Michael J. O'Neill *Legislative Service Commission*

Sub. S.B. 5

125th General Assembly
(As Passed by the Senate)

Sens. Jacobson, Amstutz, Austria, Coughlin, Randy Gardner, Goodman, Harris, Hottinger, Spada, Stivers, Herington, Dann, Fedor, Blessing, Carnes, Fingerhut, Jordan, Mumper, Roberts, Schuler, Schuring, Carey, Miller, Armbruster, Nein, Robert Gardner

BILL SUMMARY

Definitions--"sexually oriented offense" and "child-victim oriented offense"

- Revises the definition of "sexually oriented offense" that applies to the Sex Offender Registration and Notification Law (the SORN Law) by adding certain offenses committed in specified circumstances and removing and relocating (generally, to the category of "child-victim oriented offense," as described below) other offenses.

- Removes from the definition of "sexually oriented offense" certain offenses that currently are sexually oriented offenses and that were not committed with a sexual motivation, enacts a new term "child-victim oriented offense" that consists of those removed offenses, imposes registration, notice of intent to reside, change of address, and periodic address verification duties for persons convicted of or adjudicated a delinquent child for committing any of those offenses that basically are the same as the duties imposed under the SORN Law as modified by the bill for persons convicted of or adjudicated delinquent children for a sexually oriented offense, provides for classifications of persons who commit any of those offenses as "child-victim predators" and "habitual child-victim offenders" under provisions similar to provisions for sexual predators and habitual sex offenders, subjects child-victim predators and habitual child-victim offenders to community notification under the same mechanism provided for sexual predators and habitual sex offenders, and provides "transitional" language regarding persons who were subjected to the current SORN Law for an offense that currently is a sexually oriented

offense and that is redesignated by the bill as a child-victim oriented offense.

Legislative determinations and intent

- Modifies most of the determinations, declarations, recognitions, and findings of the General Assembly regarding the SORN Law that currently apply only regarding sexual predators and habitual sex offenders so that they instead apply regarding all sex offenders, offenders who commit sexually oriented offenses, child-victim offenders, and offenders who commit a child-victim oriented offense, and by making a few other changes in the provisions.

Registration-exempt sexually oriented offenses

- Classifies certain sexually oriented offenses as "presumptive registration-exempt sexually oriented offense," establishes a mechanism by which a court may remove the presumptive exemption, and provides that, if a person is convicted of, pleads guilty to, or is adjudicated a delinquent child for a presumptive registration-exempt sexually oriented offense, unless a court removes the presumptive exemption, the offense is a "registration-exempt sexually oriented offense" and an offender has no duty to register or any other duties under the SORN Law based on that offense and a delinquent child cannot have the duty to register or any other duties under the SORN Law imposed based on that offense.

Registration duties under the SORN Law

- Regarding the duties to register a residence or temporary domicile address under the SORN Law: (1) modifies the duties to require an offender or delinquent child with the duty to register to do so *within five days* (instead of within seven days) of coming into a county in which the offender or child resides or temporarily is domiciled *for more than five days* (instead of for more than seven days), (2) expands the duties, as they apply to offenders, to also require registration of the address of a school or institution of higher education attended by an offender and, in certain circumstances, registration of the address of a place of employment of an offender, (3) expands the category of persons who are subject to the registration duty based on a conviction or delinquent child adjudication occurring in a court that is not an Ohio court, to include persons convicted in courts of foreign countries, (4) modifies the

registration form, the notification regarding registration duties, and other provisions of the Law, to conform to the changes described in clauses (1) to (3), and (5) conforms the provisions to the bill's "registration-exempt sexually oriented offense" provisions described above.

Aggravated sexually oriented offense

- Expands the definition of "aggravated sexually oriented offense" under the SORN Law to also include persons convicted of the offense of "rape" who purposely compelled the victim to submit by force or threat of force and, as a result, subjects offenders convicted of that offense in those circumstances to all provisions of the SORN Law that pertain to offenders convicted of an "aggravated sexually oriented offense," including the duty to provide a notice of intent to reside, lifetime compliance with the duties under that Law, increased frequency of address verification, and community notification.

Notice of intent to reside

- Specifically prohibits an offender or delinquent child who is required to send a "notice of intent to reside" under the SORN Law from failing to send the notice and subjects a person who violates the prohibition to the general penalty for violating a SORN Law duty.

Change of address duties

- Revises the SORN Law duties regarding notification of a change in residence or temporary domicile address and registration of the new address, to also make them apply to an offender who has registered a school, institution of higher education, or place of employment address and changes that address, and modifies the forms used regarding the notification and other provisions of the Law to conform to the expansion.

Periodic verification of addresses

- Expands the SORN Law duty regarding verification of a registered residence or temporary domicile address, to also make it apply to an offender who has registered a school, institution of higher education, or place of employment address and modifies the forms used regarding the verification and other provisions of the Law to conform to the expansion.

Notice to offender of SORN Law duties

- Expands the notices provided to an offender or juvenile sex offender registrant regarding their duties under the SORN Law to also inform offenders of their duties enacted in the bill regarding school, institution of higher education, and place of employment addresses and of their duties to register, provide notice of a change, and verify addresses in a state other than Ohio if the offender resides, is temporarily domiciled, attends a school or institution of higher education, or is employed in a state other than Ohio.

- Provides that, if an offender was provided notice of his or her SORN Law duties prior to the bill's effective date, not later than 90 days after the bill's effective date, the sheriff with whom the offender most recently registered or verified an address under the SORN Law must provide notice to the offender of his or her duties imposed on and after the bill's effective date to register a school, institution of higher education, or place of employment address, provide notice of a change of that address, and verify that address.

- Specifies that an offender or delinquent child who is convicted of his or her sexually oriented offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States and who has a duty to register in Ohio under the SORN Law is presumed to have knowledge of the law and of the offender's or child's duties imposed under the SORN Law.

- Rewords numerous provisions of the SORN Law that pertain to notices that must be given to offenders convicted of a sexually oriented offense and delinquent children who are classified as juvenile sex offender registrants to generally refer to their duties under the SORN Law provisions contained in R.C. 2950.04, 2950.041, 2950.05, and 2950.06, instead of referring to specific duties by name (e.g., the duty to register, the duty to provide notice of a change in address, the duty to verify an address, etc.).

Commencement of SORN Law duties

- Provides that an offender's duty to comply with the SORN Law duties enacted under the bill to register, provide notice of a change in, and to verify school, institution of higher education, and place of employment

addresses generally commence on the bill's effective date or on the occurrence of another type of specified event, whichever is later, and adds provisions regarding commencement of duties based upon a child-victim oriented offense.

Removal of sexual predator classification

- Repeals the authority of a court to remove a classification of an offender as a sexual predator under the SORN Law, other than in limited circumstances applying to persons convicted of a sexually oriented offense in a court other than an Ohio court, and specifically provides that in no case may the lifetime duty to comply with the SORN Law's requirements imposed on an offender who is adjudicated a sexual predator or for an aggravated sexually oriented offense, or the adjudication, classification, or conviction that subjects the offender to that lifetime duty, be removed or terminated.

- Retains the SORN Law provisions regarding removal of a sexual predator classification automatically made, based upon a non-Ohio conviction or adjudication, but modifies the provisions to reflect the bill's changes made in the provisions imposing the automatic classification.

Habitual sex offenders--duration of SORN Law duties

- Regarding an offender who is classified a habitual sex offender under the SORN Law, specifies that the habitual sex offender's duties to comply with the SORN Law's requirements continues until the offender's death or, in certain limited cases, for 20 years, and specifically provides that in no case may the lifetime duty to comply with the SORN Law's requirements imposed on an offender, or the determination that subjects the offender to that lifetime duty, be removed or terminated.

Penalty for failing to comply with SORN Law duties

- Revises the penalties that apply to an offender or delinquent child who violates any of the requirements imposed under the SORN Law to: (1) generally link the degree of the offense to the degree of the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement, subject to a maximum of a felony of the third degree, and (2) provide an increased penalty for a

repeat offender that generally links the degree of the offense to the degree of the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement, subject to a maximum of a felony of the third degree.

Sexual predator determination

- Modifies the provisions pertaining to the determination of whether an offender or delinquent child who is subject to the SORN Law is a sexual predator, as follows: (1) in the provision that automatically classifies an offender or delinquent child a sexual predator based on a conviction or adjudication of a sexually oriented offense in a court other than an Ohio court, adds a reference to a conviction or adjudication in a court of any nation other than the United States, and removes the criterion that the other jurisdiction must require the offender or child to verify his or her address on at least a quarterly basis each year, (2) specifies that a court that determines at a sexual predator hearing that the subject offender or delinquent child is not a sexual predator must specify in the sentence or child's dispositional order the reason or reasons why it determined that the subject offender or child is not a sexual predator, and (3) regarding offenders who have been imprisoned since the enactment of the SORN Law: (a) requires the sentencing court to conduct a sexual predator hearing if the sexually oriented offense the offender committed was aggravated murder, murder, felonious assault, kidnapping, or involuntary manslaughter (when the underlying offense was a felony) committed with a purpose to gratify the offender's sexual needs or desires or if it was a violent sex offense, and (b) provides that for all other sexually oriented offenses, if the Department of Rehabilitation and Correction recommends that the offender be classified a sexual predator, the court must conduct a sexual predator hearing and, if the Department does not so recommend, the court must conduct a habitual sex offender hearing.

Habitual sex offender determination

- Regarding habitual sex offender determinations, specifies that a person who has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing, a sexually oriented offense may be classified a habitual sex offender if the person has a prior conviction or adjudication of either a sexually oriented offense or a *child-victim oriented offense*.

Habitual sex offender--community notification determination

- Specifies that, in making the determination regarding the possible imposition of a community notification requirement for a habitual sex offender, if at least two of the sexually oriented offenses or child-victim oriented offenses that are the basis of the habitual sex offender or habitual child-victim offender determination were committed against a victim who was under 18 years of age, it is presumed that subjecting the offender or child to community notification is necessary in order to comply with the determinations, findings, and declarations of the General Assembly regarding sex offenders and child-victim offenders set forth in the SORN Law.

- Specifies that, if a court in a state other than Ohio, a federal court, military court, or Indian tribal court, or a court in any nation other than the United States determines a person to be a habitual sex offender in that jurisdiction, the person is considered to be determined to be a habitual sex offender in Ohio for purposes of the SORN Law and that, if the court of the other jurisdiction subjects the habitual sex offender to community notification regarding place of residence, the person is subject to the SORN Law's community notification provisions regarding the person's place of residence unless the court of the other jurisdiction determines the person no longer is subject to community notification.

Information regarding sex offenders--Internet provisions

- Requires the Attorney General, through the Bureau of Criminal Identification and Investigation (BCII), not later than January 1, 2004, to establish and operate on the Internet a Sex Offender Database that contains information for every offender who has committed a sexually oriented offense and who registers in any county in Ohio pursuant to the SORN Law, and specifies that the Database is a public record open for inspection under the Public Records Law, must be searchable by offender name, by county, by zip code, and by school district, and must provide a direct link to the web site of each county, or of each sheriff or other official of a county that has established and operates on the Internet a sex offender database containing information for offenders who register in that county.

- Requires the Attorney General, upon the request of any county, or of any sheriff or other official of a county, to provide technical assistance to the

requesting county, sheriff, or other official in establishing and operating on the Internet a sex offender database for the public dissemination of some or all of the materials a sheriff possesses that are public records under existing law and that pertain to offenders who register in that county pursuant to the SORN Law.

- Requires the AG, through BCII, not later than January 1, 2004, to establish and operate on the Internet a database that enables local law enforcement representatives to remotely search by electronic means the State Registry of Sex Offenders and Child-Victim Offenders and any information BCII receives pursuant to the SORN Law, requires that the database enable local law enforcement representatives to obtain detailed information regarding each offender and delinquent child included in the Registry, including, but not limited to the offender's or delinquent child's name, residence address, place of employment if applicable, motor vehicle license plate number if applicable, victim preference if available, date of most recent release from confinement if applicable, fingerprints, and other identification parameters BCII considers appropriate, provides that the database is not a public record, and prohibits any person, other than a local law enforcement representative, from knowingly gaining or attempting to gain access to the database established and operated by the AG, through BCII or permitting any person to inspect any information obtained through use of that database, other than as permitted under the provision.

Community notification

- Regarding community notification to victims under the SORN Law when an offender or delinquent child who is a sexual predator or habitual sex offender subject to community notification, or an offender convicted of an aggravated sexually oriented offense, registers or provides notice of a change in address: (1) expands the provisions so that they also require notice to be given when an offender registers, or provides notice of a change in, a school, institution of higher education, or place of employment address under the new duties enacted by the bill, and (2) extends the time within which the notice must be given to the victim regarding an offender or child to not later than five days after the offender or child registers or notifies the sheriff of the change in address (currently, the deadline is not later than 72 hours after the offender or child registers or notifies the sheriff of the change in address).

- Regarding community notification to victims under the SORN Law when an offender or delinquent child who is a sexual predator or habitual sex offender subject to community notification, or an offender convicted of an aggravated sexually oriented offense, registers or provides notice of a change in address: (1) expands the provisions so that they also require notice to be given when an offender registers, or provides notice of a change in, a school, institution of higher education, or place of employment address under the new duties enacted by the bill, (2) extends the time within which the notice must be given to the victim regarding an offender or child to not later than five days after the offender or child registers or notifies the sheriff of the change in address (currently, the deadline is not later than 72 hours after the offender or child registers or notifies the sheriff of the change in address), and (3) conforms the provisions to other changes made in the bill.

- Regarding community notification to neighbors and other specified persons and entities under the SORN Law when an offender or delinquent child who is a sexual predator or habitual sex offender subject to community notification, or an offender convicted of an aggravated sexually oriented offense, sends a notice of intent to reside or registers: (1) provides that, if a sheriff has sent a notice under the provision as a result of receiving a notice of intent to reside and if the offender or child registers a residence address that is the same as the one in the notice of intent to reside, the sheriff is not required to send an additional notice when the offender or child registers, (2) rewrites the neighbor notification provision to clarify it and to provide rules for giving the notice in multi-unit buildings, (3) extends the time within which the notice must be provided, to generally require it to be provided to neighbors and to law enforcement personnel as soon as practicable, but not later than five days after the offender sends the notice of intent to reside to the sheriff and again not later than five days after the offender or child registers with the sheriff, and to all other specified persons as soon as practicable, but not later than seven days after the offender or child registers with the sheriff or, if the sheriff is a recipient sheriff, not later than five days after the recipient sheriff is provided the notice, and (4) conforms the provisions to other changes made in the bill.

Address verification by sheriff

- Provides that, if an offender or delinquent child registers, provides notice of a change in, or verifies a residence address pursuant to the SORN Law: (1) at any time after the registration, provision of notice, or verification, the sheriff, or a designee of the sheriff, may contact a person who owns, leases, or otherwise has custody, control, or supervision of the premises at the address provided by the offender or child and request that the person confirm or deny that the offender or child currently resides at that address, (2) upon receipt of such a request, notwithstanding any other provision of law, the person who owns, leases, or otherwise has custody, control, or supervision of the premises, or an agent of that person, must comply with the request and inform the sheriff or designee whether or not the offender or child currently resides at that address, and (3) the Law's existing qualified immunity provisions apply to a person who so provides information.

- Specifies that a sheriff or designee of a sheriff may attempt to confirm that an offender or child who registers, provides notice of a change in, or verifies a residence address pursuant to the SORN Law currently resides at the address in question in manners other than the manner described in the preceding dot point, and that a sheriff or designee is not limited in the number of requests that may be made under the provisions described in the preceding dot point or in the number of times that the sheriff or designee may attempt to confirm in other manners.

Conforming changes

- Conforms certain duties imposed on the Attorney General under the SORN Law, certain provisions of the Delinquent Child Law that pertain to determinations related to the SORN Law, and certain definitions applicable to the SORN Law, to other changes made by the bill.

Importuning

- Removes from the offense of "importuning" the language that states that a person shall not solicit a person of the same sex to engage in sexual activity with the offender, when the offender knows such solicitation is offensive to the other person, or is reckless in that regard, in recognition of, and to conform the law to, a decision of the Ohio Supreme Court that found the provision to be unconstitutional.

Sex offenders residing near school premises

- Prohibits a person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense or a child-victim oriented offense from establishing a residence or occupying residential premises within 1,000 feet of any school premises.

- Provides that an owner or lessee of real property that is located within 1,000 feet of any school premises has a cause of action for injunctive relief against a person who violates the prohibition described in the preceding dotpoint by establishing a residence or occupying residential premises within 1,000 feet of those school premises, and is not required to prove irreparable harm to obtain the relief.

- In the Residential Landlord-Tenant Law, prohibits a tenant from allowing any person to occupy the residential premises that are the subject of the rental agreement if the residential premises are located within 1,000 feet of any school premises and if the person's name appears on the State Registry of Sexual Offenders and Child-Victim Offenders and the State Registry indicates that the person was convicted of or pleaded guilty to a sexually oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for the sexually oriented offense (hereafter such a person will be called an "adult Registry offender").

- If a person enters into a rental agreement, or if a tenant allows occupancy, in violation of the prohibition described in the preceding dotpoint or the third preceding, authorizes the landlord for the residential premises subject to the rental agreement or other tenancy to terminate the rental agreement or tenancy of the tenant and all other occupants and provides that, if the landlord does not terminate the rental agreement or other tenancy, the landlord is not liable in damages for harm that allegedly results from that decision.

- Authorizes a landlord to commence proceedings under the Forcible Entry and Detainer Law for possession of residential premises against (1) "adult Registry offenders" who, pursuant to a rental agreement, reside in or occupy residential premises that are located within 1,000 feet of any school premises, and (2) tenants who permit any "adult Registry offender" to occupy residential premises that are located within 1,000 feet of any school premises.

- Authorizes a landlord for residential premises, upon discovery that a tenant, or any other person with the tenant's permission, resides in or occupies residential premises that are located within 1,000 feet of any school premises and is an "adult Registry offender," to terminate the rental agreement or tenancy for those residential premises by notifying the tenant and all other occupants, in a manner specified under the Forcible Entry and Detainer Law, to leave the premises, and provides that, if the landlord does not terminate the rental agreement or tenancy, the landlord is not liable in damages for harm that allegedly results from that decision.

- In Forcible Entry and Detainer actions based on a controlled substance violation, changes the date on which the court clerk must set the action for trial from being *on the 30th working day* after the date that the tenant is served with a copy of the summons to being *not later than the 30th calendar day* after the date that the tenant is served with a copy of the summons.

Severability clause

- Declares that its provisions are severable.

Emergency

- Declares an emergency.

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CONTENT AND OPERATION

Background

The existing Sex Offender Registration and Notification Law (R.C. Chapter 2950., referred to as the SORN Law) generally requires a person who is convicted of or pleads guilty to a "sexually oriented offense" to do all of the following: (1) register the offender's residence address with the sheriff of the county in which the offender, for a specified period of time, resides or temporarily is domiciled, (2) notify the sheriff with whom the offender has registered a residence address if the offender changes residence and register the new residence address with the appropriate sheriff, and (3) periodically verify with the sheriff the offender's residence address. A failure to comply with any of these duties is a criminal offense.

If the offender is classified a "sexual predator" or, in certain circumstances, a "habitual sex offender," or if the offense was an "aggravated sexually oriented offense," in addition to the requirements described in the preceding paragraph: (1) the offender also must provide the sheriff of the county in which the offender intends to reside written notice of that intent, (2) the sheriff with whom the person registers generally must provide written notice of that address to the victim upon the victim's request, and (3) the sheriff with whom the person registers or provides notice of an intent to reside generally must provide written notice of that address to specified persons and entities in the community.

An offender's duty to comply with the registration, change of address, address verification, and notice of intent to reside requirements described above continues for one of the following periods: (1) if the offender was classified a sexual predator or if offense upon which the duty to register is based is an aggravated sexually oriented offense, until the offender's death, subject to reduction to a period described in clause (2) or (3) upon a subsequent judicial

determination that the offender no longer is a sexual predator, (2) if the offender was classified a habitual sex offender, for 20 years, or (3) in all other cases, for ten years.

The existing Delinquent Child Law (in R.C. 2152.82 to 2152.85) authorizes in certain circumstances and requires in other circumstances a juvenile judge presiding over a case in which a child is adjudicated a delinquent child for committing a sexually oriented offense to classify the child a "juvenile sex offender registrant." When a judge so classifies a child, the judge also must determine if the child is a sexual predator or a habitual sex offender. The provisions of the SORN Law described above, other than the provisions regarding aggravated sexually oriented offenses, also apply to a delinquent child who has been classified a juvenile sex offender registrant, sexual predator, or habitual sex offender.

The bill changes numerous provisions of the SORN Law, particularly as the provisions apply to criminal offenders. Among the changes are modifications that incorporate most of the recommendations of the Governor's Sex Offender Registration and Notification Task Force and modifications that conform the Law to certain federal guidelines. A detailed discussion of the changes follows.

Sexually oriented offenses

Existing law

As described above under "***Background***," the existing SORN Law applies regarding persons who have been convicted of, pleaded guilty to, or adjudicated delinquent children for committing, a "sexually oriented offense." Existing law defines that term, for purposes of the SORN Law, in R.C. 2950.01.

Operation of the bill

The bill modifies the definition of sexually oriented offense in a number of ways. It adds certain offenses committed in specified circumstances, and it removes and relocates other offenses, as described below in "***Child-victim oriented offenses***." Under the bill, "sexually oriented offense" means any of the following (R.C. 2950.01(D), amended by the bill as indicated):

(1) ***Sexually oriented offense, when committed by a person 18 years of age or older***. Any of the following violations or offenses committed by a person 18 years of age or older:

(a) Regardless of the age of the victim, a violation of R.C. 2907.02, 2907.03, 2907.05, *or 2907.07 (importuning)* (the bill adds the offense in italics);

(b) Any of the following offenses involving a minor, in the circumstances specified: (i) a violation of R.C. *2905.01(A)(4) (kidnapping for the purpose of engaging in sexual activity with the victim against the victim's will)*, 2907.04, *2907.06 (sexual imposition), or 2907.08 (voyeurism)* when the victim of the offense is under 18 years of age (the bill adds the offenses in italics, removes R.C. 2905.02 (abduction), 2905.03 (unlawful restraint), 2905.05 (criminal child enticement), and former R.C. 2905.04, and replaces R.C. 2905.01 with R.C. 2905.01(A)(4)), (ii) a violation of R.C. 2907.21 when the person compelled, induced, procured, etc., 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(A)(1) or (3), (iv) a violation of R.C. 2907.323(A)(1) or (2), (v) a violation of R.C. 2919.22(B)(5) when the child involved in the offense is under 18 years of age, or (vi) *a violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will), R.C. 2903.211 (menacing by stalking), 2905.02 (abduction), 2905.03 (unlawful restraint), or 2905.05 (criminal child enticement), or former R.C. 2905.04, when the victim of the offense is under 18 years of age and the offense is committed with a sexual motivation* (the bill adds all these offenses, and eliminates a reference to a violation of R.C. 2907.07(D) or (E) (importuning via a telecommunications device));

(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 sexual motivation;

(d) A sexually violent offense;

(e) *A violation of R.C. 2907.06 (sexual imposition) or 2907.08 (voyeurism) when the victim of the offense is 18 years of age or older, or a violation of R.C. 2903.211 (menacing by stalking) when the victim of the offense is 18 years of age or older, and the offense is committed with a sexual motivation* (the bill adds all of these offenses);

(f) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or Indian tribal court, *or any existing or former law of any nation other than the United States* (the bill adds the language in italics) that is or was substantially equivalent to any offense listed in (1)(a) to (e), above;

(g) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (1)(a) to (f), above.

(2) ***Sexually oriented offense, when committed by a person under 18***. An act committed by a person under 18 years of age that is any of the following:

(a) Subject to (2)(i), below, regardless of the age of the victim, a violation of R.C. 2907.02, 2907.03, 2907.05, *or 2907.07 (importuning)* (the bill adds the offense in italics);

(b) Subject to (2)(i), below, any of the following acts involving a minor in the circumstances specified: (i) a violation of R.C. *2905.01(A)(4) (kidnapping for the purpose of engaging in sexual activity with the victim against the victim's will), 2907.06 (sexual imposition), or 2907.08 (voyeurism)* when the victim of the offense is under 18 years of age (the bill adds the offenses in italics, removes R.C. 2905.02 and former R.C. 2905.04, and replaces R.C. 2905.01 with R.C. 2905.01(A)(4)), (ii) a violation of R.C. 2907.21 when the person who is compelled, induced, procured, etc., to engage in the sexual activity in question is under 18 years of age, (iii) a violation of R.C. 2919.22(B)(5) when the child who is involved in the violation is under 18 years of age, or (iv) *a violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will), R.C. 2903.211 (menacing by stalking), or former R.C. 2905.04, when the victim of the offense is under 18 years of age, and the offense is committed with a sexual motivation* (the bill adds all of these offenses);

(c) Subject to (2)(i), below, any sexually violent offense that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(d) Subject to (2)(i), below, a violation of R.C. 2903.01, 2903.02, 2903.11, 2905.01, 2905.02, or 2903.04(A), or an attempt to violate any of those sections or that division that is committed with a sexual motivation;

(e) Subject to (2)(i), below, a violation of R.C. 2907.321(A)(1) or (3), 2907.322(A)(1) or (3), or 2907.323(A)(1) or (2), or an attempt to violate any of those divisions, if the person who violates or attempts to violate the division is four or more years older than the minor who is the victim;

(f) *Subject to (2)(i), below, a violation of R.C. 2907.06 (sexual imposition) or 2907.08 (voyeurism) when the victim of the violation is 18 years of age or older, or a violation of R.C. 2903.211 (menacing by stalking) when the victim of the violation is 18 years of age or older and the offense is committed with a sexual motivation* (the bill adds all of these offenses);

(g) Subject to (2)(i), below, any violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or Indian tribal

court, *or any existing or former law of any nation other than the United States* (the bill adds the language in italics) that is or was substantially equivalent to any offense listed in division clauses (a) to (f) and that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(h) Subject to (2)(i), below, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clauses (a) to (g);

(i) If the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in (1), above, or would be any offense listed in any of those divisions if committed by an adult.

Child-victim oriented offenses

The bill removes from the definition of "sexually oriented offense" certain offenses that currently are sexually oriented offenses and enacts a new term "child-victim oriented offense" that consists of those offenses removed from the definition of sexually oriented offense. The bill then: (1) imposes registration, notice of intent to reside, change of address, and periodic address verification duties for those persons convicted of or adjudicated a delinquent child for committing any of the child-victim oriented offenses that basically are the same as the modified duties for persons convicted of or adjudicated delinquent children for a sexually oriented offense (R.C. 2950.041), (2) provides for classifications of persons who commit any of those offenses as "child-victim predators" and "habitual child-victim offenders" under provisions similar to the modified existing SORN Law provisions for sexual predators and habitual sex offenders (R.C. 2950.091), and (3) subjects persons who are classified child-victim predators or habitual child-victim offenders to community notification under the same modified mechanism for sexual predators and habitual sex offenders (R.C. 2950.10 and 2950.11).

Subsequent portions of this analysis contain detailed discussions of the effects in the SORN Law of the provisions described in the preceding paragraph. The bill conforms numerous existing provisions of the SORN Law and related provisions of law that refer in a variety of contexts to "sexually oriented offenses" and that are not otherwise discussed in this analysis to the transfer of offenses described in the preceding paragraph (R.C. 109.42, 109.57, 2152.19, 2152.191, 2901.07, 2929.01, 2929.13, 2929.19, 2929.21, 2935.36, 2950.14, 2971.01, and 5139.13).

Under the bill, "child-victim oriented offense" means any of the following (R.C. 2950.01(S)):

(1) ***Child-victim oriented offense committed by a person 18 or older***. Subject to the exclusion described below in (3), any of the following violations or offense committed by a person 18 years of age or older, when the victim of the violation is under 18 years of age and is not a child of the person who commits the violation:

(a) A violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will), R.C. 2905.02 (abduction), 2905.03 (unlawful restraint), or 2905.05 (criminal child enticement), or former R.C. 2905.04;

(b) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of a nation other than the United States that is or was substantially equivalent to any offense listed in division (1)(a), above;

(c) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (1)(a) or (b), above.

(2) ***Child-victim oriented offense committed by a person under 18***. Subject to the exclusion described below in (3), an act committed by a person under 18 years of age that is any of the following, when the victim of the violation is under 18 years of age and is not a child of the person who commits the violation:

(a) Subject to (2)(d), below, a violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will), or former R.C. 2905.04;

(b) Subject to (2)(d), below, any violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of a nation other than the United States that is or was substantially equivalent to any offense listed in (2)(a), above, and that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(c) Subject to (2)(d), below, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (2)(a) or (b), above;

(d) If the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in (1), above, or would be any offense listed in any of those paragraphs if committed by an adult.

(3) ***Exclusion***. "Child-victim oriented offense" does not include any offense identified in (1) or (2), above, that is a sexually violent offense. Rather, an offense identified in (1) or (2), above, that is a sexually violent offense is within the definition of a sexually oriented offense.

Legislative determinations and intent regarding SORN Law

Existing law

An existing provision of the SORN Law sets forth determinations, declarations, recognitions, and findings of the General Assembly regarding the purposes, intent, and basis of the SORN Law. Some of the determinations, declarations, recognitions, and findings apply regarding all sex offenders or offenders and delinquent children who commit "sexually oriented offenses," but many apply only regarding "sexual predators" and "habitual sex offenders" (see "***Definitions***," below, regarding the terms in quotation marks). (R.C. 2950.02.)

Operation of the bill

The bill changes the provision by modifying most of the determinations, declarations, recognitions, and findings of the General Assembly regarding the SORN Law that currently apply only regarding sexual predators and habitual sex offenders so that they instead apply regarding all sex offenders and child-victim offenders or offenders who commit sexually oriented offenses that are not registration-exempt sexually oriented offenses or child-victim oriented offenses, and by making a few other changes in the provisions. Under the bill, the provision states that the General Assembly hereby determines and declares that it recognizes and finds all of the following (R.C. 2950.02(A)):

(1) If the public is provided adequate notice and information about *offenders and delinquent children who commit sexually oriented offenses* that are not registration-exempt sexually oriented offenses or child-victim oriented offenses, members of the public and communities can develop constructive plans to prepare themselves and their children for the offender's or delinquent child's release from imprisonment, a prison term, or other confinement or detention (currently, this statement refers to sexual predators, habitual sex offenders, and certain other offenders and delinquent children who commit sexually oriented offenses). This allows members of the public and communities to meet with members of law enforcement agencies to prepare and obtain information about the rights and responsibilities of the public and the communities and to provide education and counseling to their children.

(2) *Sex offenders and offenders who commit child-victim oriented offenses* pose *a risk* of engaging in further *sexually abusive behavior* even after being

released from imprisonment, a prison term, or other confinement or detention, and protection of members of the public from *sex offenders and offenders who commit child-victim oriented offenses* is a paramount governmental interest (currently, this statement refers only to sexual predators and habitual sex offenders, and refers to the posing of a "*high* risk of engaging in *further offenses*").

(3) The penal, juvenile, and mental health components of the Ohio justice system are largely hidden from public view, and a lack of information from any component may result in the failure of the system to satisfy the paramount governmental interest of public safety described in (2), above (unchanged from existing law).

(4) Overly restrictive confidentiality and liability laws governing the release of information about *sex offenders and offenders who commit child-victim oriented offenses* have reduced the willingness to release information that could be appropriately released under the public disclosure laws and have increased risks of public safety (currently, this statement refers only to sexual predators and habitual sex offenders).

(5) A person found to be a *sex offender or to have committed a child-victim oriented offense* has a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government (currently, this statement refers only to sexual predators and habitual sex offenders).

(6) The release of information about *sex offenders and offenders who commit child-victim oriented offenses* to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal, juvenile, and mental health systems as long as the information released is rationally related to the furtherance of those goals (currently, this statement refers only to sexual predators and habitual sex offenders).

Under the bill, the provision also states that the General Assembly hereby declares that: (1) in providing in the SORN Law for registration regarding *offenders and certain delinquent children who have committed sexually oriented offenses that are not registration-exempt sexually oriented offenses or committed child-victim oriented offenses* (currently, this statement refers to sexual predators, habitual sex offenders, and offenders and delinquent children who have committed sexually oriented offenses) and for community notification regarding sexual predators, *child-victim predators*, habitual sex offenders, *and habitual child-victim offenders* (currently, this statement refers to sexual predators and habitual sex offenders) who are about to be or have been released from imprisonment, a prison term, or other confinement or detention and who will live in or near a particular neighborhood or who otherwise will live in or near a particular neighborhood, it is the General Assembly's intent to protect the safety and general welfare of the

people of Ohio, and (2) it is the policy of Ohio to require the exchange in accordance with the SORN Law of relevant information about *sex offenders and offenders who commit child-victim oriented offenses* among public agencies and officials and to authorize the release in accordance with that Law of necessary and relevant information about *sex offenders and offenders who commit child-victim oriented offenses* to members of the general public as a means of assuring public protection and that the exchange or release of that information is not punitive (currently, this statement refers only to sexual predators and habitual sex offenders). (R.C. 2950.02.)

Registration-exempt sexually oriented offenses

In general

The bill classifies certain sexually oriented offenses as "presumptive registration-exempt sexually oriented offense," establishes a mechanism by which a court may remove the presumptive exemption, and provides that, if a person is convicted of, pleads guilty to, or is adjudicated a delinquent child for a presumptive registration-exempt sexually oriented offense, unless a court removes the presumptive exemption, the offense is a "registration-exempt sexually oriented offense," an offender has no duty to register or any other duties under the SORN Law based on that offense, and a delinquent child cannot have the duty to register or any other duties under the SORN Law imposed based on that offense.

Presumptive registration-exempt sexually oriented offenses

Under the bill, "presumptive registration-exempt sexually oriented offense" means (subject to the exception described following (5), below) any sexually oriented offense described below, when the offense is committed by a person who previously has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing any sexually oriented offense described below, any other sexually oriented offense, or any child-victim oriented offense and when the victim or intended victim of the offense is 18 years of age or older (R.C. 2950.01(P)(1)):

(1) Any violation of R.C. 2907.06 (sexual imposition) or 2907.08 (voyeurism) when the victim of the offense is 18 years of age or older or any violation of R.C. 2903.211 (menacing by stalking) when the victim of the offense is 18 years of age or older and the offense is committed with a sexual motivation;

(2) Any violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, committed by a

person who is 18 years of age or older, that is or was substantially equivalent to any offense listed in (1), above;

(3) Subject to (5), below, any violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, committed by a person who is under 18 years of age, that is or was substantially equivalent to any offense listed in (1), above, and that would be a felony of the fourth degree if committed by an adult;

(4) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (1) or (2), above, if the person is 18 years of age or older or, subject to (5), below, listed in (1) or (3), above, if the person is under 18 years of age;

(5) Regarding an act committed by a person under 18 years of age, if the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any offense listed in (1), (2), or (4), above.

The bill specifies that "presumptive registration-exempt sexually oriented offense" does not include any sexually oriented offense described in paragraph (1), (2), (3), (4), or (5), above, that is committed by a person who previously has been convicted of, pleaded guilty, or adjudicated a delinquent child for committing any of those offenses or any other sexually oriented offense (R.C. 2950.01(P)(2)).

Judicial removal of the presumptive exemption

The bill provides that, if an offender is convicted of or pleads guilty to, or a child is adjudicated a delinquent child for committing, a presumptive registration-exempt sexually oriented offense, the court imposing sentence on the offender for that offense or the juvenile court making the disposition of the delinquent child for that offense may determine, prior to imposing the sentence or making the disposition, that the offender should be subjected to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are convicted of or plead guilty to any sexually oriented offense other than a presumptive registration-exempt sexually oriented offense, or that the child potentially should be subjected to classification as a juvenile offender registrant under the Delinquent Child Law and to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are adjudicated delinquent children for committing a sexually oriented offense other than a presumptive registration-exempt sexually oriented offense. The court may make this determination without a hearing but may conduct a hearing on the matter. In making this determination, the court must consider all relevant factors,

including, but not limited to, public safety, the interests of justice, and the determinations, findings, and declarations of the General Assembly regarding sex offenders and child-victim offenders that are set forth in R.C. 2950.02, as described above. (R.C. 2950.021(A) and R.C. 2152.811.)

If a court determines that an offender who has been convicted of or pleaded guilty to a presumptive registration-exempt sexually oriented offense should be subjected to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are convicted of or plead guilty to any sexually oriented offense other than a presumptive registration-exempt sexually oriented offense, or that a delinquent child potentially should be subjected to classification as a juvenile offender registrant under the Delinquent Child Law and to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are adjudicated delinquent children for committing a sexually oriented offense other than a presumptive registration-exempt sexually oriented offense, all of the following apply (R.C. 2950.021(B) and R.C. 2152.811):

(1) The court must issue an order that contains its determination and that removes the presumptive exemption from registration for the sexually oriented offense, must include the order in the offender's sentence or in the delinquent child's dispositional order, and shall enter the order in the record in the case.

(2) Regarding an offender, the presumptive exemption from registration is terminated, and the offender is subject to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are convicted of or plead guilty to any sexually oriented offense other than a presumptive registration-exempt sexually oriented offense.

(3) Regarding a delinquent child, the presumptive exemption from registration is terminated, the delinquent child is potentially subject to classification as a juvenile offender registrant under the Delinquent Child Law and to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are adjudicated delinquent children for committing a sexually oriented offense other than a presumptive registration-exempt sexually oriented offense, and the juvenile court must proceed as required and may proceed as authorized under R.C. 2152.82, 2152.83, 2152.84, and 2152.85 of the Delinquent Child Law regarding the child in the same manner as for persons who are adjudicated delinquent children for committing a sexually oriented offense other than a presumptive registration-exempt sexually oriented offense.

Registration-exempt sexually oriented offenses, and effect

The bill defines "registration-exempt sexually oriented offense" to mean any "presumptive registration-exempt sexually oriented offense," if a court does not issue an order that (1) removes the presumptive exemption and subjects the offender who was convicted of or pleaded guilty to the offense to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are convicted of or plead guilty to any sexually oriented offense other than a presumptive registration-exempt sexually oriented offense, or (2) removes the presumptive exemption and potentially subjects the child who was adjudicated a delinquent child for committing the offense to classification as a juvenile offender registrant under the Delinquent Child Law and to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are adjudicated delinquent children for committing a sexually oriented offense other than a presumptive registration-exempt sexually oriented offense. "Registration-exempt sexually oriented offense" does not include a presumptive registration-exempt sexually oriented offense if a court issues an order that removes the presumptive exemption and subjects the offender or potentially subjects the delinquent child to the duties and responsibilities described in the preceding sentence. (R.C. 2950.01(Q).)

Under various provisions of the bill (see "***Operation of the bill--no SORN Law duties for registration-exempt sexually oriented offenses***," below), a person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a sexually oriented offense that is a registration-exempt sexually oriented offense does not have any duty to register under the provision of the SORN Law that generally imposes registration duties (R.C. 2950.04), based on that conviction, guilty plea, or adjudication and, regarding a delinquent child, cannot be classified a juvenile offender registrant based on that adjudication (R.C. 2152.82(D), 2152.83(G), and 2950.04(A)(6)).

Duty under the SORN Law to register

Existing law

Existing law establishes the following duties to register a residence or temporary domicile address under the SORN Law and prohibits a person from failing to register in accordance with those duties (R.C. 2950.04(A) and (E); the penalties for violating the prohibition are discussed below in "***Criminal offense for failure to comply with a SORN Law duty***"):

(1) ***General registration duty of an offender***. It provides that each of the following types of offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense must 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*: (a) regardless of when the sexually oriented offense was committed, an offender who is sentenced for the offense to a prison term, term of imprisonment, or 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, (b) 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 clause (1)(a) does not apply, and (c) if the sexually oriented offense was committed prior to July 1, 1997, and neither clause (1)(a) nor (b) applies, an offender who, immediately prior to July 1, 1997, was a habitual sex offender required to register under former R.C. Chapter 2950. (R.C. 2950.04(A)(1)).

(2) ***General registration duty of a delinquent child***. It provides that each child who is adjudicated a delinquent child for committing a sexually oriented offense and who is classified a "juvenile sex offender registrant" (see "***Definitions***," below) based on that adjudication must register personally with the sheriff of the county *within seven days* of the child's coming into a county in which the child resides or temporarily is domiciled *for more than seven days*. If the delinquent child is committed for the sexually oriented offense to the Department of Youth Services (DYS) or to a secure facility not operated by DYS, this duty begins when the child is discharged or released in any manner from custody in a DYS secure facility or from the other secure facility, if pursuant to the discharge or release the child is not committed to any other secure facility. The delinquent child does not have a duty to register under this provision while the child is in a DYS secure facility or in a secure facility not operated by DYS (R.C. 2950.04(A)(2) and (5)).

(3) ***General registration duty of an offender or delinquent child who committed the offense in another jurisdiction***. It provides that, if neither (1) nor (2), above, applies, each offender or delinquent child in the following category must register personally with the sheriff of the county *within seven days* of the offender's or child's coming into a county in which the offender or child resides or temporarily is domiciled *for more than seven days*: (a) regardless of when the sexually oriented offense was committed, the person is convicted of, pleads guilty to, or adjudicated a delinquent child for committing a sexually oriented offense in another state or in a federal court, military court, or Indian tribal court, (b) on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or child moves to and resides in Ohio or temporarily is domiciled in Ohio *for more than seven days*, and (c) at the time the offender or child moves to and resides in Ohio or temporarily is domiciled in Ohio *for more than seven days*, the offender or child has a duty to register as a sex offender under the law of that other

jurisdiction as a result of the conviction, guilty plea, or adjudication (R.C. 2950.04(A)(3)(a)).

(4) ***General registration duty, upon release from confinement, of an offender or delinquent child who committed the offense in another jurisdiction***. It provides that, if neither (1) nor (2), above, applies, each offender or delinquent child in the following category must register personally with the sheriff of the county *within seven days* of the offender's or child's coming into a county in which the offender or child resides or temporarily is domiciled *for more than seven days*: (a) regardless of when the sexually oriented offense was committed, the person is convicted of, pleads guilty to, or adjudicated a delinquent child for committing a sexually oriented offense in another state or in a federal court, military court, or Indian tribal court, (b) on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or child is released from imprisonment, confinement, or detention imposed for that offense, and (c) on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or child moves to and resides in Ohio or temporarily is domiciled in Ohio *for more than seven days*. The duty to register under this paragraph applies to an offender regardless of whether the offender, at the time of moving to and residing in Ohio or temporarily being domiciled in Ohio *for more than seven days*, has a duty to register as a sex offender under the law of the other jurisdiction. The duty to register applies to a delinquent child only if the child, at the time of moving to and residing in Ohio or temporarily being domiciled in Ohio *for more than seven days*, has a duty to register as a sex offender under the law of the other jurisdiction 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 delinquent child as a juvenile sex offender registrant pursuant to R.C. 2152.82 or 2152.83(A). (R.C. 2950.04(A)(3)(b).)

(5) ***General registration duty of an offender adjudicated, after release from confinement, to be a sexual predator***. Each offender who has a duty to register imposed under clause (a) of (1), above, and who, subsequent to the offender's release, is adjudicated to be a sexual predator under R.C. 2950.09(C) must register *within seven days of the adjudication* with the sheriff of the county in which the offender resides or temporarily is domiciled *for more than seven days* and must register with the sheriff of any county in which the offender subsequently resides or temporarily is domiciled *for more than seven days within seven days of coming into that county* (R.C. 2950.04(A)(4)).

Operation of the bill--no SORN Law duties for registration-exempt sexually oriented offenses

The bill specifies that a person who is convicted of, pleads guilty, or is adjudicated a delinquent child for committing a sexually oriented offense that is a

registration-exempt sexually oriented offense (hereafter, a "registration-exempt offense") does not have any duty to register under the provision of the SORN Law that generally imposes registration duties (R.C. 2950.04), based on that conviction, guilty plea, or adjudication and, regarding a delinquent child, cannot be classified a juvenile offender registrant based on that adjudication. The exemption of an offender or delinquent child from registration under this provision for a conviction of, plea of guilty to, or delinquent child adjudication for a registration-exempt offense does not limit, affect, or supersede any duties imposed upon the offender or delinquent child under the SORN Law or R.C. 2152.82 to 2152.85 for a conviction of, plea of guilty to, or delinquent child adjudication for any other sexually oriented offense or any child-victim oriented offense. Because a person in these circumstances has no duty to register, the bill specifies that there is no duty to provide the offender any notice under the statute that generally provides for notice to offenders of their duties under the SORN Law. (R.C. 2152.82(D), 2152.83(G), 2950.04(A)(6), and R.C. 2950.03(A).)

Throughout the SORN Law and the Delinquent Child Law, the bill adds language that conforms the provisions of those Laws to the effect of the provisions described in the preceding two paragraphs and that exempts persons who are convicted of, plead guilty to, or are adjudicated a delinquent child for committing a sexually oriented offense that is a registration-exempt offense, from the imposition of duties under the SORN Law.

Operation of the bill--registration duties

The bill modifies the existing duties to register a residence or temporary domicile address under the SORN Law to require an offender or delinquent child with the duty to register to do so *within five days* (instead of within seven days) of coming into a county in which the offender or child resides or temporarily is domiciled *for more than five days* (instead of for more than seven days). And, regarding offenders, the bill expands the duties to register to also require registration of the address of a school or institution of higher education attended by an offender and, in certain circumstances, registration of the address of a place of employment of an offender. The bill also expands the category of persons who are subject to the registration duty based on a conviction or adjudication occurring in a court that is not an Ohio court, to include persons convicted in foreign countries. The existing prohibition against failing to comply with the registration duties, retained by the bill (R.C. 2950.04(E)), applies to a failure to comply with the duties as modified and expanded under the bill. Under the bill:

(1) ***General registration duty of an offender***. Each offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense that is not a registration-exempt offense and who is in any of the categories described in clause (a), (b), or (c) under the provision of

"***Existing Law***" described above in "(1) ***General registration duty of an offender***" must register personally with the sheriff of the county *within five days* of the offender's coming into a county in which the offender resides or temporarily is domiciled *for more than five days*. Additionally, under new duties added by the bill, each offender who is so convicted or pleads guilty and who is in any of those categories must register personally with the sheriff of the county immediately upon coming into a county in which the offender attends a "school" (see "***Definitions***," below) or institution of higher education on a full-time or part-time basis regardless of whether the offender resides or has a temporary domicile in Ohio or another state, must register personally with the sheriff of the county in which the offender is employed if the offender resides or has a temporary domicile in Ohio and has been employed in that county for more than 14 days or for an aggregate period of 30 or more days in that calendar year, must register personally with the sheriff of the county in which the offender then is employed if the offender does not reside or have a temporary domicile in Ohio and has been employed at any location or locations in Ohio for more than 14 days or for an aggregate period of 30 or more days in that calendar year, and must register with the sheriff or other appropriate person of the other state immediately upon entering into any state other than Ohio in which the offender attends a school or institution of higher education on a full-time or part-time basis or upon being employed in any state other than Ohio for more than 14 days or for an aggregate period of 30 or more days in that calendar year regardless of whether the offender resides or has temporary domicile in Ohio, the other state, or a different state (R.C. 2950.04(A)(1)).

(2) ***General registration duty of a delinquent child***. Each child who is adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt offense and who is classified a "juvenile offender registrant" (renamed by the bill, from "juvenile sex offender registrant,") based on that adjudication must register personally with the sheriff of the county *within five days* of the child's coming into a county in which the child resides or temporarily is domiciled *for more than five days*. The bill does not change the existing provisions regarding the commencement of the duty under this provision when the delinquent child is committed to DYS or to a secure facility not operated by DYS (R.C. 2950.04(A)(2) and (5)).

(3) ***General registration duty of an offender or delinquent child who committed the offense in another jurisdiction***. If neither (1) nor (2), above, applies, each offender or delinquent child in the following category must register personally with the sheriff of the county *within five days* of the offender's or child's coming into a county in which the offender or child resides or temporarily is domiciled *for more than five days*: (a) regardless of when the sexually oriented offense was committed, the person is convicted of, pleads guilty to, or adjudicated

a delinquent child in a court of another state, in a federal court, military court, or Indian tribal court, *or in a court in any nation other than the United States* for committing a sexually oriented offense that is not a registration-exempt offense, (b) on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or child moves to and resides in Ohio or temporarily is domiciled in Ohio *for more than five days*, and (c) at the time the offender or child moves to and resides in Ohio or temporarily is domiciled in Ohio *for more than five days*, the offender or child has a duty to register as a sex offender or child-victim offender under the law of that other jurisdiction as a result of the conviction, guilty plea, or adjudication.

Additionally, under new duties added by the bill, *each offender* in the following category must register personally with the sheriff of the county immediately upon coming into a county in which the offender attends a school or institution of higher education on a full-time or part-time basis regardless of whether the offender resides or has a temporary domicile in Ohio or another state, must register personally with the sheriff of the county in which the offender is employed if the offender resides or has a temporary domicile in Ohio and has been employed in that county for more than 14 days or for an aggregate period of 30 or more days in that calendar year, and must register personally with the sheriff of the county in which the offender then is employed if the offender does not reside or have a temporary domicile in Ohio and has been employed at any location or locations in Ohio for more than 14 days or for an aggregate period of 30 or more days in that calendar year: (a) the criterion described in clause (a) of the preceding paragraph applies to the offender, (b) on or after July 1, 1997, the offender enters Ohio to attend any school or institution of higher education on a full-time or part-time basis or the offender is employed in Ohio for more than 14 days or for an aggregate period of 30 or more days in any calendar year, and (c) at the time the offender enters Ohio to attend the school or institution of higher education or the offender is employed in Ohio for more than the specified period of time, the offender has a duty to register as a sex offender or child-victim offender under the law of that other jurisdiction as a result of the conviction, guilty plea, or adjudication. (R.C. 2950.04(A)(3)(a).)

(4) ***General registration duty, upon release from confinement, of an offender or delinquent child who committed the offense in another jurisdiction***. If neither (1) nor (2), above, applies, each offender or delinquent child in the following category must register personally with the sheriff of the county *within five days* of the offender's or child's coming into a county in which the offender or child resides or temporarily is domiciled *for more than five days*: (a) regardless of when the sexually oriented offense was committed, the person is convicted of, pleads guilty to, 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 United States for committing a sexually oriented offense that is not a registration-exempt offense, (b) on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or child is released from imprisonment, confinement, or detention imposed for that offense, and (c) on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or child moves to and resides in Ohio or temporarily is domiciled in Ohio *for more than five days*.

Additionally, under new duties added by the bill, *each offender* in the following category must register personally with the sheriff of the county immediately upon coming into a county in which the offender attends a school or institution of higher education on a full-time or part-time basis regardless of whether the offender resides or has a temporary domicile in Ohio or another state, must register personally with the sheriff of the county in which the offender is employed if the offender resides or has a temporary domicile in Ohio and has been employed in that county for more than 14 days or for an aggregate period of 30 or more days in that calendar year, and must register personally with the sheriff of the county in which the offender then is employed if the offender does not reside or have a temporary domicile in Ohio and has been employed at any location or locations in Ohio for more than 14 days or for an aggregate period of 30 or more days in that calendar year: (a) the criterion described in clause (a) of the preceding paragraph applies to the offender, (b) the criterion described in clause (b) of the preceding sentence applies to the offender, and (c) on or after July 1, 1997, the offender enters Ohio to attend any school or institution of higher education on a full-time or part-time basis or the offender is employed in Ohio for more than 14 days or for an aggregate period of 30 or more days in any calendar year.

The duty to register as described under the preceding two paragraphs applies to an offender regardless of whether the offender, at the time of moving to and residing in Ohio or temporarily being domiciled in Ohio *for more than five days*, at the time of entering into Ohio to attend the school or institution of higher education, or at the time of being employed in Ohio for the specified period of time, has a duty to register as a sex offender or child-victim offender under the law of the other jurisdiction. The duty to register applies to a delinquent child only if the child, at the time of moving to and residing in Ohio or temporarily being domiciled in Ohio *for more than five days*, is within either of the categories specified under existing law for application of the delinquent child registration duty. (R.C. 2950.04(A)(3)(b).)

(5) ***General registration duty of an offender adjudicated, after release from confinement, to be a sexual predator***. Each offender who has a duty to register imposed under clause (a) of (1), above, and who, subsequent to the offender's release, is adjudicated to be a sexual predator, must register *within five*

days of the adjudication with the sheriff of the county in which the offender resides or temporarily is domiciled *for more than five days* and must register with the sheriff of any county in which the offender subsequently resides or temporarily is domiciled *for more than five days within five days of coming into that county*. Additionally, under new duties added by the bill, each offender in that category must register within five days of the adjudication with the sheriff of the county in which the offender attends any school or institution of higher education on a full-time or part-time basis or in which the offender is employed if the offender has been employed in that county for more than 14 days or for an aggregate period of 30 or more days in that calendar year regardless of whether the offender resides or has temporary domicile in Ohio or another state. That offender also must register within five days of the adjudication with the sheriff or other appropriate person of any state other than Ohio in which the offender attends a school or institution of higher education on a full-time or part-time basis or in which the offender then is employed if the offender has been employed in that state for more than 14 days or for an aggregate period of 30 or more days in that calendar year regardless of whether the offender resides or has temporary domicile in Ohio, the other state, or a different state. (R.C. 2950.04(A)(4).)

(6) ***Comparable registration duties of a person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing, a child-victim oriented offense***. As stated above, the bill removes from the definition of "sexually oriented offense" certain offenses that currently are sexually oriented offenses, enacts a new term "child-victim oriented offense" that consists of those offenses removed from the definition of sexually oriented offense, and imposes registration duties (and, additionally, notice of intent to reside, change of address, and periodic address verification duties) for those persons convicted of or adjudicated a delinquent child for committing any of the child-victim oriented offenses that basically are the same as the duties described above, as modified by the bill, regarding sexually oriented offenses. (R.C. 2950.041(A).) As part of the imposition of the new duties, the bill includes transitional provisions for persons who currently have a duty to register based on a sexually oriented offense that the bill reclassifies as a child-victim oriented offense. Under the transitional provisions, it specifies that (R.C. 2950.041(A)(1)(c) and (2)(b) and R.C. 2950.04(H)):

(a) Regarding an offender, the bill specifies that, if the child-victim oriented offense was committed prior to the bill's effective date, if the offense was considered prior to that date to be a sexually oriented offense, if the offender is not being sentenced for the offense or released from confinement for the offense on or after the bill's effective date, and if the offender, immediately prior to the bill's effective date, was required to register as a result of conviction of or plea of guilty to the commission of that offense under R.C. 2950.04, the offender has the duty to

register, etc., under the SORN Law. For any offender described in this provision, the bill specifies that the duty imposed under the provision is considered, for purposes of R.C. 2950.07 and for all other purposes, to be a continuation of the duty imposed upon the offender prior to the bill's effective date under R.C. 2950.04.

(b) Regarding a delinquent child, if the child-victim oriented offense was committed prior to the bill's effective date, if the offense was considered prior to that date to be a sexually oriented offense, if the child is not adjudicated for the offense on or after the bill's effective date, and if the child, immediately prior to the bill's effective date, was classified a juvenile sex offender registrant and required to register as a result of a delinquent child adjudication for the commission of that offense under R.C. 2950.04, the child has the duty to register, etc., under the SORN Law. For any delinquent child described in this provision, the bill specifies that the duty imposed under the provision is considered, for purposes of R.C. 2950.07 and for all other purposes, to be a continuation of the duty imposed upon the delinquent child prior to the bill's effective date under R.C. 2950.04. If the child is committed for the child-victim oriented offense to DYS or to a secure facility not operated by DYS, the provisions of existing law regarding the beginning, and tolling, of a duty imposed on a delinquent child also apply regarding the beginning, and tolling, of the duty imposed under this provision.

SORN Law registration procedures, and sheriff's duties after registration

Existing law

Existing law provides that an offender or delinquent child who is required to register under the SORN Law, as described above, must personally obtain from the sheriff or from a designee of the sheriff a registration form, complete and sign the form, and return the completed form together with the offender's or child's photograph to the sheriff or the designee. The sheriff or designee has to sign the form and indicate on it the date on which it is returned. The registration is complete when the offender or child returns the form, containing the requisite information, photograph, signatures, and date, to the sheriff or designee. The registration form to be used must contain the current residence address of the offender or child who is registering, the name and address of the offender's or child's employer, if the offender or child is employed at the time of registration or knows at the time of registration that the offender or child will be commencing employment with that employer subsequent to registration, and any other information required by the Bureau of Criminal Identification and Investigation (BCII) and must include the offender's or child's photograph.

Additionally, if the offender or delinquent child has been adjudicated a sexual predator relative to the sexually oriented offense in question and the court

has not subsequently determined pursuant to R.C. 2950.09(D), 2152.84, or 2152.85 that the offender or delinquent child no longer is a sexual predator, or if the judge determined pursuant to R.C. 2950.09(C), 2152.82, 2152.83, 2152.84, or 2152.85 that the offender or delinquent child is a habitual sex offender and the determination has not been removed pursuant to R.C. 2152.84 or 2152.85, the offender or child must include on the signed, written registration form 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, and, if the offender or child has been adjudicated a sexual predator, the identification license plate number of each motor vehicle the offender or child owns and of each motor vehicle registered in the offender's or child's name.

After an offender or delinquent child registers with a sheriff, the sheriff must forward the signed, written registration form and photograph to BCII in accordance with specified forwarding procedures. BCII must include the information and materials so forwarded to it in the State Registry of Sex Offenders (see "***Duties of the Attorney General***," below). (R.C. 2950.04(B) to (D).)

Operation of the bill

The bill retains the existing registration procedures regarding sexually oriented offenses, as described above, but it modifies the registration form that must be used and the duties of a sheriff after registration (R.C. 2950.04(B)). Under the bill, the registration form to be used must include the photograph of the offender or delinquent child who is registering and must contain all of the following (R.C. 2950.04(C)):

(1) Regarding an offender or delinquent child who is registering under a duty as a result of the offender or child residing in Ohio or temporarily being domiciled in Ohio for more than five days, all of the information that existing law requires to be on a registration form, plus the name and address of the offender's school or institution of higher education if the offender attends one at the time of registration or if the offender knows at the time of registration that the offender will be commencing attendance at that school or institution subsequent to registration and, as under existing law, any other information required by BCII.

(2) Regarding an offender who is registering under a new duty imposed under the bill as a result of the offender attending a school or institution of higher education in Ohio on a full-time or part-time basis or being employed in Ohio or in a particular county in Ohio, whichever is applicable, for more than 14 days or for an aggregate of 30 or more days in any calendar year, the current address of the school, institution of higher education, or place of employment of the offender who is registering and any other information required by BCII.

(3) Regarding an offender or delinquent child who is registering under a duty for any reason, if the offender has been adjudicated a sexual predator relative to the sexually oriented offense in question, if the delinquent child has been adjudicated a sexual predator relative to the sexually oriented offense in question and the court has not subsequently determined that the delinquent child no longer is a sexual predator, if as under existing law the judge determined that the offender or delinquent child is a habitual sex offender and the determination has not been removed, or if the offender has the duty to register as a result of the conviction of or plea of guilty to an aggravated sexually oriented offense, the offender or child also must include on the signed, written registration form a specific declaration that the person has been adjudicated a sexual predator, has been determined to be a habitual sex offender, or was convicted of or pleaded guilty to an aggravated sexually oriented offense, whichever is applicable, and as under existing law, if the offender or child has been adjudicated a sexual predator, the identification license plate number of the specified motor vehicles.

The bill retains the provision that requires the sheriff to forward the registration form and photograph to BCII, but expands the provision to specify that, if the offender registers a school, institution of higher education, or place of employment address, or provides a school or institution of higher education address as described in paragraph (1), above, the sheriff also must provide notice to the law enforcement agency with jurisdiction over the premises of the school, institution of higher education, or place of employment of the offender's name and that the offender has registered that address as a place at which the offender attends school or an institution of higher education or at which the offender is employed. As under existing law, BCII must include the information and materials so forwarded to it in the State Registry of Sex Offenders (renamed by the bill as the State Registry of Sex Offenders and Child-Victim Offenders). (R.C. 2950.04(D).)

The bill enacts similar provisions regarding registration duties and the sheriff's duties after registration that apply regarding the new registration duties it imposes upon a person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing, a child-victim oriented offense (R.C. 2950.041(B) to (D)).

Duty under the SORN Law to provide notice of intent to reside

Existing law

Existing law provides that, if an offender or delinquent child who is required to register under the SORN Law is adjudicated a sexual predator or a habitual sexual offender subject to community notification under R.C. 2950.09(C)(2) or (E), or if an offender who is required to register under the SORN

Law has that duty as a result of a conviction of or plea of guilty to an aggravated sexually oriented offense committed on or after June 13, 2002, the offender or child also must send the sheriff of the county in which the offender or child intends to reside written notice of the offender's or child's intent to reside in the county. The offender or delinquent child must send the notice of intent to reside at least 20 days prior to the date the offender or child begins to reside in the county.

The notice of intent to reside must contain the following information: (1) the offender's or child's name, (2) the address or addresses at which he or she intends to reside, (3) the sexually oriented offense of which the offender was convicted, to which the offender pleaded guilty, or for which the child was adjudicated a delinquent child, and (4) a statement that the offender or child has been adjudicated a sexual predator and that, as of the date of the notice, the court has not entered a determination that the offender or child no longer is a sexual predator, a statement that the sentencing or reviewing judge has determined that the offender or child is a habitual sex offender and that, as of the date of the notice, the determination has not been removed, or a statement that the offender was convicted of or pleaded guilty to an aggravated sexually oriented offense committed on or after June 13, 2002. (R.C. 2950.04(G).)

Existing law does not contain a prohibition against failing to comply with this duty or a penalty for failing to comply with it and does not clearly provide for any notice to any offender or delinquent child that the offender or child has the duty.

Operation of the bill

The bill retains this duty to provide notice of intent to reside, but modifies its provisions, and certain provisions that are related to it, as follows:

(1) It expands the definition of "aggravated sexually oriented offense" (see "***Definitions***," below) and, as a result, expands the category of persons who are subject to the requirement to also include persons convicted of the offense of "rape" who purposely compelled the victim to submit by force or threat of force (R.C. 2950.01(O) and 2950.04(G)).

(2) It rewords numerous provisions of existing law that pertain to notices that must be given to offenders convicted of a sexually oriented offense and delinquent children who are found to have committed a juvenile category sexually oriented offense and classified as juvenile sex offender registrants to inform them of their "duty to register under R.C. 2950.04" so that the provisions instead refer to the notice informing them of their "duties under R.C. 2950.04." Since the duty to provide notice of intent to reside is a duty set forth in R.C. 2950.04(G), the new language thus requires the notice to inform the offender or delinquent child of this

duty, as well as all other duties under R.C. 2950.04 (i.e., the duty to register). It makes similar changes in other sections that refer to the "duty to register imposed under R.C. 2950.04" and that, because of the context, might be construed as implying that the only duty under the section is that of registering. (R.C. 2152.82(A), 2152.83(A), 2152.84(A)(1), (A)(2)(e), and (A)(2)(f), 2152.85(A)(2) and (3), 2929.13(I), 2929.21(I), 2950.01(J), 2950.03(A) and (B)(1), and 2950.13(A)(4)).

(3) It specifically prohibits an offender or delinquent child who is required to send a notice of intent to reside from failing to send the notice (R.C. 2950.04(E)). The penalties for violating the prohibition are discussed below in "***Criminal offense for failure to comply with a SORN Law duty***."

(4) It modifies the required content of the notice, regarding sexual predators, to reflect the bill's elimination, described elsewhere (see "***Removal of sexual predator classification, in general***," below), of the authority for an offender who is adjudicated a sexual predator to have that classification removed in certain circumstances (R.C. 2950.04(G)(4)).

(5) It enacts similar provisions that specify that a person who has a duty to register based on a conviction of, plea of guilty to, or delinquent child adjudication for a child-victim oriented offense and who is adjudicated a child-victim predator or a habitual child-victim offender who is subjected to community notification, the person must give a notice of intent to reside, in accordance with the same criteria and guidelines that apply regarding sexual predators, habitual sex offenders subjected to community notification, and persons convicted of aggravated sexually oriented offenses, as modified by the bill (R.C. 2950.041(G)).

(6) It amends the portion of the offense of "contributing to the unruliness or delinquency of a child" that prohibits a parent, guardian, or custodian of a child from failing to ensure that the child complies with any duties the child has under the SORN Law to include a reference to the duty to provide a notice of intent to reside, if applicable (R.C. 2919.24).

Duty under the SORN Law to provide notice of a change in address and register the new address, and related provisions

Existing law

Existing law establishes duties of notification and re-registration for an offender or delinquent child who has registered a residence or temporary domicile address under the SORN Law and changes that address and prohibits a person from failing to provide the notice or failing to re-register in accordance with those duties (the penalties for violating the prohibition are discussed below in "***Criminal***

offense for failure to comply with a SORN Law duty"). Under existing law: (1) if an offender or delinquent child is required to register under the SORN Law, the offender or delinquent child, at least 20 days prior to changing the offender's or child's residence address during the period during which the offender or child is required to register, must provide written notice of the residence address change to the sheriff with whom the offender or child most recently registered, and (2) if an offender or delinquent child is required to provide notice of a residence address change, the offender or child, at least 20 days prior to changing the residence address, also must register the new residence address (see "***SORN Law registration procedures, and sheriff's duties after registration***," above) with the sheriff of the county in which the offender's or child's new residence address is located, subject to the provision described in the next paragraph.

The duties described in the preceding paragraph apply to a person who is required to register regardless of whether the new residence address is in Ohio or in another state. If the new residence address is in another state, the person must register with the appropriate law enforcement officials in that state in the manner required under the law of that state and within the earlier of the period of time required under the law of that state or at least seven days prior to changing the residence address.

Upon receiving from an offender or delinquent child notice of a change of the offender's or child's residence address, as described above, a sheriff promptly must forward the new residence address to BCII in accordance with specified forwarding procedures if the new residence address is in another state or, if the offender's or child'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 under this provision in the State Registry of Sex Offenders (see "***Duties of the Attorney General***," below) and must forward notice of the offender's or delinquent child's new residence address to the appropriate officials in the other state. When an offender or delinquent child registers a new residence address as described above, the sheriff with whom the offender or child registers and BCII must comply with the duties regarding initial registration. (R.C. 2950.05.)

Operation of the bill

The bill retains the existing SORN Law duties regarding notification of a change in residence or temporary domicile address and registration of the new address, but it modifies the duties so that they also refer to a person who has registered an address based upon a conviction, guilty plea, or delinquent child adjudication for a child-victim oriented offense, and expands the duties to also make them apply to an offender who has registered a school, institution of higher education, or place of employment address under the bill, as described above in "***Duty under the SORN Law to register***," and changes that address. Under the

bill: (1) if an offender or delinquent child is required to register under the SORN Law (either based on a sexually oriented offense or a child-victim oriented offense), the offender or delinquent child, at least 20 days prior to changing the offender's or child's residence address, or the offender, at least 20 days prior to changing the address of the offender's school or institution of higher education and not later than five days after changing the address of the offender's place of employment, during the period during which the offender or child is required to register, must provide written notice of the residence, school, institution of higher education, or place of employment address change, as applicable, to the sheriff with whom the offender or child most recently registered the address, and (2) if an offender is required to provide notice of a residence, school, institution of higher education, or place of employment address change, or if a delinquent child is required to provide notice of a residence address change, the offender or child, at least 20 days prior to changing the residence, school, or institution of higher education address and not later than five days after changing the place of employment address, as applicable, also must register the new address (see "***SORN Law registration procedures, and sheriff's duties after registration***," above) with the sheriff of the county in which the offender's or child's new address is located, subject to the provision described in the next paragraph.

The duties described in the preceding paragraph apply to a person who is required to register pursuant to R.C. 2950.04 or 2950.041 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.

Upon receiving from an offender or delinquent child notice of a change of the offender's residence, school, institution of higher education, or place of employment address or the delinquent child's residence address, as described above, a sheriff promptly must forward the new address to BCII in accordance with specified forwarding procedures if the new address is in another state or, if the new address is located in another county in Ohio, to the sheriff of that county. As under existing law, BCII must include all information forwarded to it under this provision in the State Registry of Sex Offenders (renamed by the bill as the State Registry of Sex Offenders and Child-Victim Offenders) and must forward notice of the offender's or delinquent child's new residence, school, institution of higher education, or place of employment address, as applicable, to the appropriate officials in the other state. When an offender or delinquent child registers a new residence, school, institution of higher education, or place of employment address as described above, the sheriff with whom the offender or child registers and BCII

must comply with the duties imposed under R.C. 2950.04(D) or 2950.041(D) regarding initial registration. (R.C. 2950.05.)

Duty under the SORN Law to periodically verify a registered address

Existing law

Existing law establishes a duty for an offender or delinquent child who has registered a residence or temporary domicile address under the SORN Law to periodically verify that address, and it prohibits a person from failing to verify the address in accordance with that duty (the penalties for violating the prohibition are discussed below in "***Criminal offense for failure to comply with a SORN Law duty***"). Under existing law, an offender or delinquent child who is required to register pursuant to the SORN Law must periodically verify the offender's or child's current residence address at the times specified in (1) and (2), below, and in the manner described below in "***SORN Law address verification procedures, and sheriff's duties after verification***." The frequency with which the offender or child must verify the offender's or child's current residence address pursuant to this provision is determined as follows:

(1) Regardless of when the sexually oriented offense for which the offender or delinquent child is required to register was committed, if the offender or child has been adjudicated a sexual predator relative to the sexually oriented offense and the court has not subsequently entered a determination that the offender or delinquent child no longer is a sexual predator, or if the offender is required to register as a result of an aggravated sexually oriented offense committed on or after June 13, 2002, the offender or child must verify the offender's or child's current residence address in accordance with the specified procedures every 90 days after the offender's or child's initial registration date during the period the offender or child is required to register.

(2) In all circumstances not described in (1), the offender or delinquent child must verify the offender's or child's current residence address in accordance with the specified procedures on each anniversary of the offender's or child's initial registration date during the period the offender or delinquent child is required to register. (R.C. 2950.06(A) and (B).)

Operation of the bill

The bill retains the existing SORN Law duty regarding verification of a registered residence or temporary domicile address, but it modifies the duties so that they also refer to a person who has registered an address based on a conviction, guilty plea, or delinquent child adjudication for a child-victim oriented offense and expands the duty to also make it apply to an offender who has

registered a school, institution of higher education, or place of employment address under the bill, as described above in "***Duty under the SORN Law to register***," and modifies a few provisions of the duty to conform to other changes the bill makes.

Under the bill, an offender or delinquent child who is required to register a residence address pursuant to the SORN Law (either based on a sexually oriented offense or a child-victim oriented offense) must periodically verify the offender's or child's current residence address, and an offender who is required to register a school, institution of higher education, or place of employment address pursuant to the new duties enacted in the bill must periodically verify the address of the offender's current school, institution of higher education, or place of employment, at the times specified in (1) and (2), below, and in the manner described below in "***SORN Law address verification procedures, and sheriff's duties after verification***." The frequency with which the offender or child must verify the offender's or child's current residence school, institution of higher education, or place of employment address pursuant to this provision is determined as follows:

(1) Regardless of when the sexually oriented offense or child-victim oriented offense for which the offender or delinquent child is required to register was committed, if the offender has been adjudicated a sexual predator relative to the sexually oriented offense, if the delinquent child has been adjudicated a sexual predator relative to the sexually oriented offense and the court has not subsequently entered a determination that the child no longer is a sexual predator, if the offender is required to register as a result of an aggravated sexually oriented offense, if the offender has been adjudicated a child-victim predator relative to the child-victim oriented offense, or if the delinquent child has been adjudicated a child-victim predator relative to the child-victim oriented offense and the court has not subsequently entered a determination that the child no longer is a child-victim predator, the offender must verify the offender's current residence or current school, institution of higher education, or place of employment address, and the child must verify the child's current residence address, in accordance with the specified procedures every 90 days after the offender's or child's initial registration date during the period the offender or child is required to register. In addition to expanding this provision to cover an offender's school, institution of higher education, or place of employment address, these changes also: (a) reflect the bill's expansion of the definition of "aggravated sexually oriented offense" (see "***Definitions***," below) and, as a result, to expand the category of persons who are subject to the "every 90 day verification" requirement to also include persons convicted of the offense of "rape" who purposely compelled the victim to submit by force or threat of force, and (b) reflect the bill's elimination, described elsewhere (see "***Removal of sexual predator classification, in general***," below),

of the authority for an offender who is adjudicated a sexual predator to have that classification removed in certain circumstances.

(2) In all circumstances not described in (1), the offender must verify the offender's current residence or current school, institution of higher education, or place of employment address, and the child must verify the child's current residence address, in accordance with the specified procedures on each anniversary of the offender's or child's initial registration date during the period the offender or delinquent child is required to register.

(3) If, prior to the bill's effective date, an offender or delinquent registered with a sheriff under a duty imposed under R.C. 2950.04 as a result of a conviction of, plea of guilty to, or adjudication as a delinquent child for committing a sexually oriented offense and if, on or after the bill's effective date, that offense no longer is a sexually oriented offense but instead is designated a child-victim oriented offense, the duty to register imposed on the offender or delinquent child pursuant to R.C. 2950.041 is a continuation of the duty imposed upon the offender prior to the bill's effective date under R.C. 2950.04 and, for purposes of (1) and (2), above, the offender's initial registration date related to that offense is the date on which the offender initially registered under R.C. 2950.04. (R.C. 2950.06(A) and (B).)

SORN Law address verification procedures, and sheriff's duties after verification

Existing law

Existing law provides that an offender or delinquent child who is required to verify the offender's or child's current residence address pursuant to the SORN Law, as described above in "***Duty under the SORN Law to periodically verify a registered address***," must verify the address with the sheriff with whom the offender or child most recently registered by personally appearing before the sheriff or a designee of the sheriff, no earlier than ten days before the date on which the verification is required as described above and no later than the date so required for verification, and completing and signing a copy of the verification form prescribed by BCII. The sheriff or designee must sign the completed form and indicate on the form the date on which it is so completed, and the verification is complete when the offender or child personally appears before the sheriff or designee and completes and signs the form.

To facilitate the verification of an offender's or delinquent child's current residence address, the sheriff with whom the offender or child most recently registered may mail a nonforwardable verification form prescribed by BCII to the offender's or child's last reported address and to the last reported address of the

parents of the delinquent child, with a notice that conspicuously states that the offender or child must personally appear before the sheriff or 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 or delinquent child and that child's parents, each offender or delinquent child who is required to verify the offender's or child's current residence address under the duty described above must personally appear before the sheriff or a designee of the sheriff to verify the address as described in the preceding paragraph.

The verification form to be used to verify an address must contain the current residence address of the offender or delinquent child, the name and address of the offender's or child's employer if the offender or child is employed at the time of verification or knows at the time of verification that he or she will be commencing employment with that employer subsequent to verification, and any other information required by BCII. Upon an offender's or delinquent child's personal appearance and completion of a verification form as described above, a sheriff promptly must forward a copy of the verification form to BCII in accordance with specified forwarding procedures. BCII must include all information forwarded to it under this provision in the State Registry of Sex Offenders (see "***Duties of the Attorney General***," below).

If an offender or delinquent child fails to verify a current residence address as described above by the date required for the verification, the sheriff with whom the offender or child is required to verify the address, on the day following that date required for the verification, must send a written warning to the offender or to the child and that child's parents, at the offender's or child's and that child's parents' last known residence address, regarding the offender's or child's duty to verify the offender's or child's current residence address. The written warning must do all of the following: (1) identify the sheriff who sends it and the date on which it is sent, (2) state conspicuously that the offender or child has failed to verify his or her current residence address by the date required for the verification, (3) conspicuously state that the offender or child has seven days from the date on which the warning is sent to verify the current residence address with the sheriff who sent the warning, and that a failure to timely verify the current residence address is a felony offense, (4) conspicuously state that, if the offender or child verifies the current residence address with that sheriff within that seven-day-period, the offender or child will not be prosecuted or subjected to a delinquent child proceeding for a failure to timely verify a current residence address, and the child's parent, guardian, or custodian will not be prosecuted based on a failure of the child to timely verify an address, and (5) conspicuously state that, if the offender or child does not verify the current residence address with that sheriff within that seven-day-period, the offender or child will be arrested or taken into custody, as appropriate, and prosecuted or subjected to a delinquent child

proceeding for a failure to timely verify a current residence address, and the child's parent, guardian, or custodian may be prosecuted for a violation of R.C. 2919.24 based on the child's failure to timely verify a current residence address.

If an offender or delinquent child fails to verify a current residence address as described above by the date required for the verification, the offender or child cannot be prosecuted or subjected to a delinquent child proceeding for a violation of the prohibition against failing to timely verify a current residence address, and the child's parent, guardian, or custodian cannot be prosecuted for a violation of R.C. 2919.24 based on the child's failure, unless the seven-day-period subsequent to that date that the offender or child is provided under the provision described in the preceding paragraph to verify the current residence address has expired, and the offender or child, prior to the expiration of that seven-day-period, has not verified the current residence address. Upon the expiration of that seven-day-period, if the offender or delinquent child has not verified the current residence address, all of the following apply: (1) the sheriff with whom the offender or child is required to verify the current residence address promptly must notify BCII of the failure, (2) the sheriff with whom the offender or child is required to verify the current residence address, the sheriff of the county in which the offender or child resides, or a deputy of the appropriate sheriff, must locate the offender or child, promptly must seek a warrant for the arrest or taking into custody, as appropriate, of the offender or child for the violation of the prohibition, and must arrest the offender or take the child into custody, as appropriate, and (3) the offender or child is subject to prosecution or a delinquent child proceeding for the violation of the prohibition, and the child's parent, guardian, or custodian may be subject to prosecution for a violation of R.C. 2919.24 based on the child's violation. (R.C. 2950.06(C), (D), (E), and (G).)

Operation of the bill

The bill retains the general address verification procedures of existing law, as described above, but adds references in the procedures to an offender who is verifying a school, institution of higher education, or place of employment address under the new verification duty imposed under the bill. Thus, under the bill, the procedures also will apply regarding the verification by an offender of such an address. (R.C. 2950.06(C).)

Additionally, the bill modifies the verification form that must be used, the duties of a sheriff after completion of verification, the duties of a sheriff if an offender or delinquent child fails to complete verification, and the rules governing the authority to prosecute for such a failure, to conform the provisions to the new duty it imposes. Under the bill:

(1) Except as described in the next sentence, the verification form to be used to verify an address must contain the current residence address of the offender or delinquent child, the name and address of the offender's or child's employer if the offender or child is employed at the time of verification or knows at the time of verification that he or she will be commencing employment with that employer subsequent to verification, the name and address of the offender's school or institution of higher education if the offender attends one at the time of verification or knows at the time of verification that he or she will be commencing attendance at that school or institution subsequent to verification, and any other information required by BCII. Regarding an offender who is verifying a current school, institution of higher education, or place of employment address, the verification form to be used must contain the current address of the school, institution of higher education, or place of employment of the offender and any other information required by BCII. (R.C. 2950.06(D).)

(2) Upon an offender's or delinquent child's personal appearance and completion of a verification form as described above, a sheriff promptly must forward a copy of the verification form to BCII in accordance with specified forwarding procedures. If an offender verifies a school, institution of higher education, or place of employment address, or provides a school or institution of higher education address under (1), above, the sheriff also must provide notice to the law enforcement agency with jurisdiction over the premises of the school, institution of higher education, or place of employment of the offender's name and that the offender has verified that address as a place at which the offender attends school or an institution of higher education or at which the offender is employed. As under existing law, BCII must include all information forwarded to it under this provision in the State Registry of Sex Offenders (renamed by the bill as the State Registry of Sex Offenders and Child-Victim Offenders). (R.C. 2950.06(E).)

(3) Regarding the duties of a sheriff if an offender or delinquent child fails to complete verification and the rules governing the authority to prosecute for such a failure, the bill generally retains the duties and rules prescribed under existing law, as described above, but adds references in the duties and rules to an offender who fails to verify a school, institution of higher education, or place of employment address as required under the new verification duty imposed under the bill. Also, the bill expands the list of law enforcement officers who may arrest an offender or delinquent child who fails to complete verification during the seven-day period provided in the sheriff's written warning to the offender or child, so that, under the bill, the sheriff with whom the offender or child is required to verify the current residence, school, institution of higher education, or place of employment address, as applicable, the sheriff of the county in which the offender or child resides, the sheriff of the county in which is located the offender's school, institution of higher education, or place of employment, or a deputy of the

appropriate sheriff, must locate the offender or child, promptly must seek a warrant for the arrest or taking into custody, as appropriate, of the offender or child for the violation of the prohibition, and must arrest the offender or take the child into custody, as appropriate. (R.C. 2950.06(G).)

Notification of SORN Law duties

Notice requirement

Existing law. Existing law provides that each person who is or has been convicted of, or pleads or has pleaded guilty to, a sexually oriented offense and who has a duty to register pursuant to the SORN Law, and each person who is adjudicated a delinquent child for committing a sexually oriented offense and who is classified pursuant to the Delinquent Child Law a juvenile sex offender registrant based on that adjudication, must be provided notice as described below of the offender's or child's duty to register under the provisions described above in "***Duty under the SORN Law to register***," the offender's or child's duty to provide notice of any change in residence address and to register the new residence address under the provisions described above in "***Duty under the SORN Law to provide notice of a change in address and register the new address, and related provisions***," and the offender's or child's duty to periodically verify the offender's or child's residence address under the provisions described above in "***Duty under the SORN Law to periodically verify a registered address***." The following official must provide the notice to the offender or delinquent child at the following time:

(1) Regardless of when the offender committed the sexually oriented offense, if the person is 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 if, on or after January 1, 1997, the offender is serving that term or is under that confinement, the official in charge of the jail, workhouse, state correctional institution, or other institution where the offender serves the term or confinement, or a designee of that official, must provide the notice to the offender before the offender is released in any manner from the term or confinement.

(2) Regardless of when the offender committed the sexually oriented offense, if the person is an offender who is sentenced for the sexually oriented offense on or after January 1, 1997, and if (1), above, does not apply, the judge must provide the notice to the offender at the time of sentencing.

(3) If the person is an offender who committed the sexually oriented offense prior to January 1, 1997, if neither (1) nor (2), above, applies, and if, immediately prior to January 1, 1997, the offender was a habitual sex offender who was required to register under former R.C. Chapter 2950., the chief of police

or sheriff with whom the offender most recently registered under that Chapter must provide the notice to the offender as described in this paragraph. If the offender registered with a chief of police or sheriff pre-January 1, 1997, R.C. Chapter 2950., the chief or sheriff with whom the offender most recently registered must provide the notice to the offender as soon as possible after January 1, 1997. If the offender did not register with a chief of police or sheriff under that Chapter, the failure to register constitutes a waiver by the offender of any right to the notice. If an offender described in this paragraph does not receive the notice, the offender is not relieved of the duty to register, the duty to provide notice of any change in residence address and to register the new address, and the duty to periodically verify the residence address.

(4) If the person is an offender of the type described in (1), above, and if, subsequent to release, the offender is adjudicated a sexual predator under R.C. 2950.09(C), the judge must provide the notice to the offender at the time of adjudication.

(5) If the person is a delinquent child who is classified pursuant to the Delinquent Child Law a juvenile sex offender registrant, the judge must provide the notice to the delinquent child at the time of the classification. (R.C. 2950.03(A).)

Operation of the bill. The bill modifies the general purpose of the notice that must be given to the specified offenders and delinquent children in three ways: (1) first, the bill modifies the notice-related provisions to include references in the provisions to a person who has a duty to register based on a conviction of, plea of guilty to, or delinquent child adjudication for a child-victim oriented offense, (2) second, instead of the notice informing the offender or child specifically of his or her duties to register, to provide notice of any change in residence address and to register the new residence address, and to periodically verify the offender's or child's residence address, the bill requires instead that the notice must inform the offender or delinquent child of his or her "duties imposed under R.C. 2950.04, 2950.041, 2950.05, and 2950.06," and (3) third, the bill requires that the notice provided to an offender also inform the offender of his or her duties to similarly register, provide notice of a change, and verify addresses in a state other than Ohio if the offender resides, is temporarily domiciled, attends a school or institution of higher education, or is employed in a state other than Ohio (R.C. 2950.03(A)). As a result of the first change, all duties included within any of the three cited sections, and not just the specifically identified registration, change of address, and address verification duties, are within the scope of the provision. Thus, the duty to provide notice of intent to reside that existing R.C. 2950.04(G) and 2950.041(G) impose on certain offenders and delinquent children (see "***Duty under the SORN Law to provide notice of intent to reside***," above) is

within the scope of the provision, and the notice provided to an offender or child must inform the offender or child of that duty, if relevant.

Regarding the provisions that identify the official who is to provide the notice to the offender or delinquent child and the time at which it must be provided, the bill does all of the following things:

(1) It modifies the existing provision that applies to the provision of notice to a delinquent child to clarify that the notice must be provided to the child at the time specified in the provision of the Delinquent Child Law under which the child was classified a juvenile offender registrant. Related to this existing provision, the bill specifies that, if a delinquent child was provided notice under the provision prior to its effective date in relation to an offense that, prior to its effective date, was a sexually oriented offense but that, on and after its effective date, is a child-victim oriented offense, the notice so provided under this provision suffices for purposes of the notification requirements as notice to the delinquent child of the delinquent child's duties under R.C. 2950.041, 2950.05, and 2950.06 imposed as a result of the adjudication as a delinquent child for the child-victim oriented offense. (R.C. 2950.03(A)(5).)

(2) It retains, with technical changes, the existing provisions that identify the official who is to provide the notice to an offender, and expands the provisions to include "transitional" language regarding notices formerly given to persons who committed sexually oriented offenses that are "transferred" under the bill as child-victim oriented offenses. On this matter, the bill does the following:

(a) In the provision pertaining to notice by an official of a correctional institution prior to an offender's release, it specifies that the provision applies regarding a child-victim oriented offense if the offender is sentenced for the offense on or after the bill's effective date or if, prior to the bill's effective date, the child-victim oriented offense was a sexually oriented offense and the offender was sentenced as described in the existing provision for the child-victim oriented offense when it was designated a sexually oriented offense. Also, if a person was provided notice under this provision prior to the bill's effective date in relation to an offense that, prior to the bill's effective date, was a sexually oriented offense but that, on and after the bill's effective date, is a child-victim oriented offense, the notice provided under the provision suffices for purposes of the notification requirements as notice to the offender of the offender's duties under R.C. 2950.041, 2950.05, and 2950.06 imposed as a result of the conviction of or plea of guilty to the child-victim oriented offense.

(b) In the provision pertaining to notice by a judge at the time of an offender's sentencing, it specifies that, if a person was provided notice under the provision prior to the bill's effective date in relation to an offense that, prior to the

bill's effective date, was a sexually oriented offense but that, on and after the bill's effective date, is a child-victim oriented offense, the notice so provided under the provision suffices for purposes of the notification requirements as notice to the offender of the offender's duties under R.C. 2950.041, 2950.05, and 2950.06 imposed as a result of the conviction of or plea of guilty to the child-victim oriented offense. (R.C. 2950.03(A)(1) to (4).)

(3) It adds a new provision that governs the provision of notice to offenders regarding the new registration, change of address, and address verification duties the bill enacts for school, institution of higher education, and place of employment addresses. Under the bill, if the person is an offender who is to be provided notice under any existing provision identified in (2), above, as modified by the bill, and if, prior to the bill's effective date, the offender was provided notice of the offender's duties in accordance with the applicable provision, not later than 90 days after the bill's effective date, the sheriff with whom the offender most recently registered or verified an address must provide notice to the offender of his or her duties imposed on and after the bill's effective date to register a school, institution of higher education, or place of employment address, provide notice of a change of that address, and verify that address. The sheriff may provide the notice to the offender at the time the offender registers, provides notice of a change in, or verifies a residence, school, institution of higher education, or place of employment address within the specified 90-day period. If the offender does not so register, provide notice of a change in, or verify an address within the specified 90-day period, the sheriff must provide the notice to the offender by sending it to the offender at the most recent residence address available for the offender. If the offender was required to register prior to the bill's effective date and failed to do so, the failure to register constitutes a waiver by the offender of any right to notice as described in this paragraph. If the offender has not registered prior to the bill's effective date, the offender is presumed to have knowledge of the law and of the duties referred to in this paragraph that are imposed on and after the bill's effective date. If an offender does not receive notice under this paragraph, the offender is not relieved of any of the duties described in this paragraph. (R.C. 2950.03(A)(6).)

(4) It also adds a new provision regarding the provision of notice to offenders and delinquent children who commit their sexually oriented offense or child-victim oriented offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States and who have a duty to register in Ohio. Under the bill, if the person is an offender or delinquent child who has a duty to register in Ohio pursuant to that provision, the offender or child is presumed to have knowledge of the law and of the offender's or child's duties under Ohio's SORN Law. (R.C. 2950.03(A)(7).)

Content of the notice

Existing law. Under existing law, the notice to be provided as described above must inform the offender or delinquent child of the duty to register, to notify the appropriate officials of a change in the offender's or child's residence address and register the new residence address, and to periodically verify a residence address. The notice must comport with the following (R.C. 2950.03(B)(1)):

(1) If it is provided to an offender required to register under former R.C. Chapter 2950., it must be on a form prescribed by BCII, stating the offender's duties to register, to register a new residence address, and to periodically verify a residence address and that, if the offender has any questions concerning the duties, the offender may contact the chief of police or sheriff who sent the form for an explanation of the duties. If the offender appears in person before the chief or sheriff, the chief or sheriff must provide the notice as described in this paragraph, and all provisions that apply regarding a notice provided by an official, official's designee, or judge in that manner are applicable.

(2) If it is provided to an offender other than in the circumstances described above in (1), the official, official's designee, or judge must require the offender to read and sign a form prescribed by BCII, stating that the offender's duties 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 official, official's designee, or judge shall certify on the form that he or she specifically informed the offender of those duties and that the offender indicated an understanding of them.

(3) If it is provided to a delinquent child classified a juvenile sex offender registrant, the judge must require the child and the child's parent, guardian, or custodian to read and sign a form prescribed by BCII, stating that the child's duties to register, to register a new residence address, and to periodically verify a residence address have been explained to the child and to the child's parent, guardian, or custodian. If the child or the child's parent, guardian, or custodian is unable to read, the judge must certify on the form that the judge specifically informed the child or the child's parent, guardian, or custodian of those duties and that the child or the child's parent, guardian, or custodian indicated an understanding of them.

(4) For any notice provided in any circumstances, the form used must contain all the information required by BCII, including, but not limited to, a statement that the subject delinquent child if applicable has been classified by a juvenile court judge a juvenile sex offender registrant and has a duty to register, a statement as to whether the offender or child has been adjudicated a sexual

predator relative to the sexually oriented offense in question, a statement as to whether the offender or child has been determined to be a habitual sex offender, 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, an explanation of the periodic residence address verification process and of the frequency with which the offender or child will be required to verify the residence address under that process, and a statement that the offender or child must verify the residence address at the times specified under that process or face criminal prosecution or a delinquent child proceeding.

(5) If it is provided to an offender as a result of the offender, subsequent to release, being adjudicated a sexual predator, the form, in addition to all other information contained on it, must include a statement that the notice replaces any notice previously provided to the offender, a statement that the offender's duties described in this notice supersede the duties described in the prior notice, and a statement notifying the offender that, if the offender already has registered, the offender must register again pursuant to R.C. 2950.04(A)(6).

(6) If it is provided to a delinquent child classified a juvenile sex offender registrant, in addition to all other information contained on it, it must inform the child and the child's parent, guardian, or custodian that, if the child fails to comply with the requirements of R.C. 2950.04, 2950.05, and 2950.06, both of the following apply: (a) if the child's failure occurs while the child is under 18 years of age, the child is subject to delinquent child proceedings based on the failure, but if the failure occurs while the child is 18 years of age or older, the child is subject to criminal prosecution based on the failure, and (b) if the child's failure occurs while the child is under 18 years of age, unless the child is emancipated, the failure of the parent, guardian, or custodian to ensure that the child complies with those requirements is a violation of R.C. 2919.24 and may result in the prosecution of the parent, guardian, or custodian for that violation.

Operation of the bill. The bill expands the provision that identifies the specific information that must be included in the notice to also require the notice to inform the offender of his or her duties to register a school, institution of higher education, or place of employment address, provide notice of a change of that address, and periodically verify that address, and, if applicable, his or her duty to provide notice of intent to reside. The bill also provides that the notice must specify that, for an offender, it applies regarding residence, school, institution of higher education, and place of employment addresses and, for a delinquent child, it applies regarding residence addresses. It also must inform an offender of the offender's duties to similarly register, provide notice of a change in, and verify those addresses in states other than Ohio as described above. A notice provided to an offender under the bill regarding the new duties to register a school, institution

of higher education, or place of employment address, provide notice of a change of that address, and periodically verify that address that are imposed on the offender on and after the bill's effective date must state those new duties and specify that those new duties are in addition to the prior duties imposed on the offender. The bill also revises the provisions that describe the form of the notice. Under the bill, the notice must comport with the following (R.C. 2950.03(B)(1) and (2)):

(1) If it is provided to an offender required to register under former R.C. Chapter 2950., it must state the offender's duties to register, file a notice of intent to reside, if applicable, to register a new residence address or new school, institution of higher education, or place of employment address, and to periodically verify those addresses, the offender's duties in other states as described above, and that, if the offender has any questions concerning the duties, the offender may contact the chief of police or sheriff who sent the form for an explanation of the duties. The bill retains the existing provisions that apply if the offender appears in person before the chief or sheriff. (R.C. 2950.03(B)(1)(a).)

(2) If it is provided to an offender other than in the circumstances described above in (1), the official, official's designee, or judge must require the offender to read and sign a form stating that the offender's duties to register, to file a notice of intent to reside, if applicable, to register a new residence address or new school, institution of higher education, or place of employment address, and to periodically verify those addresses, and the offender's duties in other states as described above have been explained to the offender. The bill retains the existing provisions that apply if the offender is unable to read. (R.C. 2950.03(B)(1)(b).)

(3) If it is provided to a delinquent child classified a juvenile offender registrant, the judge must require the child and the child's parent, guardian, or custodian to read and sign a form stating that the child's duties to register, to file a notice of intent to reside, if applicable, to register a new residence address, and to periodically verify a residence address have been explained to the child and to the child's parent, guardian, or custodian. The bill retains the existing provisions that apply if the child or the child's parent, guardian, or custodian is unable to read. (R.C. 2950.03(B)(1)(c).)

(4) A notice provided in any circumstances must be on a form prescribed by BCII and must contain all of the information specified above in "***Notice requirement***" and all the information required by BCII. Except for the notices provided solely to update offenders who previously were given a notice as to their duties under the bill regarding school, institution of higher education, and place of employment addresses and except for the notices provided to offenders or delinquent children who were convicted or adjudicated for their sexually oriented

offense in a court other than an Ohio court, the notice must include, but is not limited to, all of the following (R.C. 2950.03(B)(2)(a) to (d)):

(a) A statement as to whether the offender or delinquent child has been adjudicated a sexual predator or a child-victim predator relative to the sexually oriented offense or child-victim oriented offense in question, a statement as to whether the offender or child has been determined to be a habitual sex offender or habitual child-victim offender, a statement as to whether the offense for which the offender has the duty to register is an aggravated sexually oriented offense (as expanded under the bill; see "***Definitions***," below; in recognition of this expansion, the bill removes the existing reference to the offense being committed on or after June 13, 2002), an explanation of the offender's periodic residence address or periodic school, institution of higher education, or place of employment address verification process or of the child's periodic residence address verification process, an explanation of the frequency with which the offender or child will be required to verify those addresses, a statement that the offender or child must verify those addresses at the times specified or face criminal prosecution or a delinquent child proceeding, and an explanation of the offender's duty to similarly register, verify, and reregister those addresses in another state if the offender resides in another state, attends a school or institution of higher education in another state, or is employed in another state.

(b) If the notice is provided to an offender as a result of the offender, subsequent to release, being adjudicated a sexual predator under R.C. 2950.09(C), as described above, and expanded by the bill to also include a person adjudicated a child-victim predator under R.C. 2950.091(C), the same statements as are required under existing law.

(c) If the notice is provided to a delinquent child classified a juvenile offender registrant, a statement that the child has been so classified by the adjudicating juvenile court judge or the judge's successor in office and has a duty to comply with R.C. 2950.04, 2950.041, 2950.05, and 2950.06.

(d) If the notice is provided to a delinquent child classified a juvenile offender registrant, a statement similar to the statement in existing law that describes the possibility, and nature, of prosecutions of the child or the child's parent, guardian, or custodian if the child fails to comply with the requirements of R.C. 2950.04, 2950.041, 2950.05, and 2950.06.

Duties of the official after notice is provided

Existing law. After an offender has signed the form as described above or the official, official's designee, or judge has certified on the form that the form has been explained to the offender and that the offender indicated an understanding of

the duties indicated on it, the official, official's designee, or judge must give one copy of the form to the offender, within three days send one copy to BCII in accordance with specified procedures, and send one copy to the sheriff of the county in which the offender expects to reside. In the cases described above in which a chief of police or sheriff sends a form to an offender required to register under former R.C. Chapter 2950., after the form is sent, the chief or sheriff must send a copy of it to BCII in accordance with specified procedures. After a delinquent child and the child's parent, guardian, or custodian have signed the form or the judge has certified on the form that the form has been explained to the child or the child's parent, guardian, or custodian and that the child or the child's parent, guardian, or custodian indicated an understanding of the duties and information indicated on the form, the judge must give a copy of the form to both the child and the child's parent, guardian, or custodian, within three days send one copy to BCII in accordance with specified procedures, and send one copy to the sheriff of the county in which the child expects to reside. (R.C. 2950.03(B)(2).)

The official, official's designee, judge, chief of police, or sheriff who is required to provide the notice must do all of the following (R.C. 2950.03(C)):

(1) Except as described below in (2), the official, designee, or judge must determine the offender's or delinquent child's name, identifying factors, and expected future residence address, obtain the offender's or child's criminal and delinquency history, and obtain a photograph and the fingerprints of the offender or child. If the notice is provided to an offender by a judge, the sheriff must provide the offender's or delinquent child's criminal and delinquency history to the judge. The official, official's designee, or judge must obtain this information and these items prior to giving the notice, except that a judge may give the notice prior to obtaining the offender's or child's criminal and delinquency history. Within three days after receiving this information and these items, the official, official's designee, or judge must forward the information and items to BCII in accordance with specified forwarding procedures and to the sheriff of the county in which the offender or child expects to reside. If the notice is provided to a delinquent child and if the child has been committed to DYS or to a secure facility, the judge, in addition to the other information and items described in this paragraph, also must forward to BCII and to the sheriff notification that the child has been so committed. If it has not already done so, BCII must forward a copy of the fingerprints and conviction data received under this division to the FBI.

(2) In the cases described above in which the notice is sent to an offender required to register under former R.C. Chapter 2950., the chief of police or sheriff must determine the offender's name, identifying factors, and residence address, obtain the offender's criminal history from BCII, and, to the extent possible, obtain a photograph and the fingerprints of the offender. Within three days after

receiving this information and these items, the chief or sheriff must forward the information and items to BCII in accordance with specified forwarding procedures and, in relation to a chief of police, to the sheriff of the county in which the offender resides. If it has not already done so, BCII must forward a copy of the fingerprints and conviction data so received to the FBI.

Operation of the bill. The bill retains, with technical changes, the existing provisions that describe the persons who are to be given notice forms that are signed by an offender or by a delinquent child and the child's parent, guardian, or custodian or that a judge signs and certifies in the specified circumstances in which that is required (R.C. 2950.03(B)(3)).

But the bill expands the "other duties" imposed upon the official, official's designee, judge, chief of police, or sheriff who is required to provide the notice. First, it clarifies that the "expected future residence address" of the offender or delinquent child that the official, designee, or judge must determine under existing law is the expected future address in Ohio or any other state (R.C. 2950.03(C)). Second, except for notices provided solely to update offenders who previously were given a notice as to their duties under the bill regarding school, institution of higher education, and place of employment addresses, and except for the notices provided to offenders or delinquent children who were convicted or adjudicated for their sexually oriented offense in a court other than an Ohio court, it requires the official, designee, judge, chief, or sheriff who is required to provide the notice to do the following in addition to the duties imposed under existing law (R.C. 2950.03(C)):

(1) Regarding an offender, the official, designee, or judge must obtain from the offender the offender's current or expected future school, institution of higher education, or place of employment in Ohio, if any;

(2) The official, designee, or judge must include the information determined under (1), above, with all the other information and items he or she is required to assemble under existing law and, within three days after receiving the information and the items, must forward the information and items to BCII in accordance with specified forwarding procedures, to the sheriff of the county in which the offender or child expects to reside, and, regarding an offender, to the sheriff of the county, if any, in which the offender attends or will attend a school or institution of higher education or is or will be employed.

Commencement and duration of duties under the SORN Law

Commencement of duties

Existing law. Existing law provides that the duty of an offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense and the duty of a delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense and is classified a juvenile sex offender registrant or who is an "out-of-state juvenile sex offender registrant" (see "***Definitions***," below) to comply with the requirements imposed under the SORN Law commences on whichever of the following dates is applicable (R.C. 2950.07(A)):

(1) If the offender's duty to register is imposed based upon the offender being released, on or after July 1, 1997, from a prison term, a term of imprisonment, or other confinement for a sexually oriented offense, the offender's duty to comply with those requirements commences on the date of the offender's release from the term or confinement or July 1, 1997, whichever is later.

(2) If the offender's duty to register is imposed based upon the offender being sentenced, on or after July 1, 1997, for a sexually oriented offense, the offender's duty to comply with those requirements commences on the date of entry of the judgment of conviction of the offense or July 1, 1997, whichever is later.

(3) If the offender's duty to register is imposed based upon the offender being a habitual sex offender required to register under the pre-July 1, 1997, version of R.C. Chapter 2950., the offender's duty to comply with those requirements commences 14 days after July 1, 1997.

(4) If the offender's or delinquent child's duty to register is based upon the offender or child being convicted of, pleading guilty to, or being adjudicated a delinquent child for committing a sexually oriented offense in a state other than Ohio or in a federal court, military court, or Indian tribal court and coming into Ohio, the offender's duty to comply with those requirements commences on March 30, 1999, or on the date the offender begins to reside or becomes temporarily domiciled in Ohio, whichever is later, and the delinquent child's duty commences on January 1, 2002, or on the date the child begins to reside or becomes temporarily domiciled in Ohio, whichever is later.

(5) If the delinquent child's duty to register is based upon the child being adjudicated a delinquent child for committing a sexually oriented offense and being classified a juvenile sex offender registrant based on that adjudication, if the child's classification as a juvenile sex offender registrant is made at the time of the child's disposition for that offense, and if the child is committed for the offense to

DYS or to a secure facility that is not operated by DYS, the child's duty to comply with those requirements commences on the date of the child's discharge or release from custody in the DYS secure facility or the other secure facility.

(6) If the delinquent child's duty to register is based upon the child being adjudicated a delinquent child for committing a sexually oriented offense and being classified a juvenile sex offender registrant based on that adjudication and if either the child's classification as a juvenile sex offender registrant is made at the time of the disposition for that offense and the child is not committed for the offense to DYS or to a secure facility that is not operated by DYS or the child's classification as a juvenile sex offender registrant is made pursuant to R.C. 2152.83, the child's duty to comply with those requirements commences on the date of entry of the court's order that classifies the child a juvenile sex offender registrant.

Operation of the bill. The bill modifies the "times of commencement" of an offender's or delinquent child's duties to comply with the requirements of the SORN Law, as follows (R.C. 2950.07(A)(1) to (6)):

(1) It amends the provisions that prescribe the existing "times of commencement" for offenders to specify that the existing prescribed times apply to compliance with the requirements *regarding residence addresses* and apply to both offenders and delinquent children in relation to the requirements regarding *residence addresses* when they are imposed based on the commission of a sexually oriented offense.

(2) It enacts new language that prescribes "times of commencement" of an offender's or delinquent child's duty to comply with the requirements regarding *residence addresses* when they are imposed based on the commission of a child-victim oriented offense. Under the new language:

(a) If the offender's duty to register is imposed based upon an event described above in (1) under "***Existing law***," the offender's duty to comply with those requirements based on a child-victim oriented offense commences on the date of the offender's release from the term of confinement or on the bill's effective date, whichever is later (R.C. 2950.07(A)(1)).

(b) If the offender's duty to register is imposed based upon an event described in (2) under "***Existing law***," the offender's duty to comply with those requirements based on a child-victim oriented offense commences on the date of entry of the judgment of conviction of the child-victim oriented offense or on the bill's effective date, whichever is later (R.C. 2950.07(A)(2)).

(c) If the offender's or delinquent child's duty to register is based upon an event described above in (4) under "***Existing law***," the offender's duty to comply with those requirements based on a child-victim oriented offense commences on the bill's effective date or on the date the offender begins to reside or becomes temporarily domiciled in Ohio, whichever is later (R.C. 2950.07(A)(4)).

(d) If the delinquent child's duty to register is based upon an event described above in either (5) or (6) under "***Existing law***," the child's duty to comply with those requirements based on a child-victim oriented offense commences at the same time as specified in (5) or (6) under "***Existing law***" (R.C. 2950.07(A)(5) and (6)).

(e) If the offender's or delinquent child's duty to register is based upon a conviction, guilty plea, or delinquent child adjudication occurring before the bill's effective date for a sexually oriented offense that the bill designates a child-victim oriented offense (see "(6) ***Comparable registration duties of a person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing, a child-victim oriented offense***" under "***Operation of the bill--registration duties***," above), the bill specifies that: (i) the offender's duty to comply with those requirements regarding residence addresses is a continuation of the offender's former duty to register regarding residence addresses imposed prior to the bill's effective date under R.C. 2950.04 and must be considered for all purposes as having commenced on the date that the offender's former duty under that section commenced, (ii) the offender's duty to comply with those requirements commences regarding addresses of schools, institutions of higher education, and places of employment on the bill's effective date, and (iii) the delinquent child's duty to comply with those requirements is a continuation of the delinquent child's former duty to register imposed prior to the bill's effective date under R.C. 2950.04 and must be considered for all purposes as having commenced on the date that the delinquent child's former duty under that section commenced or commences (R.C. 2950.07(A)(7) and (8)).

(3) It enacts new language that prescribes "times of commencement" of an offender's duty to comply with the requirements *regarding addresses of schools, institutions of higher education, and places of employment*, under the new duties imposed by the bill. Under the new language:

(a) If the offender's duty to register is imposed based upon an event described above in (1) under "***Existing law***," the offender's duty to comply with those requirements regarding those types of premises commences on the date of the offender's release from the term of confinement or on the bill's effective date, whichever is later (R.C. 2950.07(A)(1)).

(b) If the offender's duty to register is imposed based upon an event described in (2) under "***Existing law***," the offender's duty to comply with those requirements regarding those types of premises commences on the date of entry of the judgment of conviction of the sexually oriented offense or child-victim oriented offense or on the bill's effective date, whichever is later (R.C. 2950.07(A)(2)).

(c) If the offender's duty to register is imposed based upon an event described above in (3) under "***Existing law***," the offender's duty to comply with those requirements regarding those types of premises commences 14 days after the bill's effective date (R.C. 2950.07(A)(3)).

(d) If the offender's duty to register is based upon an event described above in (4) under "***Existing law***," the offender's duty to comply with those requirements regarding those types of premises commences on the bill's effective date or on the date the offender begins attending any school or institution of higher education in Ohio on a full-time or part-time basis or becomes employed in Ohio, whichever is later (R.C. 2950.07(A)(4)).

Duration of duties--in general

Existing law. Existing law specifies that a person who is required to register, to comply with the change of address and re-registration provisions, or to verify a current residence address must do so for the period of time specified in R.C. 2950.07 (R.C. 2950.04(F), 2950.05(F), and 2950.06(H)). Existing R.C. 2950.07 provides that the duty of an offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense and the duty of a delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense and is classified a juvenile sex offender registrant or who is an out-of-state juvenile sex offender registrant to comply with the requirements of the SORN Law continues, after the date of commencement described above in "***Commencement of duties***," for whichever of the following periods is applicable (R.C. 2950.07(B); also, R.C. 2950.04(F), 2950.05(F), and 2950.06(H)):

(1) Except as otherwise provided in this paragraph, if the offender or delinquent child has been adjudicated a sexual predator relative to the sexually oriented offense or if the offender has the duty to register as a result of an aggravated sexually oriented offense committed on or after June 13, 2002, the offender's or child's duty to comply with those requirements continues until the offender's or child's death. Regarding an offender or child who has been adjudicated a sexual predator relative to the offense, if the judge who sentenced the offender or made the disposition for the child or that judge's successor in office subsequently enters a determination that the offender or child no longer is a sexual

predator, the offender's or child's duty to comply with those requirements continues for the period of time that otherwise would have been applicable to the offender or child under (2) or (3), below, or, if the offender's duty to register results from a conviction of or plea of guilty to an aggravated sexually oriented offense, until the offender's death. In no case may the lifetime duty to register that is imposed under this paragraph on an offender for an aggravated sexually oriented offense committed on or after June 13, 2002, be removed or terminated.

(2) If the judge who sentenced the offender or made the disposition for the delinquent child for committing the sexually oriented offense, or the successor in office of the juvenile court judge who made the delinquent child disposition, determined that the offender or child is a habitual sex offender, the offender's or child's duty to comply with those requirements continues for 20 years. Regarding a delinquent child who has been determined to be a habitual sex offender, if the judge who made the disposition for the child or that judge's successor in office subsequently enters a determination that the child no longer is a habitual sex offender but remains a juvenile sex offender registrant, the child's duty to comply with those requirements continues for the period of time that otherwise would have been applicable to the child under (3), below.

(3) If neither (1) nor (2), above, applies, the offender's or delinquent child's duty to comply with those requirements continues for ten years. If a delinquent child is classified a juvenile sex offender registrant and if the judge who made the disposition for the child or that judge's successor in office subsequently enters a determination that the child no longer is to be classified a juvenile sex offender registrant, the child's duty to comply with those requirements terminates upon the court's entry of the determination.

Operation of the bill. The bill modifies the existing "duration of duties" provided regarding a delinquent child's duties to comply with the requirements of the SORN Law to include references to delinquent children who commit a child-victim oriented offense, who are adjudicated a child-victim predator, or who are determined to be a habitual child-victim offender, all as defined in and added by the bill, and to subject these children to similar durations, but it does not otherwise change the existing "duration of duties" provisions for delinquent children (R.C. 2950.07(B); also, R.C. 2950.04(F), 2950.05(F), and 2950.06(H)). The bill modifies the "duration of duties" provided under existing law regarding an offender's duties to comply with the requirements of the SORN Law, as follows (R.C. 2950.07(B); also, R.C. 2950.04(F), 2950.041(F), 2950.05(F), and 2950.06(H)):

(1) The bill provides that, if the offense is a sexually oriented offense that is not a registration-exempt offense and the offender has been adjudicated a sexual predator relative to the offense, if the offense is a sexually oriented offense that is

not a registration-exempt offense and the offender has the duty to register as a result of an aggravated sexually oriented offense (as expanded under the bill; see "***Definitions***," below; in recognition of this expansion, the bill removes the existing reference to the offense being committed on or after June 13, 2002), or if the offense is a child-victim oriented offense and the offender has been adjudicated a child-victim predator relative to the offense, the offender's duty to comply with those requirements continues until the offender's death. It deletes all references to an offender's classification as a sexual predator being "removed by a court," in recognition of other provisions of the bill that eliminate the authority of a court to remove a sexual predator classification of an offender (see "***Removal of sexual predator classification, in general***," below). Finally, it states that in no case may the lifetime duty to comply with the requirements that is imposed under this paragraph on an offender who is adjudicated a sexual predator or a child-victim predator, or for an aggravated sexually oriented offense, or the adjudication, classification, or conviction that subjects the offender to this paragraph, be removed or terminated.

(2) The bill provides that, if the judge who sentenced the offender determined pursuant to specified provisions of the law that the offender is a habitual sex offender or habitual child-victim offender, or if the offender is automatically classified a habitual child-victim predator under other provisions of the bill subsequently described in this analysis, the offender's duty to comply with those requirements continues either *until the offender's death* or for 20 years. It states that, except as described below, the offender's duty to comply continues until the offender's death; in no case may the lifetime duty to comply with the requirements that is so imposed on an offender, or the determination that subjects the offender to the provision, be removed or terminated. The offender's duty to comply continues for 20 years if the offender is a habitual sex offender and both of the following apply:

(a) At least one of the sexually oriented offenses of which the offender has been convicted or to which the offender has pleaded guilty and that are included in the habitual sex offender determination is a violation of R.C. 2907.06(A)(1) or (5) involving a victim who is 18 years of age or older, a violation of R.C. 2907.08(A), (B), or (E) involving a victim who is 18 years of age or older, or a violation of R.C. 2903.211 that is a misdemeanor.

(b) The total of all the sexually oriented offenses of which the offender has been convicted or to which the offender has pleaded guilty and that are included in the habitual sex offender determination does not include at least two sexually oriented offenses that are not described in (2)(a), above.

(3) The bill does not substantively change the existing provision described above in (3) under "***Existing law***," that provides a ten-year duration of an offender's duties if neither (1) nor (2), above, applies.

Duration of duties--special provisions

Existing law. Existing law provides that an offender or delinquent child who has been convicted of or pleaded guilty to, or has been or is adjudicated a delinquent child for committing, a sexually oriented offense in a state other than Ohio or in a federal court, military court, or Indian tribal court may apply to the sheriff of the county in which the offender or child resides or temporarily is domiciled for credit against the duty to register for the time that the offender or child has complied with the sex offender registration requirements of another jurisdiction. The sheriff must grant the offender or child credit against the duty to register for time for which the offender or child provides adequate proof that the offender or child has complied with the sex offender registration requirements of another jurisdiction. If the offender or child disagrees with the sheriff's determination, the offender or child may appeal the determination to the court of common pleas of the county in which the offender or child resides or is temporarily domiciled. (R.C. 2950.07(E).)

Existing law also provides that (R.C. 2950.07(C) and (D)):

(1) If an offender or delinquent child has a duty to comply with the requirements of the SORN Law relative to more than one sexually oriented offense, the period of time for which the offender or child must comply with the requirements is separately calculated for each offense and must be complied with independently.

(2) If a child has a duty to comply with the requirements of the SORN Law as a result of a delinquent child adjudication for a sexually oriented offense and, after attaining 18 years of age, subsequently is convicted of a sexually oriented offense, the subsequent conviction does not limit, affect, or supersede the child's duties under that Law relative to the delinquent child adjudication, and the child must comply with both those duties and the duties imposed under that Law relative to the subsequent conviction.

(3) If a child has a duty to comply with the requirements of the SORN Law as a result of a delinquent child adjudication for a sexually oriented offense, if the child also was classified a sexual predator or habitual sex offender, and if the involved juvenile judge subsequently determines pursuant to law that the child no longer is a sexual predator or habitual sex offender, the judge's subsequent determination does not affect the date of commencement of the child's duty to comply with the requirements of the SORN Law.

(4) The duty of an offender or delinquent child to register under the SORN Law is tolled for any period during which the offender or child is returned to confinement in a secure facility or imprisoned for an offense, when the confinement or imprisonment occurs subsequent to the date of commencement of the duty to comply with the Law's requirements, as described above. The duty to register resumes upon the offender's or child's release from the confinement or imprisonment.

Operation of the bill. The bill retains without change the existing "tolling" provision described above in (4), modifies the existing provisions described above in (2) and (3) to add references in them to delinquent children who commit child-victim oriented offenses and children who are determined to be child-victim predators or habitual child-victim offenders, all as added by the bill, and to make the provisions apply regarding those children, and makes substantive changes in the existing provision described above in (1) and the existing "credit" provision (R.C. 2950.07(C) to (E)). Under the bill:

(1) Regarding the provision described above in (1), the bill provides that, if an offender or delinquent child has a duty to comply with the requirements of the SORN Law relative to more than one sexually oriented offense, more than one child-victim oriented offense, or a combination of sexually oriented offenses and child-victim oriented offenses, the period of time for which the offender or child must comply with the requirements is separately calculated for each of the sexually oriented offenses and child-victim offenses and must be complied with independently (R.C. 2950.07(C)(1)).

(2) Regarding the "credit" provision, the bill expands it to also apply regarding convictions in a court of a nation other than the United States and regarding an offender's duty enacted by the bill to register, etc., a school, institution of higher education, and place of employment address. Under the bill, an offender or delinquent child who has been convicted of or pleaded guilty to, or has been or is adjudicated a delinquent child for committing, a sexually oriented offense that is not a registration-exempt offense in a state other than Ohio, in a federal court, military court, or Indian tribal court, *or in a court of any nation other than the United States* may apply to the sheriff of the county in which the offender or child resides or temporarily is domiciled, *or in which the offender attends a school or institution of higher education or is employed*, for credit against the duty to register for the time that the offender or child has complied with the sex offender registration requirements of another jurisdiction. The sheriff must grant the offender or child credit against the duty to register for time for which the offender or child provides adequate proof that the offender or child has complied with the sex offender registration requirements of another jurisdiction. If the offender or child disagrees with the sheriff's determination, the offender or

child may appeal the determination to the court of common pleas of the county in which the offender or child resides or is temporarily domiciled, *or in which the offender attends a school or institution of higher education or is employed*. (R.C. 2950.07(E).)

Criminal offense for failure to comply with a SORN Law duty

Prohibitions

Existing law. Existing law contains the following prohibitions relative to duties imposed on a person under the SORN Law (R.C. 2950.04(E), 2950.05(E), and 2950.06(F)): (1) a prohibition against a person *who is required to register* failing to register as required in accordance with those divisions, (2) a prohibition against a person who is required to notify a sheriff of a change in address failing to notify the appropriate sheriff in accordance with that division, (3) a prohibition against a person who is required to register a new *residence address* with a sheriff or with an official of another state failing to register as required with the appropriate sheriff in accordance with those divisions, and (4) a prohibition against a person who is required to verify a current *residence address* failing to verify a current *residence address* in accordance with those divisions by the date required for the verification, provided that no person may be prosecuted or subjected to a delinquent child proceeding for a violation of this prohibition, and no parent, guardian, or custodian of a delinquent child may be prosecuted for a violation of R.C. 2919.24 based on the child's violation of this prohibition, prior to the expiration of the period of time specified in R.C. 2950.06(G). As described above in "***Duty under the SORN Law to provide notice of intent to reside***," existing law does not contain a prohibition against a person who is required to send a notice of intent to reside failing to comply with the requirement.

Operation of the bill. The bill enacts a prohibition that prohibits a person who is required to send a notice of intent to reside under R.C. 2950.04(G) based on a sexually oriented offense from failing to comply with the requirement (R.C. 2950.04(E)). A person who violates this prohibition is subject to the penalties described below in "***Penalty for a violation***." The bill retains the existing prohibitions based on a sexually oriented offense described in the preceding paragraph, generally without change. The only changes it makes to those existing prohibitions are to expand the prohibitions described in clauses (3) and (4) so that they also apply to a person who is required to register a new *school, institution of higher education, or place of employment address* under the new duty enacted by the bill, or who is required to verify a current *school, institution of higher education, or place of employment address* under the new duty enacted by the bill, and who fails to do so (R.C. 2950.04(E), 2950.05(E), and 2950.06(F)).

The bill enacts prohibitions that prohibit a person who is required to register an address or who is required to send a notice of intent to reside based on a child-victim oriented offense, as enacted in the bill, from failing to do so that parallel those described in the preceding paragraph regarding failure to register or send a notice of intent to reside based on a sexually oriented offense (R.C. 2950.041(E)). The existing prohibitions, modified by the bill as described in the preceding paragraph, regarding notice of a change in address and periodic address verification, apply by their terms to a person who has a duty to register based on a child-victim oriented offense (R.C. 2950.05(E) and 2950.06(F)). A person who violates any of the prohibitions is subject to the penalties described below in "***Penalties for a violation***."

Penalty for a violation

Existing law. Existing law provides that a person who violates any of the prohibitions described above in "***Prohibitions***" is guilty of a felony of the fifth degree if the most serious sexually oriented offense that was the basis of the registration, change of address notification, or address verification requirement that was violated under the prohibition is a felony if committed by an adult, and a misdemeanor of the first degree if the most serious sexually oriented offense that was the basis of the registration, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor if committed by an adult. In addition to any penalty or sanction imposed for the violation, if the offender or delinquent child is on probation or parole, is subject to one or more post-release control sanctions, or is subject to any other type of supervised release at the time of the violation, the violation constitutes a violation of the terms and conditions of the probation, parole, post-release control sanction, or other type of supervised release.

If a person violates any of the prohibitions described above that applies to the person as a result of the person being adjudicated a delinquent child and being classified a juvenile sex offender registrant or is an out-of-state juvenile sex offender registrant, both of the following apply: (1) if the violation occurs while the person is under 18 years of age, the person is subject to proceedings under the Delinquent Child Law based on the violation, and (2) if the violation occurs while the person is 18 years of age or older, the person is subject to criminal prosecution based on the violation. (R.C. 2950.99.)

Operation of the bill. The bill changes the penalties that apply to a person who violates any of the prohibitions described above in "***Prohibitions***." The penalties provided in the bill apply to a violation of any of the prohibitions, including the new prohibition added by the bill that prohibits a person who is required to send a notice of intent to reside based on a sexually oriented offense

from failing to comply with the requirement and the prohibitions that are based on child-victim oriented offenses. Under the bill (R.C. 2950.99(A)(1)):

(1) Except as otherwise provided below in (2), a person who violates any of the prohibitions is punished as follows: (a) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement (hereafter, "the requirement") that was violated under the prohibition is aggravated murder, murder, or a felony of the first, second, or third degree if committed by an adult, the offender is guilty of a felony of the third degree, (b) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is a felony of the fourth or fifth degree if committed by an adult, or if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is a misdemeanor if committed by an adult, the offender is guilty of a felony of the same degree or a misdemeanor of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition.

(2) If the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of any of the prohibitions, a person who violates any of the prohibitions is punished as follows: (a) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is aggravated murder, murder, or a felony of the first, second, third, or fourth degree if committed by an adult, the offender is guilty of a felony of the third degree, (b) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is a felony of the fifth degree if committed by an adult, the offender is guilty of a felony of the fourth degree, (c) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is a misdemeanor of the first degree if committed by an adult, the offender is guilty of a felony of the fifth degree, and (d) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is a misdemeanor other than a misdemeanor of the first degree if committed by an adult, the offender is guilty of a misdemeanor that is one degree higher than the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition.

The bill retains, with conforming changes, the existing provision that describes the effect of a violation of any of the prohibitions by an offender or

delinquent child who 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. It also retains, with a technical change, the existing provision that specifies the manner of treatment (i.e., prosecution) of a person who violates any of the prohibitions that applies to the person as a result of the person being adjudicated a delinquent child and classified a juvenile sex offender registrant. (R.C. 2950.99(A)(2) and (B).)

Sexual predator classification

Existing law

Existing law contains a series of provisions that pertain to the determination of whether an offender or delinquent child is a sexual predator. A summary of those provisions follows.

Automatic classification of an offender as a sexual predator. Under existing law, a person in either of the following categories automatically is classified a sexual predator for purposes of the SORN Law: (1) a person who is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense that is a "sexually violent offense" (see "***Definitions***," below) and also is convicted of or pleads guilty to a "sexually violent predator specification" (see "***Definitions***," below) included in the document charging the sexually violent offense, or (2) a person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing, a sexually oriented offense in another state, or in a federal court, military court, or Indian tribal court and who, as a result of that conviction, plea, or adjudication, is required under the law of that jurisdiction to register as a sex offender until the person's death *and to verify the person's address on at least a quarterly basis each year*. A person in the second category may challenge the sexual predator classification pursuant to R.C. 2950.09(F), as described below. In all other cases, a person who is, or has been, convicted of or pleaded guilty to or is adjudicated a delinquent child for committing, a sexually oriented offense may be classified a sexual predator for purposes of the SORN Law only pursuant to a hearing as described below in "***Classification at a hearing as a function of sentencing***" and "***Classification at a hearing as a function of a release from prison***" or, regarding delinquent children, under R.C. 2152.83. (R.C. 2950.09(A).)

Classification at a hearing as a function of criminal sentencing. Under existing law, the judge who is sentencing a person for a sexually oriented offense must conduct a hearing to determine whether the offender is a sexual predator, if, regardless of when the offense was committed, any of the following circumstances apply: (1) the offender is to be sentenced on or after January 1, 1997, for a sexually oriented offense that is not a sexually violent offense, (2) the offender is

to be sentenced on or after January 1, 1997, for a sexually oriented offense that is a sexually violent offense, and a sexually violent predator specification was not included in the document charging the sexually violent offense, or (3) the offender is to be sentenced on or after May 7, 2002, for a sexually oriented offense, and the offender was acquitted of a sexually violent predator specification that was included in the document charging the sexually oriented offense. The law provides procedures for conducting the hearing and requires the judge to consider all relevant factors including certain specifically identified factors. At the hearing, the court must determine by clear and convincing evidence whether the offender is a sexual predator. If the court determines that the offender is not a sexual predator, it must specify in the offender's sentence and judgment of conviction that it has determined that the offender is not a sexual predator. If the court determines by clear and convincing evidence that the offender is a sexual predator, it must specify in the offender's sentence and judgment of conviction that it has determined that the offender is a sexual predator. If the offense in question is an aggravated sexually oriented offense committed on or after June 13, 2002, the court must specify in the offender's sentence and judgment of conviction that the offender's offense is an aggravated sexually oriented offense. The offender and the prosecutor involved in the case may appeal as a matter of right the court's determination as to whether the offender is, or is not, a sexual predator. (R.C. 2950.09(B)(1)(a), (2), (3), and (4).)

Classification at a hearing as a function of a delinquent child disposition. Under existing law, the judge who is to impose or has imposed an order of disposition upon a child who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense must conduct a hearing to determine whether the child is to be classified a sexual predator, if either of the following applies: (1) the judge is required by R.C. 2152.82 or 2152.83(A) to classify the child a juvenile sex offender registrant, or (2) R.C. 2152.83(B) applies regarding the child, the judge conducts a hearing under that division for the purposes described in that division, and the judge determines at that hearing to classify the child a juvenile sex offender registrant. The law provides procedures for conducting the hearing and requires the judge to consider all relevant factors including certain specifically identified factors. At the hearing, the court must determine by clear and convincing evidence whether the child is a sexual predator. If the court determines that the child is not a sexual predator, it must specify in the child's dispositional order that it has determined that the child is not a sexual predator. If the court determines by clear and convincing evidence that the child is a sexual predator, it must specify in the child's dispositional order that it has determined that the offender or delinquent child is a sexual predator. The child and the prosecutor involved in the case may appeal as a matter of right the court's determination as to whether the child is, or is not, a sexual predator. (R.C.

2950.09(B)(1)(a), (2), (3), and (4); also R.C. 2152.82(B) and 2152.83(A)(2) and (C).)

Classification at a hearing as a function of a release of an offender from prison. Under existing law, if a person was convicted of or pleaded guilty to, and was sentenced for, a sexually oriented offense prior to January 1, 1997, and if, on or after that date, the offender is serving a prison term 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. In making the determination, DRC must consider all relevant factors, including, but not limited to, certain specified factors. If DRC determines that it will recommend that the offender be adjudicated a sexual predator, it immediately must send the recommendation to the court that sentenced the offender and enter its determination and recommendation in the offender's institutional record.

If DRC sends to a court a recommendation that an offender be adjudicated a sexual predator, the court is not bound by the recommendation, and it 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 it cannot determine that the offender is a sexual predator without a hearing. The court may hold the hearing and make the determination prior to, or at any time within one year following, the offender's release. If the court determines without a hearing that the offender is not a sexual predator, it must include its determination in the offender's institutional record and determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense for which the court determined that the offender is not a sexual predator. The court may make the "prior conviction" determination without a hearing, but, if the court determines that the offender previously has been convicted of or pleaded guilty to such an offense, it cannot impose a requirement that the offender be subject to the SORN Law's community notification provisions without a hearing. The court must include in the offender's institutional record any determination made as to whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense, and, as such, whether the offender is a habitual sex offender.

If the court schedules a hearing as described in the preceding paragraph, it must give the offender and the prosecutor involved in the case notice of the date, time, and place of the hearing. If the hearing is to determine whether the offender is a sexual predator, it must be conducted in the same manner and under the same procedures as sexual predator hearings that are a function of sentencing. At the hearing, the court must determine by clear and convincing evidence whether the offender is a sexual predator. If the court determines that the offender is not a sexual predator, it also must determine whether the offender previously has been

convicted of or pleaded guilty to a sexually oriented offense other than the offense for which the hearing is being conducted.

Upon making its determinations at the hearing, the court must proceed as follows (R.C. 2950.09(C)):

(1) If the hearing is to determine whether the offender is a sexual predator, and the court determines that the offender is not a sexual predator and that the offender previously has not been convicted of or pleaded guilty to a sexually oriented offense other than the offense for which the hearing is being conducted, it must include its determinations in the offender's institutional record.

(2) If the hearing is to determine whether the offender is a sexual predator, and the court determines that the offender is not a sexual predator but that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense for 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, must attach the determinations to the offender's sentence, must provide a copy of the determinations to the offender, the prosecuting attorney, and DRC, and may require that the offender be subject to the SORN Law's community notification provisions (the offender is not subject to community notification if the court does not impose that requirement; if the court imposes community notification, the offender may appeal the judge's determination that the offender is a habitual sex offender).

(3) If the hearing is to determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense for which the hearing is being conducted and whether to require that the offender be subject to community notification, and the court determines that the offender previously has been convicted of or pleaded guilty to such an offense, it must proceed as described in clause (2) and may impose a community notification requirement as described in that clause (the offender is not subject to community notification if the court does not impose that requirement; if the court imposes community notification, the offender may appeal the judge's determination that the offender is a habitual sex offender).

(4) If the court determined without a hearing that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense for which the court determined that the offender is not a sexual predator, and the hearing is solely to determine whether to impose a requirement that the offender be subject to community notification, after the hearing, the court may impose a community notification requirement as described in clause (2) (the offender is not subject to community notification if the court does not impose that

requirement; if the court imposes community notification, the offender may appeal the judge's determination that the offender is a habitual sex offender).

(5) If the hearing is to determine whether the offender is a sexual predator, and the court 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, and provide a copy of the determination to the offender, the prosecuting attorney, and 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).

Operation of the bill

The bill modifies each existing sexual predator classification provision and enacts "transitional" language regarding persons formerly classified as sexual predators based on sexually oriented offenses that are "transferred" under the bill as child-victim oriented offenses. A summary of the bill's changes follows.

Automatic classification of an offender as a sexual predator. The bill changes the provision that automatically classifies an offender or delinquent child a sexual predator based on a conviction or adjudication of a sexually oriented offense that is not a registration-exempt offense in a court other than an Ohio court, by adding a reference to a conviction or adjudication in a court of any nation other than the United States, by removing the criterion that the other jurisdiction must require the offender or child to verify his or her address on at least a quarterly basis each year, and by making technical changes. Under the bill, the provision specifies that a person who is convicted, pleads guilty, or adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, *or in a court of any nation other than the United States* for committing a sexually oriented offense that is not a registration-exempt offense, and who, as a result of that conviction, plea, or adjudication, is required under the law of that jurisdiction to register as a sex offender until the person's death automatically is classified a sexual predator. As under existing law, a person in this category may challenge the sexual predator classification pursuant to R.C. 2950.09(F), as described below. The bill retains, without change, the existing provision that automatically classifies an offender a sexual predator based on a conviction of a sexually oriented offense that is a sexually violent offense and a conviction of a sexually violent predator specification. (R.C. 2950.09(A).)

Classification at a hearing as a function of criminal sentencing; classification at a hearing as a function of a delinquent child disposition. The bill retains, with two changes, the existing provisions that govern the determination, as a function of criminal sentencing and as a function of a delinquent child disposition, of whether an offender convicted of a sexually

oriented offense or a delinquent child found to have committed a sexually oriented offense is a sexual predator (R.C. 2950.09(B)). The two changes pertain to the content of the document containing the court's findings after it conducts a hearing on the issue (R.C. 2950.09(B)(4)):

(1) First, under the bill, if the court determines that the offender or delinquent child is not a sexual predator, it must specify in the offender's sentence and judgment of conviction or in the delinquent child's dispositional order, as appropriate, that it has determined that the offender or child is not a sexual predator (retained from existing law) *and the reason or reasons why the court determined that the subject offender or child is not a sexual predator* (added by the bill). This provision also applies to provisions of the Delinquent Child Law (R.C. 2152.82(B)(1) and 2152.83(C)) that pertain to sexual predator determinations for children who are adjudicated delinquent for committing a sexually oriented offense and who are classified juvenile offender registrants and that make cross-references to this provision.

(2) Second, under the bill, in any case in which the offense in question is an aggravated sexually oriented offense (as expanded under the bill; see "***Definitions***," below; in recognition of this expansion, the bill removes the existing reference to the offense being committed on or after June 13, 2002), the court must specify in the offender's sentence and judgment of conviction that the offender's offense is an aggravated sexually oriented offense.

Classification as a function of a release of an offender from prison. The bill makes major changes in the existing provisions that govern the determination, as a function of the release of an offender from prison, of whether the offender is a sexual predator. For certain offenses, it eliminates DRC's duty to make a recommendation and requires the court to conduct a sexual predator hearing. Regarding all other sexually oriented offenses, if DRC recommends that the offender be classified a sexual predator, it eliminates the court's discretion and requires a sexual predator hearing, and, if DRC does not so recommend, it requires a habitual sex offender determination.

Specifically, under the bill, if a person was convicted of or pleaded guilty to, and was sentenced for, a sexually oriented offense that is not a registration-exempt offense prior to January 1, 1997, and if, on or after that date, the offender is serving a prison term in a state correctional institution, DRC must do whichever of the following is applicable: (1) if the sexually oriented offense was "aggravated murder," "murder," "felonious assault," "kidnapping," or "involuntary manslaughter" (when the underlying offense was a felony) committed with a sexual motivation or if it was a "violent sex offense" (see "***Definitions***," below), DRC must notify the court that sentenced the offender of that fact, and the court must conduct a hearing to determine whether the offender is a sexual predator, or

(2) if clause (1) does not apply, DRC must determine, considering all information specified under existing law, whether to recommend that the offender be adjudicated a sexual predator. If DRC determines it will recommend that the offender be adjudicated a sexual predator, it immediately must send the recommendation to the court that sentenced the offender. If DRC determines it will not so recommend, it immediately must send its determination to that court. For both determinations, DRC must enter its determination and recommendation in the offender's institutional record. (R.C. 2950.09(C)(1).)

If DRC sends to a court a notice under clause (1) of the preceding paragraph, the court *must conduct a hearing* to determine whether the subject offender is a sexual predator. If DRC sends to a court a recommendation under clause (2) that an offender be adjudicated a sexual predator, the court is not bound by the recommendation, and it *must conduct a hearing* to determine whether the offender is a sexual predator. In any case, the court cannot make a determination as to whether the offender is, or is not, a sexual predator without a hearing. The court may hold the hearing and make the determination prior to, or at any time within one year following, the offender's release. (R.C. 2950.09(C)(2)(a).)

If DRC sends to a court a determination that it is not recommending that an offender be adjudicated a sexual predator, the court cannot make any determination as to whether the offender is, or is not, a sexual predator, but must determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense for which DRC made its determination or previously has been convicted of or pleaded guilty to a child-victim oriented offense. The court may conduct a hearing to make the "prior conviction" determination but may make the determination without a hearing. However, if the court determines that the offender previously has been convicted of or pleaded guilty to such an offense, it cannot impose a requirement that the offender be subject to the SORN Law's community notification provisions without a hearing. In determining whether to impose the community notification requirement, the court, in specified circumstances, must apply the presumption enacted in the bill that is described below in "***Habitual sex offender determination***." The court must include in the offender's institutional record any determination made as to whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense, and, as such, whether the offender is a habitual sex offender. (R.C. 2950.09(C)(2)(b).)

Upon scheduling a hearing under any of the three preceding paragraphs, it must give the offender and the prosecutor involved in the case notice of the date, time, and place of the hearing. If the hearing is to determine whether the offender is a sexual predator, the prosecutor who is given the notice may contact DRC and request that DRC provide to the prosecutor all information it possesses regarding

the offender that is relevant and necessary for use in making the determination as to whether the offender is a sexual predator and that is not privileged or confidential under law. If the prosecutor makes such a request, DRC promptly must provide to the prosecutor all information it possesses regarding the offender that is relevant and necessary for use in making that determination and that is not privileged or confidential under law. A hearing for that purpose must be conducted in the same manner and under the same procedures as sexual predator hearings that are a function of sentencing. At the hearing, the court must determine by clear and convincing evidence whether the offender is a sexual predator. If the court determines at the sexual predator hearing that the offender is not a sexual predator, it also must determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense for which the hearing is being conducted.

Upon making its determinations at a sexual predator hearing, the court must proceed as follows: (1) if the court determines that the offender is not a sexual predator and that the offender previously has not been convicted of or pleaded guilty to a sexually oriented offense other than the offense for which the hearing is being conducted and previously has not been convicted of or pleaded guilty to a child-victim oriented offense, it must include in the offender's institutional record its determinations *and the reason or reasons why it determined that the offender is not a sexual predator*, (2) if the court determines that the offender is not a sexual predator but that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense for which the hearing is being conducted or previously has been convicted of or pleaded guilty to a child-victim oriented offense, it must include in the offender's institutional record its determination that the offender is not a sexual predator but is a habitual sex offender *and the reason or reasons why it determined that the offender is not a sexual predator*, must attach the determinations and the reason or reasons to the offender's sentence, must provide a copy of the determinations and the reason or reasons to the offender, the prosecuting attorney, and DRC, and may require that the offender be subject to the SORN Law's community notification provisions (the offender is subject to community notification only if the court imposes that requirement; in determining whether to impose that requirement, the court, in specified circumstances, must apply the presumption enacted in the bill that is described below in "***Habitual sex offender determination***"; if the court imposes community notification, the offender may appeal the judge's determination that the offender is a habitual sex offender), or (3) if the court 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, and provide a copy of the determination to the offender, the prosecuting attorney, and 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).

If the hearing is scheduled to determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense or whether to subject the offender to the SORN Law's community notification provisions, upon making the determination, the court must attach the determination or determinations to the offender's sentence, must provide a copy to the offender, the prosecuting attorney, and DRC, and may impose a requirement that the offender be subject to community notification. In determining whether to impose the community notification requirement, the court, in specified circumstances, must apply the presumption enacted in the bill that is described below in "***Habitual sex offender determination***." The offender can be subject to community notification relative to the sexually oriented offense in question only if the court imposes the requirement. If the court imposes that requirement, the offender may appeal the judge's determination that the offender is a habitual sex offender. (R.C. 2950.09(C)(2)(c).)

The bill states that the changes it makes regarding classification as a function of a release of an offender from prison: (1) do not require a court to conduct a new hearing under the above-described provisions for any offender regarding a sexually oriented offense if, prior to the bill's effective date, the court previously conducted a hearing under those provisions regarding that offense to determine whether the offender was a sexual predator, and (2) do not require a court to conduct a hearing under those provisions for any offender regarding a sexually oriented offense if, prior to the bill's effective date and pursuant to those provisions, DRC recommended that the offender be adjudicated a sexual predator regarding that offense, and the court denied the recommendation and determined that the offender was not a sexual predator without a hearing, provided that this provision does not apply if the sexually oriented offense in question was aggravated murder, murder, felonious assault, kidnapping, or involuntary manslaughter (when the underlying offense was a felony) committed with a sexual motivation or if it was a sexually violent offense. (R.C. 2950.09(C)(3).)

Transitional language regarding persons formerly classified as sexual predators based on sexually oriented offenses that are "transferred" under the bill as child-victim oriented offenses. The bill provides that:

(1) If, prior to its effective date, an offender or delinquent child was adjudicated a sexual predator under R.C. 2950.09 or R.C. 2152.82, 2152.83, 2152.84, or 2152.85 and if, on and after its effective date, the sexually oriented offense upon which the classification was based no longer is considered a sexually oriented offense but instead is a child-victim oriented offense, notwithstanding the redesignation of that offense, on and after the bill's effective date, all of the

following apply: (a) R.C. 2950.091(A)(1) or (2) apply regarding the offender or child, and the judge's classification or determination made prior to the bill's effective date must be considered for all purposes to be a classification or determination that classifies the offender or child as described in those divisions, (b) the offender's or child's classification or determination under R.C. 2950.091(A)(1) or (2) must be considered, for purposes of R.C. 2950.07 and for all other purposes, to be a continuation of the classification or determination made prior to the bill's effective date, and (c) the offender's or child's duties under the SORN Law relative to that classification must be considered for all purposes to be a continuation of the duties related to that classification or determination as they existed prior to the bill's effective date (R.C. 2950.09(G)).

(2) If, prior to its effective date, a person was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing, a sexually oriented offense, if, prior to its effective date, the offender or delinquent child was classified a sexual predator in relation to that offense pursuant to the automatic sexual predator classification provisions contained in R.C. 2950.09(A), and if, on and after its effective date, the sexually oriented offense upon which the classification was based no longer is considered a sexually oriented offense but instead is a child-victim oriented offense, notwithstanding the redesignation of the offense, the classification of the offender or child as a sexual predator remains valid and in effect on and after its effective date (R.C. 2950.091(A)(1)).

Removal of sexual predator classification, in general

Existing law

Existing law sets forth procedures pursuant to which, in certain circumstances, an offender who has been convicted of or pleaded guilty to a sexually oriented offense and classified a sexual predator, or a child who has been adjudicated a delinquent child, classified a juvenile sex offender registrant, and classified a sexual predator, may obtain court removal of the sexual predator classification (R.C. 2950.09(D); also R.C. 2152.84 and 2152.85).

Regarding the procedures for an offender, the SORN Law 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 adjudicated a sexual predator relative to the offense, other than pursuant to an automatic classification as a sexual predator as described above, may petition the judge who made the determination that the offender was a sexual predator, or that judge's successor in office, to enter a determination that the offender no longer is a sexual predator. Upon the filing of the petition, the judge may review the prior sexual predator determination that comprises the adjudication, and, upon consideration of all relevant evidence and information,

including the specified factors that must be considered in making a sexual predator determination, must either enter a determination that the offender no longer is a sexual predator or enter an order denying the petition. The judge cannot enter a determination that the offender no longer is a sexual predator unless the judge determines by clear and convincing evidence that the offender is unlikely to commit a sexually oriented offense in the future. If the judge enters a determination that the offender no longer is a sexual predator, the judge must notify BCII and the Parole Board of the determination. Upon receipt of the notification, BCII promptly must notify the sheriff with whom the offender most recently registered under the SORN Law of the 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 the offender has a duty to register under the SORN Law resulting from the offender's conviction of or plea of guilty to committing on or after June 13, 2002, an aggravated sexually oriented offense, the entry of the determination does not affect any duties imposed upon the offender as a result of that conviction of or plea of guilty to the aggravated sexually oriented offense. If the judge enters an order denying the petition, the prior sexual predator adjudication remains in effect.

An offender determined to be a sexual predator, other than pursuant to an automatic classification as a sexual predator as described above, may file a petition under this provision 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 confinement for the offense in relation to which the determination was made, the offender initially may file the petition not earlier than one year prior to his or her release from the imprisonment or confinement by any final release; if the offender is sentenced on or after January 1, 1997, for the offense in relation to which the determination is made and is not imprisoned or sentenced to confinement for the offense, the offender initially may file the petition upon the expiration of one year after the entry of the offender's judgment of conviction, and (2) after the offender's initial filing of a petition under clause (1), thereafter, an offender may file a petition upon the expiration of five years after the court has entered an order denying the petition under clause (1) or the most recent petition the offender has filed under this clause.

Except as otherwise provided in this paragraph, the provisions described above do not apply to a person who is classified a sexual predator pursuant to an automatic classification as a sexual predator as described above. If a person who is so classified was sentenced to an indefinite prison term pursuant to the special Sexually Violent Predator Sentencing Law under R.C. Chapter 2971. and if the sentencing court terminates the offender's prison term as provided in that Law, the court's termination of the prison term automatically constitutes a determination by the court that the offender no longer is a sexual predator. However, if there is a

determination under this provision that the offender no longer is a sexual predator and the offender has a duty to register under the SORN Law resulting from the offender's conviction of or plea of guilty to committing on or after June 13, 2002, an aggravated sexually oriented offense, the determination under this provision does not affect any duties imposed upon the offender under this chapter as a result of that conviction of or plea of guilty to the aggravated sexually oriented offense. If the court so terminates the offender's prison term, the court must notify BCII and the Parole Board of the determination that the offender no longer is a sexual predator. Upon receipt of the notification, BCII promptly must notify the sheriff with whom the offender most recently registered that the offender no longer is a sexual predator. If an offender who is classified as a sexual predator pursuant to an automatic classification as a sexual predator as described above is released from prison pursuant to a pardon or commutation, the classification as a sexual predator remains in effect after the offender's release, and the offender may file one or more petitions in accordance with the procedures and time limitations described above for a determination that the offender no longer is a sexual predator. (R.C. 2950.09(D).)

The Delinquent Child Law contains provisions pursuant to which, in specified circumstances, a child who has been adjudicated a delinquent child, classified a juvenile sex offender registrant, and classified a sexual predator may obtain removal by a judge of the sexual predator classification (R.C. 2152.84(A)(1)(b), (A)(1)(d), and (B) and 2152.85(A)(1) and (D)). But those provisions specify that: (1) a judge may remove a sexual predator classification only if the judge conducts a hearing as described above relative to offenders and determines at the hearing by clear and convincing evidence that the child is unlikely to commit a sexually oriented offense in the future, and (2) if the judge removes a sexual predator classification, the judge must provide the notifications described above relative to offenders (R.C. 2152.84 (B) and 2152.85 (D)).

Operation of the bill

The bill repeals the provisions described above pursuant to which an offender who has been convicted of or pleaded guilty to a sexually oriented offense and classified or adjudicated a sexual predator may obtain removal of the sexual predator classification, states that the portion of the provisions that is retained regarding delinquent children does not apply to persons who have been so convicted, and states that, if an offender has been so convicted and classified or adjudicated, the classification or adjudication is permanent and continues in effect until the offender's death and in no case can the classification or adjudication be removed or terminated (however, see "***Removal of sexual predator classification automatically made based on a non-Ohio conviction or adjudication***," below for provisions that are seemingly inconsistent with this last statement). Thus, under

the bill, a sexual predator classification for an offender cannot be removed and is a lifetime classification. (R.C. 2950.09(D).)

The bill retains many of the existing removal provisions described above, though, as they apply to a child who has been adjudicated a delinquent child, classified a juvenile offender registrant, and classified a sexual predator, and rephrases those provisions so that they apply only regarding delinquent children. Under the bill, a judge who is reviewing a sexual predator determination for a delinquent child under R.C. 2152.84 or 2152.85 must comply with R.C. 2950.09. Under R.C. 2950.09(D), as amended by the bill, at the hearing, the judge must consider all relevant evidence and information, including the specified factors that must be considered in making a sexual predator determination. The judge cannot enter a determination that the delinquent child no longer is a sexual predator unless the judge determines by clear and convincing evidence that the child is unlikely to commit a sexually oriented offense in the future. If the judge enters a determination that the delinquent child no longer is a sexual predator, the judge must notify BCII of the determination and must include in the notice a statement of the reason or reasons why it determined that the delinquent child no longer is a sexual predator. Upon receipt of the notification, BCII promptly must notify the sheriff with whom the delinquent child most recently registered under the SORN Law of the determination that the child no longer is a sexual predator. (R.C. 2152.84(B), 2152.85(D), and 2950.09(D)(1).)

Removal of sexual predator classification automatically made based on a non-Ohio conviction or adjudication

Existing law

Existing law provides that an offender or delinquent child classified as a sexual predator may petition the court of common pleas or, for a delinquent child, the juvenile court of the county in which the offender or child resides or temporarily is domiciled to enter a determination that the offender or child is not an adjudicated sexual predator in this state for purposes of the SORN Law registration and community notification provisions if all of the following apply: (1) the offender or child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing, a sexually oriented offense in another state or in a federal court, a military court, or Indian tribal court, (2) as a result of the conviction, plea of guilty, or adjudication described in clause (1), the offender or child is required under the law of the jurisdiction under which the offender or child was convicted, pleaded guilty, or was adjudicated to register as a sex offender until the offender's or child's death *and to verify the offender's or child's address on at least a quarterly basis each year*, and (3) the offender or child was automatically classified a sexual predator under the provisions described above in "***Automatic classification of an offender as a sexual predator***" under "***Sexual***

predator classification" in relation to the conviction, guilty plea, or adjudication described in clause (1).

The court may enter a determination that an offender or delinquent child who files a petition under the preceding paragraph is not an adjudicated sexual predator in Ohio for purposes of the SORN Law registration and community notification provisions only if the offender or child proves by clear and convincing evidence that the requirement of the other jurisdiction that the offender or child register as a sex offender until the offender's or child's death *and the requirement that the offender or child verify the offender's or child's address on at least a quarterly basis each year* is not substantially similar to a classification as a sexual predator for purposes of the SORN Law. (R.C. 2950.09(F).)

Operation of the bill

The bill retains the existing provisions regarding removal of a sexual predator classification automatically made based upon a non-Ohio conviction or adjudication, but modifies its provisions to reflect the changes made in the provisions imposing the automatic classification, described above in "***Automatic classification of an offender as a sexual predator***" under "***Sexual predator classification***." Specifically, in clause (1) of the first paragraph under "***Existing law***," the bill adds a reference to a conviction or adjudication of a sexually oriented offense that is not a registration-exempt offense in a court of any nation other than the United States, and in clause (2) of that paragraph and in the last sentence of the second paragraph, the bill removes the reference to the criterion that, under the law of the other jurisdiction, *the offender or child must be required to verify the offender's or child's address on at least a quarterly basis each year*. The bill also adds language stating that, if the court enters a determination that the offender or delinquent child is not an adjudicated sexual predator in Ohio for purposes of the SORN Law registration and community notification provisions, the court must include in the determination a statement of the reason or reasons why it so determined. (However, see "***Removal of sexual predator classification, in general***," above, for statements that are seemingly inconsistent with this removal provision.) (R.C. 2950.09(F).)

Child-victim predator classification

As stated above, the bill removes from the definition of "sexually oriented offense" certain offenses that currently are sexually oriented offenses, enacts a new term "child-victim oriented offense" that consists of those offenses removed from the definition of sexually oriented offense, imposes registration and other duties for those persons convicted of or adjudicated a delinquent child for committing any of the child-victim oriented offenses, and provides in specified circumstances for the classification of a person convicted of or adjudicated a

delinquent child for committing any of the child-victim oriented offenses as a "child-victim predator." The child-victim predator classification provisions are patterned after, and very similar to, the existing provisions, as modified by the bill, regarding the classification of offenders and delinquent children as sexual predators, as described above (R.C. 2950.091(A) to (D), and (F)).

As part of the child-victim predator provisions, the bill includes transitional provisions for persons who are adjudicated prior to its effective date as sexual predators based on a sexually oriented offense that the bill reclassifies as a child-victim oriented offense. Two of the transitional provisions are described above in the last paragraph under "***Sexual predator classification***" (R.C. 2950.09(G) and 2950.091(A)(1)). Under the other transitional provision, the bill specifies that if, prior to its date, a person was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing a sexually oriented offense, if, prior to its effective date, the offender or delinquent child was adjudicated a sexual predator in relation to that offense under R.C. 2950.09 or R.C. 2152.82, 2152.83, 2152.84, or 2152.85, if, on and after its effective date, the sexually oriented offense upon which the adjudication was based no longer is considered a sexually oriented offense but instead is a child-victim oriented offense, and if the provisions of R.C. 2950.091(A)(1), as described above in the last paragraph under '***Sexual predator classification***," that retain the person's classification as a sexual predator do not apply, notwithstanding the redesignation of the offense, on and after the bill's effective date, the offender or delinquent child automatically is classified a child-victim predator. (R.C. 2950.091(A)(2).)

The bill includes an "automatic" child-victim predator classification for persons who are convicted of, plead guilty to, or are adjudicated a delinquent child in a court of another state, in a federal court, military court, or Indian tribal court, or in a court of any nation other than the United States for committing a child-victim oriented offense, and who, as a result of that conviction, plea of guilty, or adjudication, are required, under the law of the jurisdiction in which the person was convicted, pleaded guilty, or was adjudicated, to register as a child-victim offender or sex offender until the person's death, but the person may challenge that classification pursuant to a mechanism in the bill (R.C. 2950.09(A)(2)). In all cases not covered by a transitional provision or by the automatic classification provision described in this paragraph, the bill specifies that the classification of an offender or delinquent child as a child-victim predator may be made only pursuant to a hearing, under a procedure it enacts. The hearing procedure, and all the other child-victim predator classification provisions in the bill, are patterned after, and very similar to, the existing provisions, as modified by the bill, regarding the classification of offenders and delinquent children as sexual predators, as described above (R.C. 2950.091(B) to (D), and (F)).

Habitual sex offender determination

Existing law

Under existing law, if a person is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense, the judge who is to impose sentence on the offender must determine, prior to sentencing, whether the offender previously has been convicted of or pleaded guilty to, or adjudicated a delinquent child for committing, a sexually oriented offense and is a habitual sex offender. The judge who is to impose or has imposed an order of disposition upon a child who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense must determine, prior to entering the order classifying the delinquent child a juvenile sex offender registrant, whether the delinquent child previously has been convicted of or pleaded guilty to, or adjudicated a delinquent child for committing, a sexually oriented offense and is a habitual sex offender, if either of the following applies: (1) the judge is required by R.C. 2152.82 or 2152.83(A) to classify the child a juvenile sex offender registrant, or (2) R.C. 2152.83(B) applies regarding the child, the judge conducts a hearing under that division for the purposes described in that division, and the judge determines at that hearing that the child will be classified a juvenile sex offender registrant.

If, under the provisions described in the preceding paragraph, the judge determines that the offender or child previously has not been convicted of or pleaded guilty to, or been adjudicated a delinquent child for committing, a sexually oriented offense or that the offender otherwise does not satisfy the criteria for being a habitual sex offender, the judge must specify in the offender's sentence or in the order classifying the child a juvenile sex offender registrant that the judge has determined that the offender or child is not a habitual sex offender. If the judge determines that the offender or child previously has been convicted of or pleaded guilty to, or been adjudicated a delinquent child for committing, a sexually oriented offense and that the offender satisfies all other criteria for being a habitual sex offender, the judge must specify in the offender's sentence and judgment of conviction or in the order classifying the child a juvenile sex offender registrant that the judge has determined that the offender or child is a habitual sex offender and may impose a requirement in that sentence and judgment or in that order that the offender or child be subject to the SORN Law's community notification provisions regarding the offender's or child's place of residence. Unless the habitual sex offender also has been adjudicated a sexual predator relative to the sexually oriented offense in question or the habitual sex offender was convicted of or pleaded guilty to an aggravated sexually oriented offense committed on or after June 13, 2002, the offender or child must be subject to those community notification provisions only if the court imposes the requirement

described in this paragraph in the offender's sentence and judgment of conviction or in the order classifying the child a juvenile sex offender registrant. (R.C. 2950.09(E); also R.C. 2152.82(B) and 2152.83(A)(2) and (C).)

Operation of the bill

The bill retains the existing provisions regarding habitual sex offender determinations, with five changes (R.C. 2950.09(E)):

(1) First, in the general provision that indicates what the judge is to determine when deciding whether a person who has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt offense is a habitual sex offender, it specifies that the judge is to determine whether the offender or delinquent child previously has been convicted of or pleaded guilty to, or adjudicated a delinquent child for committing, a sexually oriented offense or a *child-victim oriented offense* (R.C. 2950.09(E)(1) and (2)). This change conforms to the bill's change in the definition of habitual sex offender (see "***Definitions***," below) that specifies that a prior conviction of, plea of guilty to, or delinquent child adjudication for a child-victim oriented offense "counts" as a prior offense in determining whether an offender or delinquent child is a habitual sex offender (R.C. 2950.01).

(2) Second, it adds language that states that, if the judge determines that the subject offender or delinquent child is a habitual sex offender, the court must determine whether to impose a requirement that the offender or child be habitual subject to the SORN Law's community notification provisions contained in R.C. 2950.10 and 2950.11. In making the determination regarding the possible imposition of the community notification requirement, if at least two of the sexually oriented offenses or child-victim oriented offenses that are the basis of the habitual sex offender or habitual child-victim offender determination were committed against a victim who was under 18 years of age, it is presumed that subjecting the offender or delinquent child to the community notification provisions regarding the offender's or child's place of residence is necessary in order to comply with the determinations, findings, and declarations of the General Assembly regarding sex offenders and child-victim offenders that are set forth in R.C. 2950.02. (R.C. 2950.09(E)(2).)

(3) Third, in the provision that generally limits the application of the SORN Law's community notification provisions to habitual sex offenders only when the court imposes a requirement subjecting them to those provisions, it modifies an exception to this provision so that the provision does not apply regarding a habitual sex offender who was convicted of any aggravated sexually oriented offense (the bill removes the existing reference to the offense being committed on or after June 13, 2002).

(4) Fourth, it adds language that states that, if a court determines that an offender is a habitual sex offender, the determination is permanent and continues in effect until the offender's death, and in no case may the determination be removed or terminated (existing law does not include any similar statement, but also does not include any authorization or mechanism for the removal of a determination that an offender is a habitual sex offender).

(5) Fifth, it adds a provision that states that, if a court in a state other than Ohio, a federal court, military court, or Indian tribal court, or a court in any nation other than the United States determines a person to be a habitual sex offender in that jurisdiction, the person is considered to be determined to be a habitual sex offender in Ohio. If the court in the other state, the federal court, military court, or Indian tribal court, or the court in the nation other than the United States subjects the habitual sex offender to community notification regarding the person's place of residence, the person, as much as is practicable, is subject to the SORN Law's community notification provisions regarding the person's place of residence, unless the court that so subjected the person to community notification determines that the person no longer is subject to community notification.

Separately, as described in a prior portion of this analysis, the bill also adds a new provision regarding a habitual sex offender determination for a person who was convicted of or pleaded guilty to, and was sentenced for, a sexually oriented offense prior to January 1, 1997, and who, on or after that date, is serving a prison term in a state correctional institution. Under the bill, when DRC does not recommend that a person in those circumstances be adjudicated a sexual predator, the court that sentenced the offender must conduct a hearing to determine whether the person is a habitual sex offender. (R.C. 2950.09(C).)

The bill provides that if, prior to its effective date, an offender or delinquent child was determined to be a habitual sex offender under R.C. 2950.09 or R.C. 2152.82, 2152.83, 2152.84, or 2152.85 and if, on and after its effective date, the sexually oriented offense upon which the determination was based no longer is considered a sexually oriented offense but instead is a child-victim oriented offense, notwithstanding the redesignation of that offense, on and after the bill's effective date, all of the following apply: (1) R.C. 2950.091(E)(1) and (2) apply regarding the offender or child, and the judge's classification or determination made prior to the bill's effective date must be considered for all purposes to be a determination that classifies the offender or child as described in those divisions, (2) the offender's or child's classification or determination under R.C. 2950.091(E)(1) and (2) must be considered, for purposes of R.C. 2950.07 and for all other purposes, to be a continuation of the classification or determination made prior to the bill's effective date, and (3) the offender's or child's duties under the SORN Law relative to that classification or determination must be considered for

all purposes to be a continuation of the duties related to that classification or determination as they existed prior to the bill's effective date (R.C. 2950.09(G)).

It also provides that if, prior to its effective date, a person was convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a sexually oriented offense, if, on and after its effective date, the sexually oriented offense no longer is considered a sexually oriented offense but instead is a child-victim oriented offense, if, prior to its effective date, a judge determined that the offender or delinquent child was a habitual sex offender, and if one or more of the offenses that was the basis of the offender or delinquent child being a habitual sex offender remains on and after its effective date a sexually oriented offense, notwithstanding the redesignation of the offense as described in this paragraph, the determination and classification of that person as a habitual sex offender remains valid and in effect on and after its effective date. (R.C. 2950.091(E)(1).)

Habitual child-victim offender determination

As stated above, the bill removes from the definition of "sexually oriented offense" certain offenses that currently are sexually oriented offenses, enacts a new term "child-victim oriented offense" that consists of those offenses removed from the definition of sexually oriented offense, imposes registration and other duties for those persons convicted of or adjudicated a delinquent child for committing any of the child-victim oriented offenses, and provides in specified circumstances for the classification of a person convicted of or adjudicated a delinquent child for committing any of the child-victim oriented offenses as a "habitual child-victim offender." The habitual child-victim offender provisions are patterned after, and very similar to, the existing provisions, as modified by the bill, regarding the classification of offenders and delinquent children as habitual sex offenders, as described above (R.C. 2950.091(E)).

As part of the habitual child-victim offender provisions, the bill includes transitional provisions for persons who are adjudicated prior to its effective date as habitual sex offenders based on a sexually oriented offense that the bill reclassifies as a child-victim oriented offense. Two of the transitional provisions are described above in the last two paragraphs under "***Habitual sex offender determination***" (R.C. 2950.09(G) and 2950.091(E)(1)). Under the other transitional provision, the bill specifies that if, prior to its effective date, a person was convicted of, pleaded guilty to, or adjudicated a delinquent child for committing a sexually oriented offense, if, on and after its effective date, the sexually oriented offense no longer is considered a sexually oriented offense but instead is a child-victim oriented offense, if, prior to its effective date, a judge determined that the offender or delinquent child was a habitual sex offender, and if none of the offenses that was the basis of the offender or delinquent child being a habitual sex offender remains on and after its effective date a sexually oriented

offense, on and after its effective date, the offender or delinquent child automatically is classified a habitual child-victim offender (R.C. 2950.091(E)(2)).

In all cases not covered by a transitional provision or by the automatic classification provision described in the preceding paragraph, the bill requires the court to determine whether an offender or delinquent child who committed a child-victim oriented offense is to be determined a habitual child-victim offender. The procedure for making this determination, and all the other habitual child-victim offender classification provisions in the bill, are patterned after, and very similar to, the existing provisions, as modified by the bill, regarding the classification of offenders and delinquent children as habitual sex offenders, as described above (R.C. 2950.091(E)(3) and (4)).

Inspection and disclosure of information obtained under the SORN Law by a sheriff or BCII

Existing law

Materials in the possession of a sheriff. Existing law provides that any statements, information, photographs, or fingerprints that R.C. 2950.04, 2950.05, or 2950.06 requires a person to provide, that are provided by a person who registers, who provides notice of a change of residence address and registers the new residence address, or who provides verification of a current residence address pursuant to any provision of those sections, and that are in the possession of a county sheriff are public records open to public inspection under the Public Records Law. However, a sheriff cannot cause to be publicly disseminated by means of the Internet any statements, information, photographs, or fingerprints that are provided by a juvenile sex offender registrant who registers, who provides notice of a change of residence address and registers the new residence address, or who provides verification of a current residence address pursuant to the SORN Law and that are in the possession of the sheriff, unless the act that is the basis of the child's classification as a juvenile sex offender registrant is a violation of, or an attempt to commit a violation of, R.C. 2903.01, 2903.02, or 2905.01 (the offenses of "aggravated murder," "murder," and "kidnapping") that was committed with a purpose to gratify the sexual needs or desires of the child, or is a violation of, or an attempt to commit a violation of, R.C. 2907.02 (the offense of "rape"). (R.C. 2950.081.)

Materials in the possession of BCII. Existing law provides that the statements, information, photographs, and fingerprints required by R.C. 2950.04, 2950.05, and 2950.06 and provided by a person who registers, who provides notice of a change of residence address and registers the new residence address, or who provides verification of a current residence address pursuant to those sections and that are in the possession of BCII and the information in the possession of

BCII that it received pursuant to R.C. 2950.14 is not open to inspection by the public or by any person other than: (1) a regularly employed peace officer or other law enforcement officer, or (2) an authorized BCII employee for the purpose of providing information to a board, administrator, or person pursuant to specified criminal background check provisions (R.C. 2950.08).

Operation of the bill

Materials in the possession of a sheriff. The bill retains the existing provision that generally makes the records public records, but rephrases it, eliminates the reference to residence addresses, and includes a reference to registration based on a child-victim oriented offense. The latter change conforms to the new duties the bill enacts regarding registration of, notification of changes in, and verifications of, school, institution of higher education, and place of employment addresses. The bill also specifies that the records are to be included in the Internet Sex Offender and Child-Victim Offender Database it establishes, as described below. The bill does not change the restriction regarding the use of the Internet for dissemination of materials provided by delinquent children under the SORN Law, other than to include a previously omitted reference to records provided by a child who sends a notice of intent to reside. (R.C. 2950.081.)

Materials in the possession of BCII. The bill retains the existing provision that restricts the inspection of SORN Law-acquired materials in the possession of BCII, with the following changes: (1) it expands the restriction to include information provided by a person under the new duties the bill enacts regarding registration of, notification of changes in, and verifications of, school, institution of higher education, and place of employment addresses, (2) it enacts a new provision that expands the list of persons who may inspect the materials in the possession of BCII to also include the Registrar of Motor Vehicles, or an employee of the Registrar, for the purpose of verifying and updating any of the information so provided, upon the request of BCII, and (3) it enacts a new provision that specifies that the restriction does not apply to any information contained in the Internet Sex Offender and Child-Victim Offender Database the Attorney General (the AG) is required to establish under the bill (see "***Internet Sex Offender and Child-Victim Offender Database***," below) regarding offenders and that is disseminated as provided in the provision requiring its establishment. (R.C. 2950.08.)

New provisions--Internet Sex Offender and Child-Victim Offender Database, county sex offender database on the Internet, and remote-access law enforcement database. Existing law requires the AG to perform numerous duties related to the SORN Law, which generally are described below in "***Duties of the Attorney General***." The bill enacts three new "information dissemination" duties for the AG (R.C. 2950.13(A)(11), (12), and (13)):

(1) It requires the AG, through BCII, not later than January 1, 2004, to establish and operate on the Internet a Sex Offender and Child-Victim Offender Database that contains information for every offender who has committed a sexually oriented offense that is not a registration-exempt offense or a child-victim oriented offense and who registers in any county in Ohio pursuant to the SORN Law. BCII must determine the information to be provided on the Database for each offender and must obtain that information from the information contained in the existing State Registry of Sex Offenders and Child-Victim Offenders established by the AG (see "***Duties of the Attorney General***," below), which information, while in the possession of the sheriff who provided it, is a public record. The information provided for each offender must include at least the information required to be provided under the SORN Law's community notification provisions. The Database is a public record open for inspection under the Public Records Law, and it must be searchable by offender name, by county, by zip code, and by school district. The Database must provide a link to the web site of each sheriff who has established and operates on the Internet a sex offender and child-victim offender database that contains information for offenders who register in that county pursuant to the SORN Law, with the link being a direct link to the sex offender database for the sheriff.

(2) It requires the AG, upon the request of any sheriff, to provide technical guidance to the requesting sheriff in establishing on the Internet a sex offender and child-victim offender database for the public dissemination of some or all of the materials described in R.C. 2950.081(A), as described above, that are public records under that provision and that pertain to offenders who register in that county pursuant to the SORN Law.

(3) It requires the AG, through BCII, not later than January 1, 2004, to establish and operate on the Internet a database that enables local law enforcement representatives to remotely search by electronic means the State Registry of Sex Offenders and Child-Victim Offenders and any information BCII receives pursuant to R.C. 2950.04, 2950.041, 2950.05, 2950.06, and 2950.14. The database must enable local law enforcement representatives to obtain detailed information regarding each offender and delinquent child included in the Registry, including, but not limited to the offender's or delinquent child's name, residence address, place of employment if applicable, motor vehicle license plate number if applicable, victim preference if available, date of most recent release from confinement if applicable, fingerprints, and other identification parameters BCII considers appropriate. The database is not a public record under the existing Public Records Law and is to be available only to law enforcement representatives as described in this paragraph. Information obtained by local law enforcement representatives through use of this database is not open to inspection by the public or by any person other than a person identified in R.C. 2950.08(A).

Related to the provision described in the preceding paragraph, the bill prohibits any person, other than a local law enforcement representative, from knowingly doing any of the following: (1) gaining or attempting to gain access to the database established and operated by the AG, through BCII, under the provision described in the preceding paragraph, or (2) permitting any person to inspect any information obtained through use of that database, other than as permitted under that provision. The bill provides that a violation of this prohibition is a misdemeanor of the first degree. (R.C. 2950.13(C) and 2950.99(C).)

Community notification--victims

Existing law

Duty to provide the notice, persons to whom it is provided and content, and time of provision. Existing law provides that, if a person is, or has been, convicted of or pleaded guilty to a sexually oriented offense or a person is adjudicated a delinquent child for committing a sexually oriented offense and is classified a juvenile sex offender registrant or is an out-of-state juvenile sex offender registrant based on that adjudication, if the offender or child is in any category identified below as being subject to this notification provision, and if the victim of the sexually oriented offense made a request that specifies that the victim would like to be provided the notices described in this provision, both of the following apply: (1) if the offender or child registers with a sheriff pursuant to the SORN Law, the sheriff must notify the victim, in writing, that the offender or child has registered, include in the notice the offender's or child's name and residence address or addresses, and provide the notice at the most recent residence address available for the victim, not later than 72 hours after the offender or child registers, and (2) if the offender or delinquent child registers with a sheriff pursuant to the SORN Law and subsequently notifies the sheriff of a change of residence address pursuant to that Law, the sheriff must notify the victim, in writing, that the offender's or child's residence address has changed, include in the notice the offender's or child's name and new residence address or addresses, and provide the notice at the most recent residence address available for the victim, not later than 72 hours after the offender or child notifies the sheriff of the change in residence address.

If an offender or delinquent child who committed a sexually oriented offense is in a category identified below as being subject to this notification, the victim of the offense may make a request in accordance with rules adopted by the AG (see "***Duties of the Attorney General***," below) that specifies that the victim would like to be provided notices under this provision. If a victim makes a request in accordance with those rules, the sheriff must provide the victim with the notices described in the preceding paragraph, and all information a sheriff obtains

regarding the victim from or as a result of the request is confidential and is not a public record open for inspection under the Public Records Law. If a victim does not make a request as described in this paragraph, the victim is not entitled to be provided any notice under this provision. (R.C. 2950.10(A) and (B)(2).)

Offenders and delinquent children who are subject to the notification provision. The duty to provide the notices described above apply regarding any offender or delinquent child who is in any of the following categories, if the other criteria set forth above, as applicable, are satisfied: (1) the offender or child has been adjudicated a sexual predator relative to the sexually oriented offense for which the offender or child has the duty to register under the SORN Law, and the court has not subsequently determined that the offender or child no longer is a sexual predator, (2) the offender or child has been determined pursuant to law to be a habitual sex offender, the court has imposed a requirement subjecting the habitual sex offender to community notification, and, regarding a child, the determination has not been removed, or (3) the sexually oriented offense for which the offender has the duty to register under the SORN Law is an aggravated sexually oriented offense committed on or after June 13, 2002, regardless of whether the offender is adjudicated a sexual predator relative to the offense or is determined to be a habitual sex offender and, if the offender has been so adjudicated or determined, regardless of whether the court has subsequently determined that the offender no longer is a sexual predator or has removed the habitual sex offender determination. (R.C. 2950.10(B)(1).)

Operation of the bill

The bill changes the existing provisions regarding community notification to victims in the following ways:

(1) It expands the provisions so that they also require the notice to be given to the victim regarding a subject offender when the offender registers, or provides notice of a change in, a school, institution of higher education, or place of employment address under the new duties enacted by the bill, as described in prior portions of this analysis, and specifies that the notice provided to the victim regarding the offender must include the offender's name and the address or addresses of the offender's residence, school, institution of higher education, or place of employment, as applicable (R.C. 2950.10(A)(1) and (2)).

(2) It extends the time within which the notice must be given to the victim regarding a subject offender or delinquent child. Currently, the notice must be provided not later than 72 hours after the offender or child registers or notifies the sheriff of the change in residence address; under the bill, the notice must be given not later than five days after the offender or child registers or notifies the sheriff of the change in residence address or, regarding an offender, the change in school,

institution of higher education, or place of employment address (R.C. 2950.10(A)(1) and (2)).

(3) It modifies the provision that specifies the categories of offenders and delinquent children who currently are subject to the notification provisions by (R.C. 2950.10(B)(1)): (a) removing the existing references to the possible removal of a sexual predator determination for offenders (as described above under "***Removal of sexual predator classification, in general***," the bill repeals the authority to remove such a determination for offenders), (b) clarifying that the existing reference to the possible removal of a habitual sex offender determination applies only regarding children, and (c) revising the language that subjects offenders convicted of an aggravated sexually oriented offense to the provision so that the language refers to *any aggravated sexually oriented offense* (as expanded under the bill; see "***Definitions***," below; in recognition of this expansion, the bill removes the existing reference to the offense being committed on or after June 13, 2002).

(4) It expands the scope of the provisions so that they also apply regarding persons who are convicted of, plead guilty to, or are adjudicated a delinquent child for committing a child-victim oriented offense, in a manner that parallels the existing language regarding persons who are convicted of, plead guilty to, or are adjudicated a delinquent child for committing a sexually oriented offense. Under the bill, if a person has been convicted of, pleaded guilty to, or been adjudicated a delinquent child and a juvenile offender registrant for committing a child-victim oriented offense, if the person also has been adjudicated a child-victim predator relative to the offense or has been determined to be a habitual child-victim offender and is subjected to community notification (and, regarding a delinquent child, has not had the adjudication or determination removed), and if the person registers under R.C. 2950.041 or provides notice of a change in address, the existing victim community notification provisions, as modified by the bill as described in (1) to (3), above, apply (R.C. 2950.10).

(5) It conforms the provisions to previously discussed portions of the bill that provide for registration-exempt sexually oriented offenses, by adding language specifying that the provisions apply regarding sexually oriented offenses that are not registration-exempt offenses (R.C. 2950.10).

Community notification--neighbors and other persons and entities

Existing law

Duty to provide the notice, and persons to whom it is provided. Existing law provides that, if a person is, or has been, convicted of or pleaded guilty to, a sexually oriented offense or a person is adjudicated a delinquent child for

committing a sexually oriented offense and is classified a juvenile sex offender registrant or is an out-of-state juvenile sex offender registrant based on that adjudication, and if the offender or child is in any category identified below as being subject to this notification provision, the sheriff with whom the offender or child has most recently registered under the SORN Law and the sheriff to whom the offender or child most recently sent a notice of intent to reside under that Law must provide a written notice within a specified period of time and containing specified information to all of the following persons (R.C. 2950.11(A)):

(1) All occupants of residences within 1,000 feet of the offender's or child's place of residence that are located in the sheriff's county and all additional neighbors of the offender or child who are in any category that the AG by rule requires to be provided the notice and who reside in that county;

(2) The director of the public children services agency that has jurisdiction in the "specified geographical notification area" and is located within the sheriff's county (as used throughout the section, "specified geographical notification area" means the geographic area or areas within which the AG, by rule, requires the notices to be given to the persons identified in (2) to (7));

(3) The superintendent of each board of education of a school district that has schools in the specified geographical notification area and is located within the sheriff's county, the principal of the school in the specified geographical notification area and in the sheriff's county that the child attends, and, if the child attends a school outside the specified geographical notification area or outside the school district where the child resides, the superintendent of the board of education of a school district that governs the school the child attends and the principal of the school the child attends;

(4) Specified officials of each chartered nonpublic school located in the specified geographical notification area and in the sheriff's county or of each other school located in the specified geographical notification area and in the sheriff's county that is not operated by a board of education described above in (3), and, regardless of the location of the school, of any chartered nonpublic school the child attends;

(5) Specified officials of each R.C. Chapter 3301. preschool program, and of each R.C. Chapter 5104. day-care center or home that is located in the specified geographical notification area and in the sheriff's county;

(6) Specified officials of each institution of higher education that is located in the specified geographical notification area and in the sheriff's county, and the chief law enforcement officer of the institution's law enforcement agency or police department, if any;

(7) The sheriff of each county that includes any portion of the specified geographical notification area (a sheriff who is provided a notice under this provision is required by R.C. 2950.11(C) to provide notices to each person or entity identified in (1) to (6), and (8), that is located in the geographical notification area and in the recipient sheriff's county).

(8) If the offender or child resides in the sheriff's county, the chief of police, marshal, or other chief law enforcement officer of the municipal corporation in which the offender or child resides or, if the offender or child resides in an unincorporated area, the constable or chief of the police department district police force of the township in which the offender or child resides.

Content of notice. The notice must include all of the following information regarding the subject offender or delinquent child (R.C. 2950.11(B)): (1) the offender's or child's name and the address or addresses at which he or she resides, (2) the sexually oriented offense of which the offender was convicted, to which the offender pleaded guilty, or for which the child was adjudicated a delinquent child, and (3) a statement that the offender or child has been adjudicated a sexual predator and that, as of the date of the notice, the court has not entered a determination that the offender or child no longer is a sexual predator, or a statement that the sentencing or reviewing judge has determined that the offender or child is a habitual sex offender and that, as of the date of the notice, the determination has not been removed.

When notice must be provided. Under existing law, a sheriff required to provide the notices regarding an offender or delinquent child must provide the notice to the neighbors described in (1), above, and to law enforcement personnel described in (7) and (8), above, not later than 72 hours after the offender sends the notice of intent to reside to the sheriff and again not later than 72 hours after the offender or child registers with the sheriff or, if the sheriff is a recipient sheriff under (7), above, not later than 72 hours after the sheriff is provided the notice described in (7), above. The sheriff must provide the notices to all other specified persons described in divisions (2) to (7), above, not later than seven days after the offender or child registers with the sheriff or, if the sheriff is a recipient sheriff under (7), above, not later than 72 hours after the sheriff is provided the notice described in (7), above. (R.C. 2950.11(D)(1).)

Discretionary notice. If an offender or delinquent child who is in any category identified below as being subject to the mandatory notification provision verifies the offender's or child's current residence address with a sheriff under the SORN Law, the sheriff may provide a written notice containing the information required for the mandatory notice to the persons identified in (1) to (8), above, regarding the mandatory notice. If a sheriff provides such a notice to the sheriff of any other county in accordance with (7), above, regarding the mandatory notice,

each recipient sheriff may provide, but is not required to provide, a written notice as described in this paragraph to the persons identified in (1) to (6), and (8), regarding the mandatory notice (R.C. 2950.11(D)(2)).

Availability of information possessed by a sheriff. All information a sheriff possesses regarding a sexual predator or habitual sex offender that is described above in "***Content of notice***" and that must be provided in a mandatory notice or that may be provided in a discretionary notice, as described above, is a public record open to inspection under the Public Records Law. However, if the sexual predator or habitual sex offender is a juvenile sex offender registrant, the sheriff cannot cause any of the information to be publicly disseminated by means of the Internet, unless the act that is the basis of a child's classification as a juvenile sex offender registrant is "aggravated murder," "murder," or "kidnapping" committed with a purpose to gratify the sexual needs or desires of the child, an attempt to commit any such offense, "rape," or an attempt to commit "rape." (R.C. 2950.11(E).)

Offenders and delinquent children who are subject to the notification provision. Under existing law, the duty to provide the notices described above applies regarding any offender or delinquent child who is in any of the following categories, if the other criteria set forth above, as applicable, are satisfied (R.C. 2950.11(F)): (1) the offender or child has been adjudicated a sexual predator relative to the sexually oriented offense for which the offender or child has the duty to register under the SORN Law, and the court has not subsequently determined that the offender or child no longer is a sexual predator, (2) the offender or child has been determined to be a habitual sex offender, the court has imposed a requirement subjecting the habitual sex offender to notification, and the determination has not been removed, or (3) the sexually oriented offense for which the offender has the duty to register under the SORN Law is an aggravated sexually oriented offense committed on or after June 13, 2002, regardless of whether the offender is adjudicated a sexual predator relative to the offense or is determined to be a habitual sex offender and, if the offender is so adjudicated or determined, regardless of whether the court has subsequently determined that the offender no longer is a sexual predator or whether the habitual sex offender determination has not been removed as described above.

State agency assistance. Existing law requires certain state agencies to compile, maintain, and update in January and July of each year, a list of all entities under the particular agency's jurisdiction that are of a type to be provided notice under the community notification provisions. The list must contain the name of each entity of that type, the county in which it is located, its address and telephone number, and the name of a specified official of the entity. The state agencies that are subject to this provision are: (1) the Department of Job and Family Services,

regarding agencies, centers, and homes under its jurisdiction, (2) the Department of Education regarding boards of education, schools, or programs under its jurisdiction, and (3) the Ohio Board of Regents regarding institutions under its jurisdiction. A sheriff required to provide the mandatory notices or authorized to provide the discretionary notices, or a designee of a sheriff of that type, may request the Department of Job and Family Services, Department of Education, or Ohio Board of Regents, by telephone, in person, or by mail, to provide the sheriff or designee with the names, addresses, and telephone numbers of the appropriate persons and entities to whom the notices are to be provided. Upon receipt of a request, the Department or Board must provide the requesting sheriff or designee with the names, addresses, and telephone numbers of the appropriate persons and entities to whom those notices are to be provided. (R.C. 2950.11(G).)

Operation of the bill

The bill changes the existing provisions regarding community notification to neighbors and other specified persons and entities in the following ways:

(1) It adds a new provision that provides that, if a sheriff has sent a notice to the neighbors and other specified persons and entities as a result of receiving a notice of intent to reside and if the offender or delinquent child registers a residence address that is the same residence address described in the notice of intent to reside, the sheriff is not required to send an additional notice when the offender or child registers (R.C. 2950.11(A)).

(2) It rewrites the neighbor notification provision to clarify it and to provide rules for giving the notice in multi-unit buildings. Under the bill, the sheriff must give neighbor notification as follows (R.C. 2950.11(A)(1)(a) to (d); note that none of the provisions apply regarding neighbors of an offender's school, institution of higher education, or place of employment): (a) any occupant of each "residential unit" (see "***Definitions***," below) that is located within 1,000 feet of the offender's or child's residential premises, that is located in the sheriff's county, and that is not located in a "multi-unit building" (see "***Definitions***," below), (b) if the offender or delinquent child resides in a multi-unit building, any occupant of each residential unit that is located in that multi-unit building and that "shares a common hallway" with the offender or delinquent child (for purposes of this provision, an occupant's unit "shares a common hallway" with the offender or child if the entrance door into the occupant's unit is located on the same floor and opens into the same hallway as the entrance door to the unit the offender or child occupies), (c) the building manager, or the person the building owner or condominium unit owners association authorizes to exercise management and control, of each multi-unit building that is located within 1,000 feet of the offender's or delinquent child's residential premises, including a multi-unit building in which the offender or child resides, and that is located within the

county served by the sheriff, (d) in addition to notifying the building manager or the person authorized to exercise management and control in the multi-unit building under the provision described in clause (c), the sheriff must post a copy of the notice prominently in each common entryway in the building described in clause (c) and any other location in the building the sheriff determines appropriate, provided that, in lieu of posting copies of the notice as described in this clause, a sheriff may provide notice to all occupants of the multi-unit building by mail or personal contact (if the sheriff so notifies all the occupants, the sheriff is not required to post copies of the notice in the common entryways to the building), and (e) all additional persons who are within any category of neighbors of the offender or delinquent child that the AG by rule requires to be provided the notice and who reside in the sheriff's county.

Regarding notice under clause (c) of the preceding paragraph, the manager or person exercising management and control of the building must permit the sheriff to post copies of the notice under this division as the sheriff determines appropriate. A sheriff may provide notice under clause (a) or (b) of the preceding paragraph, and may provide notice under clause (c) to a building manager or person authorized to exercise management and control of a building, by mail, by personal contact, or by leaving the notice at or under the entry door to a residential unit. For purposes of clause (a) and (b) of the preceding paragraph, and the portion of clause (c) relating to the provision of notice to occupants of a multi-unit building by mail or personal contact, the provision of one written notice per unit is deemed as providing notice to all occupants of that unit. (R.C. 2950.11(A)(1)(a), (b), and (c) and (D)(3).)

(3) It revises the content of the notice provided to the neighbors and other persons and entities regarding an offender, to specify that it must include the offender's name and the address or addresses of the offender's residence, school, institution of higher education, or place of employment, as applicable (R.C. 2950.11(B)(1) and (2)). Under existing law, unchanged by the bill, the notice must be provided when a subject offender registers under the SORN Law and, as described in prior portions of this analysis, the bill adds new duties that require subject offenders to register, in specified circumstances, a school, institution of higher education, or place of employment address. Thus, the new information required by the bill will be available when an offender registers under the bill's new duties.

(4) It also revises the content of the notice provided to the neighbors and other persons and entities regarding an offender or child by removing the existing references to the possible removal of a sexual predator determination for offenders (as described above under "***Removal of sexual predator classification, in general***," the bill repeals the authority to remove such a determination for

offenders) by clarifying that the existing reference to the possible removal of a habitual sex offender determination applies only regarding children, and by adding references to offenders and delinquent children who are subjected to the provisions and who register based on a child-victim oriented offense (R.C. 2950.11(B)(4)).

(5) It extends the time within which the notice must be given to persons and entities regarding an offender or child. Currently, the notice must be provided to neighbors and to law enforcement personnel not later than 72 hours after the offender sends the notice of intent to reside to the sheriff and again not later than 72 hours after the offender or child registers with the sheriff or, if the sheriff is a recipient sheriff, not later than 72 hours after the recipient sheriff is provided the notice, and the notice must be provided to all other specified persons not later than seven days after the offender or child registers with the sheriff or, if the sheriff is a recipient sheriff, not later than 72 hours after the recipient sheriff is provided the notice. Under the bill, the notice must be provided to neighbors and to law enforcement personnel *as soon as practicable, but not later than five days* after the offender sends the notice of intent to reside to the sheriff and again *not later than five days* after the offender or child registers with the sheriff or, if the sheriff is a recipient sheriff, *not later than five days* after the recipient sheriff is provided the notice, and the notice must be provided to all other specified persons *as soon as practicable, but not later than seven days* after the offender or child registers with the sheriff or, if the sheriff is a recipient sheriff, *not later than five days* after the recipient sheriff is provided the notice. (R.C. 2950.11(D)(1).)

(6) It modifies the discretionary notification provision regarding address verification to also include references to the verification by an offender of his or her school, institution of higher education, or place of employment address (R.C. 2950.11(D)(2)). As described in prior portions of this analysis, the bill adds new duties that require subject offenders to register, in specified circumstances, a school, institution of higher education, or place of employment address, and this change conforms to those new duties.

(7) It modifies the provision that specifies the categories of offenders and delinquent children who currently are subject to the notification provisions by (R.C. 2950.11(F)(1)): (a) removing the existing references to the possible removal of a sexual predator determination for offenders (as described above under "***Removal of sexual predator classification, in general***," the bill repeals the authority to remove such a determination for offenders), (b) clarifying that the existing reference to the possible removal of a habitual sex offender determination applies only regarding children, and (c) revising the language that subjects offenders convicted of an aggravated sexually oriented offense to the provision so that the language refers to *any aggravated sexually oriented offense* (as expanded

under the bill; see '***Definitions***," below; in recognition of this expansion, the bill removes the existing reference to the offense being committed on or after June 13, 2002).

(8) It expands the scope of the provisions so that they also apply regarding persons who are convicted of, plead guilty to, or are adjudicated a delinquent child for committing a child-victim oriented offense, in a manner that parallels the existing language regarding persons who are convicted of, plead guilty to, or are adjudicated a delinquent child for committing a sexually oriented offense. Under the bill, if a person has been convicted of, pleaded guilty to, or been adjudicated a delinquent child and a juvenile offender registrant for committing a child-victim oriented offense, if the person also has been adjudicated a child-victim predator relative to the offense or has been determined to be a habitual child-victim offender and is subjected to community notification (and, regarding a delinquent child, has not had the adjudication or determination removed), and if the person registers or provides a notice of intent to reside under R.C. 2950.041 or provides notice of a change in address, the existing community notification provisions regarding neighbors and other entities, as modified by the bill as described in (1) to (7), above, apply (R.C. 2950.11).

(9) It conforms the provisions to previously discussed portions of the bill that provide for registration-exempt sexually oriented offenses, by adding language specifying that the provisions apply regarding sexually oriented offenses that are not registration-exempt offenses (R.C. 2950.11).

Sheriff's confirmation of a residence address provided under the SORN Law

The bill enacts provisions that a sheriff may use in an attempt to confirm the address provided by an offender or delinquent child who registers, provides notice of a change in, or verifies, *a residence address* under the SORN Law. The bill provides that, if an offender or delinquent child registers a residence address, provides notice of a change of any residence address, or verifies a current residence address pursuant to the SORN Law, all of the following apply: (1) at any time after the registration, provision of the notice, or verification, the sheriff with whom the offender or child so registered or to whom the offender or child so provided the notice or verified the address, or a designee of that sheriff, may contact a person who owns, leases, or otherwise has custody, control, or supervision of the premises at the address provided by the offender or child in the registration, notice, or verification and request that the person confirm or deny that the offender or child currently resides at that address, (2) upon receipt of a request under clause (1), notwithstanding any other provision of law, the person who owns, leases, or otherwise has custody, control, or supervision of the premises, or an agent of that person, must comply with the request and inform the sheriff or designee whether or not the offender or child currently resides at that address, and

(3) the SORN Law's existing immunity provisions (see below) apply to a person who, in accordance with clause (2), provides information of the type described in that clause.

The bill states that the provisions described in the preceding paragraph apply regarding any public or private residential premises, including, but not limited to, a private residence, a multi-unit residential facility, a halfway house, a homeless shelter, or any other type of residential premises. But those provisions do not apply regarding an offender's registration, provision of notice of a change in, or verification of a school, institution of higher education, or place of employment address pursuant to the new duties enacted in the bill regarding those types of premises.

The bill states that a sheriff or designee of a sheriff may attempt to confirm that an offender or child who registers a residence address, provides notice of a change of any residence address, or verifies a current residence address as described in the second preceding paragraph currently resides at the address in question in manners other than the manner described in that paragraph. A sheriff or designee of a sheriff is not limited in the number of requests that may be made under the provisions described in the second preceding paragraph regarding any registration, provision of notice, or verification, or in the number of times that the sheriff or designee may attempt to confirm, in manners other than the manner provided in that paragraph, that an offender or delinquent child currently resides at the address in question. (R.C. 2950.111.)

As stated above, the bill extends the SORN Law's existing immunity provisions to a person who, in accordance with the new provisions the bill enacts, provides assistance to sheriffs and designees of sheriffs who are attempting to confirm the residence of an offender or child. The existing immunity provisions identify certain persons who have duties or functions under the SORN Law or related rules and provide that the identified persons generally are immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by an act or omission in connection with a power, duty, responsibility, or authorization under the SORN Law or under rules adopted under authority of that Law. But, under existing law, the immunity does not apply to a person so identified if, in relation to the act or omission in question, the act or omission was manifestly outside the scope of the person's employment or official responsibilities, the act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner, or liability for the act or omission is expressly imposed by a section of the Revised Code. The bill does not change the existing immunity provisions, other than by the extension. Thus, under the bill, the existing immunity provisions, and the exception from those provisions, apply to a person who owns, leases, or otherwise has custody, control, or supervision of

premises, or an agent of that person, and who receives a request from a sheriff or designee for confirmation of the residence of an offender's or delinquent child's address, regarding the person's or agent's provision of information to the sheriff or designee. (R.C. 2950.111(A) and 2950.12(A)(9).)

Duties of the Attorney General

Existing law

Existing law imposes certain duties on the AG regarding the SORN Law. Among the duties are those requiring the AG to (R.C. 2950.13):

(1) Not later than July 1, 1997, establish and maintain a State Registry of Sex Offenders housed at BCII that contains all of the registration, change of residence address, and verification information BCII bureau receives pursuant to the SORN Law regarding an offender or delinquent child, and all of the information BCII receives pursuant to R.C. 2950.14;

(2) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules for the implementation and administration of the SORN Law provisions that pertain to the notification of neighbors of an offender or delinquent child who committed a sexually oriented offense and was adjudicated a sexual predator or determined to be a habitual sex offender or who committed on or after June 13, 2002, an aggravated sexually oriented offense, and rules that prescribe a manner in which victims of a sexually oriented offense committed by an offender or delinquent child who was adjudicated a sexual predator or determined to be a habitual sex offender or who committed on or after June 13, 2002, an aggravated sexually oriented offense may request to be provided notice;

(3) In consultation with local law enforcement representatives and through BCII, prescribe the forms to be used by judges and officials pursuant to the SORN Law to advise offenders and delinquent children of their duties of registration, notification of a change of residence address and registration of the new residence address, and residence address verification, and prescribe forms to be used by sheriffs relative to those duties of registration, change of residence address notification, and residence address verification;

(4) Through BCII, maintain the verification forms returned under the residence address verification mechanism set forth in the SORN Law.

Operation of the bill

In addition to the new duties it imposes that are described above in "***Inspection and disclosure of information obtained under the SORN Law by a***

sheriff or BCII," the bill modifies the existing AG duties described above as follows:

(1) In the duty described above in (1) under "***Existing law***," it adds references to change of *school, institution of higher education, or place of employment address* information BCII receives under the SORN Law, adds reference to information regarding persons who are convicted of, plead guilty to, or are adjudicated delinquent children for committing a child-victim oriented offense, changes the name of the Registry to the State Registry of Sex Offenders and Child-Victim Offenders," and adds a provision that specifies that the Registry also must indicate whether a person who was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense was so convicted or pleaded guilty in a criminal prosecution or in a serous youthful offender case (R.C. 2950.13(A)(1)). As described in prior portions of this analysis, the bill adds new duties that require subject offenders, in specified circumstances, to register and provide notice of a change in, school, institution of higher education, or place of employment addresses and transfers certain offenses that currently are sexually oriented offenses to the new category of offenses named "child-victim offenses," and these changes conform to those new duties and the transfer.

(2) In the duty described above in (2) under "***Existing law***," it revises the language that refers to offenders convicted of an aggravated sexually oriented offense being subjected to the SORN Law's community notification provisions so that the language refers to *any aggravated sexually oriented offense* (the bill removes the existing reference to the offense being committed on or after June 13, 2002) and adds references to persons who have been adjudicated a child-victim predator or determined to be a habitual child-victim offender and community notification regarding them (R.C. 2950.13(A)(3)).

(3) In the duty described above in (3) under "***Existing law***," it adds references to forms to be used regarding *school, institution of higher education, or place of employment address* registration, change of address, and verification duties the bill adds (see (1), above), and also adds references to forms to be used regarding the existing duty to file in certain circumstances a notice of intent to reside (R.C. 2950.13(A)(4)).

(4) In the duty described above in (4) under "***Existing law***," it changes the language to refer to the SORN Law's *address verification mechanism*, instead of the residence address verification mechanism, to reflect the *school, institution of higher education, or place of employment address* verification duties the bill adds (see (1), above) (R.C. 2950.13(A)(7)).

(5) In other existing duties of the AG not described above, it makes conforming changes by adding references regarding persons who are convicted of,

plead guilty to, or are adjudicated delinquent children for committing a child-victim oriented offense and their duties under the SORN Law, and by revising language pertaining to rules specifying additional categories of neighbors to be provided community notification to conform to other changes made by the bill (R.C. 2950.13(A)(6), (8), and (9), and (B)).

(6) It conforms the duties that currently refer to "sexually oriented offenses" to previously discussed portions of the bill that provide for registration-exempt sexually oriented offenses so that the registration-exempt offenses generally are not covered by the duties (R.C. 2950.13(A)(1) and (3)).

Delinquent Child Law changes

The bill generally does not change the provisions of existing law that govern the determination of whether a delinquent child who has committed a sexually oriented offense is to be made subject to the SORN Law, but it: (1) expands those provisions to also govern the determination of whether a delinquent child who has committed a child-victim oriented offense, transferred by the bill from its current designation as a sexually oriented offense as described in previous portions of this analysis, is to be made subject to that Law, (2) related to that expansion, renames "juvenile *sex offender* registrants," which is the classification a juvenile judge currently makes of a delinquent child whom the judge subjects to that Law, as "juvenile *offender* registrants" (see "***Definitions***," below), and (3) conforms those provisions to previously discussed portions of the bill that provide for registration-exempt sexually oriented offenses (R.C. 2152.82 to 2152.85). The bill also changes a few of the provisions of the Delinquent Child Law that pertain to the determination of whether a delinquent child who is classified a juvenile offender registrant for a sexually oriented offense also is to be classified a sexual predator or a habitual sex offender, and, again, expands those provisions to also govern the determination of whether a delinquent child who is classified a juvenile offender registrant for a child-victim oriented offense, transferred by the bill from its current designation as a sexually oriented offense, also is to be classified a child-victim predator or a habitual child-victim offender and conforms those provisions to previously discussed portions of the bill that provide for registration-exempt sexually oriented offenses. Some of these changes are discussed in prior portions of this analysis under the topic headings to which the changes pertain. Briefly, the changes the bill makes to the Delinquent Child Law are:

(1) It modifies language, in numerous sections, that currently refers to a juvenile sex offender registrant's "duty to register under R.C. Chapter 2950.04" with language referring to a juvenile offender registrant's "duty to comply with R.C. 2950.04, 2904.041, 2950.05, and 2950.06." This change reflects the fact that a juvenile offender registrant has duties under the SORN Law in addition to the registration duty, including in certain circumstances the duty to provide a notice

under R.C. 2950.04(G) or 2950.041(G) of intent to reside in a county. (R.C. 2152.82(A), 2152.83(A) and (B)(2), 2152.84(A), and 2152.85(A)(2) and (3).)

(2) It requires a judge who holds a hearing to determine whether a juvenile offender registrant is a sexual predator or a child-victim predator and does not determine that the child is in that category to include in its order of adjudication the determination that the child is not a sexual predator or a child-victim predator (R.C. 2152.82(B)(1) and 2152.83(B)(2)(b)). Under other provisions of the bill, described above in "***Classification at a hearing as a function of criminal sentencing; classification at a hearing as a function of a delinquent child disposition***" under "***Sexual predator classification***," etc., the judge also must state the reason or reasons why the judge determined that the child is not a sexual predator.

(3) It restates that a judge who holds a hearing to determine whether a juvenile offender registrant is a sexual predator, a habitual sex offender, a child-victim predator, or a habitual child-victim offender must do so in accordance with the SORN Law provisions governing such hearings (R.C. 2152.83(C)).

(4) Consistent with other provisions of the bill, described above in "***Classification at a hearing as a function of criminal sentencing; classification at a hearing as a function of a delinquent child disposition***" under "***Sexual predator classification***," etc., that pertain to the initial determination of whether an offender or delinquent child is a sexual predator or a child-victim predator, it specifies that, if a juvenile offender registrant is classified a sexual predator or a child-victim predator and the juvenile judge subsequently removes the sexual predator or a child-victim predator classification, the judge must state the reason or reasons why the judge determined that the child no longer is a sexual predator or a child-victim predator (R.C. 2152.84(A)(2)(b) and (d) and 2152.85(A)(1)).

(5) It clarifies certain provisions regarding the provision of SORN Law notices to a delinquent child who is classified a juvenile offender registrant and the child's parent, guardian, or custodian (R.C. 2152.82(B)(3), 2152.83(D), 2152.84(C), and 2152.85(E)).

(6) It expands the scope of all of the Delinquent Child Law provisions that related to determination of whether the SORN Law should be applied to a delinquent child so that they also apply regarding children who are adjudicated a delinquent child for committing a child-victim oriented offense, transferred by the bill from its current designation as a sexually oriented offense as described in previous portions of this analysis, in a manner that parallels the existing language regarding children who are adjudicated a delinquent child for committing a sexually oriented offense. Thus, all of the existing provisions also govern determinations of whether a child who is adjudicated a delinquent child for

committing a child-victim oriented offense should be classified a juvenile offender registrant, determined to be a child-victim predator, or determined to be a habitual child-victim offender, or whether any delinquent child who has been so classified should be reclassified or declassified. (R.C. 2152.02(Y), 2152.82, 2152.83, 2152.84, and 2152.85.)

(7) It enacts "transitional" provisions regarding juvenile court orders issued prior to the bill's effective date related to a delinquent child adjudication for an offense that currently is a sexually oriented offense but that the bill redesignates as a child-victim oriented offense. The bill specifies that if, prior to its effective date, a judge issues an order under R.C. 2152.82, 2152.83, 2152.84, or 2152.85 that classifies a delinquent child a juvenile offender registrant and if, on and after its effective date, the sexually oriented offense upon which the order was based no longer is considered a sexually oriented offense but instead is a child-victim oriented offense, notwithstanding the redesignation of the offense (R.C. 2152.851(A)): (a) the order remains in effect for the period described in the section under which it was issued, (b) the order is considered for all purposes to be an order that classifies the child a juvenile offender registrant, (c) R.C. 2950.041(A)(2)(b), regarding registration duties for juvenile offender registrants who committed a child-victim oriented offense, applies regarding the child, and (d) the duty to register imposed pursuant to that division must be considered, for purposes of R.C. 2950.07 and for all other purposes, to be a continuation of the duty imposed upon the child prior to its effective date under the order issued under R.C. 2152.82, 2152.83, 2152.84, or 2152.85 and R.C. Chapter 2950.

The bill also specifies that, if an order of that type included a classification or determination that the delinquent child was a sexual predator or habitual sex offender, notwithstanding the redesignation of the offense upon which the determination was based, all of the following apply (R.C. 2152.851(B)):

(a) R.C. 2950.091(A)(1) and (2) or (E)(1) and (2), regarding child-victim predator and habitual child-victim offender classifications, apply regarding the child and the judge's order made prior to the bill's effective date must be considered for all purposes to be an order that classifies the child as described in those divisions;

(b) The child's classification or determination under R.C. 2950.091(A)(1) and (2) or (E)(1) and (2) must be considered, for purposes of R.C. 2950.07 and for all other purposes, to be a continuation of classification or determination made prior to the bill's effective date;

(c) The child's duties under the SORN Law relative to that classification or determination must be considered for all purposes to be a continuation of the

duties related to that classification or determination as they existed prior to the bill's effective date.

(8) It conforms all the existing provisions to previously discussed portions of the bill (see "***Operation of the bill--no SORN Law duties for registration-exempt sexually oriented offenses***," above) that provide for registration-exempt sexually oriented offenses (R.C. 2152.82 through 2152.85).

(9) It enacts a mechanism pursuant to which a juvenile court may remove a presumptive registration exemption for a child adjudicated a delinquent child for committing a presumptive registration-exempt sexually oriented offense. The bill specifies that, if a juvenile court adjudicates a child a delinquent child for committing a presumptive registration-exempt sexually oriented offense, the court may determine pursuant to R.C. 2950.021, described above in "***Registration-exempt sexually oriented offenses***," prior to making an order of disposition for the child, that the child potentially should be subjected to classification as a juvenile offender registrant and to registration and all other duties and responsibilities generally imposed under the SORN Law upon persons who are adjudicated delinquent children for committing a sexually oriented offense other than a presumptive registration-exempt sexually oriented offense. If the court so determines, the exemption is removed and R.C. 2950.021(B)(1) and (3) apply. (R.C. 2152.811.)

Offense of importuning--same sex

Existing law

The existing offense of "importuning" sets forth five distinct prohibitions. One of the prohibitions prohibits a person from soliciting a person of the same sex to engage in sexual activity with the offender, when the offender knows such solicitation is offensive to the other person, or is reckless in that regard. A violation of this prohibition is a misdemeanor of the first degree (R.C. 2907.07(B) and (G)).

The Ohio Supreme Court, in the case of *State v. Thompson* (2002), 95 Ohio St.3d 264, held that the prohibition contained in R.C. 2907.07(B) is facially invalid under the 14th Amendment to the United States Constitution and under Article I, Section 2 of the Ohio Constitution.

Operation of the bill

The bill removes the language of current R.C. 2907.07(B) from the offense of importuning, in recognition of, and to conform the law to, the holding of the

Ohio Supreme Court in *Thompson, supra* (R.C. 2907.07--repeal of current division (B) and R.C. 3319.20 and 3319.31).

Prohibition against offender convicted of a sexually oriented offense or child-victim oriented offense establishing a residence near school premises

The bill enacts a new prohibition in the SORN Law. The provision prohibits a person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense or a child-victim oriented offense from establishing a residence or occupying residential premises within 1,000 feet of any "school premises" (see "***Definitions***," below). An owner or lessee of real property that is located within 1,000 feet of any school premises has a cause of action for injunctive relief against a person who violates this prohibition by establishing a residence or occupying residential premises within 1,000 feet of those school premises. The owner or lessee is not required to prove irreparable harm in order to obtain the relief. (R.C. 2950.031; see **COMMENT** 1.)

The bill does not specify a criminal penalty for a violation of the prohibition.

Prohibition against tenant permitting an offender convicted of a sexually oriented offense or child-victim oriented offense to reside in residential premises near school premises

The bill also enacts a new provision in the state's Residential Landlord-Tenant Law (R.C. Chapter 5321.) that prohibits a "tenant" (see below) of any "residential premises" (see below) located within 1,000 feet of any school premises from allowing any person to occupy those residential premises if both of the following apply: (1) the person's name appears on the State Registry of Sex Offenders and Child-Victim Offenders, and (2) the State Registry indicates that the person was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense (hereafter such a person will be called an "adult Registry offender").

If a tenant allows occupancy in violation of the preceding prohibition or a person establishes a residence or occupies residential premises in violation of the bill's prohibition against an "adult Registry offender" establishing a residence near school premises, the "landlord" (see below) for the residential premises that are the subject of the rental agreement or other tenancy may terminate the rental agreement or other tenancy of the tenant and all other occupants. If a landlord does not terminate the rental agreement or other tenancy in those circumstances, the landlord is not liable in a tort or other civil action in damages for injury, death,

or loss to person or property that allegedly result from that decision. (R.C. 5321.051; see **COMMENT** 1.)

Existing law defines "tenant," for purposes of the Residential Landlord-Tenant Law, as a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others (R.C. 5321.01(A)).

Existing law defines "landlord," for purposes of the Residential Landlord-Tenant Law, as the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement (R.C. 5321.01(B)).

Existing law defines "residential premises," for purposes of the Residential Landlord-Tenant Law, as a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant. "Residential premises" includes a dwelling unit that is owned or operated by a college or university. "Residential premises" does not include any of the following: (1) prisons, jails, workhouses, and other places of incarceration or correction, including, but not limited to, halfway houses or residential arrangements which are used or occupied as a requirement of probation or parole, (2) hospitals and similar institutions with the primary purpose of providing medical services, and homes licensed pursuant to R.C. Chapter 3721., (3) tourist homes, hotels, motels, and other similar facilities where circumstances indicate a transient occupancy, (4) elementary and secondary boarding schools, where the cost of room and board is included as part of the cost of tuition, (5) orphanages and similar institutions, (6) farm residences furnished in connection with the rental of land of a minimum of two acres for production of agricultural products by one or more of the occupants, (7) dwelling units subject to R.C. 3733.41 to 3733.49, (8) occupancy by an owner of a condominium unit, (9) occupancy in a facility licensed as an SRO facility pursuant to R.C. Chapter 3731., if the facility is owned or operated by an organization that is exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," or by an entity or group of entities in which such an organization has a controlling interest, and if other criteria are satisfied, or (10) emergency shelters operated by organizations exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," for persons whose circumstances indicate a transient occupancy, including homeless people, victims of domestic violence, and juvenile runaways (R.C. 5321.01(C)).

Existing law defines "rental agreement," for purposes of the Residential Landlord-Tenant Law, as any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions

concerning the use and occupancy of residential premises by one of the parties (R.C. 5321.01(D)).

Forcible entry and detainer actions

Forcible entry and detainer actions against adult Registry offenders who reside near a school

The bill authorizes a "landlord" (see below) to commence proceedings under the Forcible Entry and Detainer Law for possession of "residential premises" (see below) against both of the following (see "***Background--forcible entry and detainer actions***," below, for circumstances in which a Forcible Entry and Detainer Action may be had under existing law):

(1) "Adult Registry offenders" who, pursuant to a "rental agreement" (see below), reside in or occupy residential premises located within 1,000 feet of any school premises;

(2) "Tenants" (see below) who permit any "adult Registry offender" to occupy residential premises located within 1,000 feet of any school premises.

If a tenant or any other person with the tenant's permission resides in or occupies residential premises that are located within 1,000 feet of any school premises and is an "adult Registry offender," the landlord for those residential premises, upon discovery of that status, may terminate the rental agreement or tenancy for those residential premises by notifying the tenant and all other occupants, as provided in R.C. 1923.04, to leave the premises. If a landlord does not terminate the rental agreement or tenancy in these circumstances, the landlord is not liable in a tort or other civil action in damages for injury, death, or loss to person or property that allegedly result from that decision. (R.C. 1923.02(A)(13), (A)(14), and (C) and 5321.03(A)(5); see **COMMENT** 1.)

Under R.C. 1923.04(A), not in the bill, a party desiring to commence an action under the Forcible Entry and Detainer Law must notify the adverse party to leave the premises, for the possession of which the action is about to be brought, three or more days before beginning the action, by certified mail, return receipt requested, or by handing a written copy of the notice to the defendant in person, or by leaving it at his usual place of abode or at the premises from which the defendant is sought to be evicted. Every notice of this nature given by a landlord to recover residential premises must contain the following language printed or written in a conspicuous manner: "You are being asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance."

The Law contains definitions of "landlord," "residential premises," "rental agreement," and "tenant" that are similar, but not identical, to the definitions of those terms in the Residential Landlord-Tenant Law, as described above (R.C. 1923.01).

Forcible entry and detainer actions based on controlled substance violations and other general cases

The existing Forcible Entry and Detainer Law provides for actions based on a controlled substance violation or based on any other case of the unlawful and forcible detention of lands or tenements not specified in statute. The bill changes the date on which the court clerk must set the action for trial. Under the bill, the clerk must set the action for trial *not later than* the 30th *calendar day* (as opposed to *on* the 30th *working day* under existing law) after the date that the tenant is served with a copy of the summons. (R.C. 1923.051(A)(2).)

Under existing law, if a landlord files a Forcible Entry and Detainer complaint that states that the landlord seeks a judgment of restitution based on the grounds specified in R.C. 1923.02(A)(6), which are described in the next paragraph, the clerk of the municipal court, county court, or court of common pleas in which the complaint is filed must cause the service and return of the summons in the action in accordance with the Rules of Civil Procedure, which service must be made, if possible, within three working days after the filing of the complaint. The clerk also must cause the action to be set for trial *on* the 30th *working* day after the date that the tenant is served with a copy of the summons. (R.C. 1923.051(A))

R.C. 1923.02(A)(6) authorizes Forcible Entry and Detainer proceedings to be had in any other case of the unlawful and forcible detention of lands or tenements that is not otherwise statutorily specified. For purposes of this provision, in addition to any other type of unlawful and forcible detention of lands or tenements, such a detention may be determined to exist when both of the following apply: (1) a tenant fails to vacate residential premises within three days after the landlord gives the tenant certain statutorily specified notice and the landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation of the Drug Offenses Law and the Controlled Substances Law, or of a municipal ordinance that is substantially similar to any provision in either of those Laws, that involves a controlled substance and that occurred in, is occurring in, or otherwise was or is connected with the premises, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be such a violation, and (2) the court determines, by a preponderance of the

evidence, that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in such a violation.[1]

Applicability

The bill provides that R.C. 1923.01, 1923.02, 1923.051, 2950.01, 5321.01, and 5321.03, as amended by the bill, and R.C. 2950.031 and 5321.051, as enacted by the bill, apply to rental agreements entered into on or after the effective date of the bill (Section 8).

Background--forcible entry and detainer actions

Other grounds for the actions. Under existing provisions of the Forcible Entry and Detainer Law, retained by the bill, proceedings under that Law also may be had as follows (R.C. 1923.02(A)):

(1) Against tenants or manufactured home park residents holding over their terms;

(2) Against tenants or manufactured home park residents in possession under an oral tenancy, who are in default in the payment of rent;

(3) In sales of real estate, on executions, orders, or other judicial process, when the judgment debtor was in possession at the time of the rendition of the judgment or decree, by virtue of which such sale was made;

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[1] *For purposes of this provision, a landlord has "actual knowledge of or has reasonable cause to believe" that a tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in such a violation if a search warrant was issued; the affidavit presented to obtain the warrant named or described the tenant or person as the individual to be searched and particularly described the tenant's premises as the place to be searched, named or described one or more controlled substances to be searched for and seized, stated substantially the offense or municipal ordinance that occurred in, is occurring in, or otherwise was or is connected with the tenant's premises, and states the factual basis for the affiant's belief that the controlled substances are located on the tenant's premises; the warrant was properly executed by a law enforcement officer and any controlled substance described in the affidavit was found by that officer during the search and seizure; and, subsequent to the search and seizure, the landlord was informed by that or another law enforcement officer of the fact that the tenant or person has or presently is engaged in such a violation and it occurred in, is occurring in, or otherwise was or is connected with the tenant's premises (R.C. 1923.02(A)(6)(a)(i)).*

(4) In sales by executors, administrators, or guardians, and on partition, when any of the parties to the complaint were in possession at the commencement of the action, after such sales, so made on execution or otherwise, have been examined by the proper court and adjudged legal;

(5) When the defendant is an occupier of lands or tenements, without color of title, and the complainant has the right of possession to them;

(6) In any other case of the unlawful and forcible detention of lands or tenements. For purposes of this provision, in addition to any other type of unlawful and forcible detention of lands or tenements, such a detention may be determined to exist when both of the following apply:

(a) A tenant fails to vacate residential premises within three days after both of the following occur: (i) the tenant's landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation of the Drug Laws or the Controlled Substances Laws, or of a municipal ordinance that is substantially similar to any section in either of those Laws, which involves a controlled substance and which occurred in, is occurring in, or otherwise was or is connected with the premises, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in this division, and (ii) the landlord gives the tenant the notice required by R.C. 5321.17(C) (termination of periodic tenancies);

(b) The court determines, by a preponderance of the evidence, that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in provision (A)(6)(a)(i).

(7) In cases arising out of the Land Installment Contract Law;

(8) Against tenants who have breached certain obligations that are imposed by the Landlord and Tenant Law and that materially affect health and safety;

(9) Against tenants who have breached an obligation imposed upon them by a written rental agreement;

(10) Against manufactured home park residents who have defaulted in the payment of rent or breached the terms of a rental agreement with a manufactured home park operator;

(11) Against manufactured home park residents who have committed two material violations of the rules of the manufactured home park, of the Public Health Council, or of applicable state and local health and safety codes and who have been notified of the violations;

(12) Against occupants of self-service storage facilities who have breached the terms of a rental agreement or violated R.C. 5322.04 (using a self-service storage facility for residential purposes).

Procedure in the actions. As described above, under the existing Forcible Entry and Detainer Law, a person desiring to commence an action under that Law (the landlord) generally must notify the adverse party (the tenant) to leave the premises, for the possession of which the action is about to be brought, three or more days before beginning the action, by certified mail, return receipt requested, or by handing a written copy of the notice to the defendant in person, or by leaving it at his usual place of abode or at the premises from which the defendant is sought to be evicted. The notice must contain specified language. (R.C. 1923.04(A)--not in the bill.)

The landlord then must file a complaint in the appropriate court. The complaint must particularly describe the premises so entered upon and detained, and set forth either an unlawful and forcible entry and detention, or an unlawful and forcible detention after a peaceable or lawful entry of the described premises. Once this is done, the court issues a summons to the tenant. (R.C. 1923.05--not in the bill.)

The summons must be in a statutorily prescribed form and must be served at least seven days before the day set for trial. The clerk of the court in which a complaint to evict is filed mails the summons by ordinary mail, along with a copy of the complaint, document, or other process to be served, to the defendant tenant at the address set forth in the caption of the summons and to any address set forth in any written instructions furnished to the clerk. In addition to this ordinary mail service, the clerk also must cause service of that process to be completed under one or two other forms of service.

The claim for restitution of the premises must be scheduled for hearing in accordance with local court rules, but in no event sooner than the seventh day from the date service is complete. But, answer day for any other claims filed with the claim for possession is 28 days from the date service is deemed complete. If the defendant does not appear in the action and the summons was properly served, the court must try the cause as though the defendant were present. Also, continuances in the action may not be granted for a period longer than eight days. (R.C. 1923.06, 1923.07, and 1923.08--not in the bill.)

The defendant may assert any defense in the action at trial. Also, in an action for possession of residential premises based upon nonpayment of the rent or in an action for rent when the tenant or manufactured home park resident is in possession, the tenant or resident may counterclaim for any amount he may recover under the rental agreement or under the Manufactured Home Park Law or the Landlord and Tenant Law.[2] (R.C. 1923.061--not in the bill.)

Generally, a judge tries the case. After hearing the evidence, if the judge concludes that the complaint is not true, the judge enters judgment against the plaintiff for costs. If the judge finds the complaint to be true, the judge shall render a general judgment against the defendant, in favor of the plaintiff, for restitution of the premises, and costs. If the judge finds the complaint true in part, the judge must render a judgment for restitution of that part only, and the judge must tax the costs as the judge deems just. Either party may demand a jury, in which case, the jury determines whether the complaint is true. (R.C. 1923.09 and 1923.10--not in the bill.)

If the court enters a judgment of restitution, at the request of the plaintiff or the plaintiff's agent or attorney, the court must issue a writ of execution on the judgment, in a statutorily prescribed form. Generally, within ten days after receiving the writ of execution, the sheriff, police officer, constable, or bailiff must execute it by restoring the plaintiff to the possession of the premises and must levy and collect the costs and make return, as upon other executions. The writ of execution may be stayed in certain circumstances. (R.C. 1923.13 and 1923.14--not in the bill.)

Definitions

The following definitions, relevant to the bill, apply to the SORN Law:

Habitual sex offender

"Habitual sex offender" means, except when a juvenile judge removes this classification, a person to whom both of the following apply: (1) the person is convicted of or pleads guilty to a sexually oriented offense *that is not a registration-exempt offense*, or the person is adjudicated a delinquent child for

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[2] *In that event, the court from time to time may order the tenant or resident to escrow with the court all or part of the past due rent and rent becoming due during the pendency of the action. After judgment, the party to whom a net judgment is owed is paid first from the money escrowed, and any balance must be satisfied as any other judgment. If the tenant or resident has escrowed an amount greater than that necessary to satisfy a judgment obtained by the landlord, the balance must be returned by the court to the tenant or resident. (R.C. 1923.061(B).)*

committing on or after January 1, 2002, a sexually oriented offense *that is not a registration-exempt offense*, was 14 years of age or older at the time of committing the offense, and is classified a juvenile offender registrant based on that adjudication, and (2) one of the following applies to the person: (a) regarding a person who is an offender, the person previously was convicted of or pleaded guilty to one or more sexually oriented offenses *or child-victim oriented offenses* or previously was adjudicated a delinquent child for committing one or more sexually oriented offenses *or child-victim oriented offenses* and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications, regardless of when the offense was committed and regardless of the person's age at the time of committing it (language in italics is added by the bill), or (b) regarding a delinquent child, the person previously was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing one or more sexually oriented offenses *or child-victim oriented offenses*, regardless of when the offense was committed and regardless of the person's age at the time of committing it (language in italics is added by the bill). (Existing R.C. 2950.01(B), amended by the bill as indicated.)

Sexually oriented offense

The bill amends the definition of "sexually oriented offense" in the manner described above in "***Sexually oriented offenses***."

Sexual predator

"Sexual predator" means a person to whom either of the following applies (existing R.C. 2950.01(E), substantively unchanged by the bill): (1) the person has been convicted of or pleaded guilty to committing a sexually oriented offense that is not a registration-exempt offense and is likely to engage in the future in one or more sexually oriented offenses, or (2) the person has been adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt offense, was 14 years of age or older at the time of committing the offense, was classified a juvenile offender registrant based on that adjudication, and is likely to engage in the future in one or more sexually oriented offenses.

Adjudicated as being a sexual predator or adjudicated a sexual predator

An offender or delinquent child is "adjudicated as being a sexual predator" or "adjudicated a sexual predator" if any of the following applies and if, *regarding a delinquent child* (language in italics is added by the bill; other provisions of the bill described in prior portions of this analysis eliminate the authority to remove a sexual predator classification for an offender), that status has not been removed

pursuant to R.C. 2152.84, 2152.85, or 2950.09 (R.C. 2950.01(G), amended by the bill as indicated):

(1) 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 *that is not a registration-exempt offense* and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the document that charged the sexually violent offense.

(2) Regardless of when the sexually oriented offense was committed, on or after January 1, 1997, the offender is sentenced for a sexually oriented offense *that is not a registration-exempt offense*, and the sentencing judge determines pursuant to R.C. 2950.09(B) that the offender is a sexual predator.

(3) The delinquent child is adjudicated a delinquent child for committing a sexually oriented offense *that is not a registration-exempt offense*, was 14 years of age or older at the time of committing the offense, and has been classified a juvenile offender registrant based on that adjudication, and the adjudicating judge or that judge's successor in office determines pursuant to R.C. 2950.09(B) or R.C. 2152.82, 2152.83, 2152.84, or 2152.85 that the delinquent child is a sexual predator.

(4) Prior to January 1, 1997, the offender was convicted of or pleaded guilty to, and was sentenced for, a sexually oriented offense *that is not a registration-exempt 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.

(5) Regardless of when the sexually oriented offense was committed, the offender or delinquent child is convicted of or pleads guilty to, has been convicted of or pleaded guilty to, or is adjudicated a delinquent child for committing a sexually oriented offense *that is not a registration-exempt offense* in another state, in a federal court, military court, or Indian tribal court, *or in a court of any nation other than the United States* (language in italics is added by the bill), as a result of that conviction, plea of guilty, or adjudication, the offender or child is required, under the law of that other jurisdiction, to register as a sex offender until the offender's or child's death (the bill removed language that also imposed as a criterion that the offender or child be required under the law of the other jurisdiction *to verify the offender's or delinquent child's address on at least a quarterly basis each year*), and, on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or child moves to and resides in Ohio or temporarily is domiciled in Ohio for *more than five days* (changed by the bill from *more than seven days*) *or the offender is required to register a school, institution of higher education, or place of employment address* (the language in

italics is added by the bill), unless a court of common pleas or juvenile court determines that the offender or delinquent child is not a sexual predator pursuant to R.C. 2950.09(F).

"Sexually violent predator specification," "sexually violent offense," "sexual motivation," and "violent sex offense" (the third and fourth terms are added by the bill)

These terms all have the same meanings as in existing R.C. 2971.01, not in the bill (R.C. 2950.01(H), amended by the bill as indicated).

Juvenile offender registrant

"Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense *that is not a registration-exempt offense or a child-victim oriented offense*, who is 14 years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a juvenile offender registrant and specifies has a *duty to comply with R.C. 2950.04, 2950.05, and 2950.06 if the child committed a sexually oriented offense or with R.C. 2950.041, 2950.05, and 2950.06 if the child committed a child-victim oriented offense. "Juvenile offender registrant" includes a person who, prior to the bill's effective date, was a "juvenile sex offender registrant" under the current definition of that term*, which term the bill replaces with this term (the language in italics is added by the bill; under existing law the term refers to a *duty to register under R.C. 2950.04*) (R.C. 2950.01(J), amended by the bill as indicated).

Out-of-state juvenile offender registrant

"Out-of-state juvenile offender registrant" means a person who 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 of any nation other than the United States* for committing a sexually oriented offense *or child-victim oriented offense* (language in italics is added by the bill), who on or after January 1, 2002, moves to and resides in Ohio or temporarily is domiciled in Ohio for *more than five days* (changed by the bill from *more than seven days*), and who has a duty under R.C. 2950.04 to register in *Ohio and the duty to otherwise comply with that section and R.C. 2950.05 and 2950.06 if the child committed a sexually oriented offense or has a duty under R.C. 2950.041 to register in Ohio and the duty to otherwise comply with that section and R.C. 2950.05 and 2950.06 if the child committed a child-victim oriented offense. "Out-of-state juvenile offender registrant" includes a person who, prior to the bill's effective date, was an "out-of-state juvenile sex offender registrant" under the current definition of that former*

term, which term the bill replaces with this term (the language in italics is added by the bill) (R.C. 2950.01(L), amended by the bill as indicated).

Aggravated sexually oriented offense

"Aggravated sexually oriented offense" means a violation of R.C. 2907.02(A)(1)(b) (rape of a child who is less than 13 years of age) committed on or after June 13, 2002, *or a violation of R.C. 2907.02(A)(2) committed on or after the bill's effective date* (the language in italics is added by the bill) (R.C. 2950.01(O), amended by the bill as indicated). Existing R.C. 2907.02(A)(2), not in the bill, prohibits a person from engaging in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force. A person who violates any of the prohibitions contained in R.C. 2907.02 is guilty of the offense of "rape."

School

"School" means any school operated by a board of education or any school for which the State Board of Education prescribes minimum standards under R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed (R.C. 2950.01(R), added by the bill, by reference to existing R.C. 2925.01, not in the bill).

School premises

"School premises" means either of the following (R.C. 2950.01(R), added by the bill, by reference to existing R.C. 2925.01, not in the bill): (1) the parcel of real property on which any "school" (as defined above) is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed, or (2) any other parcel of real property that is owned or leased by a board of education of a school or the governing body of a school for which the State Board of Education prescribes minimum standards under R.C. 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

Child-victim oriented offense

The bill defines the new term "child-victim oriented offense" in the manner described above in "***Child-victim oriented offenses***."

Habitual child-victim oriented offender (added by the bill)

"Habitual child-victim offender" means, except when a juvenile judge removes this classification, a person to whom both of the following apply: (1) the person is convicted of or pleads guilty to a child-victim oriented offense, or the person is adjudicated a delinquent child for committing on or after January 1, 2002, a child-victim oriented offense, was 14 years of age or older at the time of committing the offense, and is classified a juvenile offender registrant based on that adjudication, and (2) one of the following applies to the person: (a) regarding a person who is an offender, the person previously was convicted of or pleaded guilty to one or more child-victim oriented offenses or previously was adjudicated a delinquent child for committing one or more child-victim oriented offenses and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications, regardless of when the offense was committed and regardless of the person's age at the time of committing the offense, or (b) regarding a delinquent child, the person previously was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing one or more child-victim oriented offenses, regardless of when the offense was committed and regardless of the person's age at the time of committing the offense. "Habitual child-victim offender" includes a person who has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing, a child-victim oriented offense and who, on and after the bill's effective date, is automatically classified a habitual child-victim offender pursuant to R.C. 2950.091(E) as enacted by the bill. (R.C. 2950.01(T).)

Child-victim predator (added by the bill)

"Child-victim predator" means a person to whom either of the following applies (R.C. 2950.01(U)): (1) the person has been convicted of or pleaded guilty to committing a child-victim oriented offense and is likely to engage in the future in one or more child-victim oriented offenses, or (2) the person has been adjudicated a delinquent child for committing a child-victim oriented offense, was 14 years of age or older at the time of committing the offense, was classified a juvenile offender registrant based on that adjudication, and is likely to engage in the future in one or more child-victim oriented offenses.

Adjudicated as being a child-victim predator or adjudicated a child-victim predator (added by the bill)

An offender or delinquent child is "adjudicated as being a child-victim predator" or "adjudicated a child-victim predator" if any of the following applies and if, regarding a delinquent child, that status has not been removed pursuant to R.C. 2152.84, 3253.85, or 2950.09 (R.C. 2950.01(V)):

(1) The offender or delinquent child has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing, a child-victim oriented offense and, on and after the bill's effective date, is automatically classified a child-victim predator pursuant to R.C. 2950.091(A) as enacted in the bill.

(2) Regardless of when the child-victim oriented offense was committed, on or after the bill's effective date, the offender is sentenced for a child-victim oriented offense, and the sentencing judge determines pursuant to R.C. 2950.091(B) as enacted in the bill that the offender is a child-victim predator.

(3) The delinquent child is adjudicated a delinquent child for committing a child-victim oriented offense, was 14 years of age or older at the time of committing the offense, and has been classified a juvenile offender registrant based on that adjudication, and the adjudicating judge or that judge's successor in office determines pursuant to R.C. 2950.09(B) or pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85 that the delinquent child is a child-victim predator.

(4) Prior to the bill's effective date, the offender was convicted of or pleaded guilty to a child-victim oriented offense, at the time of the conviction or guilty plea, the offense was considered a sexually oriented offense, on or after the bill's effective date, the offender is serving a term of imprisonment in a state correctional institution, and the court determines pursuant to R.C. 2950.091(C) as enacted in the bill that the offender is a child-victim predator.

(5) Regardless of when the child-victim oriented offense was committed, the offender or delinquent child is convicted of or pleads guilty to, has been convicted of or pleaded guilty to, 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 United States for committing a child-victim oriented offense, as a result of that conviction, plea of guilty, or adjudication, the offender or child is required under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the child was adjudicated, to register as a child-victim offender or sex offender until the offender's or child's death, and, on or after July 1, 1997, for offenders or January 1, 2002, for delinquent children, the offender or delinquent child moves to and resides in Ohio or temporarily is domiciled in Ohio for more than five days or the offender is required under section R.C. 2950.041 as enacted in the bill to register a school, institution of higher education, or place of employment address in Ohio, unless a court of common pleas or juvenile court determines that the offender or delinquent child is not a child-victim predator pursuant to R.C. 2950.091(F) as enacted in the bill.

Residential premises (added by the bill)

"Residential premises" means the building in which a residential unit is located and the grounds upon which that building stands, extending to the perimeter of the property. "Residential premises" includes any type of structure in which a residential unit is located, including, but not limited to, multi-unit buildings and mobile and manufactured homes. (R.C. 2950.01(W).)

Residential unit (added by the bill)

"Residential unit" means a dwelling unit for residential use and occupancy, and includes the structure or part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or two or more persons who maintain a common household (R.C. 2950.01(X)).

Multi-unit building (added by the bill)

"Multi-unit building" means a building in which is located more than 12 residential units that have entry doors that open directly into the unit from a hallway that is shared with one or more other units. A residential unit is not considered located in a multi-unit building if the unit does not have an entry door that opens directly into the unit from a hallway that is shared with one or more other units or if the unit is in a building that is not a multi-unit building as described above. (R.C. 2950.01(Y).)

Severability clause

The bill declares that its provisions are severable. It specifies that if a codified or uncodified section of law it contains or a provision or application of such a section is held invalid, the invalidity does not affect any other codified or uncodified section of law contained in the bill, or any related codified or uncodified section, or any provision or application of any such section, that can be given effect without the invalid section or provision or application. (Section 6 of the bill.)

Existing R.C. 1.50, not in the bill, contains a general severability clause for the Revised Code. It specifies that, if any provisions of a section of the Revised Code or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

COMMENT

1. In restricting where sexually oriented offenders may reside, this bill raises constitutional questions under the Due Process Clause of the United States Constitution and under Section 1, Article I of the Ohio Constitution regarding infringement on the liberty interest of these offenders.

2. ***Existing law--R.C. 2950.09(C)(2) and (E)***. R.C. 2950.09(C)(2) imposes certain duties on courts that sentenced certain sexually oriented offenders prior to the enactment of the current SORN Law when those offenders are to be released from prison. The court may adjudicate the offender a sexual predator. If the court does not adjudicate the offender a sexual predator, the court must determine whether the offender is a habitual sex offender. If the court determines that the offender is a habitual sex offender, the court may subject the offender to the SORN Law community notification provisions.

Under existing R.C. 2950.09(E), if a person is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense, or is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense, the sentencing or adjudicating judge must determine whether the offender or delinquent child is a habitual sex offender and whether to subject the offender or delinquent child to the SORN Law's community notification provisions.

R.C. 2950.09(C)(2) and (E) do not appear to apply to persons who are determined to be habitual sex offenders by other jurisdictions or to sex offenders who are determined to be habitual sex offenders subject to community notification by other jurisdictions.

Existing law--community notification provisions. If an offender or delinquent child has been determined, pursuant to R.C. 2950.09(C)(2) or (E), 2152.83, 2152.84, or 2152.85, to be a habitual sex offender subject to community notification, the SORN Law's community notification provisions apply. The victim of the offense is provided certain notices upon request, and the sheriff must send notices to certain individuals and entities in the offender's or delinquent child's community. (R.C. 2950.10 and 2950.11.)

By referencing R.C. 2950.09(C)(2) and (E), this provision does not appear to apply to sex offenders who are determined to be habitual sex offenders by other jurisdictions or to sex offenders who are determined to be habitual sex offenders subject to community notification by other jurisdictions.

Existing law--duration of SORN Law duties in Ohio. The duty of an offender who is convicted of or pleads guilty to, or has been convicted of or pleads

guilty to, a sexually oriented offense, and the duty of a delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense and is classified a juvenile sex offender registrant or who is an out-of-state juvenile sex offender registrant, to comply with the SORN Law in Ohio continues, after the date of commencement, for whichever of the following periods is applicable (R.C. 2950.07(B)):

(1) Generally, if the offender or delinquent child has been adjudicated as being a sexual predator relative to the sexually oriented offense, the offender's or delinquent child's duty to comply continues until the offender's or delinquent child's death.

(2) If the judge who sentenced the offender or delinquent child for the sexually oriented offense determined pursuant to R.C. 2950.09(E) or pursuant to R.C. 2152.83, 2152.84, or 2152.85 that the offender or delinquent child is a habitual sex offender, the offender's or delinquent child's duty to comply continues for 20 years.

(3) If neither (1) nor (2) applies, the offender's or delinquent child's duty to comply continues for 10 years.

By referencing R.C. 2950.09(E), paragraph (2), above, does not appear to apply to sex offenders who are determined to be habitual sex offenders by other jurisdictions or to sex offenders who are determined to be habitual sex offenders subject to community notification by other jurisdictions.

HISTORY

ACTION	DATE	JOURNAL ENTRY	
Introduced	01-23-03	p.	65
Reported, S. Judiciary on Criminal Justice	03-12-03	p.	177
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