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124th General Assembly
(As Reported by H. Criminal Justice)

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BILL SUMMARY

Sexually oriented offenses for which a child might be subject to the SORN Law

- Generally extends the Sex Offender Registration and Notification Law (the SORN Law) to apply to children: (1) who are adjudicated delinquent children for committing on or after its effective date (a) aggravated murder, murder, felonious assault, kidnapping, and abduction, and involuntary manslaughter in the commission of a felony, or an attempt to commit those offenses, that is committed with a purpose to gratify the sexual needs or desires of the child, (b) certain pandering offenses involving minors if the delinquent child is four or more years older than the minor who is the victim of the offense, or (c) other sexually oriented offenses that, if committed by an adult, would be a felony of the first, second, third, or fourth degree, (hereafter, a "juvenile category sexually oriented offense"), (2) who are 14 years of age or older at the time of committing the offense, and (3) who are classified by a juvenile court judge pursuant to the bill as a "juvenile sex offender registrant."

Classification of delinquent child as a juvenile sex offender registrant at adjudication

- Requires a juvenile court judge who adjudicates a child a delinquent child for committing a juvenile category sexually oriented offense to issue, at the time of adjudication, an order that classifies the child a

* This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

juvenile sex offender registrant and specifies that the child has a duty to register under the SORN Law if the child was 14, 15, 16, or 17 years of age at the time of committing the offense, and the child previously was adjudicated a delinquent child for committing, at any time or age, a juvenile category sexually oriented offense.

- Requires a juvenile court judge who adjudicates a child a delinquent child for committing a juvenile category sexually oriented offense to issue, upon the child's release from the Department of Youth Services (DYS) secure facility or other secure facility or at the time of adjudication if the child is not sent to a secure facility, an order that classifies the child a juvenile sex offender registrant and specifies that the child has a duty to register under the SORN Law, if the child was 16 or 17 years of age at the time of committing the offense and the child previously has not been adjudicated a delinquent child for committing a juvenile category sexually oriented offense.
- Permits a juvenile court judge who adjudicates a child a delinquent child for committing a juvenile category sexually oriented offense to issue, in the judge's discretion and upon the child's release from a DYS or other secure facility or at the time of adjudication if the child is not sent to a DYS or other secure facility, an order that classifies the child a juvenile sex offender registrant and specifies that the child has a duty to register under the SORN Law, if the child was 14 or 15 years of age at the time of committing the offense and the child previously has not been adjudicated a delinquent child for committing a juvenile category sexually oriented offense.
- Provides that a judge who issues an order that classifies a delinquent child a juvenile sex offender registrant and specifies that the child has a duty to register under the SORN Law also may determine that the child is a sexual predator or a habitual sex offender if the child satisfies specified criteria for such a determination.

Post sanction hearing for a juvenile sex offender registrant or potential registrant

- Requires a juvenile court judge who issues an order that classifies a delinquent child a juvenile sex offender registrant and specifies that the child has a duty to register under the SORN Law, or that judge's successor in office, to conduct a hearing, upon completion of the

disposition imposed for the juvenile category sexually oriented offense on which the order was based, to review the effectiveness of the disposition and of any treatment provided for the child and to determine whether to "reclassify" the child regarding the child's registration category or, if the order was a discretionary order, whether to "declassify" the child as a juvenile sex offender registrant.

Petition by juvenile sex offender registrant to be reclassified or declassified

- Permits a delinquent child who has been classified a juvenile sex offender registrant and has a duty to register under the SORN Law to petition the judge who made the classification, or that judge's successor in office, to "reclassify" the child regarding the child's registration category, or, if the order classifying the child as a juvenile sex offender registrant does not include a sexual predator determination, to "declassify" the child as a juvenile sex offender registrant.
- Provides standards and criteria for reclassifying or declassifying a delinquent child who has been classified a juvenile sex offender registrant at a discretionary hearing or subsequent to a petition filed by the child that requests reclassification or declassification.

Public records; internet posting

- Specifies that the records the sheriff possesses pursuant to the SORN Laws are public records.
- Except when the act that is the basis of a child's classification as a juvenile sex offender registrant is a violation of R.C. 2903.01 (aggravated murder), 2903.02 (murder), or 2905.01 (kidnapping) that was committed with a purpose to gratify the sexual needs or desires of the child, a violation of R.C. 2907.02 (rape), or an attempt to commit a violation of that nature, prohibits the sheriff from causing to be publicly disseminated by means of the internet statements, information, photographs, or fingerprints that are provided by a juvenile sex offender registrant pursuant to the SORN Law, and that are in the possession of a county sheriff and enacts a similar prohibition regarding the information a sheriff possesses regarding a sexual predator or a habitual sex offender that must be provided in the community notification notices.

Juvenile court jurisdiction

- Grants juvenile courts exclusive original jurisdiction to conduct the hearings, and to make the determinations, adjudications, and orders authorized or required under the bill, including situations in which the subject delinquent child is committed to the Department of Youth Services and including situations beyond the child's attainment of 21 years of age.

Sex offender registration requirements

- Provides for notification of the requirements under the SORN Law to be given to a delinquent child who, under the bill, is classified a juvenile sex offender registrant and is subjected to that Law and to the child's parent, guardian, or custodian.
- Requires a delinquent child who is classified a juvenile sex offender registrant and is subjected to the SORN Law 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 criminal offenders under existing law), provided that the child's duty to register does not apply if the child is confined in a Department of Youth Services institution or in a secure facility not operated by the Department.
- Requires a delinquent child who is classified a juvenile sex offender registrant and is subjected to the SORN Law and who registers with a sheriff as described above to give that sheriff notice of changes in the child's residence and 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 criminal offenders under existing law).
- Generally extends the SORN Law's registration, change of address, and residence address verification requirements to a child who commits a juvenile category sexually oriented offense in a jurisdiction other than Ohio, who resides in Ohio on or after the bill's effective date, and who had a duty to register under the law of the other jurisdiction or for whom a juvenile court judge would have been required to issue a juvenile sex offender registrant classification order had the child committed the delinquent act in Ohio.

- For delinquent children who have a duty under the bill to comply with the SORN Law's registration, change of address, and residence address verification requirements, specifies the time of commencement of the duties and the duration of the duties (the duration generally is the same as applies for criminal offenders under current law).
- In the existing provision that "tolls" an offender's duty to register under the SORN Law for any period during which the offender is returned to confinement for any reason or imprisoned for an offense, specifies that the "tolling" applies only when the offender is returned to confinement in a secure facility or imprisoned and extends the provision so that it also applies to any delinquent children who have a duty under the bill to comply with the SORN Law's registration, change of address, and residence verification requirements.

Victim and community notification

- Requires a sheriff with whom a delinquent child who has committed a juvenile category sexually oriented offense in Ohio 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: (1) a juvenile court judge has determined that the child is a sexual predator or has determined that the child is a habitual sex offender and specifically made the child subject to victim notification, and (2) the victim has requested that type of notice (in accordance with the same procedures used for criminal offenders under existing law).
- Provides that the provisions of the SORN Law related to community notification of the place of residence of a person convicted of a sexually oriented offense whom the court classifies as a sexual predator or whom the court determines is a habitual sex offender and specifically makes subject to the provisions also apply to delinquent children who have committed a juvenile category sexually oriented offense in Ohio, who have registered under the bill, and who satisfy the sexual predator or habitual sex offender criteria.

Civil immunity

- Extends to a supervising officer and an officer or employee of the Department of Youth Services and to a supervisor and a caseworker or employee of a public children services agency the existing civil immunity

for acts and omissions in connection with a power, duty, responsibility, or authorization under the SORN Law.

Attorney General, BCII, and Department of Youth Services duties

- 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 SORN Law and that relates to children who are adjudicated delinquent children for committing juvenile category sexually oriented offenses and who register under the bill.
- Expands other duties of the Attorney General that pertain to the SORN Law to include references to delinquent children who have a duty under the bill to comply with the SORN Law's registration, change of address, and residence verification requirement.
- 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 juvenile category sexually oriented offense on or after the bill's effective date.

Penalty for failure to comply with SORN Law

- Specifies that if a delinquent child is classified under the bill as a juvenile sex offender registrant and fails to comply with any SORN Law requirement regarding registration, change of address, or residence verification: (1) if the violation occurs while the person is under 18 years of age, the person is subject to proceedings under the Juvenile Delinquency Law, and (2) if the violation occurs while the person is 18 years of age or older, the person is subject to criminal prosecution based on the violation.

Contributing to the unruliness or delinquency of a child

- Expands the offense of "contributing to the unruliness or delinquency of a child" so that it also specifically prohibits the parent, guardian, or custodian of a child who, under the bill, has the duties under the SORN Law to register, register a new residence address, and periodically verify

a residence address and who is not emancipated from failing to ensure that the child complies with those duties.

"Secure facility"

- Defines "secure facility," for use throughout the SORN Law, as any facility that is designed and operated to ensure that all of its entrances and exits are locked and under the exclusive control of its staff and to ensure that, because of that exclusive control, no person who is institutionalized or confined in the facility may leave the facility without permission or supervision.

Treatment

- Specifies that, if a delinquent child who commits a juvenile category sexually oriented offense is committed to the Department of Youth Services, the mandatory treatment and training that the Department must provide to all children committed to it includes for that child treatment of a type that is appropriate for persons who commit sexually oriented offenses and that is intended to ensure that they do not commit sexually oriented offenses in the future.
- Specifies that, if a juvenile court commits a delinquent child to the custody of any person, organization, or entity other than the Department of Youth Services and if the act for which the child is committed is a juvenile category sexually oriented offense, the court in the order of disposition must: (1) inform the person, organization, or entity that it is the preferred course of action in Ohio that the child be provided treatment of a type that is appropriate for persons who commit sexually oriented offenses and that is intended to ensure that they do not commit sexually oriented offenses in the future, and (2) encourage the person, organization, or entity to provide that treatment.

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CONTENT AND OPERATION

Overview

Chapter 2950. of the Revised Code (the Sex Offender Registration and Notification Law, hereinafter the SORN Law) sets forth requirements regarding registration for certain specified offenders who have been convicted of "sexually oriented offenses" and regarding victim notification and community notification for certain specified offenders who have been convicted of sexually oriented offenses and who also are "sexual predators" or "habitual sex offenders" (see "Other definitions," below). The bill:

(1) Generally makes the SORN Law apply to delinquent children who, while 16 or 17 years of age, commit a sexually oriented offense that is aggravated murder, murder, attempted aggravated murder or murder, or a felony of the first, second, third, or fourth degree;

(2) Generally makes that Law apply to delinquent children who, while 14 or 15 years of age, commit a sexually oriented offense of that nature and who previously have been adjudicated delinquent children for a sexually oriented offense;

(3) Generally permits a juvenile court to apply that Law to delinquent children who, while 14 or 15 years of age, commit a sexually oriented offense of that nature;

(4) Generally makes that Law apply to children who were adjudicated delinquent children in a jurisdiction other than Ohio for a sexually oriented offense of that nature, who had a duty to register in that jurisdiction, and who commence residence in Ohio;

(5) Contains a mechanism that governs the determination of whether the SORN Law will apply to a delinquent child and grants powers to and imposes duties upon juvenile courts in implementing that mechanism.

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 Ohio by providing in the SORN Law for the registration of sexual predators, habitual sex offenders, and offenders who have committed sexually oriented offenses and for community notification regarding sexual predators and habitual sex offenders who will live in or near a particular neighborhood. The General Assembly further declares that (1) it is Ohio's policy to require the exchange of relevant information about sexual predators and habitual sex offenders among public agencies and officials and 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 and (2) the exchange or release of that information is not punitive. The General Assembly outlines six findings in support of the above declaration. (See **COMMENT 1.**) (R.C. 2950.02.)

Operation of the bill

The bill maintains the substance of the above-referenced declarations and findings and includes within their language references to "certain 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 Ohio by providing for the registration of sexual predators, habitual sex offenders, and offenders *and certain delinquent children* who have committed sexually oriented offenses and by providing for victim notification regarding sexual predators and habitual sex offenders, including such delinquent children as fit in that category, who will live in or near a particular neighborhood (this change also relates to the bill's expansion of the definitions of "sexual predator" and "habitual sex offender," as described below in "**Other definitions**"). The bill maintains the substance of all of the General Assembly's declarations and findings and extends those statements to include "certain delinquent children" who have committed sexually oriented offenses. (R.C. 2950.02.)

Sexually oriented offenses for which a juvenile might be subjected to the SORN Law

Existing law

The existing SORN Law applies to persons who are convicted of or plead guilty to a "sexually oriented offense." Existing law defines "sexually oriented offense" 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 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;

(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;

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

Operation of the bill

The bill modifies the definition of "sexually oriented offense" to specify that, for purposes of the Juvenile Delinquency Law and the SORN Law, in addition to the existing violations and offenses, the term also includes an act committed by a person under 18 years of age that is any of the following (R.C. 2950.01(D)):

(1) Except for the violations specifically described in paragraphs (2) and (3) and subject to paragraph (4), any of those violations or offenses that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(2) Subject to paragraph (4), aggravated murder, murder, felonious assault, kidnapping, and abduction, involuntary manslaughter in the commission of a felony, or an attempt to commit those offenses, that is committed with a purpose to gratify the sexual needs or desires of the child;

(3) Certain pandering obscenity violations, certain pandering sexually oriented matter involving minors violations, and certain illegal use of a minor in nudity oriented material or performance violations, or an attempt to commit any of those violations, if the person who violates or attempts to violate the prohibition is four or more years older than the minor who is the victim of the offense;

(4) If the child's case has been transferred for criminal prosecution under the Juvenile Bindover Law, the act is any violation listed as a sexually oriented offense for adults.

In the remainder of this analysis, acts committed by a person under 18 years of age that satisfy the criteria of this new portion of the definition are referred to as "juvenile category sexually oriented offenses."

Initial juvenile court classification of a delinquent child, at adjudication, as a juvenile sex offender registrant

Mandatory classification, at adjudication, as a juvenile sex offender registrant--repeat offenders

The bill specifies that, if a person is adjudicated a delinquent child for committing on or after the bill's effective date a juvenile category sexually oriented offense, the juvenile court judge who adjudicates the child a delinquent child *must* issue an order that classifies the child a "juvenile sex offender registrant" (see "**Definition of juvenile sex offender registrant**," below) and specifies that the child has a duty to register under R.C. 2950.04 of the SORN Law (see "**Sex offender registration requirements**," below) if the delinquent child was 14, 15, 16, or 17 years of age at the time of committing the offense, and the delinquent child previously was adjudicated a delinquent child for committing any juvenile category sexually oriented offense, regardless of when the prior offense was committed and regardless of the delinquent child's age at the time of committing the offense (R.C. 2152.82(A)).

Time of issuance, content, and duration of order initially classifying a child as a juvenile sex offender registrant

A mandatory order that classifies a delinquent child as a juvenile sex offender registrant must be issued at the time the judge makes the order of disposition for the delinquent child. Prior to issuing the order, the judge must

conduct the hearing and make the determinations required by, and otherwise comply with, the provisions of the SORN Law that govern sexual predator and habitual sex offender determinations (see "*Classification as a sexual predator or habitual sex offender*," below). When a judge issues a mandatory order classifying a delinquent child as a juvenile sex offender registrant, all of the following apply (R.C. 2152.82(B)):

(1) The judge must include in the order any determination that the delinquent child is a sexual predator or a habitual sex offender that the judge makes pursuant to the SORN Law and any related information required or authorized under the provision under which the determination is made, including, but not limited to, any requirement imposed by the court subjecting a child who is a habitual sex offender to community notification (see "*Classification as a sexual predator or habitual sex offender*," below).

(2) The judge must include in the order a statement that, upon completion of the disposition of the delinquent child that was made for the juvenile category sexually oriented offense upon which the order is based, a hearing will be conducted, and the order and any determinations included in the order are subject to modification or termination (see "*Post-sanction hearing for juvenile sex offender registrant or potential registrant*," below).

(3) The judge must provide a copy of the order to the delinquent child and to the delinquent child's parent, guardian, or custodian, as part of the notice provided under the SORN Law of the child's duty to register, to provide notice of residence changes and to register the new address, and to periodically verify the child's residence address (see "*Notice provided to a person regarding the person's duties under the SORN Law*," below).

(4) The judge must include the order in the delinquent child's dispositional order and must specify in the dispositional order that the mandatory juvenile sex offender registrant order was made pursuant to this provision of the bill.

A mandatory order classifying a delinquent child as a juvenile sex offender registrant that is issued at the time of adjudication and any determination included in the order remain in effect for the period of time specified in the SORN Law (see "*Compliance dates and duration of the duty to register*," below). It is subject to modification or termination of the order under the provisions of the bill described below in "*Post-sanction hearing for juvenile sex offender registrant or potential registrant*" and "*Petition by juvenile sex offender registrant to be reclassified or declassified*." If a mandatory order classifying a delinquent child as a juvenile sex offender registrant is issued under the above-described provisions, the child's attainment of 18 or 21 years of age does not affect or terminate the order, and the

order remains in effect for the period of time described in this paragraph. (R.C. 2152.82(C).)

Classification of a delinquent child as a juvenile sex offender registrant in relation to a first offense

Mandatory classification

The bill specifies that if a child is adjudicated a delinquent child for committing on or after the bill's effective date a sexually oriented offense, if the child was 16 or 17 years of age at the time of committing the offense, and if the juvenile court judge was not required to classify the child a juvenile sex offender registrant under "**Mandatory classification, at adjudication, as a juvenile sex offender registrant – repeat offenders**," above, upon the child's discharge or release from a secure facility or at the time of disposition if the judge does not commit the child to the custody of a secure facility, the juvenile court judge who adjudicated the child a delinquent child, or that judge's successor in office must issue an order that classifies the child a juvenile sex offender registrant and specifies that the child has a duty to register under section 2950.04 of the SORN Law.

Prior to issuing the order, the judge must conduct the hearing and make the determinations required by, and otherwise comply with, the provisions of the SORN Law that govern sexual predator and habitual sex offender determinations. When a judge issues an order classifying the delinquent child a juvenile sex offender registrant, the judge must include in the order any determination that the delinquent child is a sexual predator or is a habitual sex offender that the judge makes and any related information required or authorized under the provision under which the determination is made, including, but not limited to, any requirement imposed by the court subjecting a child who is a habitual sex offender to community notification. (R.C. 2152.83(A).)

Discretionary classification

Conduct of hearing. Under the bill, if a child is adjudicated a delinquent child for committing on or after the bill's effective date a sexually oriented offense, if the delinquent child was 14 or 15 years of age at the time of committing the offense, and if the juvenile court judge was not required to classify the child a juvenile sex offender registrant under "**Mandatory classification, at adjudication, as a juvenile sex offender registrant--repeat offenders**," above, upon the child's discharge or release from a secure facility or at the time of disposition if the judge does not commit the child to the custody of a secure facility, the juvenile court judge who adjudicated the child a delinquent child, or that judge's successor in office, may, on the judge's own motion, conduct a hearing to review the

effectiveness of the disposition and of any treatment provided for a child placed in a secure setting and to determine whether the child should be classified a juvenile sex offender registrant. The judge may conduct the hearing on the judge's own initiative or based upon a recommendation of an officer or employee of the Department of Youth Services, a probation officer, an employee of the court, or a prosecutor or law enforcement officer. If the judge conducts the hearing, upon completion of the hearing, the judge, in the judge's discretion and after consideration of the factors described below under "**Factor to be considered**," must do either of the following: (1) decline to issue an order that classifies the child a juvenile sex offender registrant and specifies that the child has a duty to register under section 2950.04 of the SORN Law or (2) issue an order that classifies the child a juvenile sex offender registrant and specifies that the child has a duty to register under section 2950.04 of the SORN Law and, if the judge determines as described in "**Sexual predator and habitual sex offender determinations**," below, that the child is a sexual predator or a habitual sex offender, include in the order a statement that the judge has determined that the child is a sexual predator or a habitual sex offender, whichever is applicable. (R.C. 2152.83(B).)

Factors to be considered. In making the decision as to whether a delinquent child should be classified a juvenile sex offender registrant and, if so, whether the child also is a sexual predator or a habitual sex offender, a judge must consider all relevant factors, including, but not limited to, all of the following (R.C. 2152.83(E)): (1) the nature of the sexually oriented offense committed by the child, (2) whether the child has shown any genuine remorse or compunction for the offense, (3) the public interest and safety, (4) the factors set forth in R.C. 2950.09(B)(3) regarding sexual predator determinations (see "**Determination of sexual predator status**," below), (5) the factors set forth in R.C. 2929.12(B) and (C) of the Felony Sentencing Law (see **COMMENT 2**) as those factors apply regarding the delinquent child, the offense, and the victim, and (6) the results of any treatment provided to the child and of any follow-up professional assessment of the child.

Sexual predator and habitual sex offender determinations. A judge may issue a discretionary order that contains a determination that a delinquent child is a sexual predator only if the judge, in accordance with the sexual predator classification procedures in the SORN Law determines at the hearing by clear and convincing evidence that the child is a sexual predator. The judge may issue an order that contains a determination that a delinquent child is a habitual sex offender only if the judge determines at the hearing in accordance with the SORN Law procedures that the child is a habitual sex offender. If the judge issues an order that contains a determination that a delinquent child is a habitual sex

offender, the judge may impose a requirement subjecting the child to community notification. (R.C. 2152.83(C).)

Notice of issuance of order

If a judge issues either a mandatory or discretionary order for a first offender, the judge must provide to the delinquent child and to the delinquent child's parent, guardian, or custodian a copy of the order and a notice containing the child's duties under the SORN Law. The judge must provide the notice at the time of the issuance of the order and must provide the notice pursuant to and otherwise comply with the SORN Law regarding that notice. The judge also must include in the order a statement that, upon completion of the disposition of the delinquent child that was made for the sexually oriented offense upon which the order is based, a hearing will be conducted and the order is subject to modification or termination. (R.C. 2152.83(D).)

Duration of order

A mandatory or discretionary order for a first offender remains in effect for the period of time specified in the SORN Law and described below in "**Compliance dates and duration of the duty to register**," subject to a modification or termination of the order under the bill's provisions. The child's attainment of 18 or 21 years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this paragraph. (R.C. 2152.83(F).)

Post-sanction hearing for juvenile sex offender registrant or potential registrant

Mandatory post-sanction hearing for a juvenile sex offender registrant possible modification or termination of order

Conduct of hearing. The bill specifies that, when a juvenile court judge issues a mandatory or discretionary order that classifies a delinquent child a juvenile sex offender registrant and specifies that the child has a duty to register under the SORN Law, upon completion of the child's disposition that the judge made for the offense on which the order was based, the judge or the judge's successor in office must conduct a hearing to do all of the following (R.C. 2152.84(A)(1)):

(1) Review the effectiveness of the disposition and of any treatment provided for the child;

(2) If the order also contains a determination that the delinquent child is a sexual predator, determine whether the classification of the child as a sexual predator or juvenile sex offender registrant should be continued or modified or, regarding a discretionary sex offender registrant order, terminated;

(3) If the order is a discretionary sex offender registrant order (the reference to R.C. 2152.82 at line 1056 is a typo and should be to R.C. 2152.83) and does not contain a sexual predator determination (see paragraphs (4), (5), and (6), below under "*Judge's duties upon completion of the hearing*"), determine whether the classification of the child as a juvenile sex offender registrant should be continued, modified, or terminated.

Judge's duties upon completion of the hearing. Upon completion of a mandatory post-sanction hearing, the judge, in the judge's discretion and after consideration of the factors listed below in "*Factors to be considered at post-sanction hearing*," must do one of the following, as applicable (R.C. 2152.84(A)(2)):

(1) Enter an order that continues the classification of the delinquent child as a juvenile sex offender registrant that was made in a mandatory or discretionary order and any sexual predator or habitual sex offender determination included in the order;

(2) If the order was a mandatory order and includes a determination by the judge that the delinquent child is a sexual predator, enter an order that contains a determination that the delinquent child no longer is a sexual predator and that also contains either a determination that the delinquent child is a habitual sex offender or a determination that the delinquent child remains a juvenile sex offender registrant but is not a sexual predator or habitual sex offender;

(3) If the order was a mandatory order and does not include a sexual predator determination but includes a determination by the judge that the delinquent child is a habitual sex offender, enter an order that contains a determination that the delinquent child no longer is a habitual sex offender and that also contains a determination that the delinquent child remains a juvenile sex offender registrant but is not a habitual sex offender;

(4) If the order was a discretionary order and includes a determination by the judge that the delinquent child is a sexual predator, enter an order that contains a determination that the delinquent child no longer is a sexual predator and that also contains a determination that the delinquent child is a habitual sex offender, a determination that the delinquent child remains a juvenile sex offender registrant but is not a sexual predator or habitual sex offender, or a determination that specifies that the delinquent child no longer is a juvenile sex offender registrant and no longer has a duty to register under the SORN Law;

(5) If the order was a discretionary order and does not include a sexual predator determination but includes a determination by the judge that the delinquent child is a habitual sex offender, enter an order that contains a

determination that the child no longer is a habitual sex offender and that also contains either a determination that the child remains a juvenile sex offender registrant but is not a sexual predator or habitual sex offender or a determination that specifies that the child no longer is a juvenile sex offender registrant and no longer has a duty to register under the SORN Law;

(6) If the order was a discretionary order and the order does not include a sexual predator determination or a habitual sex offender determination, enter an order that contains a determination that the delinquent child no longer is a juvenile sex offender registrant and no longer has a duty to register under the SORN Law.

Criteria for declassifying, or classifying, as a sexual predator or habitual sex offender at a post-sanction hearing

A judge may issue an order after a mandatory post-sanction hearing for a juvenile sex offender registrant that contains a determination that the child no longer is a sexual predator only if the judge, in accordance with procedures specified in the SORN Law and described below in "**Classification as a sexual predator or habitual sex offender**," determines at the hearing by clear and convincing evidence that the delinquent child is unlikely to commit a sexually oriented offense in the future. If the judge issues an order of that type, the judge must provide the notifications described in those provisions, and the recipient of the notification must comply with those provisions. (R.C. 2152.84(B).)

Notice of issuance of order

If a judge issues an order after a mandatory post-sanction hearing, the judge must provide to the delinquent child and to the delinquent child's parent, guardian, or custodian a copy of the order and notice of the child's duty under the SORN Law to register, to provide notice of residence changes and to register the new residence address, and to periodically verify the child's residence address. The judge must provide that notice and otherwise must comply with the SORN Law, as relevant to children classified as juvenile sex offender registrants, regarding that notice. (R.C. 2152.84(C).)

Factors to be considered at post-sanction hearing

In making a decision at a mandatory post-sanction hearing for a juvenile sex offender registrant as to whether the classification of the child as a juvenile sex offender registrant and any determination that the child is a sexual predator or habitual sex offender should be continued or modified, or when permissible, terminated, a judge must consider all relevant factors, including, but not limited to, the factors that must be considered under the bill in making an initial discretionary

determination as to whether a delinquent child should be classified a juvenile sex offender registrant (R.C. 2152.84(D)).

Duration of order issued after post-sanction hearing

If a judge issues an order after a mandatory post-sanction hearing for a juvenile sex offender registrant that continues the prior classification of the delinquent child as a juvenile sex offender registrant and any sexual predator or habitual sex offender determination included in the order, the prior classification and the prior determination, if applicable, remain in effect (R.C. 2152.84(B)).

Any order and any determination in the order a judge issues after either a mandatory or discretionary post-sanction hearing remains in effect for the period of time specified in the SORN Law and described below in "**Compliance dates and duration of the duty to register**," subject to modification or termination under the bill (see "**Petition by juvenile sex offender registrant to be reclassified or declassified**"). If an order is issued after either a mandatory or discretionary post-sanction hearing, the child's attainment of 18 or 21 years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this paragraph. (R.C. 2152.84(E).)

Petition by juvenile sex offender registrant to be reclassified or declassified

In general; content of petition

The bill permits a delinquent child who has been classified by a juvenile court judge a juvenile sex offender registrant to petition the judge who made the classification, or that judge's successor in office, for a change in the child's classification. (R.C. 2152.85(A).)

The petition must be filed upon the expiration of the applicable period of time specified in the bill (see "**Time of filing of the petition**," below) and must petition the judge to do one of the following (R.C. 2152.85(A)):

(1) If the order containing the juvenile sex offender registrant classification also includes a determination by the juvenile court judge (made at the adjudication or at a post-sanction hearing) that the delinquent child is a sexual predator relative to the offense and that determination remains in effect, to enter an order that contains a determination that the child no longer is a sexual predator and that also contains either a determination that the child is a habitual sex offender or a determination that the child remains a juvenile sex offender registrant but is not a sexual predator or habitual sex offender;

(2) If the order containing the juvenile sex offender registrant classification under either an initial order or as that order has been modified under paragraph (1)

does not include a sexual predator determination but includes a determination by the juvenile court judge (made at the adjudication, at a post-sanction hearing, or subsequent to the filing of a prior petition under this provision) that the delinquent child is a habitual sex offender relative to the offense and that determination remains in effect, to enter an order that contains a determination that the child no longer is a habitual sex offender and that also contains either a determination that the child remains a juvenile sex offender registrant or a determination that the child no longer is a juvenile sex offender registrant and no longer has a duty to register under the SORN Law;

(3) If the order containing the juvenile sex offender registrant classification under either an initial order or as that order has been modified under paragraph (2) does not include a sexual predator or habitual sex offender determination, to enter an order that contains a determination that the child no longer is a juvenile sex offender registrant and no longer has a duty to register under the SORN Law.

Time of filing of the petition

A delinquent child who has been classified a juvenile sex offender registrant may file a petition requesting reclassification or declassification after the expiration of one of the following periods of time (R.C. 2152.85(B)):

(1) The child initially may file a petition not earlier than three years after the entry of the juvenile court judge's order after a mandatory post-sanction hearing.

(2) After the initial filing of a petition, the child may file a second petition not earlier than three years after the judge has entered an order deciding that initial petition.

(3) After the filing of a second petition, a delinquent child may file subsequent petitions upon the expiration of five years after the judge has entered an order deciding the second petition or the most recent subsequent petition.

Deciding the petition

Upon a delinquent child's filing of a petition requesting reclassification or declassification the judge may review the prior classification or determination in question and, upon consideration of all relevant factors and information, including, but not limited to the factors that must be considered at a mandatory or discretionary post-sanction hearing, the judge, in the judge's discretion, must either enter an order denying the petition, or issue an order that reclassifies or declassifies the delinquent child.

A judge may issue an order that contains a determination that the child no longer is a sexual predator only if the judge conducts a hearing and, in accordance with the SORN Law procedures described below in **'Classification as a sexual predator or habitual sex offender,'** determines at the hearing by clear and convincing evidence that the delinquent child is unlikely to commit a sexually oriented offense in the future. If the judge issues an order of that type, the judge must provide the notifications described in those provisions, and the recipient of the notification must comply with those provisions.

A judge may determine that the child is a habitual sex offender only if the judge conducts a hearing and determines at the hearing that the child is a habitual sex offender. If the judge issues an order that contains such a determination, the judge may impose a requirement subjecting the child to community notification. (R.C. 2152.85(C) and (D).)

Notice of issuance of order

If a judge issues an order after a delinquent child's filing of a petition requesting reclassification or declassification, the judge must provide to the delinquent child and to the delinquent child's parent, guardian, or custodian a copy of the order and a notice containing the information described below in **'Notice provided to a person regarding the person's duties under the SORN Law'** that pertains to children classified as juvenile sex offender registrants. The judge must provide the notice as described in those provisions and otherwise must comply with those provisions, as relevant to children classified as juvenile sex offender registrants, regarding that notice. (R.C. 2152.85(E).)

Duration of order issued after post-sanction hearing

If a judge issues an order after a delinquent child's filing of a petition requesting reclassification or declassification that denies the petition, the prior classification of the child as a juvenile sex offender registrant and the prior determination that the child is a sexual predator or habitual sex offender, if applicable, remain in effect (R.C. 2152.84(D)).

Any order a judge issues after a delinquent child's filing of a petition requesting reclassification or declassification remains in effect for the period of time specified in the SORN Law subject to a further modification or termination of the order based upon a subsequent petition filed by the child. The child's attainment of 18 or 21 years of age does not affect or terminate any order a judge issues after a delinquent child's filing of a petition requesting reclassification or declassification, as described above, and the order remains in effect for the period of time described in this paragraph. (R.C. 2152.84(F).)

Definition of juvenile sex offender registrant

The bill specifies that, for purposes of the Juvenile Delinquency Law and the SORN Law, a "juvenile sex offender registrant" means a child who is adjudicated a delinquent child for committing on or after the bill's effective date a juvenile category sexually oriented offense, who is 14 years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued at the time of adjudication, an order issued at a mandatory or discretionary post-sanction hearing, or an order issued after the delinquent child's filing of a petition requesting reclassification or declassification, classifies as a juvenile sex offender registrant and specifies has a duty to register under the SORN Law (R.C. 2152.02(Y) and 2950.01(J)). As used in the remainder of this analysis, the term "juvenile sex offender registrant" means a delinquent child who has been so adjudicated and, unless the provision specifies a particular category of juvenile sex offender registrant, who has been so classified in any of the three specified manners.

Juvenile court jurisdiction regarding juvenile sex offender and the SORN Law, and related issues

The bill expands the existing exclusive original jurisdiction of juvenile courts to also grant the courts exclusive original jurisdiction to conduct the hearings, and to make the determinations, adjudications, and orders authorized or required under the bill's provisions dealing with classification of a delinquent child as a juvenile sex offender registrant, post-sanction hearings for a juvenile sex offender registrant or potential registrant, and petitions by juvenile sex offender registrants to be reclassified or declassified, and under the SORN Law regarding a child who has been adjudicated a delinquent child (R.C. 2151.23(A)(15)).

The bill also specifies that, if a child is adjudicated a delinquent child for committing a juvenile category sexually oriented offense, if the child is 14 years of age or older at the time of committing the offense, and if the child committed the offense on or after the bill's effective date: (1) the bill's provisions described in the preceding paragraph and the SORN Law apply to the child and the adjudication, and (2) in addition to any order of disposition it makes of the child under the Juvenile Delinquency Law, the juvenile court may make any determination, adjudication, or order authorized under those provisions or that Law and must make any determination, adjudication, or order required under those provisions or that Law (R.C. 2152.191).

Finally, in provisions of existing law that: (1) specify that, when a juvenile court commits a child to the custody of DYS, the juvenile court generally relinquishes control with respect to the child and that provide a series of exceptions to that relinquishment of control, and (2) specify that, except for a

series of specified exceptions, dispositions made by a juvenile court under the Juvenile Delinquency Law are temporary and continue for a period designated by the court in its order, until terminated or modified by the court or until the child attains 21 years of age, the bill expands the series of exceptions to the general rules to also include references to the bill's provisions described above. (R.C. 2152.22(A).) Thus, under the bill, the general rules regarding a juvenile court's relinquishment of control and regarding the termination of dispositions do not apply in relation to activities under the provisions of the bill.

Notice provided to a person regarding the person's duties under the SORN Law

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 (see "**Sex offender registration requirements**," below) must be provided notice of the following: (1) the offender's 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 also require a notice of that nature to be given to a child who is adjudicated a delinquent child for committing a juvenile category sexually oriented offense and who is classified as a juvenile sex offender registrant based on that adjudication (R.C. 2950.03(A)).

Who must provide the notice and when it must be provided

Existing law. Existing law states that the notice to the offender must be provided by the following persons at the following time: (1) before the offender is released pursuant to any type of supervised release or before the offender otherwise is released from confinement (by the official in charge of the institution where the offender serves the term, or that official's designee), 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 the sexually oriented offense on or after January 1, 1997, and if (1) above does not apply, regardless of when the offender committed the sexually oriented offense, (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 the provisions of Chapter 2950. of the Revised Code that

existed before the SORN Law was enacted, and (4) at the time of the offender's adjudication as a sexual predator by the judge, if that adjudication occurs after the offender's release from confinement for the sexually oriented offense. (R.C. 2950.03(A).)

Operation of the bill. The bill modifies this provision to specify that, for a delinquent child who is classified as a juvenile sex offender registrant, the judge must provide the notice to the delinquent child at the time of the classification. (R.C. 2950.03(A)(5).)

Content of the notice

Existing law. The notice described above 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 specified requirements. Generally, the official, official's designee, or judge must require the offender to read and sign a form prescribed by 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)(1).)

Operation of the bill. Under the bill, if the notice is provided to a delinquent child whom a juvenile court judge classifies as a juvenile sex offender registrant under the bill, as described above, the notice must inform the delinquent child of the specified duties, and 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 to 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) and (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.

In cases in which an offender generally must sign the form, after the offender has signed it 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. In other cases, 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)(1)(c) and (2).)

Operation of the bill. The bill extends the provision regarding the form of the notice to delinquent children who have been classified as juvenile sex offender registrants under the bill and who are to be notified of SORN Law duties by the judge under the bill. Further, the bill provides that, in addition to all other information contained on it, the form must inform the delinquent child and the delinquent child's parent, guardian, or custodian that, if the delinquent child fails to comply with the SORN Law's duties to register, to provide notification of a new address and reregister, and to periodically verify a residence address both of the following apply: (1) if the delinquent child's failure occurs while the child is under 18 years of age, the child is subject to proceedings under the Juvenile Delinquency Law based on the failure, but if the failure occurs while the child is 18 years of age or older, the child is subject to criminal prosecution based on the failure, and (2) if the delinquent child's failure occurs while the child is under 18 years of age, unless the child is emancipated (see **COMMENT 3**), the failure of the parent, guardian, or custodian to ensure that the child complies with those requirements is the offense of "contributing to the unruliness or delinquency of a child" (see "**Contributing to the unruliness or delinquency of a child,**" below), and may result in the prosecution of the parent, guardian, or custodian for that violation.

Finally, the bill states that, after a delinquent child who is so classified 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 a copy of

the form to both the child and to the 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)(1)(d), (1)(f), and (2)(c)).

Duties of the person providing the notice

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

(1) 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.

(2) 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 modifies the provisions described above that pertain to notifications by an official, official's designee, or judge to also make them apply regarding delinquent children who have been classified as juvenile sex offender registrants and who are to be notified of SORN Law duties by the judge. If the subject delinquent child has been committed to DYS or to a secure facility (see "**Definition of secure facility,**" below), the judge, in addition to the other information and items to be forwarded, also must forward to BCII and to the sheriff notification that the child has been so committed. (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 (R.C. 2950.04(A)):

(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 (1), above, does not apply and if the offender is sentenced for the sexually oriented offense on or after July 1, 1997;

(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 the provisions of Chapter 2950. of the Revised Code as they existed before the enactment of the SORN Law, 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 a sexually oriented offense in another state or in a federal court, military court, or Indian tribal court, if, 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, and if, at the time the offender moves to and resides in Ohio or temporarily is domiciled in Ohio for more than seven days, 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;

(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 a sexually oriented offense in another state or in a federal court, military court, or 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 Ohio or temporarily is domiciled in Ohio for more than seven days (the duty to register under this provision applies regardless of whether the offender, at the time of moving to and residing in this state or temporarily being domiciled in Ohio 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);

(6) Within seven days of the adjudication, if (1), above applies, if the offender is adjudicated as a sexual predator after the release from confinement, and if the offender resides or is temporarily domiciled in the county for more than seven days and, thereafter, within the time specified in (1).

Operation of the bill. The bill restructures the provision and enacts new provisions that establish registration requirements under the SORN Law for delinquent children who have been classified as juvenile sex offender registrants. Under the bill, each delinquent child who has been classified as a juvenile sex offender registrant must register personally with the sheriff of the county within seven days of the delinquent child's coming into a county in which the delinquent child resides or temporarily is domiciled for more than seven days. If the delinquent child is committed for the sexually oriented offense to DYS or to a secure facility that is not operated by DYS, this duty begins when the delinquent child is discharged or released in any manner from custody in a DYS secure facility or from the secure facility not operated by DYS, if pursuant to the discharge or release the delinquent child is not committed to any other secure facility of DYS or any other secure facility. The delinquent child does not have a duty to register under this provision while in a DYS secure facility or in a secure facility not operated by DYS. (R.C. 2950.04(A)(2) and (5).)

Manner of registration; duties upon completion of the form; failure to register

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 the offender is or will be employed, 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. BCII must include the information and materials forwarded to it in the State Registry of Sex Offenders that it maintains. No person who is required to register may fail to register as required (see "*Penalties for failure to comply with SORN Law*," below). 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) through (F).)

Operation of the bill. The bill makes these provisions generally applicable to delinquent children who have a duty to register in Ohio under the bill (R.C. 2950.04(B) through (F)).

Notification of sex offender's 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.

The provisions described in the preceding paragraph apply to a person who is required to register regardless of whether the new residence address is in Ohio

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.

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 Ohio, to the sheriff of that county. BCII 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 "*Manner of registration; duties upon completion of the form; failure to register*," above.

No person who is required to notify a sheriff of a change of address may 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 may fail to register with the appropriate sheriff or official of the other state (see "*Penalties for failure to comply with SORN Law*," below).

An offender who is required to comply with the above requirements 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 delinquent children who have a duty to register in Ohio under the bill (R.C. 2950.05).

Verification of sex offender's current residence 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 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.

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 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 must contain the current residence address of the offender, the name and address of the offender's employer if the offender is or will be employed, and any other information required by BCII.

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. BCII must include all information forwarded to it under this provision 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 second succeeding paragraph (see *Penalties for failure to comply with SORN Law,* below).

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 applicable date, 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 that seven-day-period, if the offender has not verified the current residence, all of the following apply: (1) the sheriff with whom the offender is required to verify the current residence address promptly must notify BCII of the failure, (2) 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 seek a warrant for the arrest of the offender for the violation, and arrest the offender, and (3) 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.)

Operation of the bill

The bill makes these provisions generally applicable to delinquent children who have a duty to register in Ohio under the bill (R.C. 2950.06).

Additionally, the bill extends the existing provision that permits the sheriff with whom an offender most recently registered to mail a nonforwardable verification form prescribed by BCII to the offender's last reported address so that, in juvenile sex offender contexts, the sheriff may mail the verification form to the last reported address of both the delinquent child and the parents of the delinquent child. Related to this change, the bill: (1) extends the existing requirement that provides that if an offender fails to verify a current residence address as required by the applicable date, the sheriff must send a written warning to the offender's last reported address reminding the offender of the duty to verify his or her address

so that, in juvenile sex offender cases, the sheriff must mail the warning to the last reported address of both the delinquent child and the parents of the delinquent child, (2) expands the information contained in the warning to also warn the child's parent, guardian, or custodian is subject to prosecution for the offense of "contributing to the delinquency or unruliness of a child" (see "*Contributing to the unruliness or delinquency of a child*," below) if the child fails to verify his or her address within the specified period, and (3) extends the existing exemption from prosecution for a child who verifies his or her address within the specified period so that it also applies to the child's parent, guardian, or custodian. (R.C. 2950.06(C)(2), (F), and (G).)

Compliance dates and duration of the duty to register

Compliance dates

Existing law. Under existing law, the duty of an offender who is or has been convicted of 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 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 and is released from the confinement on or after July 1, 1997.

(2) 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) Fourteen days after July 1, 1997, if the offender was an habitual sex offender and required to register prior to July 1, 1997 under the law in existence before the effective date of the SORN Law.

(4) 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 the sexually oriented offense in a jurisdiction outside Ohio.

Operation of the bill. The bill expands these provisions so that they also specify the time of commencement of the duty to comply with the registration, change of address, and residence verification provisions of the SORN Law that the bill imposes on a juvenile sex offender registrant or an out-of-state juvenile sex offender registrant who is required to comply with the SORN Law under the bill. Under the bill (R.C. 2950.07(A)(4) to (6)):

(1) If the delinquent child's duty to register is imposed at the time of the child's disposition (i.e. the child is a repeat offender) and the child is committed

for the sexually oriented offense to DYS or to a secure facility that is not operated by DYS, the delinquent child's duty to comply with those provisions commences on the date of the delinquent child's discharge or release from custody in the DYS secure facility or from the secure facility not operated by DYS.

(2) If the delinquent child's duty to register is imposed either (a) at the time of the child's disposition for that sexually oriented offense and the delinquent child is not committed for the sexually oriented offense to DYS or to a secure facility that is not operated by DYS or (b) the child's classification as a juvenile sex offender registrant is made upon the child's release from DYS or from a secure facility that is not operated by DYS, then the delinquent child's duty to comply with those provisions commences on the date of entry of the court's order that classifies the child as a juvenile sex offender registrant.

(3) If the delinquent child's duty to register under the bill results from the child being adjudicated a delinquent child for committing a sexually oriented offense in a jurisdiction other than Ohio, the child's duty to comply with those provisions commences on the bill's effective date or on the date the child begins to reside or becomes temporarily domiciled in Ohio, whichever is later.

Registration period

Existing law. The duty of an offender who is or has been convicted of 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 described in this paragraph, until the offender's death if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense;¹

(2) For 20 years if the judge who sentenced the offender for the sexually oriented offense determined that the offender is a habitual sex offender;

(3) For ten years if neither (1) nor (2), above, applies.

If an offender has been convicted of a sexually oriented offense and if the offender subsequently is convicted of another sexually oriented offense, the period of time for which the offender must comply must be separately calculated for each

¹ *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 duty continues for the period of time that otherwise would have been applicable to the offender.*

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 of commencement of the duty. 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 a sexually oriented offense in another state or in a federal court, military court, or 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(B) through (E).)

Operation of the bill. The bill makes these provisions generally applicable to juvenile sex offender registrants and out-of-state juvenile sex offender registrants who are required to comply with the SORN Law under the bill (R.C. 2950.07(B), (C), and (E)).

The bill also modifies the existing provision that "tolls" an offender's duty to register under the SORN Law for any period during which the offender is returned to confinement for any reason or imprisoned for an offense by specifying that the provision applies only when the offender is returned to confinement *in a secure facility* (see "**Definition of secure facility,**" below) for any reason or imprisoned for an offense, and extends the "tolling" provision so that it also applied to any delinquent child who, under the bill, has a duty to register under the SORN Law, for any period during which the child is returned to confinement in a secure facility for any reason (R.C. 2950.07(D)).

Finally, the bill expands existing law by enacting the following provisions related to the registration period that are unique to juvenile sex offender registrants under the bill (R.C. 2950.07(B)(2), (B)(3), and (C)):

(1) It specifies that, if a juvenile court judge determines under the bill that a delinquent child classified as a juvenile sex offender registrant is a habitual sex offender and if the judge or that judge's successor in office subsequently enters a

determination that the child no longer is a habitual sex offender but remains a juvenile sex offender registrant, the child's duty to comply with the SORN Law continues for the period of time that otherwise would have been applicable to the child (i.e., as if the child was classified a juvenile sex offender registrant but had not been determined to be a habitual sex offender).

(2) It specifies that, if a delinquent child is classified a juvenile sex offender registrant under the bill and a juvenile court judge subsequently determines under the bill that child no longer is to be classified as a juvenile sex offender registrant, the child's duty to comply with the SORN Law terminates upon the court's entry of the determination.

(3) It specifies that, if a delinquent child is classified a juvenile sex offender registrant or an out-of-state juvenile sex offender registrant and, after attaining 18 years of age, subsequently is convicted of another sexually oriented offense, the subsequent conviction does not limit, affect, or supersede the duties imposed upon the child under the SORN Law relative to the child's classification as a juvenile sex offender registrant or an out-of-state juvenile sex offender registrant, and the child must comply with both those duties and the duties imposed under the SORN Law relative to the subsequent conviction.

(4) It specifies that, if a juvenile court judge determines that a delinquent child classified as a juvenile sex offender registrant is a sexual predator or a habitual sex offender, and if the judge or that judge's successor in office subsequently enters a determination that the child no longer is a sexual predator or habitual sex offender, the judge's subsequent determination does not affect the date of commencement of the child's duty to comply with the SORN Law, as determined under the bill (see "Compliance dates," above).

Classification of sex offender registration information as a public record; posting on the internet

The bill provides that any statements, information, photographs, or fingerprints that the SORN Law's registration, change of address, and address verification provisions require a person to provide and that are provided by a person who registers, who provides notice of a change of residence address and registers the new residence address, or who provides verification of a current residence address pursuant to any provision of those provisions, and that are in the possession of a county sheriff are public records open to public inspection under Ohio's existing Public Records Law (R.C. 2950.081(A)). This provision applies to both criminal offenders and juvenile sex offender registrants.

But, under the bill, except when the act that is the basis of a child's classification as a juvenile sex offender registrant is a violation of R.C. 2903.01

(aggravated murder), 2903.02 (murder), or 2905.01 (kidnapping) that was committed with a purpose to gratify the sexual needs or desires of the child, a violation of R.C. 2907.02 (rape), or an attempt to commit a violation of that nature, the sheriff is prohibited from causing to be publicly disseminated by means of the internet any statements, information, photographs, or fingerprints that are provided by a juvenile sex offender registrant who registers, who provides notice of a change of residence address and registers the new residence address, or who provides verification of a current residence address pursuant to the SORN Law, and that are in the possession of a county sheriff. The bill enacts a similar prohibition regarding the information a sheriff possesses regarding a sexual predator or a habitual sex offender that must be provided in the community notification notices. (R.C. 2950.081(B) and 2950.11(E).)

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 committing, on or after January 1, 1997, a sexually oriented offense that is a sexually violent offense and also is convicted of a sexually violent predator specification, the conviction of the specification automatically classifies the offender as a sexual predator for purposes of the SORN Law. If a person is convicted of 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, the person is required, under the law of the jurisdiction in which the person was convicted, 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 automatically classifies the offender as a sexual predator, but the offender may challenge that classification.

In all other cases, a person who is or has been convicted of a sexually oriented offense may be classified as a sexual predator, regardless of when the sexually oriented offense was committed, if the person is to be sentenced on or after January 1, 1997, for a sexually oriented offense that is not a sexually violent offense, or if the 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. 2950.01(B) and (G) and 2950.09(A) and (B)(1).)

Special sexual predator determination provisions apply regarding certain offenders who are imprisoned for a sexually oriented offense (R.C. 2950.09(C)).

Operation of the bill. The bill extends the provision that automatically classifies an offender as a sexual predator if the offender has an out-of-state conviction and satisfies the other specified criteria so that the provision also applies to children who are adjudicated delinquent children in another jurisdiction for committing sexually oriented offenses. The bill also enacts a provision that specifies that, if a child is adjudicated a delinquent child for committing a juvenile category sexually oriented offense on or after the bill's effective date, if the child was 14 years of age or older at the time of committing the offense, and if the child has been classified as a juvenile sex offender registrant at the time of the adjudication, the judge must conduct a hearing to determine whether the child is a sexual predator. The hearing must be conducted before the court makes a disposition of the child and must be conducted in the same manner as hearings regarding offenders under existing law. A judge may not conduct a hearing under this provision unless the delinquent child is in the category of delinquent children described in this paragraph. (R.C. 2950.09(A), (B)(1), and (B)(2), and R.C. 2152.82(C).)

The bill also provides that, if a juvenile court is determining, at a mandatory or discretionary post-sanction hearing or after the filing of a petition requesting reclassification or declassification, whether a delinquent child who has been classified a juvenile sex offender registrant is a sexual predator, the determination is to be made in accordance with the hearing provisions described above (R.C. 2152.83(C) and 2152.84(D)).

Determination of sexual predator status

Existing law. Existing law provides that, 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 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.

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 sexual predator 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)(2), (3), and (4).)

Operation of the bill. Except for the provision described in the immediately preceding paragraph, the bill makes these provisions generally applicable to delinquent children for whom a sexual predator hearing is to be conducted under the bill (R.C. 2950.09(B)(3) and (4) and 2152.82(B), and R.C. 2152.83(C), 2152.84(B) and 2152.85(D)).

Determination that a person no longer is a sexual predator

Existing law. Existing law specifies that, upon the expiration of the applicable period of time specified below, an offender who has been convicted of 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, must enter either a determination that the offender no longer is a sexual predator or 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, if 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, or (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 described in this paragraph, the provisions described in the preceding paragraph do not apply to a person who is automatically classified as a sexual predator as a result of being convicted of a sexual predator specification or as a result of an out-of-state conviction. If a person who is so classified was sentenced to a sexually violent predator prison term and if the sentencing court terminates the term, the court's termination of the 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, 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).)

Operation of the bill. The bill limits the application of these provisions to persons who have been *convicted of* a sexually oriented offense. But these provisions do apply to the extent specified in the bill to juvenile sex offender registrants who have been adjudicated sexual predators. Further, it specifies that a person who has been *adjudicated a delinquent child for committing* a sexually oriented offense and who has been classified by a juvenile court judge as a juvenile sex offender registrant, or, if applicable, additionally has been determined by a juvenile court judge to be a sexual predator or habitual sex offender, may petition the juvenile court for a reclassification or declassification under the bill's provisions described above in "**Petition by juvenile sex offender registrant to be reclassified or declassified**" (R.C. 2950.09(D)(1)).

Other provisions of the bill specify that, at a mandatory or discretionary post-sanction hearing for a delinquent child who has been classified as a juvenile sex offender registrant and as a sexual predator or after the filing of a petition by such a child requesting reclassification or declassification, a juvenile court judge may determine that the child no longer is a sexual predator only if the judge follows with the procedures described above in "**Existing law**" and determines by clear and convincing evidence that the child no longer is a sexual predator (R.C. 2152.84(B) and 2152.85(D)).

Habitual sex offender determination

Existing law. Existing law provides that, if a person is convicted of 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 a sexually oriented offense. If the judge determines that the offender previously has not been convicted of 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 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 SORN Law's 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 is subject to those community notification provisions only 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 generally makes these habitual sex offender determination provisions applicable to children who are classified juvenile sex

offender registrants. The bill requires the adjudicating judge to make the habitual sex offender determination prior to classifying the child a juvenile sex offender registrant and specifies that the determination to be made is whether the child previously has been adjudicated a delinquent child for committing a juvenile category sexually oriented offense. (R.C. 2950.09(E).)

The bill also provides that, if a juvenile court is determining at a mandatory hearing for a first offender or after the filing of a petition requesting reclassification or declassification whether a delinquent child who has been classified a juvenile sex offender registrant is a habitual sex offender, the determination is to be made in accordance with the habitual sex offender determination provisions described above (R.C. 2152.83(A), 2152.84(B), and 2152.85(D)).

Petition to rescind sexual predator status of sexual predator from another jurisdiction

Existing law. Under 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 Ohio for purposes of the SORN Law's registration requirements or community notification provisions if all of the following apply: (1) the offender was convicted of a sexually oriented offense in another state or in a federal court, a military court, or Indian tribal court, (2) as a result of the conviction, the offender is required under the law of the jurisdiction under which the offender was convicted 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 (3) the offender was automatically classified under the SORN Law as a sexual predator in relation to the conviction.

The court may enter a determination that the offender filing the petition is not an adjudicated sexual predator in Ohio for purposes of the SORN Law's sex offender registration requirements or community notification provisions 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 a delinquent child who was adjudicated a delinquent child for committing a sexually oriented offense in a jurisdiction other than Ohio, who had the specified registration and address verification duties under the law of the other jurisdiction,

and who as a result was automatically classified as a sexual predator under the bill (R.C. 2950.09(F)).

Victim notification of sexual predator or habitual sex offender registration

Existing law

Under existing law, if a person is or has been convicted of 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 victim notification requirements, if the offender registers with a sheriff under the SORN Law, 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. Similar provisions apply for when the offender notifies a sheriff of a change in the offender's residence address. (R.C. 2950.10(A)(1) and (2).)

If an offender is or has been convicted of 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 such 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 the 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 Crime Victims Rights Law. (R.C. 2950.10(A)(4) and (5).)

A victim of a sexually oriented offense is entitled to be provided any of the above-described notices only if 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 entitled to any notice only if the victim makes a request that specifies that the victim would like to be provided the notices. This provision 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 Crime Victims Rights Law. (R.C. 2950.10(B).)

Operation of the bill

The bill makes these provisions generally applicable to children who: (1) are adjudicated delinquent children for committing a juvenile category sexually oriented offense, (2) have been classified as juvenile sex offender registrants or out-of-state juvenile sex offender registrants, (3) have been determined to be a sexual predator or habitual sex offender, and (4) have not had that sexual predator or habitual sex offender determination removed, all as described above (R.C. 2950.10).

Community notification of sexual predator or habitual sex offender registration

Existing law

Existing law provides that, if a person is or has been convicted of 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 community 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" (an area designated by the Attorney General by rule within which the notifications described in (2) to (8) must be given) 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 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 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 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 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.

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, 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 a sheriff with whom an offender registers under the SORN Law 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 as described in (8) of the second preceding paragraph, 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, as described in the second preceding paragraph, 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 the other specified persons not later

than seven days after the offender registers with the sheriff or, as applicable, 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) of the third preceding paragraph. 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) of that paragraph.

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 the state's existing Public Records Law.

These community notification provisions apply regarding a person who is or has been convicted of 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 only if 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(A) to (F).)

Operation of the bill

The bill makes these provisions generally applicable to children who: (1) are adjudicated delinquent children for committing a juvenile category sexually oriented offense, (2) have been classified as juvenile sex offender registrants or is an out-of-state juvenile sex offender registrant, (3) have been determined by a juvenile court judge to be a sexual predator or habitual sex offender, and (4) have not had that sexual predator or habitual sex offender determination removed, all as described above (R.C. 2950.11).

Additionally, the bill adds the following persons to the list of persons to whom the sheriff must distribute the geographical notification information, regarding delinquent children about whom the notices must be given (R.C. 2950.11(A)(3) and (4)):

(1) The principal of the school within the specified geographical notification area and within the county served by the sheriff that the delinquent child attends;

(2) If the delinquent child attends a school outside of the specified geographical notification area or outside of the school district where the delinquent child resides, to the superintendent of the board of education of a school district that governs the school that the delinquent child attends and to the principal of the school that the child attends;

(3) Regardless of the location of the school, to the appointing or hiring officer of a chartered nonpublic school that is attended by the delinquent child.

Immunity of certain specified persons

Existing law

Under 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;

(5) A person identified in (2), (3), (4), (5), (6), or (7) of "**Community notification of sexual predator or habitual sex offender registration**," 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: (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, or (3) liability for the act or omission is expressly imposed by a section of the Revised Code (R.C. 2950.12(B)).

Operation of the bill

The bill adds to the list of individuals who are afforded the above immunity (1) a supervising officer and an officer or employee of DYS and (2) a supervisor and a caseworker or employee of a public children services agency acting pursuant to R.C. 5153.16 (R.C. 2950.12(A)(5) and (6)).

Attorney General duties related to the SORN Law

State Registry of Sex Offenders

Existing law. The Attorney General is required to 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 BCII receives pursuant to the SORN Law regarding a person who is or has been convicted of 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 to the Registry the specified types of information regarding children adjudicated delinquent for committing a juvenile category sexually oriented offense, who have been classified as juvenile sex offender registrants or are out-of-state juvenile sex offender registrants, at a mandatory or discretionary post-sanction hearing, or after the filing of a petition requesting reclassification or declassification, and who register, provide notice of a change of address, or verify a residence address under the bill (R.C. 2950.13(A)(1)).

Other duties

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

(1) In consultation with local law enforcement representatives, adopt rules that contain guidelines necessary for the implementation of the SORN Law;

(2) In consultation with local law enforcement representatives, 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 BCII is required to provide under the SORN Law 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 Job and Family Services, and the Director of Rehabilitation and Correction, 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, adopt rules that designate a geographic area or areas within which the notice must be given to specified persons under the SORN Law's community notification provisions (i.e., the "specified geographical notification area").

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 specifically expands the provisions described above in (2), (3), and (8), and in the immediately preceding paragraph, so that they also apply regarding delinquent children who are subject to the SORN

Law under the bill, and, regarding the provisions described in (2), (8), and the immediately preceding paragraph, who have been determined to be a sexual predator or a habitual sex offender subject to community notification (R.C. 2950.13(A)(3), (4), and (9), and (B)). The bill does not substantively change the other existing provisions.

Department of Rehabilitation and Corrections duties

Existing law

Existing law provides that, 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 any sexually oriented offense, DRC 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 DRC, and (6) any other information that BCII indicates is relevant and that DRC possesses.

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

Operation of the bill

The bill expands this provision to provide that, prior to releasing a delinquent child who is in the custody of DYS and who has committed and has been adjudicated a delinquent child for committing a juvenile category sexually oriented offense on or after the bill's effective date, DYS must provide all of the information specified above to BCII regarding the delinquent child. This provision applies regarding all children who have been adjudicated delinquent for committing a juvenile category sexually oriented offense; it is not limited to those who have been classified by a juvenile court judge as a juvenile sex offender registrant or to those who are required to register under the SORN Law. DRC and DYS must provide all of the above specified information to BCII regarding an offender or delinquent child in the specified categories. (R.C. 2950.14(A) and (B).)

Penalties for failure to comply with SORN Law

Existing law

Existing law specifies that a person who violates a prohibition regarding the SORN Law's registration requirements, change of address notification

requirements, or address verification requirements 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 revises the clause that determines whether a violation of any of the prohibitions is a felony or a misdemeanor so that a violation is a felony of the fifth degree if the most serious sexually oriented offense involved is a felony "if committed by an adult" and is a misdemeanor of the first degree if the most serious sexually oriented offense involved is a misdemeanor "if committed by an adult." It also 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.

Further, the bill states that, if a person violates any of the prohibitions and the prohibition applies to the person as a result of the person being adjudicated a delinquent child and being classified a juvenile sex offender registrant (see below), both of the following apply: (1) if the violation occurs while the person is under 18 years of age, the person is subject to proceedings under the Juvenile Delinquency Law, and (2) if the violation occurs while the person is 18 years of age or older based on the violation, the person is subject to criminal prosecution based on the violation. (R.C. 2950.99.)

Contributing to the unruliness or delinquency of a child

Existing law

Existing law prohibits a person from doing either of the following: (1) aiding, abetting, inducing, causing, encouraging, or contributing to a child or a ward of the juvenile court becoming an unruly child or a delinquent child, or (2) acting in a way tending to cause a child or a ward of the juvenile court to become

an unruly child or a delinquent child. A person who violates either prohibition is guilty of the offense of "contributing to the unruliness or delinquency of a child," a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (R.C. 2919.24.)

As used in this provision:

(1) "Unruly child" includes: (a) any child who does not subject the child's self to the reasonable control of the child's parents, teachers, guardian, or custodian, by reason of being wayward or habitually disobedient, (b) any child who is persistently truant from home, (c) any child who is a habitual truant from school and who previously has not been adjudicated an unruly child for being a habitual truant, (d) any child who so departs the child's self as to injure or endanger the child's own health or morals or the health or morals of others, (e) any child who attempts to enter the marriage relation in any state without the consent of the child's parents, custodian, or legal guardian or other legal authority, (f) any child who is found in a disreputable place, visits or patronizes a place prohibited by law, or associates with vagrant, vicious, criminal, notorious, or immoral persons, (g) any child who engages in an occupation prohibited by law or is in a situation dangerous to life or limb or injurious to the child's own health or morals or the health or morals of others, and (h) any child who violates a law, other than R.C. 2923.211(A), that is applicable only to a child (R.C. 2919.24, by reference to existing R.C. 2151.022--not in the bill).

(2) "Delinquent child" includes: (a) any child, except a juvenile traffic offender, who violates any law of Ohio or the United States, or any ordinance of an Ohio political subdivision, that would be an offense if committed by an adult, (b) any child who violates any lawful order of the court made under the Juvenile Delinquency Law or the Juvenile Code other than an order issued under R.C. 2151.87, (c) any child who violates R.C. 2923.211(A), (d) any child who is a habitual truant and who previously has been adjudicated an unruly child for being a habitual truant, and (e) any child who is a chronic truant (R.C. 2919.24, by reference to R.C. 2152.02).

Operation of the bill

The bill expands the offense of "contributing to the unruliness or delinquency of a child" so that it also specifically prohibits the parent, guardian, or custodian of a child who has the duties under the SORN Law to register, register a new residence address, and periodically verify a residence address and who is not "emancipated" (see **COMMENT 3**) from failing to ensure that the child complies with those duties under the SORN Law. The existing penalty provisions apply regarding a violation of this prohibition. (R.C. 2919.24.)

Definition of secure facility

The bill defines "secure facility," for use throughout the SORN Law, as any facility that is designed and operated to ensure that all of its entrances and exits are locked and under the exclusive control of its staff and to ensure that, because of that exclusive control, no person who is institutionalized or confined in the facility may leave the facility without permission or supervision (R.C. 2950.01(K)).

Treatment for juvenile sex offenders--mandatory or preferred policy of the state

Mandatory treatment for juvenile sex offenders committed to DYS

Existing law imposes numerous duties upon DYS regarding delinquent children who are committed to it, one of which is to provide treatment and training for children committed to DYS and assigned by it to various institutions under its control and management (R.C. 5139.13(B)).

The bill expands the provision described in the preceding paragraph to specify that the treatment and training that DYS must provide to children committed to it includes, but is not limited to, "treatment" (see below) for a child committed to it for an act that is a juvenile category sexually oriented offense. The treatment referred to in this provision must be of a type that is appropriate for persons who commit sexually oriented offenses and that is intended to ensure that they do not commit sexually oriented offenses in the future (R.C. 5139.12(B)).

Treatment as preferred course of action for juvenile sex offenders not committed to DYS

Existing law provides a juvenile court that adjudicates a child a delinquent child with numerous alternatives regarding the disposition to make of the child. For acts that would be felonies if committed by an adult, the available dispositions include commitment to DYS (R.C. 2152.16, 2152.17, and 2152.18). The other available dispositions include (R.C. 2152.19 and 2152.20): (1) committing the child to the temporary custody of any publicly or privately operated school, camp, institution, or other facility operated for the care of delinquent children, (2) placing the child on "community control" under any sanctions, services, and conditions that the court prescribes, such as basic probation supervision, intensive probation supervision, day reporting, community service, drug and alcohol assessment, counseling, treatment, or use monitoring, a curfew, monitored time, house arrest with or without electronic monitoring, or electronic monitoring with or without house arrest, (3) a financial sanction, including a fine or restitution, or (4) any other disposition that the court finds proper except for certain types of specified detention facilities.

The bill specifies that, if a juvenile court commits a delinquent child to the custody of any person, organization, or entity pursuant to an authorized disposition, other than to DYS, and if the act for which the child is committed is a juvenile category sexually oriented offense, the court in the order of disposition must inform the person, organization, or entity that it is the preferred course of action in Ohio that the child be provided "treatment" (see below) and must encourage the person, organization, or entity to provide that treatment. The treatment referred to in this provision must be of a type that is appropriate for persons who commit sexually oriented offenses and that is intended to ensure that they do not commit sexually oriented offenses in the future (R.C. 2152.19(G) and, by reference, 2152.18(F) but note, the reference should be to R.C. 5139.13(A)(2)).

Other 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" has the meaning described above under the discussion of existing law in **'Sexually oriented offenses for which a juvenile might be subjected to the SORN Law.'**

(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 January 1, 1997, 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 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 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.

Operation of the bill

The bill amends the definitions of "habitual sexual offender" and "sexual predator" to include references to a child who is adjudicated a delinquent child for committing a juvenile category sexually oriented offense on or after its effective date, who was 14 years of age or older at the time of committing the offense, who is classified under the bill as a juvenile sex offender registrant, as described above, and who satisfies the other criteria for inclusion within the scope of the definition.

It expands the definition of "adjudicated as being a sexual predator" to also include a child who is adjudicated a delinquent child for committing a juvenile category sexually oriented offense, who was 14 years of age or older at the time of committing the offense, who is classified under the bill as a juvenile sex offender registrant, as described above, and whom a juvenile court judge determines under the bill is a sexual predator, as described above in "**Determination of sexual**

predator status." These definitions are also amended to reflect the possibilities that these statuses may be removed.

Under the bill, "out-of-state juvenile sex offender registrant" means a person who is adjudicated a delinquent child for committing a sexually oriented offense in another state or in a federal court, military court, or Indian tribal court, who on or after the bill's effective date moves to and resides in Ohio or temporarily is domiciled in Ohio for more than seven days, and who under R.C. 2950.04, has a duty to register in Ohio. (R.C. 2950.01(B), (E), (G), and (L) and, by reference, R.C. 2152.02(Y).)

COMMENT

1. Under existing law, the six findings in support of the General Assembly's declaration of the necessity of the SORN Law read as follows (R.C. 2950.02(A)):

(a) 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.

(b) 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.

(c) 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 paragraph (2).

(d) 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.

(e) 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.

(f) 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.

2. The existing Felony Sentencing Law sets forth a series of factors that a court that is sentencing an offender for a felony must consider in imposing the sentence. R.C. 2929.12(B), not in the bill, requires the court to consider all of the following that apply regarding the offender, the offense, or the victim, and any other relevant factors, as indicating that the offender's conduct is more serious than conduct normally constituting the offense: (a) the physical or mental injury suffered by the victim of the offense due to the conduct of the offender was exacerbated because of the physical or mental condition or age of the victim, (b) the victim of the offense suffered serious physical, psychological, or economic harm as a result of the offense, (c) the offender held a public office or position of trust in the community, and the offense related to that office or position, (d) the offender's occupation, elected office, or profession obliged the offender to prevent the offense or bring others committing it to justice, (e) the offender's professional reputation or occupation, elected office, or profession was used to facilitate the offense or is likely to influence the future conduct of others, (f) the offender's relationship with the victim facilitated the offense, (g) the offender committed the offense for hire or as a part of an organized criminal activity, (h) in committing the offense, the offender was motivated by prejudice based on race, ethnic background, gender, sexual orientation, or religion, and (i) for domestic violence and specified assault offenses involving a person who was a family or household member at the time of the violation, the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children.

R.C. 2929.12(C), not in the bill, requires the court to do all of the following that apply regarding the offender, the offense, or the victim, and any other relevant factors, as indicating that the offender's conduct is less serious than conduct normally constituting the offense: (a) the victim induced or facilitated the offense, (b) in committing the offense, the offender acted under strong provocation, (c) in committing the offense, the offender did not cause or expect to cause physical harm to any person or property, and (d) there are substantial grounds to mitigate

the offender's conduct, although the grounds are not enough to constitute a defense.

3. Existing R.C. 2919.121, not in the bill, provides that, for purposes of that section, a minor is considered "emancipated" if the minor has married, entered the United States Armed Services, became employed and self-subsisting, or otherwise become independent from the care and control of her parent, guardian, or custodian.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-30-01	p. 90
Reported, S. Judiciary on Criminal Justice	04-12-01	p. 285
Passed Senate (28-5)	04-24-01	pp. 303-304
Reported, H. Criminal Justice	---	---

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