-care homes, certified type B family day-care homes, and institutions of higher education regarding the proper use and administration of information received under the SORN Law relative to a person who has been adjudicated as being a sexual predator or determined to be an habitual sex offender;

(9) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules that designate a geographic area or areas within which the notice must be given to those specified persons.

The Attorney General, in consultation with local law enforcement representatives, may adopt rules that establish one or more categories of neighbors of an offender who, in addition to the occupants of residences adjacent to an offender's place of residence, must be given notice under the SORN Law (R.C. 2930.13(B)).

Operation of the bill. The bill does not affect these provisions of law.

Department of Rehabilitation and Corrections duties

Existing law

Prior to releasing an offender who is under the custody and control of DRC and who has been convicted of or pleaded guilty to committing, either prior to, on, or after January 1, 1997, any sexually oriented offense, the Department must provide all of the following information to BCII regarding the offender: (1) the offender's name and any aliases used by the offender, (2) all identifying factors concerning the offender, (3) the offender's anticipated future residence, (4) the offense history of the offender, (5) whether the offender was treated for a mental abnormality or personality disorder while under the custody and control of the Department, and (6) any other information that the Bureau indicates is relevant and that the Department possesses (R.C. 2950.14).

Upon receipt of that information, BCII immediately must enter the information into the State Registry of Sexual Offenders and into the records that the Bureau maintains (R.C. 2950.14).

Operation of the bill

The bill provides that, prior to releasing a delinquent child who is in the custody of the Department of Youth Services and who has committed and has been adjudicated a delinquent child for committing a sexually oriented offense on or after the effective date of the bill, DYS must provide all of the information specified above to BCII regarding the delinquent child. The Department of Rehabilitation and Correction and DYS must provide all of the above specified information to BCII regarding an offender or delinquent child. (R.C. 2950.14(B).)

Penalties

Existing law

Whoever violates a prohibition regarding the registration requirements, notification of a change of address requirements, and the verification of address requirements of the SORN Law is guilty of a felony of the fifth degree if the most serious sexually oriented offense that was the basis of the registration, change of address notification, or address verification requirement that was violated under the prohibition is a felony, and a misdemeanor of the first degree if the most serious sexually oriented offense that was the basis of the registration, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor. In addition to any penalty or sanction imposed for the violation, if the offender is on probation or parole, is subject to one or more post-release control sanctions, or is subject to any other type of supervised release at the time of the violation, the violation must constitute a violation of the terms and conditions of the probation, parole, post-release control sanction, or other type of supervised release. (R.C. 2950.99.)

Operation of the bill

The bill states that, in addition to any penalty or sanction imposed for the violation, if the offender *or delinquent child* is on probation or parole, is subject to one or more post-release control sanctions, or is subject to any other type of supervised release at the time of the violation, the violation must constitute a violation of the terms and conditions of the probation, parole, post-release control sanction, or other type of supervised release (R.C. 2950.99).

Definitions

Existing law

As used in the SORN Law, unless the context clearly requires otherwise (R.C. 2950.01):

(1) "Confinement" includes, but is not limited to, a community residential sanction imposed pursuant to R.C. 2929.16.

(2) "Habitual sex offender" means a person who is convicted of or pleads guilty to a sexually oriented offense and who previously has been convicted of or pleaded guilty to one or more sexually oriented offenses.

(3) "Prosecutor" has the same meaning as in R.C. 2935.01.

(4) "Sexually oriented offense" means any of the following offenses: (a) regardless of the age of the victim of the offense, rape, sexual battery, or gross sexual imposition, (b) any of the following offenses involving a minor, in the circumstances specified: (i) kidnapping, abduction, unlawful restraint, criminal child enticement, or corruption of a minor Code when the victim of the offense is under 18 years of age, (ii) compelling prostitution when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age, (iii) certain pandering obscenity or pandering sexually oriented matter involving minor violations, (iv) certain illegal use of a minor in nudity oriented material or performance violations, or (v) certain endangering children offenses when the child who is involved in the offense is under 18 years of age, (c) regardless of the age of the victim of the offense, the offense of aggravated murder, murder, felonious assault, or kidnapping, or involuntary manslaughter that is committed with a purpose to gratify the sexual needs or desires of the offender, (d) a sexually violent offense, (e) a violation of any former law of this state that was substantially equivalent to any offense listed in (4)(a), (b), (c), or (d), above, (f) a violation of an existing or former municipal ordinance or law of another state or the United States, a violation under the law applicable in a military court, or a violation under the law applicable in an Indian tribal court that is or was substantially equivalent to any offense listed in (4)(a), (b), (c), or (d), above, or (g) an attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (4)(a), (b), (c), (d), (e), or (f) above.

(5) "Sexual predator" means a person who has been convicted of or pleaded guilty to committing a sexually oriented offense and is likely to engage in the future in one or more sexually oriented offenses.

(6) "Supervised release" means a release from a prison term, a term of imprisonment, or another type of confinement that satisfies either of the following conditions: (a) the release is on parole, a conditional pardon, or probation, under transitional control, or under a post-release control sanction, and it requires the person to report to or be supervised by a parole officer, probation officer, field officer, or another type of supervising officer, (b) the release is any type of release that is not described in (a) and that requires the person to report to or be supervised by a probation officer, a parole officer, a field officer, or another type of supervising officer.

(7) An offender is "adjudicated as being a sexual predator" if any of the following applies: (a) the offender is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense that is a sexually violent offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information that charged the sexually violent offense, (b) regardless of when the sexually oriented offense was committed, on or after the effective date of this section, the offender is sentenced for a sexually oriented offense, and the sentencing judge determines that the offender is a sexual predator, (c) prior to January 1, 1997, the offender was convicted of or pleaded guilty to, and was sentenced for, a sexually oriented offense, the offender is imprisoned in a state correctional institution on or after January 1, 1997, and, prior to the offender's release from imprisonment, the court determines that the offender is a sexual predator, (d) regardless of when the sexually oriented offense was committed, the offender is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, as a result of that conviction or plea of guilty, the offender is required, under the law of the jurisdiction in which the offender was convicted or pleaded guilty, to register as a sex offender until the offender's death and to verify the offender's address on at least a quarterly basis each year, and, on or after July 1, 1997, the offender moves to and resides in this state or temporarily is domiciled in this state for more than seven days, unless a court of common pleas determines that the offender is not a sexual predator.

(8) "Sexually violent predator specification" and "sexually violent offense" have the same meanings as in section 2971.01 of the Revised Code.

(9) "Post-release control sanction" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code.

COMMENT

The six findings in support of the General Assembly's declaration of the necessity of the SORN Law read as follows:

(1) If the public is provided adequate notice and information about sexual predators, habitual sex offenders, and certain other offenders who commit sexually oriented offenses, members of the public and communities can develop constructive plans to prepare themselves and their children for the sexual predator's, habitual sex offender's, or other offender's release from imprisonment, a prison term, or other confinement. This allows members of the public and communities to meet with members of law enforcement agencies to prepare and obtain information about the rights and responsibilities of the public and the communities and to provide education and counseling to their children.

(2) Sexual predators and habitual sex offenders pose a high risk of engaging in further offenses even after being released from imprisonment, a prison term, or other confinement, and the protection of members of the public from sexual predators and habitual sex offenders is a paramount governmental interest.

(3) The penal and mental health components of the justice system of this state are largely hidden from public view, and a lack of information from either component may result in the failure of both systems to satisfy this paramount governmental interest of public safety described in division (A)(2) of this section.

(4) Overly restrictive confidentiality and liability laws governing the release of information about sexual predators and habitual sex offenders have reduced the willingness to release information that could be appropriately released under the public disclosure laws and have increased risks of public safety.

(5) A person who is found to be a sexual predator or an habitual sex offender has a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.

(6) The release of information about sexual predators and habitual sex offenders to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems as long as the information released is rationally related to the furtherance of those goals.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-27-99	p. 512

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