



Ohio Legislative Service Commission

Bill Analysis

Dennis M. Papp

S.B. 70

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(As Introduced)

Sens. Schaffer, Hughes, Manning

BILL SUMMARY

- Requires "arson offenders," "juvenile arson offenders," and persons convicted or found delinquent in another jurisdiction of an offense substantially equivalent to aggravated arson or arson to register personally with the Attorney General (the AG).
- Specifies the time periods in which an arson offender or juvenile arson offender who has received notice as described below of the duty to register must register personally with the AG.
- Specifies the information and materials that a person who registers under a duty described above must provide to the AG upon registering.
- Requires each arson offender or juvenile arson offender to reregister annually, in person, within ten days of the anniversary of the arson offender's or juvenile arson offender's initial registration date.
- Requires the Bureau of Criminal Identification and Investigation to establish and maintain a Registry of Arson Offenders and Juvenile Arson Offenders for public safety purposes and provides that this Registry is not a public record.
- Requires the AG to collect a registration fee of \$50 and an annual reregistration fee of \$25 from each arson offender or juvenile arson offender and requires that the fee be used for the maintenance of the Registry.
- Provides that a person who fails to register or reregister as required under the bill is guilty of a fifth degree felony, provides that if the violation occurs while the person is under 18 years of age, the person is subject to proceedings under R.C. Chapter 2152. (law regarding delinquent children), and provides that the parent, guardian, or custodian of a juvenile arson offender who is under 18 years of age could face

criminal penalties if the parent, guardian, or custodian fails to ensure that the juvenile arson offender registers with the AG.

- Requires that each arson offender or juvenile arson offender be provided notice of the arson offender's or juvenile arson offender's duty to register personally with the AG, identifies by position the person who is to provide the notice, and establishes the time frame for when those offenders are to receive that notice.
- Specifies that the judge, official, or official's designee providing the notice must require the arson offender to read and sign a form stating that the arson offender has received and understands the notice and specifies that, in the case of a juvenile arson offender, the juvenile court, official, or official's designee providing the notice to a juvenile arson offender and the delinquent child's parent, guardian, or custodian must require the juvenile arson offender and parent, guardian, or custodian to read and sign a form stating that they have received and understand the notice.
- Provides that if the arson offender or the juvenile arson offender, parent, or the custodian, or guardian of the juvenile arson offender is unable to read, the judge, juvenile court, official, or official's designee must inform the arson offender or the juvenile arson offender and the parent, custodian, or guardian of the arson offender's or juvenile arson offender's duties as set forth in the notice and must certify on the form that the judge, official, or official's designee informed the arson offender or the juvenile arson offender and the parent, guardian, or custodian of the arson offender's or juvenile arson offender's duties and that the arson offender or the juvenile arson offender and the parent, guardian, or custodian indicated an understanding of those duties.
- Requires the AG to prescribe the notice and form described in the preceding dot point and requires that the notice include notice of the arson offender's or juvenile arson offender's duties to reregister annually.
- Requires the person providing the notice of the duty to register to provide a copy of the notice and signed form to the arson offender or the juvenile arson offender's parent, guardian, or custodian, and to provide a copy of the signed form to the AG in accordance with rules adopted by the AG.

CONTENT AND OPERATION

The bill establishes a registry for arson offenders, juvenile arson offenders, and persons convicted or found delinquent in another jurisdiction of an offense substantially equivalent to aggravated arson or arson. Definitions of all of the terms in quotation marks in succeeding parts of this analysis are set forth below in "**Definitions.**"

Duty to register

Offenders who have received notice

The bill requires each "arson offender" and "juvenile arson offender" who has received notice under the bill's provisions described below in "**Notice of duty to register with Attorney General**" to register personally with the Attorney General (the AG) or the Attorney General's designee within the following time periods:¹

(1) An arson offender who receives notice under the provision regarding notice to an arson offender serving a "prison" term, term of imprisonment, or other term of confinement must register within ten days after the arson offender is released from a "jail," workhouse, state correctional institution, or other institution, unless the arson offender is being transferred to the custody of another jail, workhouse, state correctional institution, or other institution. The bill does not require the arson offender to register with the AG prior to release.

(2) An arson offender who receives notice under the provision regarding notice to an arson offender not sentenced to a prison term, term of imprisonment, or other term of confinement must register within ten days after the sentencing hearing.

(3) A juvenile arson offender who receives notice under the provision regarding notice to an a juvenile arson offender confined in a "secure correctional facility" must register within ten days after the juvenile arson offender's release from a secure correctional facility, unless the juvenile arson offender is being transferred to the custody of another secure correctional facility. If the juvenile arson offender has been transferred to a jail, workhouse, state correctional institution, or other institution after the juvenile court's original order of disposition, the juvenile arson offender must register within ten days after the juvenile arson offender's release from the jail, workhouse, state correctional institution, or other institution, unless the juvenile arson offender is being transferred to the custody of another jail, workhouse, state correctional institution, or other institution. The bill specifies that the juvenile arson offender is not required to register with the AG prior to release.

(4) A juvenile arson offender who receives notice under the provision regarding notice to an a juvenile arson offender who is not committed to a secure correctional facility there must register within ten days after the dispositional hearing.

¹ R.C. 2909.15(A) and (C)(1).

Offenders convicted of law substantially equivalent to aggravated arson or arson

The bill requires any person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, or is or has been adjudicated a delinquent child for a violation of any existing or former municipal ordinance or law of another state or the United States, or any existing or former law applicable in a military court or in an Indian tribal court, that is or was substantially equivalent to R.C. 2909.02 (aggravated arson) or R.C. 2909.03 (arson) to register personally with the AG or the AG's designee within ten days after residing in or occupying a dwelling in Ohio for more than three consecutive days and to reregister annually as provided below. Although somewhat ambiguous, in one provision the bill states that this requirement is a requirement "to register as an arson offender or juvenile arson offender."²

Information that must be provided to the Attorney General

The bill requires a person who registers under any of its provisions described above to provide all of the following information and materials to the AG or the AG's designee when registering:³

- (1) The arson offender's or juvenile arson offender's full name and any alias used and the full name of the delinquent child's parent, guardian, or custodian;
- (2) The arson offender's or juvenile arson offender's address;
- (3) The arson offender's or juvenile arson offender's Social Security number;
- (4) Any driver's license number, commercial driver's license number, or state identification card number issued to the arson offender or juvenile arson offender by Ohio or another state;
- (5) The offense that the arson offender was convicted of or pleaded guilty to or which comprised the acts that were the basis for the juvenile arson offender's adjudication as a delinquent child;
- (6) The name and address of any place where the arson offender or juvenile arson offender is employed;
- (7) The name and address of any school or institution of higher education that the arson offender or juvenile arson offender is attending;

² R.C. 2909.15(B) and (C)(1).

³ R.C. 2909.15(C)(1).

(8) The identification license plate number of each vehicle owned or operated by the arson offender or juvenile arson offender or registered in the arson offender's or juvenile arson offender's name, the vehicle identification number of each vehicle, and a description of each vehicle;

(9) A description of any scars, tattoos, or other distinguishing marks on the arson offender or juvenile arson offender;

(10) Any other information required by the AG.

The bill requires the arson offender or juvenile arson offender to provide fingerprints and palm prints at the time of registration. The AG or the AG's designee must obtain a photograph of the arson offender or juvenile arson offender at the time of registration.⁴

Reregistration

The bill requires each arson offender or juvenile arson offender to reregister annually, in person, within ten days of the calendar date on which the arson offender or juvenile arson offender initially registered. The registrant must amend any information required above that has changed since the registrant's last registration and provide any additional registration information required by the AG. The AG or the AG's designee must obtain a new photograph of the arson offender or juvenile arson offender annually when the offender reregisters. Generally, an arson offender's duty to reregister annually continues until the arson offender's death, but the bill allows the judge to limit an arson offender's duty to reregister at an arson offender's sentencing hearing to not less than ten years if the judge receives a request from the prosecutor and the investigating law enforcement agency to consider limiting the arson offender's registration period. A juvenile arson offender must register annually until the juvenile arson offender is 25 years of age. If a juvenile arson offender who is under 25 is adjudicated delinquent for, convicted of, or pleads guilty to another arson-related offense, the juvenile arson offender's duty to reregister annually continues until the offender's death. The official in charge of a secure correctional facility, jail, workhouse, state correctional institution, or other institution must notify the AG in accordance with rules adopted by the AG pursuant to the Administrative Procedure Act if a registered arson offender or juvenile arson offender is confined in the secure correctional facility, jail, workhouse, state correctional institution, or other institution.⁵

⁴ R.C. 2909.15(C)(2).

⁵ R.C. 2909.15(D).

Bureau of Criminal Identification and Investigation must maintain registry

The bill requires the Bureau of Criminal Identification and Investigation to establish and maintain a Registry of Arson Offenders and Juvenile Arson Offenders that includes the information and materials obtained by the AG under the bill's provision described above in **"Information that must be provided to the Attorney General."** The Bureau must make the Registry available to the Fire Marshal's office, state and local law enforcement officers, and firefighters through the Ohio Law Enforcement Gateway or its successor. The Registry maintained by the Bureau is not a public record under the state's Public Records Law.⁶

Attorney General must collect registration fee

The bill requires the AG to collect a registration fee of \$50 and an annual reregistration fee of \$25 from each arson offender or juvenile arson offender. The fees must be used for the maintenance of the Registry of Arson Offenders and Juvenile Arson Offenders. The AG may waive a fee for an indigent arson offender or juvenile arson offender.⁷

Penalties

Under the bill, a person who fails to register or reregister as required under the bill is guilty of a fifth degree felony. If the violation occurs while the person is under 18, the person is subject to proceedings under the Delinquent Child Law based on the violation. If an arson offender or juvenile arson offender is subject to a "community control sanction," is on parole, is subject to one or more "post-release control sanctions," or is subject to any other type of "supervised release" at the time of the violation, the violation constitutes a violation of the terms and conditions of the community control sanction, parole, post-release control sanction, or other type of supervised release. If a juvenile arson offender's failure occurs while the offender is under 18, unless the child is emancipated, the failure of the parent, guardian, or custodian to ensure that the juvenile arson offender registers with the AG is a violation as previously described in this paragraph and may result in the prosecution of the parent, guardian, or custodian for that violation.⁸

⁶ R.C. 2909.15(E).

⁷ R.C. 2909.15(F).

⁸ R.C. 2909.15(G).

Notice of duty to register with Attorney General

Provision of notice

The bill requires that each arson offender or juvenile arson offender be provided notice of the arson offender's or juvenile arson offender's duty to register personally with the AG or the AG's designee (see "**Duty to register**," above). A parent, guardian, or custodian of a juvenile arson offender also must be provided notice of the juvenile arson offender's duty to register. The bill requires the following persons to provide the notice at the following times:⁹

(1) On or after the bill's effective date, the official in charge of a jail, workhouse, state correctional institution, or other institution in which an arson offender is serving a prison term, term of imprisonment, or other term of confinement, or the official's designee, must provide the notice to the arson offender before the arson offender is released pursuant to any type of supervised release or before the arson offender is otherwise released from the prison term, term of imprisonment, or other term of confinement.

(2) If an arson offender is sentenced on or after the bill's effective date for an arson-related offense and the judge does not sentence the arson offender to a prison term, term of imprisonment, or other term of confinement in a jail, workhouse, state correctional institution, or other institution for that offense, the judge must provide the notice to the arson offender at the time of the arson offender's sentencing.

(3) On or after the bill's effective date, the official in charge of a secure correctional facility in which a juvenile arson offender is confined, or the official's designee, must provide the notice to the juvenile arson offender before the juvenile arson offender is released pursuant to any type of supervised release or before the juvenile arson offender is otherwise released from the secure correctional facility.

(4) If a person is adjudicated a juvenile arson offender on or after the bill's effective date and the juvenile court does not commit the juvenile arson offender to a secure correctional facility at the dispositional hearing, the juvenile court must provide the notice to the juvenile arson offender at the dispositional hearing.

(5) If notice is provided to a juvenile arson offender under (3) or (4) above, the person providing the notice also must provide the notice to the delinquent child's parent, guardian, or custodian.

⁹ R.C. 2909.14(A).

Receipt and understanding of notice

The bill specifies that the judge, official, or official's designee providing the notice of the duty to register with the AG must require the arson offender to read and sign a form stating that the arson offender has received and understands the notice. If the arson offender is unable to read, the judge, official, or official's designee must inform the arson offender of the arson offender's duties as set forth in the notice and must certify on the form that the judge, official, or official's designee informed the arson offender of the arson offender's duties and that the arson offender indicated an understanding of those duties.¹⁰

In the case of a juvenile arson offender, the juvenile court, official, or official's designee providing the notice of the duty to register with the AG to a juvenile arson offender and the delinquent child's parent, guardian, or custodian must require the juvenile arson offender and parent, guardian, or custodian to read and sign a form stating that they have received and understand the notice. If a juvenile arson offender, parent, guardian, or custodian is unable to read, the juvenile court, official, or official's designee must inform the juvenile arson offender and parent, guardian, or custodian of the juvenile arson offender's duties as set forth in the notice and must certify on the form that the juvenile court, official, or official's designee informed the juvenile arson offender and the parent, guardian, or custodian of the juvenile arson offender's duties and that the juvenile arson offender and the parent, guardian, or custodian indicated an understanding of those duties.¹¹

The bill requires the AG to prescribe the notice and the form described above. The notice must include notice of the arson offender's or juvenile arson offender's duties to reregister annually.¹²

Under the bill, the person providing the notice of the duty to register with the AG must provide a copy of the notice and signed form to the arson offender or the juvenile arson offender's parent, guardian, or custodian. The person providing the notice also must provide a copy of the signed form to the AG in accordance with rules adopted by the AG pursuant to the Administrative Procedure Act.¹³

¹⁰ R.C. 2909.14(B)(1).

¹¹ R.C. 2909.14(B)(2).

¹² R.C. 2909.14(C).

¹³ R.C. 2909.14(D).

Definitions

The bill provides the following definitions that apply to its provisions described above:¹⁴

"Arson-related offense" means any of the following violations or offenses committed by a person, regardless of the person's age:

(1) A violation of R.C. 2909.02 (aggravated arson) or 2909.03 (arson);

(2) Any attempt to commit, conspiracy to commit, or complicity in committing aggravated arson or arson.

"Arson offender" means any of the following;

(1) A person who on or after the bill's effective date is convicted of or pleads guilty to an arson-related offense;

(2) A person who on the bill's effective date has been convicted of or pleaded guilty to an arson-related offense and is confined in a jail, workhouse, state correctional institution, or other institution, serving a prison term, term of imprisonment, or other term of confinement for the offense;

(3) A person who on or after the bill's effective date is charged with committing, attempting to commit, conspiring to commit, or complicity in committing aggravated arson or arson and who pleads guilty to a violation of any provision of R.C. Chapter 2909. other than aggravated arson or arson.

"Community control sanction" means a sanction that is not a prison term and that is described in R.C. 2929.15, 2929.16, 2929.17, or 2929.18 or a sanction that is not a jail term and that is described in R.C. 2929.26, 2929.27, or 2929.28. "Community control sanction" includes probation if the sentence involved was imposed for a felony committed prior to July 1, 1996, or if the sentence involved was imposed for a misdemeanor committed prior to January 1, 2004 (by reference to R.C. 2929.01, not in the bill).

"Firefighter" means any member of a fire department as defined in R.C. 742.01 (by reference to R.C. 4765.01, not in the bill).

"Jail" means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political

¹⁴ R.C. 2909.13.

subdivision or a combination of political subdivisions of Ohio (by reference to R.C. 2929.01, not in the bill).

"Juvenile arson offender" means a person who on or after the bill's effective date is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing an act that would be aggravated arson or arson if committed by an adult or has been adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing an act that would be aggravated arson or arson if committed by an adult and who is confined in a secure correctional facility on the bill's effective date.

"Post-release control sanction" means a period of supervision by the Adult Parole Authority after a prisoner's release from imprisonment that includes one or more post-release control sanctions imposed under R.C. 2967.28 (by reference to R.C. 2950.01, not in the bill).

"Prison" means a residential facility used for the confinement of convicted felony offenders that is under the control of the Department of Rehabilitation and Correction but does not include a violation sanction center operated under the authority of R.C. 2967.141 (by reference to R.C. 2929.01, not in the bill).

"Secure correctional facility" means a facility under the direction of the Department of Youth Services that is designed to physically restrict the movement and activities of juveniles placed by a dispositional order of a juvenile court.

"Supervised release" means a release of an offender from a prison term, a term of imprisonment, or another type of confinement that either (1) is on parole, a conditional pardon, under a community control sanction, under transitional control, or under a post-release control sanction, and it requires the person to report to or be supervised by a parole officer, probation officer, field officer, or another type of supervising officer or (2) is any type of release not described in clause (1) of this definition that requires the person to report to or be supervised by a probation officer, a parole officer, a field officer, or another type of supervising officer (by reference to R.C. 2950.01, not in the bill).

HISTORY

ACTION	DATE
Introduced	02-10-11

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