



Dennis M. Papp

Bill Analysis
Legislative Service Commission

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Reps. Hagan, Seitz, Latta, Hughes, Widowfield, McGregor, Slaby, Carano, Collier, DeGeeter, Willamowski, Buehrer, Cirelli, C. Evans, D. Evans, Faber, Fessler, Flowers, Otterman, Schaffer, Webster, Young

BILL SUMMARY

- For a person who is subject to the Sex Offender Registration and Notification (SORN) Law's "change of address" provisions and who changes a residential address but does not have a new fixed address, requires the person to include in the change of address notice and in the required new registration of the new residence address a detailed description of the place or places at which the person intends to stay and, not later than the end of the first business day immediately following the day on which the person obtains a fixed residence address, to provide written notice of and register the fixed residence address.
- Provides an affirmative defense for a person who is required to comply with the SORN Law's "change of address" provisions, and who fails to do so, that it was impossible for the person to provide the required written notice and re-register because the person did not have knowledge of the change in residence, school, institution of higher education, or place of employment address sufficiently in advance of the change to comply with the Law's deadlines and the person provided the required notice and re-registered in accordance with the bill's provisions as soon as possible after learning of the address change.
- For purposes of the SORN Law's provisions that pertain to the duties imposed on an offender or delinquent child relative to a change in the offender's or child's residence, school, institution of higher education, or place of employment address, and related Revised Code provisions, specifies that "change in address" includes any circumstance in which the old address for the person in question no longer is accurate, regardless of whether the person in question has a new address.

CONTENT AND OPERATION

Background

The existing Sex Offender Registration and Notification Law (the SORN Law, contained in R.C. Chapter 2950.), in relevant part, generally requires offenders who are convicted of or plead guilty to a sexually oriented offense or a child-victim oriented offense to register with the appropriate sheriff, within a specified period of time, the offender's residence address, school or institution of higher education address, or employment address. If the offender changes the residence, school or institution of higher education, or employment address, the offender, within a specified period of time, must provide the sheriff with whom the offender registered with notice of the change of address and must register the new address with the appropriate sheriff. The offender, in accordance with a specified schedule, also must periodically verify the residence, school or institution of higher education, or employment address, with the sheriff with whom the offender most recently registered. The Law also requires offenders who are convicted of or plead guilty to a sexually oriented offense or a child-victim oriented offense and who are adjudicated a sexual predator, a child victim predator, or an habitual sexual offender or child-victim offender made subject to community notification, and offenders who are convicted of or plead guilty to an aggravated sexually oriented offense, to send to the appropriate sheriff prior written notice of the offender's intent to reside in the sheriff's county. The registration, change of address, and address verification provisions, as they pertain to residence addresses, and the intent-to-reside notification provisions, also apply to delinquent children who are adjudicated delinquent for committing a sexually oriented offense or a child-victim oriented offense and who are classified by the juvenile court, under existing R.C. 2152.82 to 2152.85, as juvenile offender registrants based on that adjudication. The **COMMENT** identifies the categories of offenders and delinquent children who are subject to the SORN Law's registration requirements and describes the information that is required for registration.

Change of address notification and registration duties

Existing law

Under current law, if the SORN Law requires an offender to register the offender's residence address, school or institution of higher education address, or employment address with a sheriff or requires a delinquent child to register the child's residence address, and the offender or delinquent child changes the address, the offender or delinquent child must report that change of address to the sheriff with whom the offender or delinquent child has most recently registered. If the

change or address is the offender's or delinquent child's residence address or the offender's school or institution of higher education address, the offender or delinquent child must provide to that sheriff written notice of the change of address at least 20 days prior to the change. If the offender changes the address of the offender's place of employment, the offender must provide to that sheriff written notice of the change no later than five days after changing the place of employment. (R.C. 2950.05(A).)

In addition, the offender or delinquent child must register the new address with the sheriff of the county in which the new address is located. If the change of address is the offender's or delinquent child's residence address or the offender's school or institution of higher education address, the offender or delinquent child must register the new address at least 20 days prior to the change. If the offender changes the address of the offender's place of employment, the offender must register the new address no later than five days after changing the place of employment. (R.C. 2950.05(B).)

The change of address notice and registration provisions described in the two preceding paragraphs apply to an offender or delinquent child regardless of whether the new residence, school, institution of higher education, or place of employment address is in Ohio or in another state. If the new 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 address (R.C. 2950.05(C)).

The penalty for a failure to comply with these change of address notice and registration provisions ranges from a misdemeanor to a felony of the third degree depending on: (1) what was the most serious sexually oriented offense or child-victim oriented offense that was the basis of the address notification requirement, and (2) whether the offender previously was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing a violation of the SORN Law registration, change of address, address verification, or intent-to-reside notification requirements (R.C. 2950.99, *not in the bill*).

Operation of the bill: no fixed residence address

The bill provides that, if an offender or delinquent child who is required to register a residence address under the SORN Law changes the residence address but the change is not to a fixed address, the offender or delinquent child must include in the notice to the sheriff with whom the offender or delinquent child has most recently registered a detailed description of the place or places at which the offender or delinquent child intends to stay and, not later than the end of the first business day immediately following the day on which the person obtains a fixed

residence address, must provide that sheriff written notice of the fixed residence address. (R.C. 2950.05(A).)

In addition, when an offender or delinquent child whose residence address change is not to a fixed address registers with the sheriff of the county in which the offender's or delinquent child's new address is located, the offender or delinquent child must include in the registration a detailed description of the place or places at which the offender or delinquent child intends to stay and, not later than the first business day immediately following the day on which the person obtains a fixed residence address, must register that fixed residence address with the sheriff. (R.C. 2950.05(B).)

If a person whose residence address change is not to a fixed address complies with either of these provisions, the place or places described in the notice or registration as being the place or places at which the person intends to stay are considered the person's residence address and registered residence address for purposes of the SORN Law until the person provides written notice of, or registers, a fixed residence address under the provision (R.C. 2950.05(A) and (B)).

Operation of the bill: affirmative defenses

The bill provides an affirmative defense for a person who is required to notify the sheriff of the county with whom the person most recently registered a change of address and who is charged with failing to provide that notice. Under the bill, it is an affirmative defense to a charge of violating this notification provision that it was impossible for the person to provide the written notice to the sheriff because of a lack of knowledge, on the date specified for the provision of the written notice, of a residence, school, institution of higher education, or place of employment address change, and that the person provided that notice to the sheriff as soon as possible after learning of the address change by doing either of the following (R.C. 2950.05(F)(1)):

(1) The person provided notice of the address change to the sheriff by telephone immediately upon learning of the address change or, if the person did not have reasonable access to a telephone at that time, as soon as possible after learning of the address change and having reasonable access to a telephone, and the person, as soon as possible after providing notice of the address change to the sheriff by telephone, provided written notice of the address change to that sheriff.

(2) The person, as soon as possible after learning of the address change, provided written notice of the address change to the sheriff.

The bill also provides a similar affirmative defense for a person who is required to register a new residence, school, institution of higher education, or

place of employment address with the sheriff or with an official of the state where the new address is located, as discussed above, and who is charged with failing to so register. Under the bill, it is an affirmative defense to a charge of violating this registration provision that it was impossible for the person to register the new address with the sheriff or official of the other state because of a lack of knowledge, on the date specified for the registration of the new address, of a residence, school, institution of higher education, or place of employment address change, and that the person registered the new address with the sheriff or official as soon as possible after learning of the address change by doing either of the following (R.C. 2950.05(F)(2)):

(1) The person provided notice of the new address to the sheriff or official of the other state by telephone immediately upon learning of the new address or, if the person did not have reasonable access to a telephone at that time, as soon as possible after learning of the new address and having reasonable access to a telephone, and the person, as soon as possible after providing notice of the new address to the sheriff or official by telephone, registered the new address with that sheriff or official.

(2) The person, as soon as possible after learning of the new address, registered the new address with the sheriff or official.

Operation of the bill: definition of "change in address"

The bill specifies that, as used in R.C. 2950.05 and in all other sections of the Revised Code that refer to the duties imposed on an offender or delinquent child under R.C. 2950.05 relative to a change in the offender's or delinquent child's residence, school, institution of higher education, or place of employment address, "change in address" includes any circumstance in which the old address for the person in question no longer is accurate, regardless of whether the person in question has a new address (R.C. 2950.05(H)).

COMMENT

Registration duty of offenders and delinquent children--sexually oriented offenses

Current law requires the following offenders who are convicted of, plead guilty to, have been convicted of, or have pleaded guilty to, and the following children who are adjudicated delinquent children for, a sexually oriented offense that is not a registration-exempt sexually oriented offense to comply with the SORN Law's registration requirements (R.C. 2950.04(A)):

(1) Regardless of when the sexually oriented offense was committed, an offender who is sentenced for the sexually oriented offense to a prison term, a term of imprisonment, or any other type of confinement and, on or after July 1, 1997, is released in any manner from the term or confinement (R.C. 2950.04(A)(1)(a));

(2) Regardless of when the sexually oriented offense was committed, an offender who is sentenced for a sexually oriented offense on or after July 1, 1997, and to whom paragraph (1), above, does not apply (R.C. 2950.04(A)(1)(b));

(3) If the sexually oriented offense was committed prior to July 1, 1997, an offender who immediately prior to July 1, 1997, was a habitual sex offender under the law then in effect who was required to register under that law and to whom neither paragraph (1) nor (2), above, applies (R.C. 2950.04(A)(1)(c));

(4) A child adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense, who is classified a juvenile offender registrant based on that adjudication, and who is not confined in a Department of Youth Services facility or any other secure facility (R.C. 2950.04(A)(2));

(5) Regardless of when the sexually oriented offense was committed and if paragraphs (1) through (4), above, do not apply, a person to whom either of the following applies (R.C. 2950.04(A)(3)):

(a) The offender or delinquent child: (i) is convicted, pleads guilty, or is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the U.S. for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense, (ii) lives, attends a school or institution of higher education, or is employed in Ohio under specified circumstances¹ on or after July 1, 1997 (or if a delinquent child, on or after January 1, 2002), and (iii) at the time the person comes to Ohio, the person has a duty to register as a sex offender or child-victim offender under the law of the other jurisdiction as a result of the conviction, guilty plea, or adjudication.

¹ For an offender who is convicted, pleads guilty to, or adjudicated a delinquent child for a sexually oriented offense in another jurisdiction, the duty to register based on the offender's or child's presence in Ohio applies if the offender or delinquent child moves to and resides in Ohio or temporarily is domiciled in Ohio for more than five days, or if the offender enters Ohio to attend any school or institution of higher education on a full-time or part-time basis or is employed in Ohio for more than 14 days or for an aggregate period of 30 or more days in any calendar year (R.C. 2950.04(A)(3)).

(b) The offender or delinquent child: (i) is convicted, pleads guilty, or is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the U.S. for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense, (ii) is released from imprisonment or confinement on or after July 1, 1997 (or if a delinquent child, is released from detention on or after January 1, 2002), and (iii) lives, attends a school or institution of higher education, or is employed in Ohio under specified circumstances (see footnote 1) on or after July 1, 1997 (or if a delinquent child, on or after January 1, 2002). For adult offenders, this duty to register applies regardless of whether the offender has a duty to register in the other jurisdiction. For delinquent children, this duty to register applies only if the delinquent child has a duty to register as a child-victim offender or sex offender under the law of the other jurisdiction at the time the child lives in Ohio or if, had the delinquent child adjudication occurred in Ohio, the adjudicating juvenile court judge would have been required to issue an order classifying the child as a juvenile offender registrant.

(6) An offender who is adjudicated a sexual predator under R.C. 2950.09(C) subsequent to the offender's release from a term of imprisonment served in a state correctional institution and to whom paragraph (1), above, applies.

Registration duty of offenders and delinquent children--child-victim oriented offenses

Current law also requires the following offenders who are convicted of, plead guilty to, have been convicted of, or have pleaded guilty to, and the following children who are adjudicated delinquent children for, a child-victim oriented offense to comply with the SORN Law's registration requirements (R.C. 2950.041(A)):

(1) Regardless of when the child-victim oriented offense was committed, an offender who is sentenced for the child-victim oriented offense to a prison term, a term of imprisonment, or any other type of confinement and, on or after July 31, 2003, is released in any manner from the term or confinement (R.C. 2950.041(A)(1)(a));

(2) Regardless of when the child-victim oriented offense was committed, an offender who is sentenced for a child-victim oriented offense on or after July 31, 2003, and to whom paragraph (1), above, does not apply (R.C. 2950.041(A)(1)(b));

(3) If the child-victim oriented offense was committed prior to July 31, 2003, if the offense was considered prior to that date to be a sexually oriented

offense, and if neither paragraph (1) nor (2), above, applies, an offender who immediately prior to July 31, 2003, was required to register as a result of conviction of or guilty plea to the commission of that offense under R.C. 2950.04 (R.C. 2950.041(A)(1)(c));

(4) Regardless of when the child-victim oriented offense was committed, a child who on or after July 31, 2003, is adjudicated a delinquent child for committing a child-victim oriented offense, who is classified a juvenile offender registrant based on that adjudication, and who is not confined in a Department of Youth Services facility or any other secure facility (R.C. 2950.041(A)(2)(a));

(5) If paragraph (4), above, does not apply, if the child-victim oriented offense was committed prior to July 31, 2003, and if the offense was considered a sexually oriented offense prior to that date, a delinquent child who, immediately prior to July 31, 2003, was classified a juvenile sex offender registrant and was required to register as a result of a delinquent child adjudication for that offense under R.C. 2950.04 (R.C. 2950.041(A)(2)(b));

(6) Regardless of when the sexually oriented offense was committed and if paragraphs (1) through (5), above, do not apply, a person to whom either of the following applies (R.C. 2950.041(A)(3)):

(a) The offender or delinquent child: (i) is convicted, pleads guilty, or is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the U.S. for committing a child-victim oriented offense, (ii) lives, attends a school or institution of higher education, or is employed in Ohio under the specified circumstances discussed above in footnote 1, on or after July 31, 2003, and (iii) at the time the person comes to Ohio, the person has a duty to register as a sex offender or child-victim offender under the law of the other jurisdiction as a result of the conviction, guilty plea, or adjudication.

(b) The offender or delinquent child: (i) is convicted, pleads guilty, or is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the U.S. for committing a child-victim oriented offense, (ii) is released from imprisonment or confinement on or after July 31, 2003, and (iii) lives, attends a school or institution of higher education, or is employed in Ohio under specified circumstances (see footnote 1) on or after July 31, 2003. For adult offenders, this duty to register applies regardless of whether the offender has a duty to register in the other jurisdiction. For delinquent children, this duty to register applies only if the delinquent child has a duty to register as a child-victim offender or sex offender under the law of the other jurisdiction at the time the child lives in Ohio or if, had the delinquent child adjudication occurred in Ohio, the adjudicating

juvenile court judge would have been required to issue an order classifying the child as a juvenile offender registrant.

(7) An offender who is adjudicated a child-victim predator under R.C. 2950.09(C) (this cross reference should read R.C. 2950.091(C)) subsequent to the offender's release from a term of imprisonment served in a state correctional institution and to whom paragraph (1), above, applies.

Registration procedures

With respect to registration, current law requires the offenders and delinquent children described above to register personally with the sheriff of the county. Generally, this registration must contain the offender's or delinquent child's photograph and current residence address, the offender's employer's name and address if applicable, the name and address of the offender's school or institution of higher education that the offender attends if applicable, and any other information required by the Bureau of Criminal Identification and Investigation. (R.C. 2950.04(C)(1) and (2) and 2950.041(C)(1) and (2).)

If an offender or delinquent child is adjudicated a sexual predator or child-victim predator relative to the sexually oriented offense or child-victim oriented offense at issue, the registration also must contain the identification license plate number of each motor vehicle the offender or delinquent child owns and of each motor vehicle registered in the offender's or delinquent child's name. Additionally, the registration must contain a specific declaration if an offender or delinquent child is adjudicated a sexual predator or child-victim predator or determined to be an habitual offender relative to the sexually oriented offense or child-victim oriented offense at issue, or if the offender was convicted of or pleaded guilty to an aggravated sexually oriented offense. (R.C. 2950.04(C)(3) and 2950.041(C)(3).)

An offender's or delinquent child's registration, change of address, and address verification duties under the SORN Law generally last for ten years. However, if an offender or delinquent child is adjudicated a sexual predator or a child-victim predator the offender or child generally has a lifetime duty to comply, and, if an offender or delinquent child is classified an habitual sexual offender or child-victim offender, the offender generally has either a lifetime duty or a 20-year duty to comply, and the child generally has a 20-year duty to comply. In certain circumstances, a delinquent child's duty to comply, based upon an adjudication as a sexual predator or child-victim predator or a classification as an habitual sexual offender or child-victim offender, is reduced if the juvenile court removes the child's predator or habitual offender status. (R.C. 2950.07(B).)

HISTORY

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