



**H.B. 433**

124th General Assembly  
(As Introduced)

Rep. Manning

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**BILL SUMMARY**

**Sexual predators--removal of adjudication as a sexual predator**

- Eliminates a court's ability to remove a sexually oriented offender's status as a sexual predator; provides that the classification or adjudication of an offender as a sexual predator is permanent and continues in effect until the offender's death and in no case may the classification or adjudication be removed or terminated.

**Habitual sex offenders--duration of duty to comply with the SORN Law and removal of adjudication as a habitual sex offender**

- Specifies that, if a court determines that an offender is a habitual sex offender, the determination is permanent and continues in effect until the offender's death, and in no case may the determination be removed or terminated.
- Requires a habitual sex offender to comply with the SORN Law until the habitual sex offender's death.

**Duration of registration--aggravated sexually oriented offense**

- If an offender is convicted of an aggravated sexually oriented offense, increases the duration of the offender's duty to comply with the SORN Law such that the duty continues until the offender's death, and provides that in no case may the duty, or the classification, adjudication, or conviction that subjects an offender to the SORN Law for life, be removed or terminated.

**Registration of school, institution of higher education, or place of employment address**

**Time and place of registration**

- If a sexually oriented offender intends to attend a school or institution of higher education in another state on a full-time or part-time basis or be employed in another state for more than 14 days or for an aggregate period of 30 or more days in any calendar year, requires the sexually oriented offender to register with the sheriff or other appropriate person in that state.
- Requires the offender to register personally with the sheriff of the county in which the offender attends a school or institution of higher education or is employed, if the offender: (1) is convicted of or pleads guilty to a sexually oriented offense in another jurisdiction, (2) enters Ohio on or after July 1, 1997, to attend any school or institution of higher education on a full-time or part-time basis or enters Ohio for employment and is employed for more than 14 days or for an aggregate period of 30 or more days in any calendar year, and (3) at the time the offender enters Ohio, 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.
- Requires the offender to register personally with the sheriff of the county in which the offender attends a school or institution of higher education or is employed if the offender: (1) is convicted of or pleads guilty to a sexually oriented offense in another jurisdiction, (2) on or after July 1, 1997, is released from imprisonment, confinement, or detention imposed for that offense, and (3) on or after July 1, 1997, enters Ohio to attend any school or institution of higher education on a full-time or part-time basis, or enters Ohio for employment and is employed for more than 14 days or for an aggregate period of 30 or more days in any calendar year.
- If an offender is sentenced for a sexually oriented offense to a prison term, a term of imprisonment, or any other type of confinement and, on or after July 1, 1997, is released in any manner from the prison term, term of imprisonment, or confinement, and if, subsequent to the offender's release, the offender is adjudicated to be a sexual predator, and if the offender intends to attend a school or institution of higher education in another state on a full-time or part-time basis or be employed in another state for more than 14 days or for an aggregate period of 30 or

more days in any calendar year, requires the offender to register with the sheriff or other appropriate person in that other state.

**Registration of change of address**

- In a manner parallel to existing change of current residence provisions, requires an offender who is not an Ohio resident and who is required to register under the SORN Law, at least seven days prior to changing the address of the offender's school, institution of higher education, or place of employment during the period during which the offender is required to register, to provide written notice of the address change, as applicable, to the sheriff with whom the offender most recently registered, and requires the offender to register the new address with the sheriff of the county in which the offender's new address is located.

**Periodic verification of addresses**

- Expands existing provisions regarding verification of current residence address to also require an offender who is required to register under the SORN Law and who is not an Ohio resident to periodically verify the address of the offender's current school, institution of higher education, or place of employment.

**Notice to offender of offender's duty to register under the SORN Law**

- Revises the provisions regarding the notice that must be given to a sexually oriented offender describing the offender's duty to comply with the SORN Law to include notice of the offender's duty to provide notice of any change in the offender's school, institution of higher education, or place of employment address and to register the new school, institution of higher education, or place of employment address.
- Requires the person who is required to give the offender notice of the offender's duties under the SORN Law to determine the offender's expected future school, institution of higher education, or place of employment address in Ohio or any other state in a manner similar to the determination of the offender's expected future residence address.
- Requires a sexually oriented offender to register, provide notification of change of address, and periodically verify addresses in other states if the offender resides in another state, attends a school or institution of higher education in another state, or is employed in another state.

- Provides that, if a sexually oriented offender is a resident of another state, enters into Ohio to attend a school or institution of higher education or for employment, and has a duty to register in Ohio under the SORN Law, the offender is presumed to have knowledge of the SORN Law and, as a result, of the offender's duties under that Law.
- Authorizes the state to publish notice of out of state sexually oriented offender duties in any manner determined to be appropriate by the state.

**Credit for time registered in another jurisdiction**

- Permits a sexually oriented offender to apply to the sheriff of the county in which the offender attends a school or institution of higher education or is employed, for credit against the duty to register for the time that the offender has complied with the sex offender registration requirements of another jurisdiction.

**Conforming changes**

- Makes conforming changes to the amended registration, change of address, and periodic verification of address provisions.

**Emergency**

- Declares an emergency.

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## CONTENT AND OPERATION

### *Sexual predators--removal of adjudication as a sexual predator*

#### *Operation of the bill*

The bill eliminates a court's ability to remove a sexually oriented offender's status as a sexual predator. Under the bill, if an offender who has been convicted of or pleaded guilty to a sexually oriented offense is automatically classified as a sexual predator or has been adjudicated a sexual predator relative to the offense as described in "*Adjudication as a sexual predator*," below, the classification or adjudication of the offender as a sexual predator is permanent and continues in effect until the offender's death. In no case may the classification or adjudication be terminated or removed. (R.C. 2950.07(B)(1) and 2950.09(D) in Section 3 of the bill, and cross-reference changes in R.C. 2950.04(C), 2950.06(B)(1), 2950.10, and 2950.11(A) and (B)(4) in Section 3 of the bill.)

#### *Existing law*

*Automatic classification.* Under existing law, a person who is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging a sexually violent offense of which the person was convicted automatically is classified as a sexual predator. Also, if a person is convicted of or pleads guilty to a sexually oriented offense in another jurisdiction and if, as a result of that conviction or plea of guilty, the person is required, under the law of that jurisdiction, 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 person as a sexual predator.<sup>1</sup> (R.C. 2950.09(A).)

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<sup>1</sup> *But the person may challenge classification of this latter type in court (R.C. 2950.09(A) and (F)).*

**Adjudication as a sexual predator.** The judge who is to impose sentence on a person who is convicted of or pleads guilty to a sexually oriented offense must conduct a hearing to determine whether the offender is a sexual predator if any of the following circumstances apply:

(1) The offender is to be sentenced on or after January 1, 1997, for a sexually oriented offense that is not a sexually violent offense.

(2) The offender 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 in the indictment, count in the indictment, or information charging the sexually violent offense.

Existing law prescribes procedures pursuant to which the hearing must be conducted. After reviewing all testimony and evidence presented at the hearing and certain statutorily specified factors, the court must determine by clear and convincing evidence whether the offender is a sexual predator. The court must specify in the offender's sentence and the judgment of conviction that contains the sentence the court determination regarding whether the offender is a sexual predator. (R.C. 2950.09(B).)

Special procedures apply to a person who was sentenced for a sexually oriented offense prior to January 1, 1997, if, on or after that date, the offender is serving a term of imprisonment in a state correctional institution. The Department of Rehabilitation and Correction (DRC) may recommend that the court that sentenced the offender adjudicate the offender as being a sexual predator. The court is not bound by DRC's recommendation, and the court may conduct a hearing to determine whether the offender is a sexual predator. The court may deny the recommendation without a hearing but may determine that the offender is a sexual predator only with a hearing. The court may hold the hearing and make the determination prior to the offender's release from imprisonment or at any time within one year following the offender's release from that imprisonment. The hearing must be conducted pursuant to the same procedures that apply to other sexually oriented offenders subject to this determination. After reviewing all testimony and evidence and the statutorily specified factors, the court must determine 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 must determine whether the offender is a habitual sex offender and, if the offender is a habitual sex offender, whether the offender is subject to the SORN Law's community notification provisions. The court must enter its determinations in the offender's institutional record and notify the offender, the prosecutor, and DRC of its determinations. (R.C. 2950.09(C).)

**Removal of status as sexual predator.** Under existing law, upon the expiration of the applicable period of time specified below, a sexually oriented offender who has been adjudicated a sexual predator may petition the judge who made the adjudication, 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 sexually violent predator adjudication (this phrase probably should be "sexual predator adjudication"), and, upon consideration of all relevant evidence and information, either must enter a determination that the offender no longer is a sexual predator (hereafter "grant the petition") or enter an order denying the petition. Existing law prohibits the judge from granting the petition unless the judge determines by clear and convincing evidence that the offender is unlikely to commit a sexually oriented offense in the future. If the judge grants the petition, the offender's duty to comply with the SORN Law continues for the period of time that otherwise would have been applicable to the offender (for 20 years after the duty to register begins if the offender also is a habitual sex offender, or ten years otherwise). The judge must notify the Bureau of Criminal Identification and Investigation (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 denies the petition, the prior adjudication of the offender as a sexual predator remains in effect.

The sexual predator may file the petition after the expiration of the following periods of time:

(1) Regardless of when the sexually oriented offense was committed, if, on or after January 1, 1997, the offender is imprisoned or sentenced to a prison term or other confinement for the sexually oriented offense in relation to which the determination was made, the offender initially may file the petition not earlier than one year prior to the offender's release from the imprisonment, prison term, or other confinement by discharge, parole, judicial release, or any other final release. 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 a prison term or other confinement for the sexually oriented offense, the offender initially may file the petition upon the expiration of one year after the entry of the offender's judgment of conviction.

(2) After the offender's initial filing of a petition, an offender may file a petition upon the expiration of five years after the court has entered an order denying the initial or a previous petition.

If a person who is automatically classified as a sexual predator was sentenced to a prison term under the Sexually Violent Predator Law and if the

sentencing court terminates the offender's prison term imposed under that Law, 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 BCII and the Parole Board of the determination that the offender no longer is a sexual predator. Upon receipt of the notification, BCII 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 automatically classified as a sexual predator is released from prison pursuant to a pardon or commutation, the classification of the offender as a sexual predator remains in effect after the offender's release, and the offender may file one or more petitions in accordance with the procedures and time limitations described above for a determination that the offender no longer is a sexual predator. (R.C. 2950.07(B)(1) and 2950.09(D).)

**Habitual sex offenders--duration of duty to comply with the SORN Law and removal of adjudication as a habitual sex offender**

**Operation of the bill**

Under the bill, the period of time during which a habitual sex offender's duty to comply with the Sex Offender Registration and Notification Law (the SORN Law) continues is extended from 20 years after the duty to comply begins (existing law) to until the offender's death (the bill). The bill further specifies that, if a court determines that an offender is a habitual sex offender, the determination is permanent and continues in effect until the offender's death. In no case may the determination be removed or terminated. (R.C. 2950.07(B)(2) and 2950.09(E) in Section 3 of the bill.)

**Existing law**

As described above under the existing law regarding **'Sexual predators--removal of adjudication as a sexual predator'**, a court must determine whether to adjudicate a person who was convicted of or pleaded guilty to a sexually oriented offense prior to January 1, 1997, to be a sexual predator. If the court does not adjudicate the person a sexual predator, the court must determine whether the person is a habitual sex offender.

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 does not have a previous conviction or plea of that nature, 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 has a previous conviction or plea of that nature, 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. (R.C. 2950.09(C) and (E).)

### **Duration of registration--aggravated sexually oriented offense**

Under existing law, if the offender who is subject to the SORN Law is neither a sexual predator nor a habitual sex offender, the offender's duty to comply with the SORN Law continues for ten years after the offender's duty to comply begins (R.C. 2950.07(B)(2)).

Under the bill, if the offender is convicted of an aggravated sexually oriented offense, the offender's duty to comply with the SORN Law continues until the offender's death. The bill further provides that in no case may the duty, or the conviction that subjects an offender to this provision, be removed or terminated. As used in the SORN Law, "aggravated sexually oriented offense" means rape that involves force or a threat of force or involves a victim who is under the age of 13. (R.C. 2950.01(N) and 2950.07(B)(2) in Section 3 of the bill.)

### **Registration of school, institution of higher education, or place of employment address**

#### **Time and place of registration**

**Existing law.** Generally, a sexually oriented offender must register personally with the sheriff of the county within seven days of the offender's coming into a county in which the offender resides or temporarily is domiciled for more than seven days (R.C. 2950.04(A) in Section 3 of the bill).

**Operation of the bill.** The bill expands this duty to also require a sexually oriented offender, if the offender intends to attend a school or institution of higher education in another state on a full-time or part-time basis or be employed in another state for more than 14 days or for an aggregate period of 30 or more days in any calendar year, to register with the sheriff or other appropriate person in that state (R.C. 2950.04(A)(1) in Section 3 of the bill).

The bill also requires each following type of offender to register personally with the sheriff of the county in which the offender attends a school or institution of higher education on a full-time or part-time basis or in which the offender is employed for more than 14 days or for an aggregate period of 30 or more days in any calendar year (R.C. 2950.04(A)(3)):

(1) Regardless of when the sexually oriented offense was committed, a person who 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 (hereafter "another jurisdiction"), if: (a) on or after July 1, 1997, the offender enters Ohio to attend any school or institution of higher education on a full-time or part-time basis, or the offender enters Ohio for employment and is employed for more than 14 days or for an aggregate period of 30 or more days in any calendar year, and (b) at the time the offender enters Ohio under those circumstances, 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.

(2) Regardless of when the sexually oriented offense was committed, a person who is convicted of or pleads guilty to committing a sexually oriented offense in another jurisdiction, if: (a) on or after July 1, 1997, the offender is released from imprisonment, confinement, or detention imposed for that offense, and (b) on or after July 1, 1997, the offender enters Ohio to attend any school or institution of higher education on a full-time or part-time basis, or the offender enters Ohio for employment and is employed for more than 14 days or for an aggregate period of 30 or more days in any calendar year. This duty applies to an offender regardless of whether the offender, at the time of entering Ohio to attend a school or institution of higher education, or entering Ohio for employment, has a duty to register as a sex offender under the law of the other jurisdiction.

Also, if the offender is sentenced for the sexually oriented offense to a prison term, a term of imprisonment, or any other type of confinement and, on or after July 1, 1997, is released in any manner from the prison term, term of imprisonment, or confinement, if, subsequent to the offender's release, the offender is adjudicated to be a sexual predator, and if the offender intends to attend a school or institution of higher education in another state on a full-time or part-time basis or be employed in another state for more than 14 days or for an aggregate period of 30 or more days in any calendar year, the offender must register with the sheriff or other appropriate person in that other state. (R.C. 2950.04(A)(4).)

### **Registration of change of address**

The bill expands the provisions requiring a sexually oriented offender to register a change in the offender's residence address to also require an offender who is not an Ohio resident and who is required to register under the SORN Law, at least seven days prior to changing the address of the offender's school, institution of higher education, or place of employment during the period during which the offender is required to register, to provide written notice of the school, institution of higher education, or place of employment address change, as applicable, to the sheriff with whom the offender most recently registered. At least seven days prior to changing that address, the offender also must register the new address in a statutorily prescribed manner with the sheriff of the county in

which the offender's new address is located. These notice and registration provisions apply to an offender who is required to register regardless of whether the new address is in Ohio or in another state. If the new address is in another state, the offender 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 address.

Upon receiving the notice of a change of the offender's school, institution of higher education, or place of employment address, the sheriff promptly must forward the new address to BCII if the new address is in another state. BCII must include all information forwarded to it in the State Registry of Sex Offenders and must forward notice of the offender's new address to the appropriate officials in the other state. If the new address is located in another Ohio county, the sheriff promptly must forward the new address to the sheriff of that county.

The bill expands the prohibitions relating to persons who change their residence address to also apply to persons who change their school, institution of higher education, or place of employment address. Thus, the bill prohibits a person who is required to notify a sheriff of a change of address from failing to notify the appropriate sheriff. And the bill prohibits a person who is required to register a new school, institution of higher education, or place of employment address with a sheriff or with an official of another state from failing to register with the appropriate sheriff or official of the other state. (R.C. 2950.05(A), (B), (C), (D), and (E) in Section 3 of the bill.)

### **Periodic verification of addresses**

Existing law requires an offender who must register under the SORN Law to periodically verify that person's current residence address. The frequency with which the offender must verify the address depends upon the offender's sexually oriented offender status. If an offender fails to timely verify the offender's residence address, the sheriff must send the offender a written warning and grant the offender a seven-day grace period within which the offender may register without fearing criminal prosecution. If the offender fails to register by the end of this grace period, the sheriff must arrest the offender for that failure. The offender is subject to prosecution for that failure. (R.C. 2950.06.)

The bill expands this provision to also require an offender who is required to register under the SORN Law and who is not an Ohio resident to periodically verify the address of the offender's current school, institution of higher education, or place of employment. If the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense, the offender must verify the offender's current school, institution of higher education, or place of employment

address every 90 days after the offender's initial registration date during the period the offender is required to register. In all circumstances, the offender must verify the offender's current school, institution of higher education, or place of employment address on each anniversary of the offender's initial registration date during the period the offender is required to register. (See **COMMENT 3**.)

The offender 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 that date, and completing and signing a copy of the verification form. Upon completion of the verification form, the sheriff promptly must forward a copy of the verification form to BCII, and BCII must include the information in the State Registry of Sex Offenders.<sup>2</sup>

As with verification of current residence address, the bill prohibits an offender who is required to verify a current school, institution of higher education, or place of employment address from failing to verify that address by the date required for the verification, provided that no person may be prosecuted for the violation prior to the expiration of the grace period described in this paragraph. If the offender fails to verify a current school, institution of higher education, or place of employment address, by the date required, the next day the sheriff with whom the offender is required to verify the address must send a written warning to the offender, at the offender's last known school, institution of higher education, or place of employment address, regarding the offender's duty to verify the offender's current school, institution of higher education, or place of employment address, as applicable. If an offender fails to verify a current school, institution of higher education, or place of employment address, as applicable, by the date required, the offender may not be prosecuted for the violation, unless the statutorily required seven-day grace period has expired and the offender, prior to the expiration of that grace period, has not verified the current address. Upon the expiration of the grace period, if the offender has not verified the current address, the sheriff promptly must notify BCII of the failure. Then the sheriff with whom the offender is required to verify the current address, the sheriff of the county in which the offender resides, or a deputy of the sheriff, must locate the offender, promptly seek a warrant for the offender's arrest for the violation, and arrest the offender. The offender is subject to prosecution for the violation. (R.C. 2950.06 in Section 3 of the bill.)

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<sup>2</sup> *To facilitate the verification, the sheriff with whom the offender most recently registered may mail a nonforwardable verification form to the offender's last reported address, with a notice that conspicuously describes the offender's duties. As with residence address verification, the offender's duty exists regardless of whether the sheriff mails the form to the offender.*

**Notice to offender of offender's duty to register under the SORN Law**

The bill revises the provisions regarding the notice that must be given to a sexually oriented offender describing the offender's duty to comply with the SORN Law to include notice of the offender's duty to provide notice of any change in the offender's school, institution of higher education, or place of employment address and to register the new school, institution of higher education, or place of employment address (R.C. 2950.03 in Section 3 of the bill).

Additionally, the notice must inform the offender of the offender's duties to similarly register, verify, and reregister those addresses in other states if the offender resides in another state, attends a school or institution of higher education in another state, or is employed in another state.

The person who is required to give the notice must determine the offender's expected future school, institution of higher education, or place of employment address in Ohio or any other state in a manner similar to the determination of the offender's expected future residence address. The person then must forward the information to BCII and to the sheriff of the county in which the offender expects to reside. If the offender's duty to comply with the SORN Law arises from the offender's duty to comply with the former Sex Offender Registration Law, if the person providing the notice is a chief of police, and if the offender is not a resident of Ohio, the chief of police also must forward the information to the sheriff of the county in which the offender attends a school or institution of higher education or is employed.

The bill further provides that if the person is an offender who is a resident of a state other than Ohio, who enters into Ohio to attend a school or institution of higher education or for employment, and who has a duty to register in Ohio under the SORN Law, the offender is presumed to have knowledge of the SORN Law and, as a result, of the offender's duties under that Law. The bill authorizes the state to publish notice of those duties in any manner determined to be appropriate by the state. (R.C. 2950.03(A)(6), (B)(1) and (C) in Section 3 of the bill.)

**Credit for time registered in another jurisdiction**

**Existing law.** An offender who has been convicted of or pleaded guilty to a sexually oriented offense in another jurisdiction 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 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(E) in Section 3 of the bill.)

**Operation of the bill.** The bill expands this provision to also permit the offender to apply to the sheriff of the county in which the offender attends a school or institution of higher education or is employed, for credit against the duty to register for the time that the offender has complied with the sex offender registration requirements of another jurisdiction. If the offender disagrees with the sheriff's determination, the bill also permits the offender to appeal the determination to the court of common pleas of the county in which the offender attends a school or institution of higher education or is employed. (R.C. 2950.07 in Section 3 of the bill.)

### **Public records status of information**

Parallel to the existing provisions regarding sexually oriented offenders who register a change of address or verify a current residence address under the SORN Law, the statements, information, photographs, and fingerprints required by the SORN Law and provided by a person who provides notice of a change of school, institution of higher education, or place of employment address and registers the new address, or who provides verification of a current address of that nature and that are in the possession of BCII are not open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer and an authorized BCII employee for specified purposes. Any such statements, information, photographs, or fingerprints that are in the possession of a county sheriff are public records open to public inspection under the Public Records Law. (R.C. 2950.08 in Section 1 of the bill and R.C. 2950.081(A) in Section 3 of the bill.)

### **Community notification**

**Existing law.** Existing law requires the sheriff with whom the offender has most recently registered under the SORN Law to provide a statutorily prescribed written notice to specified persons and entities in the community 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: (1) 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 (2) the offender has been determined to be a habitual sex offender and the court has imposed a requirement subjecting the habitual sex offender to community notification. If a sheriff with whom an offender registers provides a statutorily required notice to a sheriff of another county, the other sheriff must provide the

notices to the required persons and entities that are within the county served by the other sheriff. (R.C. 2950.11(A) and (C).)

The notice must include all of the following information regarding the subject offender (R.C. 2950.11(B)): (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.

If the offender verifies the offender's current residence address with the sheriff, the sheriff may provide a written notice containing the information described above to the statutorily specified persons. If the sheriff provides such a notice to the sheriff of another county, the other sheriff may provide, but is not required to provide, written notice to the statutorily specified persons. (R.C. 2950.11(D)(2).)

**Operation of the bill.** The bill expands the information the notice must include to also include the address or addresses of the offender's school, institution of higher education, or place of employment, as applicable. If the offender verifies the offender's current school, institution of higher education, or place of employment address, as applicable, with the sheriff pursuant to the SORN Law, the sheriff may provide a written notice to the statutorily specified persons. If the sheriff provides such a notice to the sheriff of another county, the other sheriff may provide, but is not required to provide, a written notice to the statutorily specified persons. (R.C. 2950.11(B)(2) and (D)(2) in Section 3 of the bill.)

### **Attorney General duties**

The bill updates the Attorney General's duties to reflect the additional requirements of sexually oriented offenders to register the sexually oriented offender's school, institution of higher education, or place of employment address. Specifically, the bill (R.C. 2950.06(D) and 2950.13(A)(1), (4), and (7) in Section 3 of the bill):

(1) Expands the information included in the State Registry of Sex Offenders to specifically include reference to the change of school, institution of higher education, or place of employment address information BCII receives under the bill;

(2) Revises the notice forms to be used by judges and officials to advise offenders of their duties under the SORN Law and the forms to be used by sheriffs

relative to the offender's duties of registration, change of address notification, and address verification to specifically refer to notification of a change of school, institution of higher education, or place of employment address and registration of the new school, institution of higher education, or place of employment address, as applicable, and school, institution of higher education, or place of employment address verification;

(3) Expands the Attorney General's duty to maintain, through BCII, the verification forms returned under the residence address verification mechanism set forth in R.C. 2950.06 to include verification forms returned under the school, institution of higher education, or place of employment address verification mechanism set forth in that section.

### **Definitions**<sup>3</sup>

#### **Habitual sex offender**

Existing law defines "habitual sex offender" as 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 (R.C. 2950.01(B)).

#### **School**

Under the bill, "school" has the same meaning as in the Drug Laws (R.C. 2925.01) (R.C. 2950.01(O) in Section 3 of the bill). R.C. 2925.01(Q) defines "school" as any school operated by a board of education or any school for which the State Board of Education prescribes minimum standards, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

#### **Sexually oriented offense**

Existing law defines "sexually oriented offense" for purposes of the adult SORN Law as any of the following offenses (R.C. 2950.01(D)):

(1) Regardless of the age of the victim of the offense, rape, sexual battery, or gross sexual imposition;

(2) Any of the following offenses involving a minor, in the circumstances specified: (a) kidnapping, abduction, unlawful restraint, criminal child

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<sup>3</sup> As noted in **COMMENT 1**, the analysis describes existing law only as it applies to the adult SORN Law.

enticement, or corruption of a minor when the victim of the offense is under 18 years of age, (b) 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, (c) certain pandering obscenity or pandering sexually oriented matter involving minors violations, (d) certain illegal use of a minor in nudity oriented material or performance violations, and (e) certain endangering children violations when the child who is involved in the offense is under 18 years of age;

(3) Regardless of the age of the victim of the offense, the offense of aggravated murder, murder, felonious assault, kidnapping, or felony-based involuntary manslaughter, when the offense is committed with a purpose to gratify the sexual needs or desires of the offender;

(4) A sexually violent offense;<sup>4</sup>

(5) A violation of any former Ohio law that was substantially equivalent to any offense listed in (1), (2), (3), or (4), above;

(6) 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 (1), (2), (3), or (4), above;

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<sup>4</sup> "Sexually violent offense" means a violent sex offense, or a designated homicide, assault, or kidnapping offense for which the offender also was convicted of or pleaded guilty to a sexual motivation specification. (R.C. 2950.01(H) by reference to R.C. 2971.01(G).)

"Violent sex offense" means any of the following (R.C. 2971.01(L)): (1) rape, sexual battery, or the former offense of felonious sexual penetration, or gross sexual imposition when the victim is less than 13, (2) a felony violation of a former law of Ohio that is substantially equivalent to the offenses listed in clause (1) or of an existing or former law of the United States or of another state that is substantially equivalent to those offenses, and (3) an attempt to commit or complicity in committing an offense listed in clause (1) or (2) if the attempt or complicity is a felony.

"Designated homicide, assault, or kidnapping offense" means any of the following (R.C. 2971.01(B)): (1) aggravated murder, murder, felonious assault, or kidnapping or involuntary manslaughter committed as a proximate result of committing a felony, and (2) an attempt to commit or complicity in committing an offense listed in (1), if the attempt or complicity is a felony.

(7) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (1), (2), (3), (4), (5), or (6), above.

**Sexual predator**

Existing law defines "sexual predator" as 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. (R.C. 2950.01(E).)

**Adjudicated as being a sexual predator**

Under existing law, an offender is "adjudicated as being a sexual predator" if any of the following applies and if that status has not been removed pursuant to R.C. 2950.09 (R.C. 2950.01(G)):

(1) 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.

(2) Regardless of when the sexually oriented offense was committed, on or after January 1, 1997, the offender is sentenced for a sexually oriented offense, and the sentencing judge determines pursuant to R.C. 2950.09(B) that the offender is a sexual predator.

(3) 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 the court determines pursuant to R.C. 2950.09(C) that the offender is a sexual predator.

(4) 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 jurisdiction, 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 Ohio or temporarily is domiciled in Ohio for more than seven days, unless a court of common pleas or juvenile court determines that the offender is not a sexual predator pursuant to R.C. 2950.09(F).

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## COMMENT

1. The bill includes versions of sections as they existed prior to the enactment of Am. Sub. S.B. 3 of the 124th General Assembly (application of SORN Law to delinquent children) as well as versions of those sections as they appear as a result of the enactment of Am. Sub. S.B. 3. These prior versions are no longer needed, since Am. Sub. S.B. 3 has taken effect. Also, the existing law portion of this analysis discusses only the pertinent portions of the SORN Law as it exists as a result of Am. Sub. S.B. 3. Because the bill does not affect the SORN Law as it applies to juveniles, those portions of the SORN Law are not discussed.

2. Additional cross-reference changes probably are needed in R.C. 2152.84(B), 2152.85(D), 2950.01(G), and 2950.09(F).

3. R.C. 2950.06(B)(1) in Section 3 of the bill needs technical and possibly substantive revision. The phrase "the offender" in line 2416 appears inappropriate. Also, the Section 1 version of this provision requires quarterly verification of sexually oriented offenders who are convicted of an aggravated sexually oriented offense or who are a habitual sex offenders, but the Section 3 version of this provision contains no parallel requirement.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-13-01	p. 1080

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