



Ohio Legislative Service Commission

Bill Analysis

Andrea Holmes

H.B. 369

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(As Introduced)

Reps. Luckie, Domenick, Okey, Fende, Lehner

BILL SUMMARY

- Requires a person who registers under the SORN Law and who does not have a fixed residence address to be monitored by an active global positioning system device until the person acquires a fixed residence address and requires the sheriff or the sheriff's designee to cause the person to be so monitored.
- Requires a person who must be monitored by an active global positioning system as described in the preceding dot point to pay the full costs of monitoring unless that person files an affidavit of indigency, in which case the county in which the person resides or is temporarily domiciled must pay those costs.
- Requires a person registering under the SORN Law who has no fixed residence address to provide a statement on the registration form indicating that the person does not have a fixed residence address.
- Requires the notice provided to persons who must register under the SORN Law to include notice that the person must be monitored by an active global positioning system device during any period in which the person does not have a fixed residence address.

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CONTENT AND OPERATION

Active global positioning system monitoring of sexual predators under the SORN Law

Sex Offender Registration and Notification Law background

The Sex Offender Registration and Notification Law (the SORN Law) is contained in R.C. Chapter 2950. It requires a person who is convicted of or pleads guilty to a "sexually oriented offense" or a "child-victim oriented offense" (see **COMMENT 1**) to register with the sheriff of the county in which the person was convicted of or pleaded guilty to the offense, to register a residence address and a school, institution of higher education, or work address, to provide notice of a change of address and register the new address, and to periodically verify the registered address. There is also a restriction against residing within 1,000 feet of any school premises, a preschool, or child day-care premises if a person has been convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense. (R.C. 2950.04, 2950.041, 2950.042, and 2950.043, not in the bill, 2950.05, and 2950.06, not in the bill.) Children who are adjudicated delinquent children for committing an act that would be a sexually oriented offense or a child-victim oriented offense if committed by an adult and who are classified by the juvenile court as "juvenile offender registrants" (see **COMMENT 1**) also generally are subject to these duties (but they are subject to the school, institution of higher education, and work address provisions only in specified circumstances and are not subject to the residency restriction) (R.C. 2152.82 to 2152.86--not in the bill).

An offender who is convicted of or pleads guilty to a sexually oriented offense or a child-victim oriented offense and who is classified a "Tier III sex offender/child-victim offender" (see **COMMENT 1**) or a child who is adjudicated a delinquent child for committing any such offense and is classified a juvenile offender registrant and a Tier III sex offender/child-victim offender also has a duty to provide notice of an intent to reside in a county (R.C. 2950.04(G) and 2950.041(G)).

Active global positioning system monitoring required under the bill

Existing law requires each offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a sexually oriented offense or a child-victim oriented offense to (1) register personally with the sheriff, or the sheriff's designee, of the county within three days of the offender's coming into a county in which the offender resides or temporarily is domiciled for more than three days, (2) register personally with the sheriff, or the sheriff's designee, of the county immediately upon coming into a county in which the offender attends a school or institution of higher

education on a full-time or part-time basis, (3) register personally with the sheriff, or the sheriff's designee, of the county in which the offender is employed if the offender resides or has a temporary domicile in this state and has been employed in that county for more than three days or for an aggregate period of 14 or more days in that calendar year, (4) register personally with the sheriff, or the sheriff's designee, of the county in which the offender then is employed if the offender does not reside or have a temporary domicile in this state and has been employed at any location or locations in this state more than three days or for an aggregate period of 14 or more days in that calendar year, (5) register with the sheriff, or the sheriff's designee, or other appropriate person of the other state immediately upon entering into any state other than this state in which the offender attends a school or institution of higher education on a full-time or part-time basis or upon being employed in any state other than this state for more than three days or for an aggregate period of 14 or more days in that calendar year regardless of whether the offender resides or has a temporary domicile in this state, the other state, or a different state. (R.C. 2950.04(A)(2) and 2950.041(A)(2).)

Existing law requires each delinquent child who is adjudicated a delinquent child for committing a sexually oriented offense and who is classified a juvenile offender registrant based on that adjudication to register personally with the sheriff, or the sheriff's designee, of the county within three days of the delinquent child's coming into a county in which the delinquent child resides or temporarily is domiciled for more than three days. In addition, each public registry-qualified juvenile offender registrant must: (1) register personally with the sheriff, or the sheriff's designee, of the county immediately upon coming into a county in which the registrant attends a school or institution of higher education on a full-time or part-time basis, (2) register personally with the sheriff, or the sheriff's designee, of the county in which the registrant is employed if the registrant resides or has a temporary domicile in this state and has been employed in that county for more than three days or for an aggregate period of 14 or more days in that calendar year, (3) register personally with the sheriff, or the sheriff's designee, of the county in which the registrant then is employed if the registrant does not reside or have a temporary domicile in this state and has been employed at any location or locations in this state more than three days or for an aggregate period of 14 or more days in that calendar year, (4) register with the sheriff, or the sheriff's designee, or other appropriate person of the other state immediately upon entering into any state other than this state in which the registrant attends a school or institution of higher education on a full-time or part-time basis or upon being employed in any state other than this state for more than three days or for an aggregate period of 14 or more days in that calendar year regardless of whether the registrant resides or has a temporary domicile in this state, the other state, or a different state.

Regardless of when the child-victim oriented offense was committed, each child who on or after July 31, 2003, is adjudicated a delinquent child for committing a child-victim oriented offense and who is classified a juvenile offender registrant based on that adjudication must register personally with the sheriff, or the sheriff's designee, of the county within three days of the delinquent child's coming into a county in which the delinquent child resides or temporarily is domiciled for more than three days. If the delinquent child is committed for the sexually oriented offense or the child-victim oriented offense to the Department of Youth Services or to a secure facility that is not operated by the Department, this duty begins when the delinquent child is discharged or released in any manner from custody in a Department of Youth Services secure facility or from the secure facility that is not operated by the Department if pursuant to the discharge or release the delinquent child is not committed to any other secure facility of the Department or any other secure facility. (R.C. 2950.041(A)(3).)

The registration form provided by the sheriff must include certain items specified in R.C. 2950.04(C) and 2950.041(C) (see **COMMENT 3** for a list of required items). The bill requires the registration form to also include a statement that the offender or delinquent child has no fixed residence address if that is the case (R.C. 2950.04(C)(4) and 2950.041(C)(4)). A person who states on the registration form that the person does not have a fixed residence address must be monitored by an active global positioning system device for as long as the person remains without a fixed residence address and during any future periods in which the person does not have a fixed residence address. The sheriff, or the sheriff's designee, of the county in which the person resides or is temporarily domiciled must cause the person to be monitored. The person must pay the full costs of monitoring unless the person files with the sheriff or the sheriff's designee an affidavit of indigency, supported by documentary evidence, showing that the person cannot pay part or all of the costs of monitoring. To the extent that the person cannot pay the costs of monitoring, the county in which the person resides or is temporarily domiciled must pay those costs. (R.C. 2950.04(I) and 2950.041(I).)

Notice of residence address change

Under continuing law, if an offender or delinquent child is required to register under the SORN Law, the delinquent child if not a public registry-qualified juvenile offender registrant must provide written notice of any change of residence address, and the offender and public registry-qualified juvenile offender registrant must provide notice of any change of residence, school, institution of higher education, or place of employment address, to the sheriff with whom the offender or delinquent child most recently registered the address. Under the bill, a person whose residence address change is not to a fixed address must be monitored by an active global positioning

system device until the person provides written notice of a fixed residence address. (R.C. 2950.05.)

Notice of duty to register under SORN Law

Continuing law requires each person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense or a child-victim oriented offense and who has a duty to register under the SORN Law and each person who is adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense and who is classified a juvenile offender registrant based on that adjudication to be provided notice of the offender's or delinquent child's duties under the SORN Law and of the offender's duties to similarly register, provide notice of a change, and verify addresses in another state if the offender resides, is temporarily domiciled, attends a school or institution of higher education, or is employed in a state other than this state. The bill specifies that this notice must also include a statement that the offender or delinquent child will be monitored by an active global positioning system device during any period in which the offender or delinquent child does not have a fixed residence address. (R.C. 2950.03(B)(1).)

COMMENT

1. Existing R.C. 2950.01 specifies that, as used in the SORN Law (R.C. 2950.01, not in the bill):

"Child-victim offender" means a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any child-victim oriented offense.

"Child-victim oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age, when the victim is under 18 and is not a child of the person who commits the violation: (a) kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the violation is not included in paragraph (g) of the definition of "sexually oriented offense" set forth above, (b) except when committed with a sexual motivation, abduction, unlawful restraint, or criminal child enticement, (c) 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) or (b) of this paragraph, or (d) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (a), (b), or (c) of this paragraph.

"Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense, who is 14 years of age or older at the time of committing the offense, and who a juvenile court judge classifies a juvenile offender registrant and specifies has a duty to comply with the SORN Law. The term includes a person who, prior to January 1, 2008, was a "juvenile offender registrant" under the definition of that term in existence prior to January 1, 2008, and a person who, prior to July 31, 2003, was a "juvenile sex offender registrant" under the former definition of that former term.

"Public registry-qualified juvenile offender registrant" means a person who is adjudicated a delinquent child and on whom a juvenile court has imposed a "serious youthful offender dispositional sentence" under R.C. 2152.13 before, on, or after, January 1, 2008, and to whom all of the following apply: (a) the person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing a violation of R.C. 2907.02, 2907.05(B), or 2907.03 when the victim was less than 12 years of age, or a violation of R.C. 2903.01, 2903.02, or 2905.01 that was committed with a purpose to gratify the sexual needs or desires of the child, (b) the person was 14, 15, 16, or 17 years of age at the time of committing the act, and (c) a juvenile court judge classifies the person a juvenile offender registrant, specifies the person has a duty to comply with the SORN Law, and classifies the person a public registry-qualified juvenile offender registrant and the classification has not been terminated pursuant to R.C. 2152.86(D).

"Sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of whether the person is 18 years of age or older or is under 18 years of age:

(a) Rape, sexual battery, gross sexual imposition, sexual imposition, importuning, voyeurism, compelling prostitution, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, or illegal use of a minor in nudity-oriented material or performance;

(b) Unlawful sexual conduct with a minor when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(c) Unlawful sexual conduct with a minor when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(d) Aggravated murder, murder, or felonious assault when the violation was committed with a sexual motivation;

(e) Involuntary manslaughter, when the base offense is a felony and when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(f) Menacing by stalking committed with a sexual motivation;

(g) Kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the offense is committed with a sexual motivation;

(h) Kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will;

(i) Kidnapping when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the victim of the offense is under 18 and the offender is not a parent of the victim of the offense;

(j) Abduction, unlawful restraint, and criminal child enticement committed with a sexual motivation, or endangering children committed by enticing, permitting, using, or allowing, etc., a child to participate in or be photographed for material or performance that is obscene, is sexually oriented matter, or is nudity-oriented matter;

(k) 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 paragraph (a) to (j) under this definition;

(l) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (a) to (k) under this definition.

"Tier III sex offender/child-victim offender" means any of the following:

(a) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to, any of the following sexually oriented offenses: (i) rape or sexual battery, (ii) gross sexual imposition committed when the victim is less than 12 years of age, the offender intentionally touches the genitalia of the victim, the touching is not through clothing, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, (iii) aggravated murder, murder, or felonious assault when the violation was committed with a sexual motivation, (iv) involuntary manslaughter, when the base offense is a felony, when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation, (v) kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will, when the victim of the offense is under 18, (vi) kidnapping when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the victim of the offense is under 18 and the offender is not a parent of the victim of the offense, (vii) 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 (i) to (vi) of this paragraph, (viii) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (i) to (vii) of this paragraph, or (ix) any sexually oriented offense committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing, any sexually oriented offense or child-victim oriented offense for which the sex offender was classified a Tier II or III sex offender/child-victim offender.

(b) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a Tier II or III sex offender/child-victim offender.

(c) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the offense.

(d) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented

offense and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the current offense.

(e) A sex offender or child-victim offender who is not in any category of Tier III sex offender/child-victim offender set forth in paragraph (a) to (d) of this definition, who, prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who, prior to that date, was adjudicated a sexual predator or child-victim predator, or determined to be a habitual child-victim offender and made subject to community notification relative to that offense, unless either of the following applies: (i) the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a Tier I or II sex offender/child-victim offender relative to the offense, or (ii) the sex offender or child-victim offender is a delinquent child and a juvenile court classifies the child a Tier I or II sex offender/child-victim offender relative to the offense.

(f) A sex offender who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented offense, if the sexually oriented offense and the circumstances in which it was committed are such that R.C. 2971.03(F), in the Sexually Violent Predator Sentencing Law, automatically classifies the offender as a Tier III sex offender/child-victim offender.

(g) A sex offender or child-victim offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States, if both of the following apply: (i) under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of Tier III sex offender/child-victim offender described in paragraph (a) to (f) of this definition, and (ii) subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to reside in Ohio in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under R.C. 2950.04 or 2950.041.

2. The registration form provided by the sheriff must include the following items: (1) the offender's or delinquent child's name and any aliases used by the offender or delinquent child, (2) the offender's or delinquent child's social security number and date of birth, including any alternate social security numbers or dates of birth that the

offender or delinquent child has used or uses, (3) regarding an offender or delinquent child who is serving a prison term, term of imprisonment, or any other type of confinement, or a delinquent child that is in the custody of the department of youth services or is confined in a secure facility that is not operated by the department, a statement that the offender or delinquent child is confined as such, (4) regarding an offender or delinquent child who is registering as a result of the offender or delinquent child residing in this state or temporarily being domiciled in this state for more than three days, the current residence address of the offender or delinquent child who is registering, the name and address of the offender's or delinquent child's employer if the offender or delinquent child is employed at the time of registration or if the offender or delinquent child knows at the time of registration that the offender or delinquent child will be commencing employment with that employer subsequent to registration, any other employment information, such as the general area where the offender or delinquent child is employed, if the offender or delinquent child is employed in many locations, and the name and address of the offender's or public registry-qualified juvenile offender registrant's school or institution of higher education if the offender or public registry-qualified juvenile offender registrant attends one at the time of registration or if the offender or public registry-qualified juvenile offender registrant knows at the time of registration that the offender or public registry-qualified juvenile offender registrant will be commencing attendance at that school or institution subsequent to registration, (5) regarding an offender or public registry-qualified juvenile offender registrant who is registering as a result of the offender or public registry-qualified juvenile offender registrant attending a school or institution of higher education in this state on a full-time or part-time basis or being employed in this state or in a particular county in this state, whichever is applicable, for more than three days or for an aggregate of 14 or more days in any calendar year, the name and current address of the school, institution of higher education, or place of employment of the offender or public registry-qualified juvenile offender registrant who is registering, including any other employment information, such as the general area where the offender or public registry-qualified juvenile offender registrant is employed, if the offender or public registry-qualified juvenile offender registrant is employed in many locations, (6) the identification license plate number of each vehicle the offender or delinquent child owns, of each vehicle registered in the offender's or delinquent child's name, of each vehicle the offender or delinquent child operates as a part of employment, and of each other vehicle that is regularly available to be operated by the offender or delinquent child; a description of where each vehicle is habitually parked, stored, docked, or otherwise kept; and, if required by the bureau of criminal identification and investigation, a photograph of each of those vehicles, (7) if the offender or delinquent child has a driver's or commercial driver's license or permit issued by this state or any other state or a state identification card or a comparable identification card issued by another state, the driver's license number, commercial driver's license number, or state

identification card number, (8) if the offender or delinquent child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense resulting in the registration duty 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, a DNA specimen, from the offender or delinquent child, a citation for, and the name of, the sexually oriented offense resulting in the registration duty, and a certified copy of a document that describes the text of that sexually oriented offense, (9) a description of each professional and occupational license, permit, or registration held by the offender or delinquent child, (10) any e-mail addresses, internet identifiers, or telephone numbers registered to or used by the offender or delinquent child, and (11) any other information required by the bureau of criminal identification and investigation. (R.C. 2950.04(C) and 2950.041(C).)

HISTORY

ACTION	DATE
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