Dennis M. Papp *Legislative Service Commission*

S.B. 175

124th General Assembly
(As Introduced)

Sen. Jacobson

BILL SUMMARY

? Provides that, if a person is to be sentenced for a sexually oriented offense and that person was acquitted of a sexually violent predator specification included in the document charging the sexually oriented offense, the judge who is to sentence the offender must conduct a hearing to determine whether the offender is a sexual predator for purposes of the Sex Offender Registration and Notification Law.

TABLE OF CONTENTS

Introduction 2
Sexual predator classification 2
  Operation of the bill 2
  Existing law 3
  Ohio Supreme Court decision 6
Removal of sexual predator classification that is not an automatic classification 7
Duties and notifications under the SORN Law 8
  Duty to register 8
  Registration procedure 8
  Duties regarding change of residence address 8
  Duties regarding address verification 9
  Duration of registration, change of address, and address verification duties 10
  Victim notification 10
  Community notification 11
  Prohibitions and penalties 12
  Definitions 13

CONTENT AND OPERATION

Introduction

Existing law requires certain specified offenders who have been convicted of a "sexually oriented offense" (see "***Definitions***," below) to register with a county sheriff, to provide notification to specified sheriffs if they change their residence address, and to periodically verify with specified sheriffs their residence address. It also provides for victim notification and community notification of the residence addresses of the offenders if they also are "sexual predators" or, in certain circumstances, "habitual sex offenders" (see "***Definitions***," below). This law, contained in existing R.C. Chapter 2950., generally is referred to as the Sex Offender Registration and Notification Law (the SORN Law) or the Ohio Megan's Law. A summary of the registration, victim notification, and community notification provisions of the existing SORN Law is set forth below in "***Duties and notifications under the SORN Law***."

On and after January 1, 2002, the law also will set forth registration requirements, contained in R.C. 2152.82 to 2152.85 and Chapter 2950., that will apply, in specified circumstances, regarding children who have been adjudicated delinquent children for committing an act that would be a sexually oriented offense if committed by an adult and who are at least 14 years of age. The provisions that will apply to delinquent children are not affected by the bill and are not further discussed in this analysis.

Sexual predator classification

Operation of the bill

The bill adds a new circumstance in which a court that is sentencing a person for a sexually oriented offense must conduct a sexual predator hearing regarding the offender. Under the bill, regardless of when the sexually oriented offense was committed, if a person is to be sentenced on or after the bill's effective date for a sexually oriented offense and that person was acquitted of a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging the sexually oriented offense, the judge who is to sentence the offender must conduct a hearing to determine whether the offender is a sexual predator. The hearing must be conducted in the same manner, and is subject to the same procedures, as sexual predator hearings conducted under existing law, as described below in "***Classification when offender sentenced on or after January 1, 1997--hearing***." (R.C. 2950.09(B)(1)--the bill contains, and makes this change, in both the version of R.C. 2950.09 that currently is in effect and the version of R.C. 2950.09 resulting from Am. Sub. S.B. 3 of the 124th

General Assembly that, on January 1, 2002, will replace the current version of the section.)

Consistent with the change described in the preceding paragraph, the bill modifies the existing provision that prohibits the conduct of a sexual predator hearing 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 so that the prohibition applies only if the offender is convicted of or pleads guilty to that sexually violent predator specification (R.C. 2950.09(B)(4) in current version and R.C. 2950.04(B)(5) in Am. Sub. S.B. 3 version).

The bill does not change the existing sexual predator classification provisions described below in "***Automatic classification***" and "***Classification when offender sentenced prior to January 1, 1997, and is imprisoned on or after that date***."

Existing law

Existing law specifies several distinct manners in which a person convicted of a criminal offense may be classified as a "sexual predator" (see "***Definitions***," below). If a person is classified as a sexual predator, subject to potential "declassification," the person is subject to lifetime requirements regarding registration, change of address notification, and address verification, is subject to more frequent address verification requirements than persons who are not so classified, and is subject to the provisions requiring victim notification and community notification of the person's residence addresses, as described below in "***Duties and notifications under the SORN Law***." A discussion of the manners in which a person convicted of a criminal offense may be classified as a sexual predator follows:

(1) Automatic classification. Existing law specifies that a person is automatically classified as a sexual predator for purposes of the SORN Law if either of the following applies (R.C. 2950.09(A)):

(a) The person is convicted of or pleads guilty to committing, on or after January 1, 1997, a "sexually oriented offense" that is a "sexually violent offense" and of a "sexually violent predator specification" (see "***Definitions***," below, for definitions of the terms in quotations marks).

(b) The person is convicted of or pleads guilty to a sexually oriented offense in a state other than Ohio, or in a federal court, military court, or an Indian tribal court and is required, under the law of that other jurisdiction, to register as a

sex offender until the person's death and to verify the person's address at least quarterly.

Existing law specifies that, in all cases not described in (1)(a) or (b), above, a person who is convicted of or pleads guilty to a sexually oriented offense may be classified as a sexual predator for purposes of the SORN Law only as described below (R.C. 2950.09(A)).

(2) Classification when offender sentenced on or after January 1, 1997--hearing. Under existing law, if a person is to be sentenced on or after January 1, 1997, for a sexually oriented offense that is not a sexually violent offense or for a sexually oriented offense that is a sexually violent offense and a sexually violent predator specification was not included in the indictment, count in the indictment, or information charging the sexually violent offense, the judge who is to sentence 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 required by law. The court must give the offender and the prosecutor notice of the date, time, and location of the hearing. At the hearing: (a) 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 sexual predator determination, and (b) the offender has the right to be represented by counsel and, if indigent, the right to have counsel appointed to represent him or her. Existing law requires the judge, in making a sexual predator determination at the hearing, to consider all relevant factors, including, but not limited to, factors specifically identified by law.

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 the judge has determined that the offender is not a sexual predator. 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 the judge has determined that the offender is a sexual predator and must specify that the determination was pursuant to the SORN Law's hearing mechanism. 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.

Existing law provides that *a hearing cannot be conducted under the provisions described in the preceding paragraph regarding an offender if the sexually oriented offense in question is a sexually violent offense and the indictment, count in the indictment, or information charging the offense also included a sexually violent predator specification*. (R.C. 2950.09(B).)

(3) Classification when offender sentenced prior to January 1, 1997, and is imprisoned on or after that date. Existing law provides that, if a person was convicted of or pleaded guilty to a sexually oriented offense prior to January 1, 1997, and if the offender is serving a term of imprisonment in a state correctional institution, the Department of Rehabilitation and Correction (DRC) must determine whether to recommend that the offender be adjudicated a sexual predator. DRC must consider all relevant factors, including, but not limited to, the factors specifically identified by law as factors to be considered at a sexual predator hearing (see **COMMENT**). If DRC determines that it will recommend that the offender be adjudicated as a sexual predator, it immediately must send the recommendation to the court that sentenced the offender, and the court must proceed as described below.

The court is not bound by DRC's recommendation, and the court may conduct a hearing to determine whether the offender is a sexual predator. The court may deny the recommendation and determine that the offender is not a sexual predator without a hearing but cannot make a determination that the offender is a sexual predator without a hearing. The court may hold the hearing and make the determination prior to the offender's release from imprisonment or at any time within one year following the offender's release from that imprisonment. If the court determines without a hearing that the offender is not a sexual predator, it must determine whether the offender previously has been convicted of a sexually oriented offense other than the offense in relation to which the court determined that the offender is not a sexual predator.

If the court schedules a hearing to determine whether the offender is a sexual predator, it must give the offender and the prosecutor, notice of the date, time, and place of the hearing. The hearing must be conducted in the manner described above, and, in making its determination, it must consider all relevant factors as specified above. If the court determines that the offender is not a sexual predator, it also must determine whether the offender previously has been convicted of a sexually oriented offense other than the offense in relation to which the hearing is being conducted.

If the court determines that the offender is not a sexual predator and that the offender previously has not been convicted of a sexually oriented offense other than the offense in relation to which the hearing is being conducted, it must include its determinations in the offender's institutional record. If it determines that the offender is not a sexual predator but that the offender previously has been convicted of a sexually oriented offense other than the offense in relation to which the hearing is being conducted, it must include its determination that the offender is not a sexual predator but is a habitual sex offender in the offender's institutional record and perform other habitual sex offender-related functions. If it determines

by clear and convincing evidence that the offender is a sexual predator, it must enter its determination in the offender's institutional record, attach the determination to the offender's sentence, specify that the determination was pursuant to this provision, and provide a copy of the determination to the offender, to the prosecuting attorney, and to DRC. The offender and the prosecutor may appeal as a matter of right the judge's determination as to whether the offender is, or is not, a sexual predator.

Existing law contains separate, related provisions regarding the determination of whether the person in question is an habitual sex offender. (R.C. 2950.09(C).)

Ohio Supreme Court decision

In a recent decision, the Ohio Supreme Court interpreted the existing provisions of R.C. 2950.09(A) to (C) that govern the manners in which a person convicted of a criminal offense may be classified as a sexual predator. The case involved a person who was charged with multiple sexually oriented offenses that were sexually violent offenses, with each count containing a sexually violent predator specification. The person was convicted of two of the sexually violent offenses but was acquitted by the jury of all of the sexually violent predator specifications. Notwithstanding the acquittal of the specifications, the court determined that the person was a sexual predator.

On appeal, the court of appeals held that if a defendant is acquitted of a sexually violent predator specification contained in the indictment, the trial court is prohibited from determining that the defendant is a sexual predator. Based on its holding, the court of appeals reversed the trial court's determination that the person was a sexual predator.

The Supreme Court agreed with the court of appeals and affirmed its decision on this point. The Supreme Court stated that "(c)learly, R.C. 2950.09(B)(4) precludes a trial court from conducting a sexual predator hearing when, as in the case before us, the indictment charging the offender included a sexually violent predator specification." It also rejected the state's claim that, in those circumstances, the court could find the offender to be a sexual predator without holding a sexual predator hearing. In sum, it stated that "we agree with the court of appeals' determination that R.C. 2950.09 prohibits a trial court from classifying a defendant as a sexual predator once that defendant has been acquitted of a sexually violent predator specification. *State v. Jones* (October 3, 2001), 93 Ohio St.3d 391.

Removal of sexual predator classification that is not an automatic classification

Existing law permits an offender who has been classified as a sexual predator to have the classification removed, if the classification was not an automatic classification under the provisions described above in "***Automatic classification***." It provides that, upon the expiration of the applicable period of time specified below, an offender who has been convicted of or pleaded guilty to a sexually oriented offense and who has been so adjudicated as a sexual predator relative to the 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. This provision does not apply regarding an offender who is automatically classified as a sexual predator for purposes of the SORN Law, as described above in "***Automatic classification***" (except in certain circumstances in which the offender also is sentenced as a sexually violent predator under R.C. Chapter 2971.).

Upon the filing of the petition, the judge may review the prior sexual predator determination that comprises the "sexually violent predator adjudication," and, upon consideration of all relevant evidence and information, including, but not limited to, the specified factors that must be considered at a sexual predator hearing (see **COMMENT**), either must enter a determination that the offender no longer is a sexual predator or enter an order denying the petition. The court cannot not enter a determination under this provision 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 the Bureau of Criminal Identification and Investigation (BCII) and the Parole Board of the determination. Upon receipt of the notification, BCII promptly must notify the sheriff with whom the offender most recently registered under the SORN Law 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 who is classified as a sexual predator but who was not automatically so classified under the provisions described above in "***Automatic classification***" may file a petition to have the classification removed after the expiration of the following periods of time:

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

If the offender is sentenced on or after January 1, 1997, for the sexually oriented offense in relation to which the determination is made and is not imprisoned or sentenced to a prison term or other confinement for the sexually oriented offense, the offender initially may file the petition upon the expiration of one year after the entry of the offender's judgment of conviction.

(2) After the offender's initial filing of a petition as described in (1), thereafter, 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 under this division.

The bill does not change any of these provisions. (R.C. 2950.09(D).)

Duties and notifications under the SORN Law

Duty to register

Existing law, not in the bill, generally requires offenders convicted of a sexually oriented offense to register with a specified sheriff at a specified time. Generally each offender must register, within seven days of his or her coming into any county in which he or she resides or temporarily is domiciled for more than seven days, with the sheriff of that county. (R.C. 2950.04(A).)

Registration procedure

Existing law, not in the bill, specifies that an offender who is required to register must obtain from the sheriff or a designee of the sheriff a registration form, complete and sign the form, and return the completed form together with a photograph to the sheriff or designee. The sheriff or designee must sign the form and indicate on the form the date on which it is so returned. After an offender registers with a sheriff, the sheriff must forward the signed, written registration form and photograph to BCII. BCII includes the information and materials in the State Registry of Sex Offenders. (R.C. 2950.04(B), (C), and (D).)

Duties regarding change of residence address

Under existing law, not in the bill, if an offender is required to register under the above-described provisions, the offender, at least seven days prior to changing his or her residence address during the period of required registration, must do both of the following: (a) provide written notice of the residence address change to the sheriff with whom the offender most recently registered, and (b) register the new residence address with the sheriff of the county in which his or her new residence address is located. The provisions apply regardless of whether the person's new residence address is in Ohio or in another state.

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 forward notice of the offender's new residence address to the appropriate officials in the other state. (R.C. 2950.05(A) to (D), and (F).)

Duties regarding address verification

Existing law, not in the bill, provides that an offender who is required to register must periodically verify his or her current residence address at a specified time and in a specified manner. Regardless of when the sexually oriented offense for which the offender is required to register was committed, if the offender has been adjudicated a sexual predator and has not been "declassified," the offender must verify his or her current residence address every 90 days after his or her initial registration date during the required registration period. In all other circumstances, the offender must verify his or her current residence address on each anniversary of his or her initial registration date during the required registration period.

An offender must verify his or her current residence address with the sheriff with whom he or she most recently registered by personally appearing before the sheriff or a designee, 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 the date on which it is so completed. To facilitate the verification of an offender's current residence address, the sheriff with whom the offender most recently registered may mail a nonforwardable verification form prescribed by BCII to the offender's last reported address, with a notice that conspicuously states that the offender must personally appear before the sheriff or a designee to complete the form and the date by which it must be so completed. Regardless of whether a sheriff mails a form to an offender, each offender with an address verification duty must personally appear before the sheriff or a designee of the sheriff to verify the address as described in this paragraph.

Upon an offender's personal appearance and completion of a verification form, a sheriff promptly must forward a copy to BCII. BCII must include all information forwarded to it in the State Registry of Sex Offenders. (R.C. 2950.06(A) to (E), (G), and (H).)

Duration of registration, change of address, and address verification duties

Commencement of duties. Existing law, not in the bill, specifies that the duty of an offender who is convicted of or pleads guilty to a sexually oriented offense to comply with the registration, change of address, and address verification duties of the SORN Law commences on whichever of the following dates is applicable: (1) if the offender's duty to register is based on the offender's release from a prison term, or other confinement on or after July 1, 1997, the offender's duty to comply commences on the date of his or her release or on July 1, 1997, whichever is later, (2) if the offender's duty to register is based on the offender being sentenced for a sexually oriented offense on or after July 1, 1997, and (1) does not apply, the offender's duty to comply commences on the date of entry of the judgment of conviction of the offense or on July 1, 1997, whichever is later, (3) if the offender's duty to register is based on the offender having been required to register under former R.C. Chapter 2950., the offender's duty to comply commences 14 days after July 1, 1997, and (4) if the offender's duty to register is based on the offender's conviction of a sexually oriented offense in a jurisdiction other than Ohio, the offender's duty to comply commences on March 30, 1999, or on the date the offender begins to reside or becomes temporarily domiciled in Ohio, whichever is later. (R.C. 2950.07(A).)

Duration of duties. Existing law, not in the bill, specifies that the duty of an offender who is convicted of or pleads guilty to a sexually oriented offense to comply with the registration, change of address, and address verification duties of the SORN Law, as described above, continues, after the date of commencement, for whichever of the following periods is applicable: (1) *if the offender has been adjudicated a sexual predator relative to the sexually oriented offense, the offender's duty to comply continues until the offender's death*, provided that, if the judge who sentenced the offender or that judge's successor in office subsequently "declassifies" the offender, the offender's duty to comply continues for the period of time that otherwise would have been applicable to the offender, (2) if the judge who sentenced the offender for the sexually oriented offense determined pursuant to the SORN Law that the offender is a habitual sex offender, the offender's duty to comply continues for 20 years, and (3) if neither clause (1) nor (2) of this sentence applies, the offender's duty to comply continues for ten years. (R.C. 2950.07(B).)

Victim notification

Existing law, not in the bill, provides that, if a person is convicted of or pleads guilty to, a sexually oriented offense, if the offender has been adjudicated a sexual predator and the court has not subsequently "declassified" the offender or the offender has been determined to be an habitual sex offender and the court has

imposed a requirement subjecting the habitual sex offender to this provision, if the offender registers with a sheriff pursuant to the SORN Law, and if the victim of the sexually oriented offense has made a request in accordance with rules adopted by the Attorney General (the AG) that specifies that the victim would like to be provided notice, the sheriff must notify the victim, in writing, that the offender has registered and must 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. Existing law contains similar victim notification provisions regarding a sexual predator or habitual sex offender who notifies a sheriff of a change of residence address under the SORN Law, as described above. (R.C. 2950.10.)

Community notification

Existing law, not in the bill, provides that, if a person is convicted of or pleads guilty to, a sexually oriented offense, and if the offender has been adjudicated a sexual predator and the court has not subsequently "declassified" the offender or the offender has been determined to be an habitual sex offender and the court has imposed a requirement subjecting the habitual sex offender to this provision, the sheriff with whom the offender has most recently registered under the SORN Law, within the period of time specified below, must provide a written notice containing specified information about the offender to all of the following persons within the sheriff's county (within seven days of registration or 72 hours of notice under (8) unless otherwise provided):

(1) All occupants of residences adjacent to the offender's place of residence and all additional neighbors within any category that the AG by rule requires to be provided the notice (within 72 hours after registration or notice under (8));

(2) The executive director of the public children services agency that has jurisdiction within the "specified geographical notification area" (defined as the geographic area or areas within which the AG, by rule, requires the notice under this provision to be given to the specified persons);

(3) The superintendent of each board of education of a school district with schools within the specified geographical notification area;

(4) The appointing or hiring officer of each chartered nonpublic school located within the specified geographical notification area or of each other school located within the specified geographical notification area;

(5) Specified officials of each preschool program governed by R.C. Chapter 3301. that is located within the specified geographical notification area;

(6) Specified officials of each child day-care center, type A family day-care home, or certified type B family day-care home located within the specified geographical notification area;

(7) The president or chief administrative officer of each institution of higher education located within the specified geographical notification area and the chief law enforcement officer of any state university law enforcement agency or campus police department that serves that institution;

(8) The sheriff of each county that includes any portion of the specified geographical notification area (within 72 hours of registration or notice under this division);

(9) If the offender resides within the sheriff's county, 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 (within 72 hours of registration or notice under (8)).

A sheriff of one or more other counties who receives notice as described above in (8) of this section must provide the notices described above in (1) to (7) and (9) to each person or entity identified within those provisions that is located within the geographical notification area and within the sheriff's county. (R.C. 2950.11(A), (B), (C), (D), (E), and (F).)

Prohibitions and penalties

Existing law, not in the bill, prohibits a person who is required to register under that Law, who is required under that Law to notify a sheriff of a change of address, who is required under that Law to register a new residence address, or who is required to verify a current residence address pursuant to that Law from failing to do so in accordance with that Law, provided that no person may be prosecuted for such a violation prior to the expiration of the seven-day extension generally granted by that Law. (R.C. 2950.04(E), 2950.05(E), and 2950.06(F).)

A violation of any of these prohibitions is a felony of the fifth degree if the most serious sexually oriented offense that was the basis of the 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 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

constitutes a violation of the terms and conditions of the probation, parole, post-release control sanction, or other type of supervised release. (R.C. 2950.99.)

Definitions

Existing law, not in the bill, provides a series of definitions for the SORN Law, including the following that are relevant to this analysis (R.C. 2950.01):

(1) "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.

(2) "Sexually oriented offense" means any of the following offenses:

(a) Regardless of the age of the victim of the offense, a violation of R.C. 2907.02, 2907.03, or 2907.05;

(b) Any of the following offenses involving a minor, in the circumstances specified: (i) a violation of R.C. 2905.01, 2905.02, 2905.03, 2905.04, 2905.05, or 2907.04 when the victim of the offense is under 18 years of age, (ii) a violation of R.C. 2907.21 when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age, (iii) a violation of R.C. 2907.321(A)(1) or (3) or 2907.322, (iv) a violation of R.C. 2907.323(A)(1) or (2), or (v) a violation of R.C. 2919.22(B)(5) when the child who is involved in the offense is under 18 years of age.

(c) Regardless of the age of the victim, a violation of R.C. 2903.01, 2903.02, 2903.11, 2905.01, or 2903.04(A) that is committed with a purpose to gratify the sexual needs or desires of the offender;

(d) A sexually violent offense;

(e) A violation of any former Ohio law of this state that was substantially equivalent to any offense listed in (2)(a) to (d), above;

(f) A violation of an existing or former municipal ordinance or law of another state or the United States, a violation under the law applicable in a military court, or a violation under the law applicable in an Indian tribal court that is or was substantially equivalent to any offense listed in (2)(a) to (d), above;

(g) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (2)(a) to (f), above.

(3) "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.

(4) An offender is "adjudicated as being a sexual predator" if: (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 document charging 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 pursuant to R.C. 2950.09(B) 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 pursuant to R.C. 2950.09(C) that the offender is a sexual predator, or (d) regardless of when the sexually oriented offense was committed, the offender is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, as a result of that conviction or plea of guilty, the offender is required, under the law of that jurisdiction, to register as a sex offender until the offender's death and to verify the offender's address on at least a quarterly basis each year, and, on or after July 1, 1997, the offender moves to and resides in Ohio or temporarily is domiciled in Ohio for more than seven days, unless a court of common pleas determines that the offender is not a sexual predator pursuant to R.C. 2950.09(F).

(5) "Sexually violent predator specification" and "sexually violent offense" have the same meanings as in R.C. 2971.01.

COMMENT

Existing law, unchanged by the bill, requires the judge, in making a sexual predator determination at a hearing under the SORN Law, to consider all relevant factors, including, but not limited to, all of the following (R.C. 2950.09(A)(2)): (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.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-10-01	p. 956

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