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Bill Analysis

Legislative Service Commission

H.B. 473

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

Reps. Hagan, Seitz, Latta, Hughes, Widowfield, McGregor, Slaby, Carano, Collier, DeGeeter, Willamowski

BILL SUMMARY

- Provides an affirmative defense for a person who is required to comply with the Sex Offender Registration and Notification (SORN) Law's "change of address" provision if it was impossible for the person to provide the required written notice because the person either did not have knowledge of the change in residence, school, institution of higher education, or place of employment or did not know the new address of the residence, school, institution of higher education, or place of employment sufficiently in advance of the change or the date for registering the new address to comply with the Law's deadlines and the person provided the required notice in accordance with the bill's provisions as soon as possible after learning of the address change or the new address.
- For a person who is subject to the 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 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, requires the person to provide written notice of the fixed residence address.

CONTENT AND OPERATION

An offender's or delinquent child's duty to register a change of address under the Sex Offender Registration and Notification (SORN) Law

Current law

Under current law, if the SORN Law requires an offender or delinquent child to register a residential address, address of the offender's school or institution of higher education, or employment address with the county sheriff and the offender or delinquent child changes an address, the offender must report that change of address to the sheriff with whom the offender or delinquent child has most recently registered.¹ If the change of address is a residential address or a change in address of the offender's school or institution of higher education, 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 or delinquent child changes the address of a place of employment, the offender or delinquent child must provide to that sheriff written notice of the change no later than five days after changing employment. (R.C. 2950.05(A).)

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

If the new address is in another state, the offender or delinquent child 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 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

¹ For a description of who is subject to the SORN Law registration requirements and what information is required for registration see the **COMMENT**.

delinquent child for committing a violation of the SORN Law notification and registration requirements (R.C. 2950.99, *not in the bill*).

Operation of the bill: no fixed address

The bill provides that if an offender or delinquent child changes a residential 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. Not later than the end of the first business day immediately following the day on which the person obtains a fixed residence address, the offender or delinquent child must provide that sheriff written notice of the fixed residence address. (R.C. 2950.05(A).)

In addition, when a person whose residence 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. Not later than the first business day immediately following the day on which the person obtains a fixed residence address, the offender or delinquent child must register that fixed address with the sheriff. (R.C. 2950.05(B).)

If a person complies with either of these provisions, the place or places described in the notice are considered the person's residence address and registered residence address for purposes of the SORN Law until the person provides written notice of a fixed residence address (R.C. 2950.05(A) and (B)).

Operation of the bill: affirmative defenses

The bill provides an affirmative defense for a person who is charged with failing to notify the sheriff of the county with whom the offender previously registered of a change of address. 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 this 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 the sheriff.

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

The bill also provides a similar affirmative defense for a person who is charged with failing 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. Under the bill, it is an affirmative defense to a charge of violating this registration provision because 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, and that the person registered 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 address change to the sheriff or official of another 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 address change 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 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

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 prison term, term of imprisonment, 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 who was required to register 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, 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 in Ohio under specified circumstances² on or after July 1, 1997 (or if a delinquent child, on or after January 1, 2002), and (iii) 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.

² 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 (a) moves to and resides in Ohio, (b) temporarily is domiciled in Ohio for more than five days, (c) enters Ohio to attend any school or institution of higher education on a full-time or part-time basis, or (d) 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, 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 in Ohio under specified circumstances (see footnote 2) on or after July 1, 1997 (or if a delinquent child, on or after January 1, 2002). For adult offenders, this duty to report applies regardless of whether the offender has a duty to report in the other jurisdiction. For delinquent children, this duty to report applies only if (a) 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 (b) if the delinquent child adjudication had occurred in Ohio, the adjudicating juvenile court judge would have been required to issue an order classifying the child as 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.

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 prison term, term of imprisonment, 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 or guilty plea to the commission of that offense (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, a delinquent child who immediately prior to July 31, 2003, was required to register as a result of a delinquent child adjudication for the commission of a child-victim oriented offense that was committed prior to July 31, 2003, and was considered a sexually oriented offense prior to that date (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, Indian tribal court, or in a court in any nation other than the U.S. for committing a child-victim oriented offense, (ii) lives in Ohio under the specified circumstances discussed above in footnote 2, on or after July 31, 2003, and (iii) 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, 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 in Ohio under specified circumstances (see footnote 2) on or after July 31, 2003. For adult offenders, this duty to report applies regardless of whether the offender has a duty to report in the other jurisdiction. For delinquent children, this duty to report applies only if (i) 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 (ii) if the delinquent child adjudication had 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.

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, current residence address, the employer's name and address if applicable, the name and address of the 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 must also 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, determined to be an habitual offender, or convicted of or pleaded guilty to an aggravated sexually oriented offense relative to the sexually oriented offense or child-victim oriented offense at issue. (R.C. 2950.04(C)(3) and 2950.041(C)(3).)

An offender's duty to register generally lasts for ten years. However, if an offender is adjudicated a sexual predator or a child-victim predator the offender, generally, has a lifetime duty to report. (R.C. 2950.07(B).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-27-04	p. 1790
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