



Sub. H.B. 39*

125th General Assembly
(As Reported by H. Criminal Justice)

Reps. Carmichael, Schmidt, Blasdel, Gibbs, Webster, D. Evans, Husted, Widowfield, Latta, DePiero, Fessler, DeBose, Schaffer, Willamowski, Grendell, Redfern, Allen, Seaver, Oelslager, Collier

BILL SUMMARY

- Creates a new category for the adult Sex Offender Registration and Notification Law (adult SORN Law)--a serious sexually oriented offender (a person who, on or after the effective date of the bill, is convicted of or pleads guilty to rape other than the rape of a child less than 13 years of age).
- Requires a serious sexually oriented offender to comply with the adult SORN Law for 20 years, always subjects a serious sexually oriented offender to the adult SORN Law's victim and community notification requirements, and requires the offender to file a notice of intent to reside at least 20 days prior to beginning to reside in a county.
- Continues the requirements that the offender annually verify the offender's residence address and notify the sheriff of a change in residence address.

CONTENT AND OPERATION

Overview of adult Sex Offender Registration and Notification Law

Under the adult Sex Offender Registration and Notification Law (the adult SORN Law), a person subject to that Law must register the person's residence address with the county sheriff, periodically verify that residence address, and

** 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.*

notify the sheriff of a change in that residence address and register the new address with the appropriate sheriff (R.C. 2950.04, 2950.05, and 2950.06). The following four categories of persons are subject to that Law (R.C. 2950.01, 2950.04, 2950.05, 2950.06, 2950.07, 2950.09, 2950.10, and 2950.11):

(1) A sexually oriented offender (a person who has been convicted of or pleaded guilty to a sexually oriented offense), who must comply with that Law for ten years and verify the offender's residence address annually during the registration period. A sexually oriented offender may never have this designation changed.

(2) A habitual sex offender (a person who is convicted of or pleads guilty to a sexually oriented offense and who previously was convicted of or pleaded guilty to one or more sexually oriented offenses or previously was classified a juvenile sex offender registrant or out-of-state juvenile sex offender registrant based on one or more juvenile category sexually oriented offenses), who must comply with that Law for 20 years and verify the offender's residence address on an annual basis. In addition, a judge may subject a habitual sex offender to the adult SORN Law's victim and community notification provisions. A habitual sex offender subject to community notification also must provide the sheriff of a county in which the habitual sex offender intends to reside a written notice of intent to reside 20 days prior to taking up residence. A habitual sex offender may never have this designation changed.

(3) An aggravated sexually oriented offender (has been convicted of or pleaded guilty to rape of a child under 13 committed on or after June 13, 2002), who must comply with that Law for life and must verify the offender's residence address on a quarterly basis. An aggravated sexually oriented offender is always subject to the adult SORN Law's victim and community notification provisions and must provide the sheriff of a county in which the offender intends to reside a written notice of intent to reside 20 days prior to taking up residence. An aggravated sexually oriented offender may never have this designation changed.

(4) A sexual predator (a person who has been convicted of or pleaded guilty to committing a sexually oriented offense and who is likely to engage in the future in one or more sexually oriented offenses), who must comply with that Law for life and must verify the offender's residence address on a quarterly basis. A sexual predator is always subject to the adult SORN Law's victim and community notification provisions and must provide the sheriff of a county in which the sexual predator intends to reside a written notice of intent to reside 20 days prior to taking up residence. Some offenders are automatically classified sexual predators while others are adjudicated to be sexual predators as a result of a court determination. A court may determine this latter type of sexual predator to no

longer be a sexual predator; the offender then is subject to the requirements of the registration category that would have otherwise applied to the offender.

Operation of the bill--overview

The bill creates a new category for the adult SORN Law--a serious sexually oriented offender. A "serious sexually oriented offender" is a person who, on or after the effective date of the bill, is convicted of or pleads guilty to rape other than the rape of a child less than 13 years of age. A person who is convicted of or pleads guilty to, on or after the effective date of the bill, a violation of any former Ohio law, any existing or former municipal ordinance or law of another state or the United States, or any existing or former law applicable in a military court or in an Indian tribal court that is or was substantially equivalent to rape other than the rape of a child less than 13 years of age also is a "serious sexually oriented offender." (R.C. 2950.01(P).)

With one exception, the duties imposed on a serious sexually oriented offender parallel those imposed on a habitual sex offender: the serious sexually oriented offender must annually verify the offender's residence address, the offender must notify the sheriff of a change in the offender's residence address, and the duty to comply with the adult SORN Law continues for 20 years. But, unlike habitual sex offenders, a serious sexually oriented offender always is subject to the adult SORN Law's victim and community notification provisions. And, as a result, a serious sexually oriented offender also is always required to file a notice of intent to reside at least 20 days prior to beginning to reside in a county.

Notice given to serious sexually oriented offender

Existing law

Existing law requires that each offender who becomes subject to the adult SORN Law be given notice of that fact and of the offender's duties under that Law. The offender is required to read and sign a form prescribed by the Bureau of Criminal Identification and Investigation (BCII) stating that the offender's duties to register, to register a new residence address, and to periodically verify a residence address have been explained to the offender. If the offender is unable to read, the appropriate official must certify on the form that the official specifically informed the offender of those duties and that the offender indicated an understanding of those duties. (R.C. 2950.03(A) and (B).)

The form also must contain all of the information required by BCII, including, but not limited to, the following information (R.C. 2950.03(B)(1)(d)):

(1) A statement as to whether the offender has been adjudicated a sexual predator relative to the sexually oriented offense in question;

(2) A statement as to whether the offender has been determined to be a habitual sex offender;

(3) A statement as to whether the offense for which the offender has the duty to register is an aggravated sexually oriented offense committed on or after June 13, 2002;

(4) 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;

(5) A statement that the offender must verify the residence address at the times specified under that process or face criminal prosecution.

Operation of the bill

The bill additionally requires the form that the offender is required to read and sign, or that is explained to the person, include a statement as to whether the offender is a serious sexually oriented offender (R.C. 2950.03(B)(1)(d)).

Notice of intent to reside

Existing law

If an offender is adjudicated a sexual predator or a habitual sex offender subject to community notification, or if an offender is an aggravated sexually oriented offender, the offender also must send the sheriff of the county in which the offender intends to reside written notice of the offender's intent to reside in the county. The offender must send the notice of intent to reside at least 20 days prior to the date the offender begins to reside in the county. (R.C. 2950.04(G).) The notice of intent to reside must contain the following information (R.C. 2950.04(G)):

(1) The offender's name;

(2) The address or addresses at which the offender intends to reside;

(3) The sexually oriented offense of which the offender was convicted or to which the offender pleaded guilty;

(4) A statement that the offender currently is adjudicated as being a sexual predator, a statement that the sentencing or reviewing judge has determined that

the offender is a habitual sex offender, or a statement that the offender is an aggravated sexually oriented offender.

Operation of the bill

The bill expands the intent to reside provisions to require serious sexually oriented offenders to file notices of intent to reside and, in such a case, to require the notice of intent to reside to include a statement that the offender is a serious sexually oriented offender (R.C. 2950.04(G)).

Registration of residence address

Existing law

Under existing law, an offender who is required to comply with the adult SORN Law generally is required to register personally with the sheriff of the county within seven days of the offender's coming into a county in which the offender resides or temporarily is domiciled for more than seven days. The offender must obtain from the sheriff's office a registration form, complete and sign the form, and return the completed form together with the offender's photograph to the sheriff's office. (R.C. 2950.04(A) and (B).)

The registration form must contain the current residence address of the offender, the name and address of any current or known future employer of the offender, and any other information required by BCII (R.C. 2950.04(C)). Additionally, if the offender currently is adjudicated a sexual predator relative to the sexually oriented offense in question, or if the 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 (R.C. 2950.04(C)(1) and (2)):

(1) A specific declaration that the person has been adjudicated a sexual predator or has been determined to be a habitual sex offender, whichever is applicable;

(2) If the offender has been adjudicated 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.

Operation of the bill

Under the bill, if the offender is a serious sexually oriented offender, the offender must include on the signed, written registration form a specific declaration that the person is a serious sexually oriented offender (R.C. 2950.04(C)(1)).

Duration of duty to comply with the adult SORN Law

Existing law

The duty of an offender who is required to comply with the adult SORN Law continues, after the date of commencement of that duty, for whichever of the following periods is applicable (R.C. 2950.07(B)):

(1) If the offender has been adjudicated a sexual predator relative to the sexually oriented offense or if the offender is an aggravated sexually oriented offender, the offender's duty to comply with that Law continues until the offender's death. Regarding an offender who has been adjudicated a sexual predator relative to the sexually oriented offense, if the judge who sentenced the offender or that judge's successor in office subsequently enters a determination that the offender no longer is a sexual predator, the offender's duty to comply continues for the period of time that otherwise would have been applicable to the offender or, if the offender also is an aggravated sexually oriented offender, until the offender's death.

(2) If the judge who sentenced the offender determined that the offender is a habitual sex offender, the offender's duty to comply with that Law continues for 20 years.

(3) If neither (1) nor (2) applies, the offender's duty to comply with that Law continues for ten years.

Operation of the bill

Under the bill, if the offender is a serious sexually oriented offender, the offender's duty to comply with the adult SORN Law continues for 20 years. If the offender has not been adjudicated a sexual predator or a habitual sex offender and is not an aggravated sexually oriented offender or a serious sexually oriented offender, the offender's duty to comply with that Law continues for ten years. (R.C. 2950.07(B)(3) and (4).)

Determination that offender is no longer a sexual predator

Existing law

Under existing law, a person who is adjudicated a sexual predator (as opposed to being automatically classified as being a sexual predator) may petition the judge who made the determination that the offender is a sexual predator, or that judge's successor in office, to enter a determination that the offender no longer is a sexual predator. If the judge enters a determination that the offender no longer is a sexual predator and if the offender also is an aggravated sexually oriented

offender, the entry of the determination does not affect any duties imposed upon the offender as a result of the offender being an aggravated sexually oriented offender. (R.C. 2950.09(D)(1).)

Operation of the bill

The bill additionally states that if the judge enters a determination that the offender no longer is a sexual predator and if the offender also is a serious sexually oriented offender, the offender is subject to the adult SORN Law as a serious sexually oriented offender (R.C. 2950.09(D)(1)).

Victim notification

Existing law

Existing law authorizes the victim of a sexually oriented offense, if the offender is in a category specified below, to request and receive a notice that the offender has registered under the adult SORN Law and that includes the offender's name and residence address or addresses. A victim of that nature also may request and receive a notice of when the offender has changed the offender's residence address that includes the offender's name and new residence address. This provision applies to offenders who are: (1) currently adjudicated sexual predators, (2) habitual sex offenders who are subject to community notification, and (3) aggravated sexually oriented offenders, regardless of whether the offender also has been adjudicated a sexual predator relative to the offense or has been adjudicated to be a habitual sex offender. (R.C. 2950.10.)

Operation of the bill

Under the bill, the victim notification provisions also apply if the offender is a serious sexually oriented offender, regardless of whether the offender has been adjudicated a sexual predator relative to the offense or has been determined to be a habitual sex offender (R.C. 2950.10(B)(1)(d)).

Community notification

Existing law

If the offender is currently adjudicated a sexual predator, has been determined to be a habitual sex offender subject to community notification, or is an aggravated sexually oriented offender, the sheriff with whom the offender has most recently registered and the sheriff to whom the offender most recently sent a notice of intent to reside must provide to certain persons in the community a statutorily prescribed notice regarding the offender. When the offender verifies the offender's residence address, the sheriff also may provide a notice of that

nature to specified persons in the community. All information that a sheriff possesses regarding a sexual predator or a habitual sex offender that is described in the statutorily prescribed notice is a public record that is open to inspection under the Public Records Law. (R.C. 2950.11(A), (B), (E), and (F).)

Operation of the bill

The bill expands the community notification provisions to also apply to serious sexually oriented offenders (R.C. 2950.11(E) and (F)(1)(d) and (2).)

Conforming changes

The bill amends the following provisions to reflect the creation of the new SORN Law category of "serious sexually oriented offender":

(1) The victim's rights pamphlet that the Attorney General is required to prepare must include a description of the right of the victim of a sexually oriented offense that is committed by a serious sexually oriented offender to receive notice that the offender has registered with a sheriff under the adult SORN Law and notice of the offender's name and residence address or addresses, and a summary of the manner in which the victim must make a request to receive the notice (R.C. 109.42(A)(16)).

(2) The legislative findings and declaration of public policy in the adult SORN Law are expanded to also refer to serious sexually oriented offenders (R.C. 2950.02).

(3) The rules that the Attorney General must adopt for the implementation and administration of the victim and community notification provisions are expanded to also apply to serious sexually oriented offenders (R.C. 2950.13(A)(3)).

(4) The rules that the Attorney General must adopt that contain guidelines to be followed by schools, preschool programs, child day-care centers, type A and B family day-care homes, and institutions of higher education regarding the proper use and administration of information received pursuant to the adult SORN Law's community notification provisions relative to an offender who has been adjudicated as being a sexual predator or determined to be a habitual sex offender are expanded to also apply to serious sexually oriented offenders (R.C. 2950.13(A)(9)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-03-03	p. 86
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