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Bill Analysis
Legislative Service Commission

S.B. 229

126th General Assembly
(As Introduced)

Sens. Coughlin, Wachtmann

BILL SUMMARY

- Creates sex offender license plates and requires them to have a pink background.
- Requires all motor vehicles that are operated by offenders convicted of a sexually oriented offense or child-victim oriented offense who are required to register a residence address with a sheriff to display the license plates on any vehicles they operate.

CONTENT AND OPERATION

Order requiring the display of sex offender license plates

Under current law, an offender who is convicted of any "sexually oriented offense" that is not a "registration-exempt sexually oriented offense" or any "child-victim oriented offense" (see **COMMENT 1**) must register personally with the sheriff of the county immediately upon coming into a county in which the offender resides or temporarily is domiciled for more than five days. The registration must include the offender's photograph, current residence address, employment address if employed or commencing employment, school address if attending or commencing school, and other information required by the Bureau of Criminal Identification and Investigation of the Attorney General's office. If an offender who is required to register changes his or her residence, the offender must provide notice of the change with the sheriff with whom he or she most recently registered and register the new residence address with the appropriate sheriff. An offender who registers also must periodically verify the offender's residence address with the sheriff with whom he or she registered (see **COMMENT 2**). These requirements last for a period ranging from ten years to life, depending upon the status classification of the offender (e.g., sexual predator, habitual sex offender, etc.), and conviction automatically brings about the requirements. An offender who commits a "presumptive registration-exempt sexually oriented offenses" is

not subject to the registration and related requirements unless the sentencing court determines that they should apply to the offender.

Under the bill, in the case of an offender who is sentenced on or after the bill's effective date and is required to register the offender's residence address under the provisions described in the preceding paragraph, the sentencing court must issue an order prohibiting the offender from operating a motor vehicle upon the public roads and highways or any public or private property used by the public for purposes of vehicular travel or parking unless the vehicle displays the sex offender license plates the bill creates (see "*Sex offender license plates*," below). The court must provide a copy of the order to the offender, and, except as described in the next paragraph the order generally remains in effect for the same period of time that the offender is required to register a residence address. If an offender is convicted of a presumptive registration-exempt sexually oriented offense, the sentencing court may issue such an order; if the court does so, it must include the duration of the order in the order. (R.C. 2950.15(A)(1) and (2).)

The bill provides that not sooner than five years after imposition of an order as described in the preceding paragraph, an offender who is subject to the order may file a petition in the municipal or county court in whose jurisdiction the offender resides requesting that the order be terminated. The court may deny the petition without a hearing or may conduct a hearing on the matter. In deciding whether to terminate the order, the court must consider all relevant factors, including 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 part of codified law, set forth in R.C. 2950.02. A court is not permitted to terminate the order if the person, within the duration of the order, has been convicted of any sexually oriented offense or presumptive registration-exempt sexually oriented offense. (R.C. 2950.15(B).)

The bill provides that a violation of an order issued under the above-described provision of the bill is a first-degree misdemeanor (R.C. 2950.99(D)).

Sex offender license plates

Under the bill, when an applicant for a motor vehicle registration complies with all laws governing such registration and also presents the Registrar of Motor Vehicles with the court order requiring the display of sex offender license plates, the Registrar must issue sex offender license plates to the applicant. The license plates may be issued for any vehicle registered in the name of the offender named in the order or for any vehicle the offender intends to operate.

Sex offender license plates must have a distinctive pink background color and carry a special serial number that is readily identified by law enforcement

officers. The Registrar must designate the distinctive pink color and serial number to be used on sex offender license plates, which must remain the same from year to year and may not be displayed on any other motor vehicles.

The Bureau of Motor Vehicles must adopt rules providing for the decentralization of the issuance of sex offender license plates, and the rules must provide for their issuance by at least one agency in each county. (R.C. 4503.237(A).)

The bill prohibits any person operating a motor vehicle displaying sex offender license plates from knowingly disguising or obscuring the color of the license plates. Violation of this prohibition is a minor misdemeanor. (R.C. 4503.237(B) and (C).)

COMMENT

1. Existing R.C. 2950.01, not in the bill, contains the following definitions that apply throughout R.C. Chapter 2950. and that are relevant to the bill:

Sexually oriented offense means any of the following:

(1) 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 of the offense, a violation of R.C. 2907.02, 2907.03, 2907.05, or 2907.06;

(b) Any of the following offenses involving a minor, in the circumstances specified: (i) a violation of R.C. 2905.01(A)(4) or R.C. 2907.04, 2907.06, or 2907.08, when the victim of the offense is under 18 years of age, (ii) a violation of 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) a violation of division (A)(1) or (3) of R.C. 2907.321 or 2907.322, (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 who is 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), of R.C. 2903.211, 2905.02, 2905.03, or 2905.05, or of 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.

(c) Regardless of the age of the victim of the offense, a violation of R.C. 2903.01, 2903.02, 2903.11, or 2905.01, or of R.C. 2903.04(A), that is committed with a sexual motivation;

(d) 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 that was included in the indictment, count in the indictment, or information charging the designated homicide, assault, or kidnapping offense;

(e) A violation of R.C. 2907.06 or 2907.08 when the victim of the offense is 18 years of age or older, or a violation of R.C. 2903.211 when the victim of the offense is 18 years of age or older and the offense is committed with a sexual motivation;

(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 in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (1)(a), (b), (c), (d), or (e), above;

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

(2) 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 of the violation, a violation of R.C. 2907.02, 2907.03, 2907.05, or 2907.07;

(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), 2907.06, or 2907.08, when the victim of the violation is under eighteen years of age, (ii) a violation of 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) 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), R.C. 2903.211, or former R.C. 2905.04, when the victim of the violation is under 18 years of age and the offense is committed with a sexual motivation.

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

(d) Subject to (2)(i), below, a violation of R.C. 2903.01, 2903.02, 2903.11, 2905.01, or 2905.02, a violation of R.C. 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 division (A)(1) or (3) of R.C. 2903.321 or 2903.322, of R.C. 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 of the violation;

(f) Subject to (2)(i), below, a violation of R.C. 2907.06 or 2907.08 when the victim of the violation is 18 years of age or older, or a violation of R.C. 2903.211 when the victim of the violation is 18 years of age or older and the offense is committed with a sexual motivation;

(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 in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in (2)(a), (b), (c), (d), (e), or (f), above, 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 (2)(a), (b), (c), (d), (e), (f), or (g), above;

(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)(a), (b), (c), (d), (e), (f), or (g), above, or would be any offense listed in any of those divisions if committed by an adult.

Presumptive registration-exempt sexually oriented offense means any of the following sexually oriented offenses, 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 of those sexually oriented offenses, 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:

(1) Any sexually oriented offense that is a violation of R.C. 2907.06 or 2907.08 when the victim of the offense is 18 years of age or older, or a violation of R.C. 2903.211 when the victim of the offense is 18 years of age or older and the

offense is committed with a sexual motivation, committed by a person who is 18 years of age or older or, subject to (5), below, committed by a person who is under 18 years of age;

(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 that is committed by a person who is 18 years of age or older and that is or was substantially equivalent to any sexually oriented 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 that is committed by a person who is under eighteen years of age, that is or was substantially equivalent to any sexually oriented 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 division (5), below, listed in (1) or (2), 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 sexually oriented offense listed in (1), (2), or (3), above.

Presumptive registration-exempt sexually oriented offense does not include any sexually oriented offense described in (1), (2), (3), (4), or (5), above, that is committed by a person who previously has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing any sexually oriented offense described in (1), (2), (3), (4), or (5), above, or any other sexually oriented offense.

Registration-exempt sexually oriented offense means any presumptive registration-exempt sexually oriented offense, if a court does not issue an order under R.C. 2950.021 that removes the presumptive exemption and subjects the offender who was convicted of or pleaded guilty to the offense to registration under R.C. 2950.04 and all other duties and responsibilities generally imposed under R.C. Chapter 2950. 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 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 R.C. 2152.82, 2152.83, 2152.84, or 2152.85 and to registration under R.C. 2950.04 and all other duties and responsibilities generally imposed under R.C. Chapter 2950. 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 under R.C. 2950.021 that removes the presumptive exemption and subjects the offender or potentially subjects the delinquent child to the duties and responsibilities described in the preceding paragraph.

Child-victim oriented offense means any of the following:

(1) Subject to (3), below, any of the following violations or offenses 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), of R.C. 2905.02, 2905.03, or 2905.05, or of 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 any nation other than the United States, that is or was substantially equivalent to any offense listed in clause (a) of this paragraph, or (c) an attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (a) or (b) of this paragraph.

(2) Subject to (3), below, 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 clause (d) of this paragraph, a violation of R.C. 2905.01(A)(1), (2), (3), or (5) or of former R.C. 2905.04, (b) subject to clause (d) of this paragraph, 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, that is or was substantially equivalent to any offense listed in clause (a) of this paragraph and that, if committed by an adult, would be a felony of the first, second, third, or fourth degree, (c) subject to clause (d) of this paragraph, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (a) or (b) of this paragraph, or (d) if the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in the preceding paragraph or would be any offense listed in that paragraph if committed by an adult.

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

2. In addition to these residence address, change of residence address, and residence address verification registration requirements, existing law also imposes on persons convicted of a sexually oriented offense or child-victim oriented offense, in specified circumstances, a duty to register the offender's employer's address and the address of a school or institution of higher education the offender attends. The change of address and address verification requirements also apply in relation to a registered employer, school, and institution of higher education address (R.C. 2950.04, 2950.041, 2950.05, and 2950.06). In specified circumstances, children who are adjudicated delinquent for committing an act that would be a sexually oriented offense or a child-victim oriented offense if committed by an adult also are subject to the residence address, change of residence address, and residence address verification registration requirements (R.C. 2152.84, 2152.85, 2950.04, 2950.041, 2950.05, and 2950.06).

HISTORY

ACTION	DATE
Introduced	11-16-05

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