



Dennis M. Papp

Bill Analysis
Legislative Service Commission

Am. Sub. H.B. 15
126th General Assembly
(As Passed by the House)

Reps. Hoops, Aslanides, Blessing, Bupp, Calvert, Collier, Combs, C. Evans, Fessler, Gibbs, Hagan, Hughes, Kearns, Latta, Law, Martin, McGregor, T. Patton, Reidelbach, Setzer, Schaffer, Webster, White, Widener, Widowfield, Willamowski, Wolpert, Allen, Barrett, Carano, DeGeeter, Distel, Driehaus, Hartnett, Otterman, S. Patton, Perry, Ujvagi, D. Evans, Gilb, Seitz, Yuko, Seaver, Healy, D. Stewart, Beatty, Boccieri, Book, Brown, Buehrer, Carmichael, Cassell, Chandler, Core, Daniels, Domenick, Faber, Fende, Garrison, Kilbane, Mason, Miller, Oelslager, Raga, Raussen, Reinhard, Sayre, Schlichter, Schneider, G. Smith, J. Stewart, Strahorn, Taylor, Trakas, Wagner, Wagoner, Williams, Mitchell

BILL SUMMARY

- Requires the Department of Rehabilitation and Correction ("DRC") to establish and operate on the Internet a database that contains (1) specified information for each inmate in the custody of DRC and (2) information as to where any person can send written statements regarding any pending judicial release, pardon, commutation, parole, or transfer to transitional control of an offender serving a sentence of imprisonment or a prison term.
- Specifies that no information included on the database may identify or enable the identification of any victim of any offense committed by an inmate.
- Provides that DRC must update the database every 24 hours, the database is a public record, and DRC is responsible for making the database searchable by inmate name and by the county and zip code where the offender intends to reside after release, if known by DRC.
- Permits any person to submit a written statement for consideration before a person in the custody of DRC is granted a judicial release, pardon, commutation, parole, or a transfer to transitional control.

- Requires a court that schedules a judicial release hearing for an eligible offender to notify the offender and the head of the state correctional institution in which the offender is confined prior to the hearing.
- Specifies that all of the provisions of the bill described in the preceding dot points are to be collectively known as "Laura's Law."
- Expands the content of the notice that must be provided to a victim under the Sex Offender Registration and Notification Law's victim notification provisions, and the notice that must be provided to specified persons in the community under that Law's community notification provisions, to require that the notices, in addition to the information that currently must be provided, also include the photograph of the subject sex offender or child-victim oriented offender or delinquent child.

TABLE OF CONTENTS

Database of offenders in the custody of the Department of Rehabilitation and Correction.....	3
Motion for judicial release	5
Current law.....	5
Operation of the bill	6
Recommendations for pardon, commutation, or parole	6
Current law	6
Operation of the bill	7
Transitional control	8
Current law.....	8
Operation of the bill	8
The bill's provisions to be known as "Laura's Law"	9
Photographs of registrant sex offenders and child-victim offenders, as part of victim notification or community notification under the SORN Law.....	9
Background--general SORN Law registration, change of address, address verification, and intent-to-reside duties	9
Victim notification under the SORN Law	10
Community notification under the SORN Law	11
Categories of offenders and delinquent children in relation to which the victim and community notification duties apply	14

CONTENT AND OPERATION

Database of offenders in the custody of the Department of Rehabilitation and Correction

The bill requires the Department of Rehabilitation and Correction ("DRC"), within 90 days of the bill's effective date but not before January 1, 2006, to establish and operate on the Internet a database that contains all of the following information for each inmate in the custody of DRC under a sentence imposed for a conviction of or a guilty plea to any offense (R.C. 5120.66(A)(1)):

- (1) The inmate's name;
- (2) For each offense for which the inmate was sentenced to a prison term or term of imprisonment and is in DRC's custody all of the following:
 - (a) The name of the offense;
 - (b) The Revised Code section of which the offense is a violation;
 - (c) The gender of each victim of the offense if those facts are (should be "that fact is") known;
 - (d) Whether each victim of the offense was an adult or child, if those facts are known;
 - (e) The range of the possible prison terms or term of imprisonment that could have been imposed for the offense;
 - (f) The actual prison term or term of imprisonment imposed for the offense;
 - (g) The county in which the offense was committed;
 - (h) The date on which the inmate began serving the prison term or term of imprisonment imposed for the offense;
 - (i) Either the date on which the inmate will be eligible for parole relative to the offense if the term is an indefinite term or life term or the date on which the term ends if the prison term is a definite term.
- (3) If applicable and if known to DRC prior to the conduct of a hearing for judicial release, notice of the fact that the inmate will be having a hearing regarding a possible grant of judicial release, the date of the hearing, and the right

of any person, as described below in "*Motion for judicial release*," to submit to the court a written statement regarding the possible judicial release.

(4) If the inmate is serving a prison term as a sexually violent predator who committed a sexually violent offense, prior notice of any hearing the offender will be having regarding the determination of whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term, and the date of the hearing.

(5) If applicable, notice that the inmate might be under consideration for a pardon or commutation of a sentence or will be having a hearing regarding a possible grant of parole, notice of the right of any person to submit a written statement regarding the pending action, as described below in "*Recommendations for pardon, commutation, or parole*," and notice of the hearing date regarding a possible grant of parole, at least three weeks before the Adult Parole Authority recommends a pardon or commutation or conducts such a parole hearing.

(6) If applicable, notice of a pending transfer of the inmate to transitional control, the date of the possible transfer, and the right of any person to submit a statement regarding the possible transfer, as described below in "*Transitional control*," at least three weeks before a hearing regarding such a transfer.

(7) If applicable, prompt notice of the inmate's escape from any facility in which the inmate was incarcerated and of the capture of the inmate after escape.

(8) If applicable, notice of the inmate's death while in confinement.

(9) Prior to the release of the inmate from confinement, notice of the fact that the inmate will be released, the date of release, and, if applicable, the standard terms and conditions of the release.

(10) If applicable, notice of the inmate's judicial release (see "*Motion for judicial release*," below).

The database must also contain information as to where a person can send written statements as described below in "*Motion for judicial release*," "*Recommendations for pardon, commutation, or parole*," and "*Transitional control*." Additionally, the database may contain information regarding inmates who are listed in the database in addition to the required information (R.C. 5120.66(A)(2) and (B)(3)).

The bill requires DRC, in maintaining the database, to update the database every 24 hours to ensure that the information it contains is accurate and current. Also, no information included on the database may identify or enable the

identification of any victim of any offense committed by an inmate. The bill further provides that the database is a public record open for inspection under R.C. 149.43 (the Public Records Law), and DRC is responsible for making the database searchable by inmate name and by the county and ZIP code where the offender intends to reside after release from a state correctional institution if this information is known to DRC. Finally, the bill specifies that the failure of DRC to comply with the database requirements described above does not give any rights or any grounds for appeal or post-conviction relief to any inmate. (R.C. 5120.66(B)(1), (2), (4), and (C).)

Motion for judicial release

Current law

Under current law, upon the filing of a motion by an eligible offender¹ or upon its own motion, a sentencing court may reduce the offender's stated prison term through a judicial release. The motion must be filed within a specified time frame depending on the offender's offense and sentence. The court may schedule a hearing on the motion. A motion may be denied without a hearing, but a motion cannot be granted without a hearing. If a court denies a motion without a hearing, the court may consider a subsequent motion for that offender, but a court can hold only one hearing for any eligible offender and, if it denies a motion after a hearing, it cannot consider a subsequent motion for that offender.

If a court schedules a hearing for a motion for judicial release, the court must notify the eligible offender and the prosecuting attorney of the county in which the offender was indicted. The eligible offender must, then, promptly give a copy of the notice of the hearing to the head of the state correctional institution in which the offender is confined. The prosecuting attorney is responsible for notifying the victim of the offense, or the victim's representative. At the hearing, the eligible offender, the offender's attorney, the prosecuting attorney, the victim or the victim's representative, and any other person with relevant information have the opportunity to present information to the court. After the hearing, the court has ten days to rule on the motion. If the court grants a motion for judicial release, the court must order the release of the offender, and place the offender under an appropriate community control sanction, under appropriate community control conditions, and under the supervision of the probation department serving the

¹ An "eligible offender" means any person serving a stated prison term of ten years or less when either the stated prison term does not include a mandatory prison term or the stated prison term includes a mandatory prison term and the person has served the mandatory prison term (R.C. 2920.20(A)(1), unchanged by the bill).

court. The court must also reserve the right to reimpose the sentence that it reduced if the offender violates the sanction. (R.C. 2929.20.)

Operation of the bill

The bill makes four changes with respect to the judicial release of an eligible offender. First, the bill requires a court that schedules a judicial release hearing to notify the head of the state correctional institution in which the offender is confined at the same time that it notifies the eligible offender (currently, the eligible offender must provide this notice to the head of the institution). The head of the institution must immediately notify the appropriate person at DRC of the hearing. DRC must, within 24 hours, post on the database it maintains under the bill the offender's name and notice of the right of any person to submit a written statement regarding the pending action, as described in the following paragraph. (R.C. 2929.20(D).)

Second, the bill permits any person to submit to the court, at any time prior to the hearing on the eligible offender's motion for judicial release, a written statement concerning the effects of the offender's crime or crimes, the circumstances surrounding the crime or crimes, the manner in which the crime or crimes were perpetrated, and the person's opinion as to whether the offender should be released. This right to make a statement is in addition to and independent of the right of a victim to make a statement pursuant to R.C. 2930.14, 2930.17, or 2946.051 and any right of a person to present written information at a motion for judicial release, as described above. (R.C. 2929.20(J).)

Third, the bill specifies that the court when considering a motion for judicial release from an eligible offender may consider any written statement of any person submitted to the court, as described in the preceding paragraph (R.C. 2929.20(G)).

Fourth, if the court grants a motion for judicial release, the bill requires the court to notify the appropriate person at DRC of the judicial release. DRC must then post notice of the release on the database it maintains under the bill (R.C. 2929.20(I) and 5120.66(A)(1)(c)(viii)).

Recommendations for pardon, commutation, or parole

Current law

Under current law, the Adult Parole Authority ("APA") may recommend to the Governor the pardon, commutation of sentence, or reprieve of any convict or prisoner or grant a parole to any prisoner for whom parole is authorized if in its judgment there is reasonable ground to believe that granting a pardon,

commutation, or reprieve to the convict or paroling the prisoner would further the interests of justice and be consistent with the welfare and security of society. Before recommending a pardon, commutation, or reprieve or before granting a parole, the APA must provide notice as described in the next paragraph and must consider statements made by the victim or the victim's representative.

Generally, the APA must provide the prosecuting attorney and the judge of the court of common pleas of the county in which the indictment against the offender was found notice of the pendency of a pardon, commutation, or parole at least three weeks before recommending a pardon or commutation or before granting parole. This notice must include the name of the offender, the offense of which the offender was convicted, the time of conviction, and the term of the offender's sentence. If requested under the Crime Victims' Rights Law, the APA also must provide this type of notice to the victim or the victim's representative. If the consideration of the pardon, commutation, or parole is continued, the APA must provide notice, by mail, of this continuation at least ten days prior to the further consideration. (R.C. 2967.03 and 2967.12.)

Operation of the bill

The bill makes three changes with respect to a recommendation for pardon or commutation or a grant of a parole for an offender who is serving a prison term or term of imprisonment for any offense. First, for an offender who is serving a prison term or term of imprisonment for any offense, the bill permits any person to send to the APA at any time prior to the APA's recommendation of a pardon or commutation or the granting of a parole for the offender a written statement relative to the offense and the pending action. This right to make a statement is in addition to and independent of the right of a victim to make a statement as otherwise permitted in a pardon, commutation, or parole consideration, pursuant to R.C. 2930.17, or as otherwise permitted, and this right is in addition to and independent of the authority for a judge or prosecuting attorney to furnish statements and information, make recommendations, and give testimony in a pardon, commutation, or parole consideration, the right of a prosecuting attorney, judge, or victim to give testimony or submit a statement at a full parole board hearing, and any other right or duty of a person to present information or make a statement. (R.C. 2967.12(H).)

Second, the bill requires the APA to consider any written statement of any person, submitted as described in the preceding paragraph, before recommending pardon or commutation of a sentence or before granting a parole to an offender serving a prison term or term of imprisonment for any offense (R.C. 2967.03).

Third, the bill specifies that, if an offender is serving a prison term or term of imprisonment for any offense, DRC must post on the database it maintains

under the bill the offender's name and notice of the right of any person to submit a written statement regarding the pending pardon, commutation, or parole action. This database entry must be made at the same time the prosecuting attorney and the judge are notified of the pendency of the pardon, commutation, or parole. DRC also must provide any notice of further consideration of pardon, commutation, or parole on the database at least ten days before the further consideration if the initial notice was posted on the database as required. Failure to comply with this posting requirement does not give any rights or grounds for appeal or post-conviction relief to the person serving the sentence. (R.C. 2967.12(A), (C), and (F).)

Transitional control

Current law

Current law permits DRC to transfer eligible prisoners² to transitional control status during the final 180 days of their confinement, under terms established by DRC. The APA is required to give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the indictment against the prisoner was found. The court has the authority to disapprove the transfer. The APA also must provide notice to the victim if the victim has requested notification under the Crime Victims' Rights Law. The victim has the right to submit a statement regarding the impact of the transfer of the prisoner to transitional control. (R.C. 2967.26.)

Operation of the bill

The bill makes three changes with respect to the transfer of an eligible offender to transitional control if the offender is serving a prison term or term of imprisonment for any offense. First, the bill requires that if a prisoner is serving a prison term or term of imprisonment for any offense, DRC, at least three weeks prior to a hearing to transfer the prisoner to transitional control, must post notice of the transfer and the offender's name on the database it maintains under the bill.

² Under current law, DRC by rule establishes the criteria for determining which offenders are eligible for transitional control. At a minimum, the criteria must provide that: (a) an offender is eligible for transitional control if the person is serving a prison term or term of imprisonment for an offense committed prior to March 17, 1998, and if, at the time that eligibility is being determined, the prisoner would have been eligible for furlough or conditional release under prior law, (b) no prisoner who is serving a prison term or term of life imprisonment without parole under the Sexually Violent Predator Law, and no prisoner who is serving a mandatory term is eligible for the program until after the expiration of the term. (R.C. 2967.26(A)(1).)

Second, the bill specifies that any person may send the APA at any time prior to a transfer of a prisoner who is serving a prison term or term of imprisonment for any offense to transitional control a written statement regarding the transfer. This right is in addition to and independent of the right of a victim to submit a statement and in addition to and independent of any other right or duty of a person to present information or make a statement.

Third, the bill requires the APA to consider any statement submitted as described in the preceding paragraph, in addition to all information, reports, and statements it considers, in deciding whether to transfer the prisoner to transitional control. (R.C. 2967.26(A)(4).)

The bill's provisions to be known as "Laura's Law"

The bill states that all of the provisions of the bill described above are to be collectively known as "Laura's Law" (R.C. 5120.66(D)).

Photographs of registrant sex offenders and child-victim offenders, as part of victim notification or community notification under the SORN Law

Background--general SORN Law registration, change of address, address verification, and intent-to-reside duties

The existing Sex Offender Registration and Notification Law (the SORN Law, contained in R.C. Chapter 2950.), in relevant part, generally requires offenders who are convicted of or plead guilty to a "sexually oriented offense" that is not a "registration-exempt sexually oriented offense" or to a "child-victim oriented offense" (see **COMMENT** 1, 2, and 3 for definitions of the terms in quotation marks) to register with the appropriate sheriff within a specified period of time the offender's residence address, school or institution of higher education address, or employment address. If the offender changes the residence, school or institution of higher education, or employment address, the offender within a specified period of time must provide the sheriff with whom the offender registered with notice of the change of address and must register the new address with the appropriate sheriff. The offender in accordance with a specified schedule also must periodically verify the residence, school or institution of higher education, or employment address with the sheriff with whom the offender most recently registered. The Law also requires offenders who are convicted of or plead guilty to a sexually oriented offense or a child-victim oriented offense and who are "adjudicated a sexual predator," a "child-victim predator," or an "habitual sexual offender or child-victim offender" (see **COMMENT** 4, 5, and 6 for definitions of the terms in quotation marks) made subject to community notification, and offenders who are convicted of or plead guilty to an aggravated sexually oriented offense, to send to the appropriate sheriff prior written notice of

the offender's intent to reside in the sheriff's county. Failure to comply with any of these requirements is a criminal offense. The registration, change of address, and address verification provisions, as they pertain to residence addresses, and the intent-to-reside notification provisions, also apply to delinquent children who are adjudicated delinquent for committing a sexually oriented offense or a child-victim oriented offense and who are classified by the juvenile court, under existing R.C. 2152.82 to 2152.85, as juvenile offender registrants based on that adjudication.

Victim notification under the SORN Law

Existing law. Existing law provides that, if a person is convicted of or pleaded guilty to either a "sexually oriented offense" that is not a "registration-exempt sexually oriented offense" or a "child-victim oriented offense" or a person is adjudicated a delinquent child for committing any such offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant based on that adjudication, if the offender or child is in any category identified below in "**Categories of offenders and delinquent children in relation to which the victim and community notification duties apply**" as being subject to this notification provision, and if the victim of the 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) 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 the offender's residence, school, institution of higher education, or place of employment address or addresses or the child's residence address, as applicable, and provide the notice at the most recent residence address available for the victim, not later than five days 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, school, institution of higher education, or place of employment address, as applicable, pursuant to that Law, the sheriff must notify the victim, in writing, that the offender's or child's address has changed, include in the notice the offender's or child's name and the offender's new residence, school, institution of higher education, or place of employment address or addresses or the child's new residence address, as applicable, and provide the notice at the most recent residence address available for the victim, not later than five days after the offender or child notifies the sheriff of the change in address.

If an offender or delinquent child who committed a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense is in a category identified as being subject to this notification, the victim of the offense may make a request in accordance with rules adopted by the Attorney General (the AG) that specifies that the victim would like to be notified

under this provision. If a victim makes such a request, the sheriff must provide the victim with the notices described in the preceding paragraph, and all information a sheriff obtains regarding the victim related to the request is confidential and is not a public record under the Public Records Law. If a victim does not make such a request, the victim is not entitled to be provided any notice under this provision. (R.C. 2950.10(A) and (B)(2).)

Operation of the bill. The bill expands the content of the notice that must be provided to a victim under the SORN Law's victim notification provisions to require that the notice, in addition to the information that must be provided under existing law, also include the photograph of the subject offender or delinquent child. Thus, under the bill, a sheriff who has the duty to provide the notice must notify the victim, in writing, that the offender or delinquent child has registered or that the offender's or delinquent child's address has changed, whichever is applicable, and include in the notice the offender's or child's name, *photograph*, and address or new address of the offender's residence, school, institution of higher education, or place of employment or the child's residence, as applicable. (R.C. 2950.10(A)(1) and (2).)

The bill conforms, to the change described in the preceding paragraph, an existing provision that requires the AG to prepare a crime victim's bill of rights pamphlet and specifies that the pamphlet must inform victims of their right in specified circumstances to receive notice under the SORN Law's victim notification provision. Under the bill, in addition to the information that the provision requires under existing law, the pamphlet also must refer to a victim's right to receive the offender's or delinquent child's photograph (R.C. 109.42(A)(16)).

Community notification under the SORN Law

Existing law. Existing law provides that, if a person is convicted of or pleads guilty to either a "sexually oriented offense" that is not a "registration-exempt sexually oriented offense" or a "child-victim oriented offense," or a person is adjudicated a delinquent child for committing any such offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant based on that adjudication, and if the offender or child is in any category identified below in "**Categories of offenders and delinquent children in relation to which the victim and community notification duties apply**" 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, or in the same building as, 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 executive director of the public children services agency with jurisdiction in the "specified geographical notification area" and located within the sheriff's county (throughout the provision, "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 with schools in the specified geographical notification area and 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 that school;

(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 located in the specified geographical notification area and in the sheriff's county;

(6) Specified officials of each institution of higher education 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 must 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 municipality in which the offender or child resides or, if the offender or child resides in an unincorporated area, the constable or police chief of the township in which the offender or child resides.

The notice must include all of the following information regarding the subject offender or delinquent child: the offender's or child's name, the offender's residence, school, institution of higher education, or place of employment address or the child's residence address, the sexually oriented offense or child-victim oriented offense of which the offender was convicted or pleaded guilty or for which the child was adjudicated a delinquent child, and a statement that describes the offender's or child's status as a sexual predator, child-victim predator, habitual sex offender, or habitual child-victim offender, or as an offender convicted of an aggravated sexually oriented offense, who is subject to the community notification provisions. A sheriff must provide the notice to the neighbors described in (1), above, and to law enforcement personnel described in (7) and (8), above, 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 under (7), above, not later than five days after the sheriff is provided the notice described in (7), above. The sheriff must provide the notices to all other specified persons described above 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 under (7), above, not later than five days after the sheriff is provided the notice described in (7), above. (R.C. 2950.11(B), (C), and (D)(1).)

If an offender is subject to community notification under this provision, generally, upon motion of the offender, the prosecuting attorney of the county in which the offender was convicted of the sexually oriented offense or child-victim oriented offense, or the sentencing judge or successor to that judge, the judge may conduct a hearing to determine whether the interests of justice would be served by suspending the community notification requirement in relation to the offender. The law specifies procedures regarding the determination of such a motion. If the judge conducts a hearing on the motion and finds that the offender has proven by clear and convincing evidence that the offender is unlikely to commit in the future a sexually oriented offense or a child-victim oriented offense and finds that suspending the community notification requirement is in the interests of justice, the judge may suspend the application of the community notification provisions in relation to the offender. A motion may be made under this provision only after the expiration of at least 20 years after the offender's duties under the SORN Law begin; after an initial motion, subsequent motions may be made every five years. The law specifies certain categories of offenders (e.g., those who are adjudicated a

sexually violent predator) who never are permitted to make a motion under this provision. (R.C. 2950.11(H).)

Operation of the bill. The bill expands the content of the notice that must be provided to the specified recipients under the SORN Law's community notification provisions to require that the notice, in addition to the information that must be provided under existing law, also include the photograph of the subject offender or delinquent child. Thus, under the bill, a sheriff who has the duty to provide notice to the specified recipients of the community notification must provide a written notice that includes all of the following information regarding the subject offender or delinquent child: (1) the offender's or child's name, (2) the offender's residence, school, institution of higher education, or place of employment address or the child's residence address, (3) the sexually oriented offense or child-victim oriented offense of which the offender was convicted or pleaded guilty or for which the child was adjudicated a delinquent child, (4) a statement that describes the offender's or child's status as a sexual predator, child-victim predator, habitual sex offender, or habitual child-victim offender or as an offender convicted of an aggravated sexually oriented offense, who is subject to the community notification provisions, and (5) *the offender's or child's photograph.* (R.C. 2950.11(B).)

Categories of offenders and delinquent children in relation to which the victim and community notification duties apply

The duty to provide the notices described above under the SORN Law's victim notification provisions and community notification provisions apply regarding any offender or delinquent child who is in any of the following categories, if the other criteria set forth above are satisfied: (1) the offender or child has been "adjudicated a sexual predator" or "child-victim predator" relative to the sexually oriented offense or child-victim oriented offense for which the offender or child has the duty to register under the SORN Law, and, regarding a child, the classification has not been removed, (2) the offender or child has been determined pursuant to law to be a "habitual sex offender" or a "habitual child-victim offender," the court has imposed a requirement subjecting the offender or child 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 is an aggravated sexually oriented offense. (R.C. 2950.10(B)(1) and 2950.11(F)(1).)

The bill does not change these provisions.

COMMENT

1. *Sexually oriented offense*. Existing law provides that, as used in the SORN Law, "sexually oriented offense" means any of the following (R.C. 2950.01(D)--not in the bill):

(a) Any of the following violations when committed by a person 18 years of age or older:

(i) Regardless of the age of the victim, rape, sexual battery, gross sexual imposition, or importuning;

(ii) Any of the following offenses involving a minor, in the circumstances specified: kidnapping for the purpose of engaging in sexual activity with the victim against the victim's will, unlawful sexual conduct with a minor, sexual imposition, or voyeurism, when the victim of the offense is under 18 years of age; compelling prostitution when the person compelled, induced, procured, etc. to engage in the sexual activity in question is under 18; certain violations under the offense of pandering obscenity to a minor or pandering sexually oriented matter involving a minor; illegal use of a minor in a nudity-oriented material or performance when the offense is a felony of the second degree; endangering children when the offense is committed by enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing a child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter and the child is under 18; or kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will, menacing by stalking, abduction, unlawful restraint, criminal child enticement, or the former offense of child stealing when the victim of the offense is under 18 and the offense is committed with a sexual motivation.

(iii) Regardless of the age of the victim, aggravated murder, murder, involuntary manslaughter that is the proximate result of the offender's committing or attempting to commit a felony, felonious assault, or kidnapping that is committed with a sexual motivation;

(iv) A violent sex offense, or a designated homicide, assault, or kidnapping offense if the offender also was convicted of or pleaded guilty to a sexual motivation specification included in the document charging the designated homicide, assault, or kidnapping offense;

(v) Sexual imposition or voyeurism when the victim of the offense is 18 or older or menacing by stalking when the victim of the offense is 18 or older and the offense is committed with a sexual motivation;

(vi) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed in (1)(a)(i) to (v), above;

(vii) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (1)(a)(i) to (vi), above.

(b) Any of the following violations when committed by a person under 18 (but subject to (1)(b)(ix), below):

(i) Regardless of the age of the victim, rape, sexual battery, gross sexual imposition, or importuning;

(ii) Any of the following offenses involving a minor, in the circumstances specified: kidnapping for the purpose of engaging in sexual activity with the victim against the victim's will, sexual imposition, or voyeurism when the victim of the offense is under 18; compelling prostitution when the person compelled, induced, procured, etc. to engage in the sexual activity in question is under 18; endangering children when the offense is committed by enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing a child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter and the child is under 18; or kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will, menacing by stalking, or the former offense of child stealing when the victim of the offense is under 18 and the offense is committed with a sexual motivation;

(iii) Any violent sex offense that, if committed by an adult, would be a felony of the first, second, third, or fourth degree, or any designated homicide, assault, or kidnapping offense if that offense, if committed by an adult, would be a felony of the first, second, third, or fourth degree and if the court determined that, if the child was an adult, the child would be guilty of a sexual motivation specification regarding that offense;

(iv) Aggravated murder, murder, involuntary manslaughter that is the proximate result of the offender's committing or attempting to commit a felony,

felonious assault, abduction, or kidnapping or an attempt to violate any of these provisions that is committed with a sexual motivation;

(v) Certain violations under the offense of pandering obscenity to a minor, pandering sexually oriented matter involving a minor, or illegal use of a minor in a nudity-oriented material or performance, or an attempt to violate any of these provisions, if the person who violates or attempts to violate the provision is four or more years older than the minor who is the victim of the violation;

(vi) Sexual imposition or voyeurism when the victim of the offense is 18 or older, or menacing by stalking when the victim of the offense is 18 or older and the offense is committed with a sexual motivation;

(vii) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed in (1)(b)(i) to (vi), above;

(viii) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (1)(b)(i) to (vii), above.

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

2. **Registration-exempt sexually oriented offense.** Existing law provides that, as used in the SORN Law, "registration-exempt sexually oriented offense" generally means a sexually oriented offense described in (2)(a) to (e), 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 or child-victim oriented offense, when the victim or intended victim of the offense is 18 years of age or older, and when a court has not determined that the offender should be subjected to registration and other duties and responsibilities under the SORN Law (R.C. 2950.01(P) and (Q)--not in the bill):

(a) Sexual imposition or voyeurism when the victim is 18 years of age or older, or menacing by stalking when the victim is 18 years of age or older and the offense is committed with sexual motivation;

(b) Any violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law

of any foreign nation that is committed by a person who is 18 years of age or older and is or was substantially equivalent to any offense listed in (2)(a), above;

(c) Subject to (2)(e), below, a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation committed by a person who is under 18 that is or was substantially equivalent to any offense listed in (2)(a), above, and that would be a felony of the fourth degree if committed by an adult;

(d) If the person is 18 years of age or older, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (2)(a) or (b), above, or, if the person is under 18, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (2)(a) or (c), above, subject to (2)(e), below;

(e) 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 paragraph (2)(a), (b), or (d), above.

3. **Child-victim oriented offense.** Existing law provides that, as used in the SORN Law, "child-victim oriented offense" excludes all sexually violent offenses and means any of the following (R.C. 2950.01(S)--not in the bill):

(a) Any of the following violations committed by a person 18 years of age or older, when the victim of the offense is under 18 and is not the child of the person who commits the offense:

(i) Kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will, abduction, unlawful restraint, criminal child enticement, or the former offense of child stealing;

(ii) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed in (3)(a)(i), above;

(iii) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (3)(a)(i) or (ii), above.

(b) Any of the following violations committed by a person under the age of 18, when the victim of the offense is under 18 years of age and is not the child of the person who commits the offense:

(i) Subject to (3)(b)(iv), below, kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will or the former offense of child stealing;

(ii) Subject to (3)(b)(iv), below, a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed in (3)(b)(i), above;

(iii) Subject to (3)(b)(iv), below, an attempt to commit, conspiracy to commit, or complicity in committing any offense listed in (3)(b)(i) or (ii), above;

(iv) If the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in (3)(a), above, or would be any offense listed in any of those clauses if committed by an adult.

4. **Sexual predator; adjudicated a sexual predator.** Existing law provides that, as used in the SORN Law, "sexual predator" means a person to whom either of the following applies (R.C. 2950.01(E)--not in the bill): (a) the person has been convicted of or pleaded guilty to committing a sexually oriented offense that is not a registration-exempt sexually oriented offense and is likely to engage in the future in one or more sexually oriented offenses, or (b) the person has been adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually 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 sexually oriented offenses.

Existing law provides that, as used in the SORN Law, 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 child, that status has not been removed pursuant to R.C. 2152.84, 2152.85, or 2950.09 (R.C. 2950.01(G)--not in the bill): (a) the offender is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense that is not a registration-exempt sexually oriented offense, the offense is a violent sex offense or a designated homicide, assault, or kidnapping offense, and the offender is adjudicated a sexually violent predator in relation to that 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 that is not a registration-exempt sexually oriented offense, and the sentencing judge determines pursuant to R.C. 2950.09(B) that the offender is a sexual predator, (c) the child is adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually 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 R.C. 2152.82, 2152.83, 2152.84, or 2152.85 that the child is a sexual predator, (d) 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 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 (e) regardless of when the sexually oriented offense was committed, the offender or 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 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, as a result of that conviction, plea of guilty, or adjudication, the offender or child is required, under the law of the other jurisdiction, to register as a 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 child moves to and resides in Ohio or temporarily is domiciled in Ohio for more than five days or the offender is required under R.C. 2950.04 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 child is not a sexual predator pursuant to R.C. 2950.09(F).

5. **Child-victim predator; adjudicated a child-victim predator.** Existing law provides that, as used in the SORN Law, "child-victim predator" means a person to whom either of the following applies (R.C. 2950.01(U)--not in the bill): (a) 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 (b) 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.

Existing law provides that, as used in the SORN Law, 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, 2152.85, or 2950.09 (R.C. 2950.01(V)--not in the bill): (a) the offender or child has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing, a child-victim oriented offense and, on and after July 31, 2003, is automatically classified a child-victim predator pursuant to R.C. 2950.091(A), (b)

regardless of when the child-victim oriented offense was committed, on or after July 31, 2003, the offender is sentenced for a child-victim oriented offense, and the sentencing judge determines pursuant to R.C. 2950.091(B) that the offender is a child-victim predator, (c) the 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 2152.82, 2152.83, 2152.84, or 2152.85 that the child is a child-victim predator, (d) prior to July 31, 2003, 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 July 31, 2003, the offender is serving a term of imprisonment in a state correctional institution, and the court determines pursuant to R.C. 2950.091(C) that the offender is a child-victim predator, or (e) regardless of when the child-victim oriented offense was committed, the offender or child is convicted, pleads guilty, has been convicted, pleaded 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 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 other jurisdiction, 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 child moves to and resides in Ohio or temporarily is domiciled in Ohio for more than five days or the offender is required under R.C. 2950.041 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. 2950.09(F).

6. ***Habitual sex offender; habitual child-victim offender.*** Existing law provides that, as used in the SORN Law, "habitual sex offender" means, except when a juvenile judge removes this classification for a child pursuant to R.C. 2152.84(A)(2) or 2152.85(C)(2), a person to whom both of the following apply (R.C. 2950.01(B)--not in the bill): (a) the person is convicted of or pleads guilty to a sexually oriented offense that is not a registration-exempt sexually oriented offense, or the person is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense that is not a registration-exempt sexually oriented offense, was 14 years of age or older at the time of committing the offense, and is classified a juvenile sex offender registrant based on that adjudication, and (b) one of the following applies to the person: (i) 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 the offense, or (ii) 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 the offense.

Existing law provides that, as used in the SORN Law, "habitual child-victim offender" means, except when a juvenile judge removes this classification for a child pursuant to R.C. 2152.84(A)(2) or 2152.85(C)(2), a person to whom both of the following apply (R.C. 2950.01(T)--not in the bill): (a) 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 (b) one of the following applies to the person: (i) 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 (ii) 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 July 31, 2003, is automatically classified a habitual child-victim offender pursuant to R.C. 2950.091(E).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-25-05	p. 82
Reported, H. Criminal Justice	05-26-05	p. 876
Passed House (91-0)	06-07-05	pp. 918-934

H0015-PH-126.doc/jc

