



S.B. 9

125th General Assembly
(As Introduced)

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Goodman**

BILL SUMMARY

- Authorizes a county sheriff to charge a fee, subject to annual monetary limits, each time an adult offender registers or registers a new residence address under the Sex Offender Registration and Notification (SORN) Law.
- Authorizes a county sheriff to charge a fee, subject to annual monetary limits, each time an adult offender makes a periodic verification of current residence address under the SORN Law.
- Specifies that the above fees are to be used to defray the costs of registering adult sex offenders and providing community notification under the SORN Law.
- Establishes a \$100 limit per registration year on the fees a sheriff may collect under the bill from an adult offender adjudicated a sexual predator.
- Establishes a \$50 limit per registration year on the fees a sheriff may collect under the bill from an adult habitual sex offender who is not adjudicated a sexual predator but for whom the sentencing judge has required community notification.
- Establishes a \$25 limit per registration year on the fees a sheriff may collect under the bill from an adult offender who is not adjudicated a sexual predator or a habitual sex offender.
- Prohibits a sheriff from refusing to register a person, register a new address, or verify a residence address under the SORN Law because a person does not pay a fee.

- Specifies the procedure for collecting unpaid fees.

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CONTENT AND OPERATION

Sex Offender Registration and Notification Law--general background

Existing law requires certain offenders who have been convicted of or pleaded guilty to a "sexually oriented offense" (see "*Definitions*," below) to register with a county sheriff, provide notification to specified sheriffs if there is a change in residence address, and periodically verify residence addresses with specified sheriffs. The law also provides for victim notification and community notification of the residence addresses of offenders who are also classified as "sexual predators" or, in certain circumstances, "habitual sex offenders" (see "*Definitions*," below). This law, contained in existing Chapter 2950. of the Revised Code, is referred to generally as the Sex Offender Registration and Notification Law (the SORN Law) or Ohio's Megan's Law.

Duties and notifications under the SORN Law

Duty to register

Existing law generally requires offenders convicted of a sexually oriented offense to register personally with a specified sheriff at a specified time. Generally, each offender must register, within seven days after coming into any county in which the offender resides or temporarily is domiciled for more than seven days, with the sheriff of that county.¹ (R.C. 2950.04(A), not in the bill.)

¹ Existing law has similar registration requirements for certain delinquent children who have committed sexually oriented offenses. For simplicity purposes, however, this analysis refers generally to adult "offenders."

An offender who is required to register personally must obtain from the sheriff or a designee of the sheriff a registration form, complete and sign the form, and return the completed form together with a photograph to the sheriff or designee. The sheriff or designee must sign the form and indicate on it the date on which it is returned. After an offender registers with a sheriff, the sheriff must forward the signed registration form and photograph to the Bureau of Criminal Identification and Investigation (BCII). BCII must include the information and materials it receives in the State Registry of Sex Offenders. (R.C. 2950.04(A), (B), (C), and (D), not in the bill.)

Duties regarding change of residence address

Under existing law, an offender who is required to register must, at least 20 days before changing the offender's residence address during the period of required registration (see **COMMENT 1**), do both of the following: (1) provide written notice of the residence address change to the sheriff with whom the offender most recently registered and (2) register the new residence address with the sheriff of the county in which the new residence address is located. The provisions apply regardless of whether the person's new residence address is in Ohio or in another state. (R.C. 2950.05(A), (B), (C), and (F), not in the bill.)

A sheriff, upon receiving an offender's notice of a change of residence address, must promptly forward the new residence address to BCII if the new residence address is in another state or, if the offender's new residence address is located in another county in Ohio, to the sheriff of that county. BCII must include all information forwarded to it in the State Registry of Sex Offenders and forward notice of the offender's new residence address to the appropriate officials in the other state. (R.C. 2950.05(D), not in the bill.)

Duties regarding address verification

Existing law provides that an offender who is required to register must periodically verify the offender's current residence address at a specified time and in a specified manner. Regardless of when the sexually oriented offense for which the offender is required to register was committed, if the offender has been adjudicated a sexual predator and has not been "declassified" or if the offender is required to register as a result of an aggravated sexually oriented offense, the offender must verify the offender's current residence address every 90 days after the offender's initial registration date during the required registration period. In all other circumstances, the offender must verify the offender's current residence address on each anniversary of the offender's registration date during the required registration period. (R.C. 2950.06(A) and (B), not in the bill.)

An offender must verify the offender's current residence address with the sheriff with whom the offender most recently registered by personally appearing before the sheriff or a designee, no earlier than ten days before the date on which the verification is required and no later than the date verification is required, to complete and sign a copy of the verification form prescribed by BCII. The sheriff or designee must sign the completed form and indicate on it the date on which it is completed. To facilitate the verification of an offender's current residence address, the sheriff with whom the offender most recently registered may mail a nonforwardable verification form prescribed by BCII to the offender's last reported address, with a notice that conspicuously states that the offender must personally appear before the sheriff or a designee to complete the form and the date by which it must be completed. Regardless of whether a sheriff mails a form to an offender, each offender with an address verification duty must personally appear before the sheriff or a designee to verify the address as described in this paragraph. (R.C. 2950.06(C) and (D), not in the bill.)

Upon an offender's personal appearance and completion of a verification form, a sheriff must promptly forward a copy to BCII. BCII must include all information forwarded to it in the State Registry of Sex Offenders. (R.C. 2950.06(E), not in the bill.)

Sheriff's duty to collect fees

Existing law

Existing law specifies the fees that a sheriff is authorized or required to charge and that a court or its clerk then must tax in the bill of costs against the judgment debtor or person legally liable for the fees. These fees generally pertain to actions taken by the sheriff or a deputy sheriff before, during, or after civil or criminal proceedings in a court. When any of the services associated with the specified fees are rendered by a county officer or employee, the fees must be taxed as costs in the case and, when collected, paid into the general fund of the county. (R.C. 311.17, not in the bill.)

Changes made by the bill

The bill creates new authority for a sheriff to collect a fee, subject to annual maximums, each time an adult offender registers or registers a change of residence address under the SORN Law. It also permits a sheriff to collect a fee, subject to annual maximums, each time an adult offender periodically verifies a current residence address under that law. (R.C. 311.171(B).)

If a sheriff charges an adult offender one or more of the fees authorized by the bill, the sheriff may not require a delinquent child to pay any fee until the child

reaches the age of majority. At that time, all of the provisions of the bill applicable to an adult offender must be construed to apply to the delinquent child. (R.C. 311.171(C)(1).)

The bill gives a sheriff discretion as to the amount of a fee but imposes a maximum limit for each registration year of an adult offender. A "registration year" of an offender is defined, for current registrants, as the 12-month period beginning on the anniversary, occurring on or after January 1, 2004 (the bill's effective date), of the date on which the offender's registration period began in accordance with the statute specifying when registration requirements begin for specified offenders (see **COMMENT 1**). A "registration year," for future registrants, is defined as the 12-month period beginning on the date on which an offender's registration period begins, on or after January 1, 2004 (the bill's effective date), in accordance with that statute. The bill specifies that the fees may not exceed a total of: (1) \$100 for each registration year of an offender who has been adjudicated a sexual predator, (2) \$50 for each registration year of an offender who has been determined to be a habitual sex offender, who has not been adjudicated a sexual predator, and for whom the sentencing judge has required community notification, or (3) \$25 for each registration year of an offender who has been convicted of or pleaded guilty to a sexually oriented offense and who has not been adjudicated a sexual predator or a habitual sex offender. (R.C. 311.171(A) and (C)(2), (3), and (4); Section 3 of the bill.)

The bill provides that an offender who is required to comply with the SORN Law must pay any fee a sheriff charges under the authority conferred by the bill (R.C. 2950.061). The bill requires an offender to retain the receipts provided for payments made during the offender's registration year to establish that the payment of any fee will exceed the applicable maximum annual amount permissible under the bill (R.C. 311.171(C)(5)). It states that, if an offender has registered with a sheriff and subsequently relocates to a different county during a registration year, the annual maximum amounts apply to the sheriff in the new county, and that sheriff must consider any payments already made by the offender for purposes of determining when the applicable maximum has been met for the offender's registration year (R.C. 311.171(G)).

Under the bill, all fees paid to a sheriff must be paid into the county treasury to the credit of the county general fund and must be allocated to the sheriff to be used to defray the costs of registering sex offenders and providing community notification (R.C. 311.171(C) and (F)). The sheriff cannot refuse to register a person, register a new residence address of a person, or verify the current residence address of a person, who does not pay a required fee (R.C. 311.171(C)(6)). Unpaid fees must be reported in the same manner as other fees

collected by county officials and may be recovered in a civil action in the same manner as other money due the county (R.C. 311.171(C)(7)).

The bill requires a sheriff to make a determination about a person's ability to pay a fee each time a person appears before the sheriff to provide any registration or verification for which the sheriff charges a fee under the bill. In making that determination, the sheriff is required to apply the same standards uniformly to each person. (R.C. 311.171(D).)

The bill provides that, if a sheriff determines a person is unable to pay a fee, the sheriff may waive payment of the fee or require the person to pay the fee in accordance with a payment schedule the sheriff establishes based on the person's ability to pay. The sheriff must document any waiver or alternative fee arrangement in the official registration records of the sheriff's office and must provide the offender with a written copy of any waiver or alternative fee arrangement. (R.C. 311.171(E).) In order to accommodate the sheriff's authority conferred by the bill to waive fees, the bill creates an exception to the current provision of law that prohibits county officers from reducing, abating, or remitting any fees, costs, percentages, penalties, allowances, or perquisites of any kind required to be charged by the officer (R.C. 325.32).

Finally, the bill specifies that the notice that a judge, an official in charge of a jail, workhouse, state correctional institution, or other institution of confinement, or a chief of police or sheriff must provide at the time of sentencing, a release in various ways from incarceration, or otherwise to persons who are required to register under the SORN Law must inform them of the duty to pay any fee a sheriff charges under the authority conferred by the bill. In addition, the form used to provide the notice must include an explanation of the fee that a sheriff may charge the offender, the possibility of a waiver of that fee and alternative fee arrangements, and the "penalty" for failing to pay that fee. (R.C. 2950.03(B)(1).) (See **COMMENT 2**.)

Definitions

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

(1) "Habitual sex offender" generally means a person who is convicted of or pleads guilty to a sexually oriented offense and who previously has been convicted of or pleaded guilty to one or more sexually oriented offenses.

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

(a) Regardless of the age of the victim of the offense, rape, sexual battery, or gross sexual imposition (R.C. 2907.02, 2907.03, or 2907.05);

(b) Any of the following offenses involving a minor, in the circumstances specified: (i) kidnapping, abduction, unlawful restraint, criminal child enticement, unlawful sexual conduct with a minor, or the former offense of child stealing (R.C. 2905.01, 2905.02, 2905.03, 2905.05, or 2907.04 or former R.C. 2905.04) when the victim of the offense is under 18 years of age, (ii) compelling prostitution (R.C. 2907.21) when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age, (iii) certain manners of committing pandering obscenity involving a minor or pandering sexually oriented matter involving a minor (R.C. 2907.321 or 2907.322), (iv) certain manners of committing illegal use of a minor in a nudity-oriented material or performance (R.C. 2907.323), (v) one manner of committing endangering children (R.C. 2919.22(B)(5)) when the child who is involved in the offense is under 18 years of age, or (vi) certain manners of committing importuning (R.C. 2907.07(D) and (E)).

(c) Regardless of the age of the victim, aggravated murder, murder, felonious assault, kidnapping, or one manner of committing involuntary manslaughter (R.C. 2903.01, 2903.02, 2903.11, 2905.01, or 2903.04(A)) that is committed with a purpose to gratify the sexual needs or desires of the offender;

(d) A sexually violent offense;

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

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

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

(3) "Sexual predator" means a person who has been convicted of or pleaded guilty to committing a sexually oriented offense and is likely to engage in the future in one or more sexually oriented offenses.

(4) An offender is "adjudicated as being a sexual predator" if: (a) the offender is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense that is a sexually violent offense and also is



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

(5) "Sexually violent predator specification" and "sexually violent offense" have the same meanings as in existing R.C. 2971.01 (cross-reference in division (H) of R.C. 2950.01). R.C. 2971.01 (not in the bill) provides that "sexually violent predator specification" means a specification, as described in R.C. 2941.148, charging a person with being a sexually violent predator and that "sexually violent predator" means a person who has been convicted of or pleaded guilty to committing, on or after January 1, 1997, a sexually violent offense and is likely to engage in the future in one or more sexually violent offenses.

(6) "Aggravated sexually oriented offense" means the offense of rape when a person has engaged in prohibited sexual conduct with a person who is less than 13 years old, whether the offender knows the age of the other person or not.

COMMENT

1. Existing law, not in the bill, specifies that the duty of an offender who is convicted of or pleads guilty to a sexually oriented offense to comply with the registration, change of address, and address verification duties of the SORN Law *commences* on whichever of the following dates is applicable: (1) if the offender's duty to register is based on the offender's release from a prison term or other confinement on or after July 1, 1997, the offender's duty to comply commences on the date of the offender's release or on July 1, 1997, whichever is later, (2) if the offender's duty to register is based on the offender being sentenced for a sexually

oriented offense on or after July 1, 1997, and (1) above does not apply, the offender's duty to comply commences on the date of entry of the judgment of conviction of the offense or on July 1, 1997, whichever is later, (3) if the offender's duty to register is based on the offender having been required to register under former R.C. Chapter 2950., the offender's duty to comply commences 14 days after July 1, 1997, and (4) if the offender's duty to register is based on the offender's conviction of a sexually oriented offense in a jurisdiction other than Ohio, the offender's duty to comply commences on March 30, 1999, or on the date the offender begins to reside or becomes temporarily domiciled in Ohio, whichever is later. (R.C. 2950.07(A).)

The duty of an offender to comply with the registration, change of address, and address verification duties of the SORN Law *continues*, after the date of commencement, for whichever of the following periods is applicable: (1) if the offender has been adjudicated a sexual predator relative to the sexually oriented offense 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 duty to comply continues until the offender's death, provided that, if the judge who sentenced an adjudicated sexual predator or that judge's successor in office subsequently "declassifies" the offender, the offender's duty to comply continues for the period of time that otherwise would have been applicable to the offender, (2) if the judge who sentenced the offender for the sexually oriented offense determined pursuant to the SORN Law that the offender is a habitual sex offender, the offender's duty to comply continues for 20 years, and (3) if neither (1) nor (2) above applies, the offender's duty to comply continues for ten years (R.C. 2950.07(B)).

2. The bill does not provide for a "penalty" for failure to pay a fee. It does provide that unpaid fees are to be recovered in a civil action in the same manner as other money due the county. A clarifying amendment, then, may be necessary for this provision.

HISTORY

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