



Ohio Legislative Service Commission

Bill Analysis

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(As Introduced)

BILL SUMMARY

- Clarifies that the Sex Offender Registration and Notification Law (SORN Law) definitions of sexually oriented offense, sex offender, child-victim oriented offense, child-victim offender, public registry-qualified juvenile offender registrant, and out-of-state juvenile offender registrant and the Tier classifications of offenders and delinquent children in that Law include the specified offenses regardless of when they were committed.
- Repeals the mechanism enacted in Am. Sub. S.B. 10 of the 127th General Assembly (S.B. 10) for reclassification of offenders and delinquent children who committed a sexually oriented offense or child-victim oriented offense prior to January 1, 2008, into one of the Tier classifications of the SORN Law enacted in that act (on June 3, 2010, the Ohio Supreme Court found the mechanism to be unconstitutional) and also repeals two related provisions enacted in that act.
- Provides for court reclassification of offenders and delinquent children who committed a sexually oriented offense or child-victim oriented offense prior to January 1, 2008, into one of the Tier classifications of the SORN Law enacted in S.B. 10 and in effect since that date.
- Extends the new court reclassification mechanism to offenders and delinquent children whose SORN Law duties were modified under the S.B. 10 reclassification mechanism and were terminated or scheduled to be terminated as a result of the above-described Supreme Court decision.

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CONTENT AND OPERATION

Background

Classifications under the SORN Law

The Sex Offender Registration and Notification Law (the SORN Law, in R.C. Chapter 2950.) imposes numerous duties and restrictions upon persons who are or have been convicted of, or who plead or have pleaded guilty to, a "sexually oriented offense" or "child-victim oriented offense." The Law also imposes numerous duties and restrictions upon children who are or have been adjudicated a delinquent child for committing any such offense and who are classified by a juvenile court as a "juvenile offender registrant" (see "**SORN Law definitions**," below, for definitions of terms listed above or in the two succeeding paragraphs that are in quotation marks).

Am. Sub. S.B. 10 of the 127th General Assembly (hereafter, S.B. 10) substantially rewrote the SORN Law to conform it to the federal Adam Walsh Act. Except for a few transitional provisions that took effect on July 1, 2007, S.B. 10 took effect on January 1, 2008. One of the major changes made by S.B. 10 was the enactment of a Tier System of classification of offenders and delinquent children as a replacement for the pre-S.B. 10 categories of offenders and delinquent children to whom the SORN Law previously applied. Under the Tier System enacted in S.B. 10, all offenders who are convicted of a sexually oriented offense or child-victim oriented offense and all children who are adjudicated delinquent children for committing any such offense and are classified as

juvenile offender registrants are included as either a "Tier I sex offender/child-victim offender," a "Tier II sex offender/child-victim offender," or a "Tier III sex offender/child-victim offender." For criminal offenders, the Tier classification is determined automatically based on the offense committed. Some juveniles are classified as "public registry-qualified juvenile offender registrants" (hereafter, "PRQJO registrants"). For juveniles, the juvenile court has some discretion in determining the delinquent child's Tier classification.¹

The pre-S.B. 10 classification system replaced by the Tier System used different terminology and consisted of categories of offenders and delinquent children that were based on the offender's or child's past conduct or likely future conduct instead of the offense committed. Under the pre-S.B. 10 system, the SORN Law applied to the following categories of offenders: (1) persons who were convicted of a sexually oriented offense or a child-victim oriented offense or who were adjudicated a delinquent child for committing any such offense and were classified by a juvenile court as a juvenile offender registrant, (2) persons who were in the category described in clause (1) of this sentence and who also were classified a habitual sex offender or habitual child-victim offender, (3) persons who were in the category described in clause (1) of this sentence and who also were classified a sexual predator or child-victim predator, and (4) persons who were in the category described in clause (1) of this sentence and whose sexually oriented offense was an "aggravated sexually oriented offense" (these persons generally were treated in the same manner as persons in the category described in clause (3) of this sentence). A court, generally the one that sentenced the offender or adjudicated the child a delinquent child for the offense, determined at a hearing whether an offender convicted of, or a child adjudicated a delinquent child for committing, a sexually oriented offense or child-victim oriented offense was, or was not, a habitual offender or a predator. A "habitual offender" was an offender or delinquent child who had one or more prior convictions or adjudications of a sexually oriented offense or child-victim oriented offense. A "predator" was an offender or, generally, a delinquent child who was determined to be likely to engage in the future in one or more such offenses. If the court determined that the offender or delinquent child was a habitual offender or a predator, it included its determination in the offender's sentence and judgment of conviction or in the child's dispositional order.²

"Registration requirements under current and former SORN Law," below, summarizes the duties and restrictions imposed upon offenders and delinquent children classified as juvenile offender registrants under the current SORN Law and those imposed under the pre-S.B. 10 version of that Law.

¹ R.C. 2152.82, 2152.86, and 2950.01.

² Former R.C. 2950.01, 2950.04(A) to (F), 2950.041(A) to (F), 2950.09, and 2950.091.

Reclassification of persons subject to pre-S.B. 10 SORN Law into Tier System under post-S.B. 10 SORN Law

Under a transitional reclassification mechanism enacted in S.B. 10 that applied on and after July 1, 2007, each person who was subjected to the pre-S.B. 10 version of the SORN Law was categorized into one of the three Tiers under the current Tier System described above in "**Classifications under the SORN Law.**" The Tier into which a person was reclassified generally was based on the offense the person committed that subjected the person to the SORN Law. The Attorney General (the AG) administered the reclassification and notified each person of the reclassification and of the person's new duties under the new SORN Law. The mechanism afforded each person a right to a hearing to contest the application to the person of the new registration requirements under the current, post-S.B. 10 SORN Law.³

Under the S.B. 10 reclassification mechanism, it was possible for a person who, prior to January 1, 2008, was subject to the SORN Law but had not been classified a habitual sex offender, a habitual child-victim offender, a sexual predator, or a child-victim predator and whose sexually oriented offense was not an aggravated sexually oriented offense (i.e., a person in the "lowest" classification under pre-S.B. 10 SORN Law) to be reclassified a Tier III sex offender/child-victim offender (i.e., the "highest" classification under post-S.B. 10 Law). Under the reclassification mechanism, it also was possible for a person who, prior to January 1, 2008, was subject to the SORN Law and had been classified a sexual predator or a child-victim predator (i.e., a person in the "highest" classification under pre-S.B. 10 SORN Law) to be reclassified a Tier I sex offender/child-victim offender (i.e., the "lowest" classification under post-S.B. 10 Law). As a result: (1) it was possible for a person who formerly had been in the "lowest" classification, was not subject to victim notification or community notification, and had SORN Law duties lasting 10 years to be reclassified into the "highest" classification, be subject to victim notification and community notification, and have SORN Law duties lasting for his or her entire life; and (2) it was possible for a person who formerly had been in the "highest" classification, was subject to victim notification and community notification, and had SORN Law duties lasting for his or her entire life to be reclassified into the "lowest" classification, not be subject to victim notification or community notification, and have SORN Law duties lasting 10 or 15 years.

Bodyke decision

The Ohio Supreme Court, in its decision in *State v. Bodyke* (June 3, 2010), 126 Ohio St.3d 266, reconsideration and/or clarification denied (August 17, 2010), 126 Ohio St.3d 1235, considered the constitutionality of the S.B. 10 reclassification mechanism

³ R.C. 2950.031 to 2950.033.

described above in "**Reclassification of persons subject to pre-S.B. 10 SORN Law into Tier System under post-S.B. 10 SORN Law.**" Under the facts in that case, an offender who was subject to the pre-S.B. 10 SORN Law was in the lowest level of offender under that Law, commonly referred to as a "sexually oriented offender." As such, he was required to register with a county sheriff and verify his residence address annually, for ten years, but he was not subject to the community notification provisions. In November 2007, almost five years after the offender's release from prison, the AG notified the offender that he was reclassified under the S.B. 10 mechanism as a Tier III sex offender/child-victim offender, based on the fact that his sexually oriented offense was sexual battery. As a result of being reclassified into Tier III, the offender was required to verify his residence address every 90 days, for the duration of his life, and he was subject to the community notification provisions. The offender challenged the reclassification, alleging that it was a violation of the separation of powers doctrine.

The Court held that the S.B. 10 reclassification mechanism was unconstitutional, in violation of the separation of powers doctrine. It held that: (1) R.C. 2950.031 and 2950.032, which require the AG to reclassify sex offenders who already have been classified by court order under the pre-S.B. 10 SORN Law, impermissibly instruct the executive branch to review past decisions of the judicial branch and thereby violate the separation of powers doctrine; and (2) R.C. 2950.031 and 2950.032, which require the AG to reclassify sex offenders whose classifications have been adjudicated by a court and made the subject of a final order, violate the separation of powers doctrine by requiring the opening of final judgments.

The Court then held that severance of R.C. 2950.031 and 2950.032 from the SORN Law was the proper remedy and that, after severance, the sections may not be enforced. It stated that the sections may not be applied to offenders previously adjudicated by judges under the pre-S.B. 10 SORN Law, that the reclassifications of offenders by the A.G. were invalid, and that the classification and community notification and registration orders imposed previously by judges were reinstated. It also stated that the remainder of the provisions of S.B. 10 were capable of being read and of standing alone and were left in place.

The Supreme Court denied the state's motion requesting reconsideration and/or clarification of the decision on August 17, 2010.

SORN Law definitions amended by the bill

Existing law

Existing law defines numerous terms that apply to the SORN Law. The defined terms include "sexually oriented offense," "child-victim oriented offense," "sex offender," "child-victim offender," "Tier I sex offender/child-victim offender," "Tier II sex

offender/child-victim offender," "Tier III sex offender/child-victim offender," "public registry-qualified juvenile offender registrant," and "out-of-state juvenile offender registrant."⁴

The terms "sexually oriented offense" and "child-victim oriented offense" each identifies a separate list of crimes and violations of law that constitute the particular defined category of offense. The terms "sex offender" and "child-victim offender" generally include persons who are or have been convicted of, plead or have pleaded guilty to, or are or have been adjudicated a delinquent child for committing, respectively, a sexually oriented offense or a child-victim oriented offense. The terms "Tier I sex offender/child-victim offender," "Tier II sex offender/child-victim offender," and "Tier III sex offender/child-victim offender" each identifies a separate list of sexually oriented offenses and child-victim offenses and generally includes within the particular Tier sex offenders and child-victim offenders who are or have been convicted of, plead or have pleaded guilty to, or are or have been adjudicated a delinquent child for committing any of the offenses listed for that particular Tier. The term "public registry-qualified juvenile offender registrant" identifies a list of sexually oriented offenses and generally includes within the term persons who are adjudicated a delinquent child for committing any of the listed offenses and are classified as juvenile offender registrants. The term "out-of-state juvenile offender registrant" generally includes persons adjudicated a delinquent child in a jurisdiction other than an Ohio juvenile court, who resides or is domiciled in Ohio, and who has registration and other duties under the SORN Law.⁵

Operation of the bill

The bill modifies the definitions summarized above in "**Existing law**" to clarify that the references they contain to particular violations of law or offenses include all such violations and offenses, *regardless of whether they were committed prior to, on, or after the bill's effective date*. The bill makes these clarifications by including in the definitions express statements to that effect. Specifically, the bill modifies the definitions in the following ways:

(1) It clarifies that the definitions of "sexually oriented offense" and "child-victim oriented offense" include all of the violations and offenses identified within the definitions, regardless of whether a particular violation or offense was committed prior to, on, or after the bill's effective date.⁶

⁴ R.C. 2950.01.

⁵ R.C. 2950.01(A) to (G), (N), and (P); see "**SORN Law definitions**," below, for full definitions of the terms.

⁶ R.C. 2950.01(A) and (C).

(2) It clarifies that the definitions of "sex offender" and "child-victim offender" include all offenders and delinquent children who commit, respectively, any sexually oriented offense or child-victim oriented offense, regardless of whether the particular offense was committed prior to, on, or after the bill's effective date.⁷

(3) It clarifies that the definitions of "Tier I sex offender/child-victim offender," "Tier II sex offender/child victim offender," "Tier III sex offender/child-victim offender," "public registry-qualified juvenile offender registrant," and "out-of-state juvenile offender registrant" include all sex offenders and child-victim offenders who commit any of the sexually oriented offenses or child-victim oriented offenses identified within the definitions, regardless of whether the particular offense was committed prior to, on, or after the bill's effective date. This clarification also is made in portions of the definitions that identify offenses that previously were committed by an offender as a criterion for including the offender within the definition.⁸

(4) It expands the portion of the definition of "Tier II sex offender/child-victim offender" that generally includes as such an offender a sex offender or child-victim offender who is not in any other portion of that definition, *who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense*, and who prior to that date was determined to be a habitual sex offender or a habitual child-victim offender to also generally include a sex offender or child-victim offender who is not in any other portion of the definition, *who prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense*, and who prior to that date was determined to be a habitual sex offender or a habitual child-victim offender.⁹

(5) In the definitions of "Tier II sex offender/child-victim offender" and "Tier III sex offender/child-victim offender," it replaces references to R.C. 2950.031 or 2950.032 (repealed by the bill) with references to R.C. 2950.035 or 2950.036 (enacted by the bill), or both, as appropriate.¹⁰

⁷ R.C. 2950.01(B) and (D).

⁸ R.C. 2950.01(E) to (G), (N), and (P).

⁹ R.C. 2950.01(F)(5).

¹⁰ R.C. 2950.01(F)(5)(a) and (G)(5)(a).

Court reclassification or classification of pre-S.B. 10 offenders and delinquent children into S.B. 10 Tier classification

Conviction, guilty plea, or adjudication prior to January 31, 2011

The bill repeals the existing provisions that contain the reclassification mechanism enacted in S.B. 10 and that the Supreme Court in *Bodyke, supra*, held to be unconstitutional (repeal of R.C. 2950.031 and 2950.032). It also repeals two existing, related provisions enacted in S.B. 10. One of the related provisions extends the S.B. 10 reclassification mechanism to offenders and delinquent children whose registration and other duties under the SORN Law was scheduled to expire on or after July 1, 2007, and before January 1, 2008. The other requires a sheriff to notify the AG when an offender or delinquent child initially registers an address with the sheriff on or after December 1, 2007, based upon a duty imposed for an offense committed prior to that date (repeal of R.C. 2950.033 and 2950.043; these sections were not addressed in *Bodyke, supra*). The bill enacts a judicially based reclassification mechanism to replace the repealed, unconstitutional mechanism. It also enacts a provision that extends the new mechanism to offenders and delinquent children whose registration and other duties under the SORN Law were modified as a result of the operation of the S.B. 10 reclassification mechanism and, subsequently, were terminated or scheduled to be terminated as a result of the decision in *Bodyke, supra* (see "**When SORN Law duties terminated or to be terminated under *Bodyke*,**" below).

Court's review of records

The bill requires each court of common pleas, municipal court, county court, and juvenile court, not later than July 31, 2011, to review the court's records to determine the identity of both of the following: (1) each offender who prior to that date was convicted in the court of, or pleaded guilty in the court to, a sexually oriented offense or child-victim oriented offense committed prior to January 1, 2008, and who had a duty that was in effect on June 2, 2010 (the day before the decision in *Bodyke, supra*) to comply with SORN Law duties based on that offense, and (2) each child who prior to that date was adjudicated a delinquent child in the court for committing prior to January 1, 2008, a sexually oriented offense or child-victim oriented offense, who was classified a juvenile offender registrant based on that offense, and who had a duty that was in effect on June 2, 2010 (the day before the decision in *Bodyke, supra*) to comply with SORN Law duties based on that offense. The court must determine the residence address of each offender and delinquent child so identified from its own records or from the Bureau of Criminal Identification and Investigation (BCII), a sheriff with whom the offender or child has registered pursuant to the SORN Law's registration provisions,¹¹ or the

¹¹ R.C. 2950.04 or 2950.041, or 2950.05, not in the bill.

Department of Rehabilitation and Correction (DRC) or Department of Youth Services (DYS) if the offender or child is serving a prison term or is confined in an institution of the Department.¹²

Sheriff's review of records and notification to court

The bill requires each sheriff to review not later than July 31, 2011, the sheriff's records to determine the identity of each person who prior to that date registered an address with the sheriff under the SORN Law, who was convicted, pleaded guilty, or was 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 the sexually oriented offense or child-victim oriented offense that is the basis of the registration, and who committed that offense prior to January 1, 2008. Not later than July 31, 2011, each sheriff must notify the following court of the name and last reported residence address of each person who has registered an address with the sheriff under the circumstances described in the preceding sentence:¹³

(1) Except as described in paragraph (3) below, if the most serious offense that is the basis of the person's registration would be a felony if committed in Ohio, the court of common pleas of the county served by the sheriff;

(2) Except as described in paragraph (3) below, if the most serious offense that is the basis of the person's registration would be a misdemeanor if committed in Ohio, the municipal court or county court with jurisdiction over the location of the sheriff's office;

(3) If the person was adjudicated a delinquent child for the most serious offense that is the basis of the person's registration and was classified an out-of-state juvenile offender registrant based on that offense, the juvenile court of the county served by the sheriff.

Court determination of new classification of offender or delinquent child

Hearing requirement in general. Under the bill, for each offender and for each delinquent child whose identity the court determines as described above in "**Court's review of records**" or about whom the court is notified as described above in "**Sheriff's review of records and notification to court**," a specified court (see below) is required to hold a hearing as described below to make the determination specified in this paragraph. At the hearing, the court shall determine the offender's or child's new classification as a Tier I, Tier II, or Tier III sex offender/child-victim offender under the SORN Law as it exists on July 1, 2011, and SORN Law duties as a result of that new Tier

¹² R.C. 2950.035(A)(1) and (C).

¹³ R.C. 2950.035(A)(2).

classification. A court must make the determination at any time on or after July 1, 2011, and not later than October 1, 2011.¹⁴

The following court must make the above-described determinations:¹⁵

(1) For an offender who was convicted of or pleaded guilty in Ohio to the sexually oriented offense or child-victim oriented offense, the court in which the offender was convicted or pleaded guilty;

(2) For a child who was adjudicated a delinquent child in Ohio for the offense, the juvenile court in which the child was so adjudicated a delinquent child;

(3) For an offender who was convicted, pleaded guilty, or was 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 the offense, the court notified as described above in "**Sheriff's review of records and notification to court.**"

Notice of upcoming hearing. The bill specifies that, at any time on or after July 1, 2011, and not later than September 1, 2011, each court that is required to hold a hearing to make a Tier determination for an offender or delinquent child as described above must send to the offender or to the delinquent child and to the child's parents a registered letter that contains specified information. The court must send the registered letter return receipt requested to the last reported residence address of the offender or delinquent child and the last reported residence address of the child's parents. The court must obtain the addresses from its own records or from the BCII, a sheriff with whom the offender or delinquent child has registered pursuant to the SORN Law's registration provisions, or DRC or DYS if the offender or child is serving a prison term or is confined in an institution of the Department. The court also must send written notice of the date, time, place, and purpose of the hearing, and of the name of the offender or delinquent child, to the prosecutor of the county in which the court is located. The prosecutor represents the interests of the state in the hearing.

The registered letter sent to an offender or to a delinquent child and the child's parents must notify the offender, child, or parents of the date, time, place, and purpose of the hearing. If the offender's or child's duty to comply with the SORN Law's duties was or is scheduled to terminate on or after June 3, 2010, and prior to July 1, 2011, as a result of *Bodyke, supra*, or was terminated on or before June 3, 2010, as a result of *Bodyke, supra*, and if the offender is a "targeted offender" or the child is a "targeted delinquent

¹⁴ R.C. 2935.035(B)(1).

¹⁵ R.C. 2950.035(B)(2).

child," the letter must include a summary of the bill's provisions described below in the first two paragraphs under "**When SORN Law duties terminated or to be terminated under *Bodyke***" and the application of those provisions to the offender or child.¹⁶

Each court that sends any such registered letter must maintain the return receipts for all offenders, delinquent children, and parents who are sent a registered letter. The court must send a copy of the return receipt for each offender, child, or parent who is sent a registered letter and an explanation of it to the prosecutor of the county in which the court is located and to the Ohio sheriff with whom the offender or child most recently registered a residence address and, if applicable, a school, institution of higher education, or place of employment address. If the offender or child has registered a residence address in Ohio and the return receipt indicates that the offender, child, or parent does not reside or have temporary domicile at the listed address, the court immediately must provide notice of that fact to the sheriff with whom the offender or child registered the residence address.¹⁷

Court's hearing and notice duties not terminated by termination or scheduled termination of SORN Law duties. The bill specifies that a court that is required to make a Tier determination as described above in "**Hearing requirement in general**" generally must make the determination and send the required registered letter to each offender or delinquent child even if the offender's or child's duty to comply with the SORN Law's duties was or is scheduled to terminate on or after June 3, 2010, and prior to July 1, 2011, or was terminated on or before June 3, 2010, as a result of *Bodyke, supra*. This provision does not apply unless the offender or child is a "targeted offender" or "targeted delinquent child," as described below in "**When SORN Law duties terminated or to be terminated under *Bodyke***."¹⁸

Hearing procedures and issuance and service of Tier classification order. At a hearing held under the bill's provisions described above, all parties are entitled to be heard. The court must consider all relevant information and testimony presented relative to the new Tier classification of the offender or delinquent child under the SORN Law as it exists on July 1, 2011. Except as otherwise described in this paragraph, if an offender or delinquent child is confined on the scheduled hearing date, the offender or child must appear by video conferencing equipment if available and compatible. However, upon the court's own motion or the motion of the offender, delinquent child, or prosecutor and a court determination that the interests of justice require that the confined offender or child be present, the court may permit the

¹⁶ R.C. 2950.035(C) and (K).

¹⁷ R.C. 2950.035(F).

¹⁸ R.C. 2950.035(D) and (K).

confined offender or child to be physically present at the hearing. An appearance by video conferencing equipment has the same force and effect as physical presence at the hearing.

At the conclusion of the hearing, the court must issue an order that specifies the offender's or delinquent child's new Tier I, Tier II, or Tier III sex offender/child-victim offender classification under the SORN Law as it exists on July 1, 2011 (Tier classification order) and, if the hearing was held for a delinquent child, whether the court determined under the Delinquent Child Law that the child is a PRQJO registrant. The order also must notify the offender or the delinquent child and the child's parents of the offender's or child's SORN Law duties under the new Tier classification order and the duration of those duties. The court immediately must provide a copy of the order to the offender or delinquent child, the prosecutor, and the child's parents.

Until a court makes any required Tier determination at a hearing regarding an offender or delinquent child, the offender or child must comply with the SORN Law as it existed prior to January 1, 2008.¹⁹

Each court that issues a Tier classification order promptly must serve a copy of the order upon the sheriff with whom the offender or child who is the subject of the order most recently registered under the SORN Law and upon BCII. If the offender or child is confined on the date the order is issued, the court promptly must send a copy of the order to DRC if the offender is serving a prison term, the jail administrator if the offender is serving a jail term, DYS if the child is confined in a DYS institution, or the place at which the offender or child otherwise is confined.²⁰

Appeal of Tier classification determination. An offender or delinquent child for whom a court makes a Tier classification determination as described above or the prosecutor at the determination hearing may appeal the determination to the appropriate court of appeals. The appeal is governed by the Appellate Rules. The prosecutor who represented the state at the determination hearing represents the state in the appeal. Until the court of appeals issues its decision, the offender or child must comply with the SORN Law as it exists on July 1, 2011, based on the determination that was appealed.²¹

¹⁹ R.C. 2950.035(E).

²⁰ R.C. 2950.035(G).

²¹ R.C. 2950.035(H).

Relationship of Tier classification determination to other court activity; collateral consequence. The bill specifies that:²²

(1) The court's determination of an offender's or delinquent child's new Tier I, Tier II, or Tier III sex offender/child-victim offender classification as described above does not affect, and is independent of: (a) any court's prior judgment of conviction of the offender, the offender's prior guilty plea, or any court's prior adjudication of the child as a delinquent child for committing the sexually oriented offense or child-victim oriented offense upon which the classification is based, and (b) the sentence imposed upon the offender or the disposition made of the child as a result of that prior conviction, guilty plea, or adjudication.

(2) A court's classification of an offender or delinquent child prior to July 1, 2011, as a sexual predator, child-victim predator, habitual sex offender, or habitual child-victim offender, or as being in none of those categories, based on a sexually oriented offense or child-victim oriented offense committed prior to January 1, 2008, was a collateral consequence of the offender's or child's conviction of, plea of guilty to, or delinquent child adjudication for committing that offense. A court's new classification of an offender or delinquent child as a Tier I, Tier II, or Tier III sex offender/child-victim offender as described above based on a sexually oriented offense or child-victim oriented offense committed prior to January 1, 2008, is a collateral consequence of the offender's or child's conviction of, plea of guilty to, or delinquent child adjudication for committing that offense.

Special provisions regarding juvenile courts. Under existing law, a delinquent child who committed a delinquent act prior to January 1, 2008, and whom a juvenile court classified pursuant to S.B. 10 as a PRQJO registrant may contest the court's classification by filing a petition with the court that made the classification. If the court decides to terminate its classification of the child as a PRQJO registrant, it must issue an order to that effect. An order so issued is independent of any order issued under S.B. 10's reclassification mechanism, and the court may issue both of those types of orders. A court that conducts a hearing under these provisions may consolidate the hearing with a hearing conducted for the same child under S.B. 10's reclassification mechanism.

The bill does not change the existing provisions described in the preceding paragraph. But, under the bill: (1) a juvenile court order that terminates its classification of a child as a PRQJO registrant is independent of any court order under the bill specifying the judicial Tier classification of the child, (2) the court may issue both of those types of orders, and (3) a court that conducts a hearing under the existing provisions may consolidate it with a hearing conducted for the same child under the

²² R.C. 2950.035(I).

bill's provisions described above to determine the judicial Tier classification of the child. The bill repeals the current references to the S.B. 10 reclassification mechanism.²³

Definition of "judicial Tier reclassification." Under the bill, for purposes of the SORN Law and the Delinquent Child Law, "judicial Tier reclassification" of an offender who was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense committed prior to January 1, 2008, or of a child who was adjudicated a delinquent child for committing prior to January 1, 2008, a sexually oriented offense or child-victim oriented offense and was classified a juvenile offender registrant or an out-of-state juvenile offender registrant based on that offense means a court's new classification of the offender or child pursuant to the bill's provisions described above (or below in "**Conviction, guilty plea, or adjudication on or after July 31, 2011, or in non-Ohio court**") and on or after July 1, 2011, as a Tier I, Tier II, or Tier III sex offender/child-victim offender. A judicial Tier reclassification of an offender or delinquent child is considered as occurring on the date on which the court issues the order that specifies the new Tier classification and provides the order to the offender or delinquent child.²⁴

Conviction, guilty plea, or adjudication on or after July 31, 2011, or in non-Ohio court

The bill provides that if, on or after July 31, 2011, a person is convicted of, pleads guilty to, or is adjudicated a delinquent child in this state for committing prior to January 1, 2008, a sexually oriented offense or child-victim oriented offense, at the time of sentencing or the making of a disposition of the offender or child, the court must determine the offender's or child's new classification as a Tier I, a Tier II, or a Tier III sex offender/child-victim offender under the SORN Law as it exists on July 1, 2011, and duties under that new Tier classification.

It also provides that, if a person is or was convicted, pleads or pleaded guilty, or is or was 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 prior to January 1, 2008, a sexually oriented offense or child-victim oriented offense, if the person registers an address in Ohio, and if the person does not register the address in Ohio until after July 31, 2011, the sheriff with whom the person registers the address must provide notice to the appropriate court as described above in "**Conviction, guilty plea, or adjudication prior to July 31, 2011.**" Upon receipt of the notice, the court promptly must determine the offender's or child's new

²³ R.C. 2152.86(D) and 2950.035(J).

²⁴ R.C. 2152.02(Y) and 2950.01(Y).

classification as a Tier I, Tier II, or Tier III sex offender/child-victim offender under the SORN Law as it exists on July 1, 2011, and duties under that new Tier classification.

In making its determination under the provisions described in the two preceding paragraphs, a court must comply with the hearing-related provisions described above in "**Conviction, guilty plea, or adjudication prior to July 31, 2011**" and issue an order as described in those provisions. However, the compliance dates and the hearing-notice requirements in those provisions do not apply in making the determination under the provisions described in the two preceding paragraphs. The other provisions described above in "**Conviction, guilty plea, or adjudication prior to July 31, 2011**" apply to a determination made under the provisions described in the two preceding paragraphs and an order that includes such a determination.²⁵

When SORN Law duties terminated or to be terminated under *Bodyke*

The bill provides that if as a result of the reclassification mechanism enacted in S.B. 10 being found unconstitutional on June 3, 2010, by *Bodyke, supra*, a "targeted offender's" or "targeted delinquent child's" (see below) registration and other duties under the SORN Law were or are scheduled to terminate on or after that date and prior to July 1, 2011, under the version of R.C. 2950.07 that was in effect under the pre-S.B. 10 SORN Law (see "**Registration requirements under current and former SORN Law**," below), notwithstanding that scheduled termination of those duties, the offender's or child's registration and other duties under the SORN Law will not terminate as scheduled. Rather, those duties will remain in effect at least until the date on which the court making the judicial Tier reclassification of the offender or child issues its order specifying the reclassification under the bill's reclassification mechanism described above in "**Conviction, guilty plea, or adjudication prior to July 31, 2011**" or "**Conviction, guilty plea, or adjudication on or after July 31, 2011, or in non-Ohio court**," whichever is applicable.

It also provides that if, as a result of S.B. 10's reclassification mechanism being found unconstitutional on June 3, 2010, by *Bodyke, supra*, a "targeted offender's" or "targeted delinquent child's" registration and other duties under the SORN Law was terminated on or before June 3, 2010, under the version of R.C. 2950.07 that was in effect under the pre-S.B. 10 SORN Law (see "**Registration requirements under current and former SORN Law**," below), notwithstanding that termination of those duties, the offender's or child's duties under the SORN Law will be reinstated on July 1, 2011. Upon reinstatement, those duties will remain in effect at least until the date on which the court making the judicial Tier reclassification of the offender or child issues its order specifying the reclassification under the bill's reclassification mechanism described

²⁵ R.C. 2950.036.

above in "**Conviction, guilty plea, or adjudication prior to July 31, 2011**" or "**Conviction, guilty plea, or adjudication on or after July 31, 2011, or in non-Ohio court,**" whichever is applicable.

After a court issues its order under the bill's reclassification mechanism specifying the judicial Tier reclassification of any targeted offender or targeted delinquent child, as described in either of the two preceding paragraphs, the offender's or child's registration and other duties under the SORN Law will continue in accordance with the order based on the new Tier classification of the offender or child. The targeted offender's or targeted delinquent child's duty to comply with the registration and other duties under the SORN Law will continue for the duration specified in R.C. 2950.07 (see "**Registration requirements under current and former SORN Law,**" below), as it exists on the date on which the court issues its order, based on the new Tier classification of the offender or child. If that duration has expired by the date on which the court issues its order, the targeted offender's or targeted delinquent child's registration and other duties under the SORN Law are terminated.

A person who is a targeted offender or targeted delinquent child described in the second or third preceding paragraph is presumed to have knowledge of the law, the content of the provisions described in those paragraphs and the application of the appropriate provision to the offender or child, and the offender's or child's registration and other duties under the SORN Law as it exists on July 1, 2011. Any failure of any such person to receive a copy of an order issued by a court under the bill's reclassification mechanism described above in "**Conviction, guilty plea, or adjudication prior to July 31, 2011**" or "**Conviction, guilty plea, or adjudication on or after July 31, 2011, or in non-Ohio court,**" whichever is applicable, that specifies the judicial Tier reclassification of the offender or child does not negate, limit, or modify the presumption described in this paragraph.²⁶

As used in the provisions described above:²⁷

(1) "Targeted offender" means an offender who has been convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense committed prior to January 1, 2008, who had registration and other duties under the SORN Law that were in effect on June 2, 2010 (the day before the decision in *Bodyke, supra*) based on that offense, and whose duties under that Law based on that offense were modified pursuant to the operation of the reclassification mechanism enacted in S.B. 10.

²⁶ R.C. 2950.037(B) to (D).

²⁷ R.C. 2950.037(A).

(2) "Targeted delinquent child" means a child who has been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense committed prior to January 1, 2008, who is a PRQJO registrant relative to that offense, who had registration and other duties under the SORN Law that were in effect on June 2, 2010 (the day before the decision in *Bodyke, supra*) based on that offense, and whose duties under that Law based on that offense was modified pursuant to the operation of the reclassification mechanism enacted in S.B. 10.

Conforming of other SORN Law provisions to court reclassification or classification of offenders and delinquent children into S.B. 10 Tier classification; transition provisions

The bill modifies several existing SORN Law and Delinquent Child Law provisions to conform them to, or to provide a transition to, its provisions described above.

Notice of duties under the SORN Law

Existing law requires that each person who is or has been convicted of or pleads or has pleaded guilty to a sexually oriented offense or child-victim oriented offense and who has registration and other duties under the SORN Law, and each person who is adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and who is classified a juvenile offender registrant based on that adjudication, be provided notice of the offender's or child's duties under the SORN Law and of the offender's duties to similarly register, provide notice of a change of address, and verify addresses in a state other than Ohio if the offender resides, is temporarily domiciled, attends a school or institution of higher education, or is employed in a state other than Ohio. Existing law identifies categories of officials who must give the notice and the time at which the particular official must provide it. Under existing law, if the offender or delinquent child was reclassified from a pre-S.B. 10 category into a post-S.B. 10 Tier classification under the reclassification mechanism held to be unconstitutional in *Bodyke, supra*, the AG, DRC, or DYS must give the notice, generally at the time of the reclassification.²⁸

The bill repeals the existing provision that pertains to the giving of the notice to offenders and delinquent children who were reclassified from a pre-S.B. 10 category into a post-S.B. 10 Tier classification under the reclassification mechanism held to be unconstitutional in *Bodyke, supra*. It replaces the repealed provision with a provision that specifies that, if an offender or delinquent child is reclassified under the bill's judicial Tier reclassification mechanism described above in "**Conviction, guilty plea, or**

²⁸ R.C. 2950.03.

adjudication prior to July 31, 2011" or "Conviction, guilty plea, or adjudication on or after July 31, 2011, or in non-Ohio court," the court that issues the order that specifies the offender's or child's judicial Tier reclassification must give the notice at the time it issues that order.²⁹

The bill requires the AG, in consultation with local law enforcement representatives and through BCII, to prescribe the forms to be used by judges to provide the notice as described in the preceding paragraph.³⁰

SORN Law duties of juvenile offender registrant resulting from judicial Tier reclassification--continuation of pre-S.B. 10 duties

The bill provides several transition provisions that relate to SORN Law duties resulting from a judicial Tier reclassification of an offender or delinquent child under the bill being a continuation of pre-S.B. 10 SORN Law duties imposed upon the offender or child:

(1) It specifies that if a juvenile court judge issued an order prior to January 1, 2008, classifying a delinquent child a juvenile offender registrant based on an adjudication for a sexually oriented offense or child-victim oriented offense and if the child has a duty on and after the date of the judicial Tier reclassification of the child under the bill to comply with the SORN Law registration and other duties based on that offense, the duty to comply resulting from the reclassification is a continuation of the duty imposed upon the child prior to January 1, 2008.³¹

(2) It provides that if an offender or delinquent child who was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense was required immediately prior to January 1, 2008, to register an address under the SORN Law based on that offense and if the offender or child on and after the date of the judicial Tier reclassification of the offender or child under the bill has a duty to register an address based on that offense, the duty resulting from the reclassification to comply with the SORN Law's registration and other duties as they exist on July 1, 2011, is a continuation of the duties imposed upon the offender or child prior to January 1, 2008, under the former SORN Law. The duty resulting from the reclassification is to be considered for all purposes as having

²⁹ R.C. 2950.03(A)(5).

³⁰ R.C. 2950.13(A)(4).

³¹ R.C. 2152.851(B).

commenced on the date that the offender's or child's duty under that former Law commenced.³²

(3) It provides that if, prior to January 1, 2008, an offender or delinquent child registered with a sheriff under the SORN Law as a result of a conviction of, plea of guilty to, or adjudication as a delinquent child for committing a sexually oriented offense or child-victim oriented offense, on and after the date of the judicial Tier reclassification of the offender or child under the bill, the SORN Law's duty to register that is imposed on the offender or delinquent child resulting from the reclassification is a continuation of the duty imposed upon the offender or child prior to January 1, 2008, and, for purposes of the SORN Law provisions that specify the frequency with which a registered offender or delinquent child must verify the registered address, the offender's or child's initial registration date related to that offense is the date on which the offender or child initially registered under the SORN Law.³³

Transition regarding time of commencement and termination of SORN Law duties

The bill specifies that if an offender or delinquent child, prior to January 1, 2008, registered an address pursuant to the SORN Law's registration duty as it existed prior to that date, on and after the date of the judicial Tier reclassification of the offender or child under the bill, the offender or child initially must register in accordance with the SORN Law's registration duty as it exists on July 1, 2011, not later than the earlier of the dates specified below. The offender's or child's duty to comply thereafter with the SORN Law's registration and other duties as they exist on and after January 1, 2008, commences on the date of that initial registration. The offender or child initially must register under the SORN Law's registration duty as it exists on and after January 1, 2008, not later than the earlier of the following: (1) the date that is six months after the date on which the offender or child received a copy of the court order specifying the judicial Tier reclassification of the offender or child, (2) the date on which the offender or child would be required to verify a previously registered address under the SORN Law's address verification provisions as they exist on July 1, 2011, with that date being determined based on the judicial Tier reclassification of the offender or child, or (3) if the offender or child has changed a previously registered address, the date on which the offender or child would be required to register a new address under the SORN Law's change of address provisions as they exist on July 1, 2011.³⁴

³² R.C. 2950.04(H)(2), 2950.041(H)(2), and 2950.07(A)(8).

³³ R.C. 2950.06(B)(4).

³⁴ R.C. 2950.07(A)(7).

If, prior to January 1, 2008, an offender or delinquent child had a duty to comply with the SORN Law's registration and other duties as a result of a conviction of, plea of guilty to, or delinquent child adjudication for committing a sexually oriented offense or child-victim oriented offense, on and after the date of the judicial Tier reclassification of the offender or child under the bill, the period of time specified in R.C. 2950.07(B)(1), (2), or (3) on July 1, 2011 (see "**Registration requirements under current and former SORN Law**," below), for which a person must comply with the SORN Law's registration and other duties applies to the person, automatically replaces the period of time for which the person had to comply with those duties prior to January 1, 2008, and is a continuation of the person's duty to comply with those duties that was in effect prior to the judicial Tier reclassification of the person. If, prior to January 1, 2008, an offender or a delinquent child had a duty to comply with the SORN Law's registration and other duties, the offender's or child's reclassification as a Tier I, a Tier II, or a Tier III sex offender/child-victim offender for purposes of that period of time is to be determined as specified in the bill's provisions described above in "**Conviction, guilty plea, or adjudication prior to July 31, 2011**" or "**Conviction, guilty plea, or adjudication on or after July 31, 2011, or in non-Ohio court**" and, if applicable "**When SORN Law duties terminated or to be terminated under *Bodyke***."³⁵

Access to SORN Law information

Under existing law, the statements, information, photographs, fingerprints, and material required by the SORN Law and provided by a person who registers, provides notice of a change of address and registers a new address, or provides verification of a registered address and that are in the possession of BCII, and the information in the possession of BCII that it receives from DRC or DYS, generally are not open to inspection by the public or by any person. The restriction does not apply to information contained in the Internet Sex Offender and Child-Victim Offender Database established by the AG regarding offenders that is disseminated in accordance with the law regarding that Database. The restriction also does not restrict inspection by any of the following persons: (1) a regularly employed peace officer or other law enforcement officer, (2) an authorized BCII employee for the purpose of providing information to a specified entity, or (3) the Registrar of Motor Vehicles, or an employee of the Registrar, for the purpose of verifying and updating any of the information so provided, upon the request of BCII.

The bill expands the list of persons who may inspect the specified information so that the restriction also does not restrict inspection by judges and court personnel for the purpose of making a judicial Tier reclassification of an offender or delinquent child pursuant to the bill's provisions described above in "**Conviction, guilty plea, or**

³⁵ R.C. 2950.07(C)(2).

adjudication prior to July 31, 2011" and "Conviction, guilty plea, or adjudication on or after July 31, 2011, or in non-Ohio court."³⁶

Qualified immunity for acts under the bill

Existing law, unchanged by the bill, specifies certain categories of officials and employees and provides that, except as described below, any of the specified officials and employees are immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by an act or omission in connection with a power, duty, responsibility, or authorization under the SORN Law or a rule adopted under that Law. The immunity does not apply for a specified official or employee if, in relation to the act or omission in question, it was manifestly outside the scope of the person's employment or official responsibilities, it was with malicious purpose, in bad faith, or in a wanton or reckless manner, or liability for it is expressly imposed by a Revised Code section. The specified officials and employees for whom the immunity applies include: (1) BCII officers and employees, (2) the AG, a municipal chief of police, marshal, or other chief law enforcement officer, a sheriff, a township constable or chief of police, and a deputy, officer, or employee of the office of any of them, (3) a prosecutor and an officer or employee of a prosecutor, (4) an officer or employee of DRC, and (5) an officer or employee of DYS.³⁷

Existing R.C. 2744.03(A)(6) and (7), not in the bill, provide separate qualified immunities for employees of a political subdivision. Those provisions specify that: (a) an employee who is a county prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a political subdivision, an assistant of any such person, or a judge of an Ohio court is entitled to any defense or immunity available at common law or established by the Revised Code, and (b) in addition to any immunity or defense referred to in clause (a) and in circumstances not covered by that clause or R.C. 3314.07 and 3746.24, an employee of a political subdivision is immune from liability unless the employee's acts or omissions were manifestly outside the scope of the employee's employment or official responsibilities, the employee's acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner, or civil liability is expressly imposed upon the employee by a Revised Code section. Civil liability is not to be construed to exist under another Revised Code section merely because that section imposes a responsibility or mandatory duty upon an employee, because that section provides for a criminal penalty, because of a general authorization in that section that an employee may sue and be sued, or because the section uses the term "shall" in a provision pertaining to an employee.

³⁶ R.C. 2950.08.

³⁷ R.C. 2950.12, not in the bill.



The bill does not amend the existing immunity provision but, by operation of law, it will apply for the specified officials and employees when performing a duty under any provision of the bill, subject to the exception for conduct outside the scope of employment, in bad faith, etc.

SORN Law definitions

Existing law defines numerous terms that apply to the SORN Law, including the following:³⁸

"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

³⁸ R.C. 2950.01(A) to (G), (M), (N), and (P); the bill modifies all of these terms other than "juvenile offender registrant".

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.

"Out-of-state juvenile offender registrant" means a person who is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for committing a sexually oriented offense or a child-victim oriented offense, who on or after January 1, 2002, moves to and resides in Ohio or temporarily is domiciled in Ohio for more than five days, and who has a duty under R.C. 2950.04 or 2950.041 to register in Ohio and the duty to otherwise comply with that applicable section and R.C. 2950.05 and 2950.06. The term includes a person who prior to January 1, 2008, was an "out-of-state juvenile offender registrant" under the definition of the term in existence prior to January 1, 2008, and a person who prior to July 31, 2003, was an "out-of-state 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 rape, gross sexual imposition involving the touching of the genitals of a person, or sexual battery when the victim was less than 12 years of age, or aggravated murder, murder, or kidnapping 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).

"Sex offender" means, subject to the provision described in the next sentence, 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 sexually oriented offense. "Sex offender" does not include 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 a sexually oriented offense if the offense involves consensual sexual conduct or consensual sexual contact and either of the following applies: (a) the victim of the sexually oriented offense was 18 years of age or older and, at the time of the sexually oriented offense, was not under the custodial authority of the 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, the sexually oriented offense, or (b) the

victim of the offense was 13 years of age or older, and the 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 the sexually oriented offense is not more than four years older than the victim.

"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 I 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) sexual imposition, importuning, voyeurism, or pandering obscenity, (ii) 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, or unlawful sexual conduct with a minor or the former offense of felonious sexual penetration, (iii) gross sexual imposition committed other than when the victim, or one of the victims, is less than 13, (iv) illegal use of a minor in a nudity-oriented material or performance based on possession or viewing of the material or performance, (v) menacing by stalking committed with a sexual motivation, unlawful restraint committed with a sexual motivation, or criminal child enticement 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 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), (ii), (iii), (iv), or (v) of this paragraph, or (vii) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (i), (ii), (iii), (iv), (v), or (vi) of this paragraph.

(b) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not in either category of child-victim offender that is included in the definition of Tier II sex offender/child-victim offender or the definition of Tier III sex offender/child-victim offender, both as described below.

(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 I 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 I sex offender/child-victim offender relative to the offense.

"Tier II 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) compelling prostitution, pandering obscenity involving a minor, or pandering sexually oriented matter involving a minor, (ii) 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, (iii) gross sexual imposition committed when the victim is under 13 (but see the definition of Tier III sex offender/child-victim offender) or illegal use of a minor in a nudity-oriented material or performance that is based on proscribed conduct other than possessing or viewing the material or performance, (iv) 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, (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 18 or older, (vi) abduction 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, (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), (ii), (iii), (iv), (v), or (vi) of this paragraph, (viii) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (i), (ii), (iii), (iv), (v), (vi), or (vii) of this paragraph, or (ix) any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or has 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 I 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 I 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 II 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 II 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 II sex offender/child-victim offender set forth in paragraph (a) to (d), above, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, 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 sex offender/child-victim offender or a Tier III sex offender/child-victim offender relative to the offense, or (ii) a juvenile court classifies the child a Tier I sex offender/child-victim offender or a Tier III sex offender/child-victim offender relative to the offense.

"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.

Registration requirements under current and former SORN Law

The current SORN Law requires a person who is convicted of a "sexually oriented offense" or a "child-victim oriented 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. The person must satisfy all of these duties with the sheriff of the county in which the person was convicted of the offense. The Law also includes 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 a sexually oriented offense or a child-victim oriented offense.³⁹ 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" also generally are subject to these duties. Juvenile offender registrants are subject to the school, institution of higher education, and work address provisions only if they also are classified as PRQJO registrants, and they are not subject to the residency restriction.⁴⁰

An offender who is convicted of a sexually oriented offense or a child-victim oriented offense and who is classified a "Tier III sex offender/child-victim offender" 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 also has a duty to provide notice of an intent to reside in a county.⁴¹

A person's duties under the SORN Law generally last for either 10 years, 15 years, 20 years, 25 years, or the person's entire life, depending upon the person's Tier classification and whether he or she is a criminal offender or a delinquent child.⁴²

Additionally, certain categories of offenders and delinquent children who must register under the SORN Law also are subject to mechanisms for providing victim notification and community notification of an address the person registers. Except as described in the next sentence, the victim and community notification provisions apply to: (a) an offender who is a Tier III sex offender/child-victim offender, (b) a delinquent child who is a PRQJO registrant and for whom a juvenile court has not removed the child's duty to comply with the SORN Law, (c) a delinquent child who is a Tier III sex offender/child-victim offender and is not a PRQJO registrant, if the child was subjected to the victim and community notification provisions prior to January 1, 2008, and a juvenile court has not removed the child's duty to comply with the SORN Law, and (d) a delinquent child who is a Tier III sex offender/child-victim offender and is not a PRQJO registrant, if the child was classified a juvenile offender registrant on or after January 1, 2008, the court imposed a requirement subjecting the child to the victim and community notification provisions, and a juvenile court has not removed the child's duty to comply with the SORN Law. However, the community notification provisions do not apply to a person described in any of the above four categories if a court finds at

³⁹ R.C. 2950.034, 2950.04, 2950.041, 2950.05, and 2905.06.

⁴⁰ R.C. 2152.82 to 2152.86.

⁴¹ R.C. 2950.04(G) and 2950.041(G).

⁴² R.C. 2950.07.

a hearing and after considering specified factors that the person would not be subject to the notification provisions as they existed immediately prior to January 1, 2008.⁴³

Under the pre-S.B. 10 version of the SORN Law, the Law's address registration, change of address, and address verification provisions described above applied to persons in any of the categories of offenders and delinquent children that were established under, and subjected to, that version of the Law. However, other provisions of that Law did not apply to persons in some of the categories: (a) the Law's "notice of intent to reside" provisions applied only to persons who were classified a sexual predator or child-victim predator, classified a habitual sex offender or child-victim offender and subjected to the Law's community notification provisions, or convicted of an aggravated sexually oriented offense, (b) the Law's "1,000-foot residence restriction" applied only to persons who were convicted of a sexually oriented offense that was not a "registration exempt sexually oriented offense" or a child-victim oriented offense, and (c) the Law's "victim notification" mechanism and its "community notification" mechanism applied only to persons in any of the categories described in clause (a) of this paragraph.⁴⁴

Under the pre-S.B. 10 version of the SORN Law, a person's duties under the Law generally lasted for either 10 years, 20 years, or the person's entire life, depending upon the person's category of offender or delinquent child, as described above, and the circumstances of the offense.⁴⁵

HISTORY

ACTION	DATE
Introduced	02-01-11

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⁴³ R.C. 2950.10 and 2950.11.

⁴⁴ Former R.C. 2950.04(G), and 2950.041(G), former R.C. 2950.031, and former R.C. 2950.10 and 2950.11.

⁴⁵ Former R.C. 2950.07.

