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A BILL

To amend sections 2950.01, 2950.09, and 2950.12 of the
Revised Code regarding sexual predator hearings for
offenders convicted of a sexually oriented offense
but acquitted of a sexually violent predator
specification, regarding Department of
Rehabilitation and Correction employees' immunity
for acts under the Sex Offender Registration and
Notification Law, regarding making certain
importuning violations a sexually oriented offense,
and to declare an emergency.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2950.01, 2950.09, and 2950.12 of the
Revised Code be amended to read as follows:

Sec. 2950.01. As used in this chapter, unless the context
clearly requires otherwise:

(A) "Confinement" includes, but is not limited to, a

community residential sanction imposed pursuant to section 2929.16
of the Revised Code.

(B) "Habitual sex offender" means, except when a juvenile
judge removes this classification pursuant to division (A)(2) of
section 2152.84 or division (C)(2) of section 2152.85 of the
Revised Code, a person to whom both of the following apply:

(1) The person is convicted of or pleads guilty to a sexually
oriented offense, or the person is adjudicated a delinquent child
for committing on or after ~~the effective date of this amendment~~
January 1, 2002, a sexually oriented offense, was fourteen years
of age or older at the time of committing the offense, and is
classified a juvenile sex offender registrant based on that
adjudication.

(2) The person previously has been convicted of or pleaded
guilty to one or more sexually oriented offenses or, regarding a
delinquent child, previously has been adjudicated a delinquent
child for committing one or more sexually oriented offenses.

(C) "Prosecutor" has the same meaning as in section 2935.01
of the Revised Code.

(D) "Sexually oriented offense" means any of the following:

(1) Subject to division (D)(2) of this section, any of the
following violations or offenses:

(a) Regardless of the age of the victim of the offense, a
violation of section 2907.02, 2907.03, or 2907.05 of the Revised
Code;

(b) Any of the following offenses involving a minor, in the
circumstances specified:

(i) A violation of section 2905.01, 2905.02, 2905.03,
2905.04, 2905.05, or 2907.04 of the Revised Code when the victim
of the offense is under eighteen years of age;

(ii) A violation of section 2907.21 of the Revised Code when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under eighteen years of age;

(iii) A violation of division (A)(1) or (3) of section 2907.321 or 2907.322 of the Revised Code;

(iv) A violation of division (A)(1) or (2) of section 2907.323 of the Revised Code;

(v) A violation of division (B)(5) of section 2919.22 of the Revised Code when the child who is involved in the offense is under eighteen years of age;

(vi) A violation of division (D) or (E) of section 2907.07 of the Revised Code.

(c) Regardless of the age of the victim of the offense, a violation of section 2903.01, 2903.02, 2903.11, or 2905.01 of the Revised Code, or of division (A) of section 2903.04 of the Revised Code, that is committed with a purpose to gratify the sexual needs or desires of the offender;

(d) A sexually violent offense;

(e) A violation of any former law of this state that was substantially equivalent to any offense listed in division (D)(1)(a), (b), (c), or (d) of this section;

(f) A violation of an existing or former municipal ordinance or law of another state or the United States, a violation under the law applicable in a military court, or a violation under the law applicable in an Indian tribal court that is or was substantially equivalent to any offense listed in division (D)(1)(a), (b), (c), or (d) of this section;

(g) An attempt to commit, conspiracy to commit, or complicity

in committing any offense listed in division (D)(1)(a), (b), (c),
(d), (e), or (f) of this section.

(2) An act committed by a person under eighteen years of age
that is any of the following:

(a) Except for the violations specifically described in
divisions (D)(2)(b) and (c) of this section and subject to
division (D)(2)(d) of this section, any violation listed in
division (D)(1) of this section that, if committed by an adult,
would be a felony of the first, second, third, or fourth degree;

(b) Subject to division ~~(A)~~(D)(2)(d) of this section, a
violation of section 2903.01, 2903.02, 2903.11, 2905.01, or
2905.02 of the Revised Code, a violation of division (A) of
section 2903.04 of the Revised Code, or an attempt to violate any
of those sections or that division that is committed with a
purpose to gratify the sexual needs or desires of the child
committing the violation;

(c) Subject to division ~~(A)~~(D)(2)(d) of this section, a
violation of division (A)(1) or (3) of section 2907.321, division
(A)(1) or (3) of section 2907.322, or division (A)(1) or (2) of
section 2907.323 of the Revised Code, or an attempt to violate any
of those divisions, if the person who violates or attempts to
violate the division is four or more years older than the minor
who is the victim of the offense;

(d) If the child's case has been transferred for criminal
prosecution under section 2152.12 of the Revised Code, the act is
any violation listed in division (D)(1)(a), (b), (c), (d), (e),
(f), or (g) of this section or would be any offense listed in any
of those divisions if committed by an adult.

(E) "Sexual predator" means a person to whom either of the
following applies:

(1) The person has been convicted of or pleaded guilty to

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committing a sexually oriented offense and is likely to engage in
the future in one or more sexually oriented offenses.

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(2) The person has been adjudicated a delinquent child for
committing a sexually oriented offense, was fourteen years of age
or older at the time of committing the offense, was classified a
juvenile sex offender registrant based on that adjudication, and
is likely to engage in the future in one or more sexually oriented
offenses.

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(F) "Supervised release" means a release of an offender from
a prison term, a term of imprisonment, or another type of
confinement that satisfies either of the following conditions:

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(1) The release is on parole, a conditional pardon, or
probation, 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.

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(2) The release is any type of release that is not described
in division (F)(1) of this section and 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.

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(G) An offender or delinquent child is "adjudicated as being
a sexual predator" if any of the following applies and if that
status has not been removed pursuant to section 2152.84, 2152.85,
or 2950.09 of the Revised Code:

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(1) The offender is convicted of or pleads guilty to
committing, on or after January 1, 1997, a sexually oriented
offense that is a sexually violent offense and also is convicted
of or pleads guilty to a sexually violent predator specification
that was included in the indictment, count in the indictment, or
information that charged the sexually violent offense.

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(2) Regardless of when the sexually oriented offense was

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committed, on or after January 1, 1997, the offender is sentenced 138
for a sexually oriented offense, and the sentencing judge 139
determines pursuant to division (B) of section 2950.09 of the 140
Revised Code that the offender is a sexual predator. 141

(3) The delinquent child is adjudicated a delinquent child 142
for committing a sexually oriented offense, was fourteen years of 143
age or older at the time of committing the offense, and has been 144
classified a juvenile sex offender registrant based on that 145
adjudication, and the adjudicating judge or that judge's successor 146
in office determines pursuant to division (B) of section 2950.09 147
or pursuant to division (B) of section 2152.83, section 2152.84, 148
or section 2152.85 of the Revised Code that the delinquent child 149
is a sexual predator. 150

(4) Prior to January 1, 1997, the offender was convicted of 151
or pleaded guilty to, and was sentenced for, a sexually oriented 152
offense, the offender is imprisoned in a state correctional 153
institution on or after January 1, 1997, and the court determines 154
pursuant to division (C) of section 2950.09 of the Revised Code 155
that the offender is a sexual predator. 156

(5) Regardless of when the sexually oriented offense was 157
committed, the offender or delinquent child is convicted of or 158
pleads guilty to, has been convicted of or pleaded guilty to, or 159
is adjudicated a delinquent child for committing a sexually 160
oriented offense in another state or in a federal court, military 161
court, or an Indian tribal court, as a result of that conviction, 162
plea of guilty, or adjudication, the offender or delinquent child 163
is required, under the law of the jurisdiction in which the 164
offender was convicted or pleaded guilty or the delinquent child 165
was adjudicated, to register as a sex offender until the 166
offender's or delinquent child's death and to verify the 167
offender's or delinquent child's address on at least a quarterly 168
basis each year, and, on or after July 1, 1997, for offenders or 169

~~the effective date of this amendment January 1, 2002,~~ for 170
delinquent children the offender or delinquent child moves to and 171
resides in this state or temporarily is domiciled in this state 172
for more than seven days, unless a court of common pleas or 173
juvenile court determines that the offender or delinquent child is 174
not a sexual predator pursuant to division (F) of section 2950.09 175
of the Revised Code. 176

(H) "Sexually violent predator specification" and "sexually 177
violent offense" have the same meanings as in section 2971.01 of 178
the Revised Code. 179

(I) "Post-release control sanction" and "transitional 180
control" have the same meanings as in section 2967.01 of the 181
Revised Code. 182

(J) "Juvenile sex offender registrant" means a person who is 183
adjudicated a delinquent child for committing on or after ~~the~~ 184
~~effective date of this amendment January 1, 2002,~~ a sexually 185
oriented offense, who is fourteen years of age or older at the 186
time of committing the offense, and who a juvenile court judge, 187
pursuant to an order issued under section 2152.82, 2152.83, 188
2152.84, or 2152.85 of the Revised Code, classifies as a juvenile 189
sex offender registrant and specifies has a duty to register under 190
section 2950.04 of the Revised Code. 191

(K) "Secure facility" means any facility that is designed and 192
operated to ensure that all of its entrances and exits are locked 193
and under the exclusive control of its staff and to ensure that, 194
because of that exclusive control, no person who is 195
institutionalized or confined in the facility may leave the 196
facility without permission or supervision. 197

(L) "Out-of-state juvenile sex offender registrant" means a 198
person who is adjudicated a delinquent child for committing a 199
sexually oriented offense in another state or in a federal court, 200
military court, or Indian tribal court, who on or after ~~the~~ 201

~~effective date of this amendment January 1, 2002,~~ moves to and 202
resides in this state or temporarily is domiciled in this state 203
for more than seven days, and who under section 2950.04 of the 204
Revised Code has a duty to register in this state as described in 205
that section. 206

(M) "Juvenile court judge" includes a magistrate to whom the 207
juvenile court judge confers duties pursuant to division (A)(15) 208
of section 2151.23 of the Revised Code. 209

Sec. 2950.09. (A) If a person is convicted of or pleads 210
guilty to committing, on or after January 1, 1997, a sexually 211
oriented offense that is a sexually violent offense and also is 212
convicted of or pleads guilty to a sexually violent predator 213
specification that was included in the indictment, count in the 214
indictment, or information charging the sexually violent offense, 215
the conviction of or plea of guilty to the specification 216
automatically classifies the offender as a sexual predator for 217
purposes of this chapter. If a person is convicted of, pleads 218
guilty to, or is adjudicated a delinquent child for committing, a 219
sexually oriented offense in another state, or in a federal court, 220
military court, or an Indian tribal court and if, as a result of 221
that conviction, plea of guilty, or adjudication, the person is 222
required, under the law of the jurisdiction in which the person 223
was convicted, pleaded guilty, or was adjudicated, to register as 224
a sex offender until the person's death and is required to verify 225
the person's address on at least a quarterly basis each year, that 226
conviction, plea of guilty, or adjudication automatically 227
classifies the person as a sexual predator for the purposes of 228
this chapter, but the person may challenge that classification 229
pursuant to division (F) of this section. In all other cases, a 230
person who is convicted of or pleads guilty to, has been convicted 231
of or pleaded guilty to, or is adjudicated a delinquent child for 232
committing, a sexually oriented offense may be classified as a 233

sexual predator for purposes of this chapter only in accordance 234
with division (B) or (C) of this section or, regarding delinquent 235
children, divisions (B) and (C) of section 2152.83 of the Revised 236
Code. 237

(B)(1) The judge who is to impose sentence on a person who is 238
convicted of or pleads guilty to a sexually oriented offense or 239
the judge who is to impose or has imposed, pursuant to section 240
2152.82 or division (A) of section 2152.83 of the Revised Code, an 241
order of disposition upon a child who is adjudicated a delinquent 242
child for committing on or after ~~the effective date of this~~ 243
~~amendment~~ January 1, 2002, a sexually oriented offense shall 244
conduct a hearing to determine whether the offender is a sexual 245
predator if any of the following circumstances apply: 246

(a) Regardless of when the sexually oriented offense was 247
committed, the offender is to be sentenced on or after January 1, 248
1997, for a sexually oriented offense that is not a sexually 249
violent offense. 250

(b) Regardless of when the sexually oriented offense was 251
committed, the offender is to be sentenced on or after January 1, 252
1997, for a sexually oriented offense that is a sexually violent 253
offense and a sexually violent predator specification was not 254
included in the indictment, count in the indictment, or 255
information charging the sexually violent offense. 256

(c) The delinquent child was classified a juvenile sex 257
offender registrant pursuant to section 2152.82 or division (A) of 258
section 2152.83 of the Revised Code. A judge shall not conduct a 259
hearing under division (B) of this section regarding a delinquent 260
child unless the delinquent child is in the category of delinquent 261
children described in this division. 262

(d) Regardless of when the sexually oriented offense was 263
committed, the offender is to be sentenced on or after the 264
effective date of this amendment for a sexually oriented offense, 265

and that offender was acquitted of a sexually violent predator
specification that was included in the indictment, count in the
indictment, or information charging the sexually oriented offense.

(2) The judge shall conduct the hearing prior to sentencing
and, if the sexually oriented offense is a felony and if the
hearing is being conducted under division (B)(1)(a) ~~or~~, (b), or
(c) of this section, the judge may conduct it as part of the
sentencing hearing required by section 2929.19 of the Revised
Code. The court shall give the offender or delinquent child and
the prosecutor who prosecuted the offender or handled the case
against the delinquent child for the sexually oriented offense
notice of the date, time, and location of the hearing. At the
hearing, the offender or delinquent child and the prosecutor shall
have an opportunity to testify, present evidence, call and examine
witnesses and expert witnesses, and cross-examine witnesses and
expert witnesses regarding the determination as to whether the
offender or delinquent child is a sexual predator. The offender or
delinquent child shall have the right to be represented by counsel
and, if indigent, the right to have counsel appointed to represent
the offender or delinquent child.

(3) In making a determination under divisions (B)(1) and (4)
of this section as to whether an offender or delinquent child is a
sexual predator, the judge shall consider all relevant factors,
including, but not limited to, all of the following:

(a) The offender's or delinquent child's age;

(b) The offender's or delinquent child's prior criminal or
delinquency record regarding all offenses, including, but not
limited to, all sexual offenses;

(c) The age of the victim of the sexually oriented offense
for which sentence is to be imposed or the order of disposition is
to be made;

(d) Whether the sexually oriented offense for which sentence	297
is to be imposed or the order of disposition is to be made	298
involved multiple victims;	299
(e) Whether the offender or delinquent child used drugs or	300
alcohol to impair the victim of the sexually oriented offense or	301
to prevent the victim from resisting;	302
(f) If the offender or delinquent child previously has been	303
convicted of or pleaded guilty to, or been adjudicated a	304
delinquent child for committing an act that if committed by an	305
adult would be, a criminal offense, whether the offender or	306
delinquent child completed any sentence or dispositional order	307
imposed for the prior offense or act and, if the prior offense or	308
act was a sex offense or a sexually oriented offense, whether the	309
offender or delinquent child participated in available programs	310
for sexual offenders;	311
(g) Any mental illness or mental disability of the offender	312
or delinquent child;	313
(h) The nature of the offender's or delinquent child's sexual	314
conduct, sexual contact, or interaction in a sexual context with	315
the victim of the sexually oriented offense and whether the sexual	316
conduct, sexual contact, or interaction in a sexual context was	317
part of a demonstrated pattern of abuse;	318
(i) Whether the offender or delinquent child, during the	319
commission of the sexually oriented offense for which sentence is	320
to be imposed or the order of disposition is to be made, displayed	321
cruelty or made one or more threats of cruelty;	322
(j) Any additional behavioral characteristics that contribute	323
to the offender's or delinquent child's conduct.	324
(4) After reviewing all testimony and evidence presented at	325
the hearing conducted under division (B)(1) of this section and	326
the factors specified in division (B)(3) of this section, the	327

328 court shall determine by clear and convincing evidence whether the
329 subject offender or delinquent child is a sexual predator. If the
330 court determines that the subject offender or delinquent child is
331 not a sexual predator, the court shall specify in the offender's
332 sentence and the judgment of conviction that contains the sentence
333 or in the delinquent child's dispositional order, as appropriate,
334 that the court has determined that the offender or delinquent
335 child is not a sexual predator. If the court determines by clear
336 and convincing evidence that the subject offender or delinquent
337 child is a sexual predator, the court shall specify in the
338 offender's sentence and the judgment of conviction that contains
339 the sentence or in the delinquent child's dispositional order, as
340 appropriate, that the court has determined that the offender or
341 delinquent child is a sexual predator and shall specify that the
342 determination was pursuant to division (B) of this section. The
343 offender or delinquent child and the prosecutor who prosecuted the
344 offender or handled the case against the delinquent child for the
345 sexually oriented offense in question may appeal as a matter of
346 right the court's determination under this division as to whether
347 the offender or delinquent child is, or is not, a sexual predator.

348 (5) A hearing shall not be conducted under division (B) of
349 this section regarding an offender if the sexually oriented
350 offense in question is a sexually violent offense and, if the
351 indictment, count in the indictment, or information charging the
352 offense also included a sexually violent predator specification,
353 and if the offender is convicted of or pleads guilty to that
354 sexually violent predator specification.

355 (C)(1) If a person was convicted of or pleaded guilty to a
356 sexually oriented offense prior to January 1, 1997, if the person
357 was not sentenced for the offense on or after January 1, 1997, and
358 if, on or after January 1, 1997, the offender is serving a term of
359 imprisonment in a state correctional institution, the department

of rehabilitation and correction shall determine whether to
recommend that the offender be adjudicated as being a sexual
predator. In making a determination under this division as to
whether to recommend that the offender be adjudicated as being a
sexual predator, the department shall consider all relevant
factors, including, but not limited to, all of the factors
specified in division (B)(2) of this section. If the department
determines that it will recommend that the offender be adjudicated
as being a sexual predator, it immediately shall send the
recommendation to the court that sentenced the offender and shall
enter its determination and recommendation in the offender's
institutional record, and the court shall proceed in accordance
with division (C)(2) of this section.

(2)(a) If, pursuant to division (C)(1) of this section, the
department of rehabilitation and correction sends to a court a
recommendation that an offender who has been convicted of or
pleaded guilty to a sexually oriented offense be adjudicated as
being a sexual predator, the court is not bound by the
department's recommendation, and the court may conduct a hearing
to determine whether the offender is a sexual predator. The court
may deny the recommendation and determine that the offender is not
a sexual predator without a hearing but shall not make a
determination that the offender is a sexual predator in any case
without a hearing. The court may hold the hearing and make the
determination prior to the offender's release from imprisonment or
at any time within one year following the offender's release from
that imprisonment. If the court determines without a hearing that
the offender is not a sexual predator, it shall include its
determination in the offender's institutional record and shall
determine whether the offender previously has been convicted of or
pleaded guilty to a sexually oriented offense other than the
offense in relation to which the court determined that the

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offender is not a sexual predator.

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The court may make the determination as to whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense without a hearing, but, if the court determines that the offender previously has been convicted of or pleaded guilty to such an offense, it shall not impose a requirement that the offender be subject to the community notification provisions regarding the offender's place of residence that are contained in sections 2950.10 and 2950.11 of the Revised Code without a hearing. The court may conduct a hearing to determine both whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense and whether to impose a requirement that the offender be subject to the community notification provisions as described in this division, or may conduct a hearing solely to make the latter determination. The court shall include in the offender's institutional record any determination made under this division as to whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense, and, as such, whether the offender is a habitual sex offender.

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(b) If the court schedules a hearing under division (C)(2)(a) of this section, the court shall give the offender and the prosecutor who prosecuted the offender for the sexually oriented offense, or that prosecutor's successor in office, notice of the date, time, and place of the hearing. If the hearing is to determine whether the offender is a sexual predator, it shall be conducted in the manner described in division (B)(1) of this section regarding hearings conducted under that division and, in making a determination under this division as to whether the offender is a sexual predator, the court shall consider all relevant factors, including, but not limited to, all of the factors specified in division (B)(2) of this section. After

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reviewing all testimony and evidence presented at the sexual
predator hearing and the factors specified in division (B)(2) of
this section, the court shall determine by clear and convincing
evidence whether the offender is a sexual predator. If the court
determines that the offender is not a sexual predator, it also
shall determine whether the offender previously has been convicted
of or pleaded guilty to a sexually oriented offense other than the
offense in relation to which the hearing is being conducted.

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Upon making its determinations at the hearing, the court
shall proceed as follows:

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(i) If the hearing is to determine whether the offender is a
sexual predator, and if the court determines that the offender is
not a sexual predator and that the offender previously has not
been convicted of or pleaded guilty to a sexually oriented offense
other than the offense in relation to which the hearing is being
conducted, it shall include its determinations in the offender's
institutional record.

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(ii) If the hearing is to determine whether the offender is a
sexual predator, and if the court determines that the offender is
not a sexual predator but that the offender previously has been
convicted of or pleaded guilty to a sexually oriented offense
other than the offense in relation to which the hearing is being
conducted, it shall include its determination that the offender is
not a sexual predator but is a habitual sex offender in the
offender's institutional record, shall attach the determinations
to the offender's sentence, shall specify that the determinations
were pursuant to division (C) of this section, shall provide a
copy of the determinations to the offender, to the prosecuting
attorney, and to the department of rehabilitation and correction,
and may impose a requirement that the offender be subject to the
community notification provisions regarding the offender's place
of residence that are contained in sections 2950.10 and 2950.11 of

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the Revised Code. The offender shall not be subject to those
community notification provisions relative to the sexually
oriented offense in question if the court does not so impose the
requirement described in this division. If the court imposes those
community notification provisions, the offender may appeal the
judge's determination that the offender is a habitual sex
offender.

(iii) If the hearing is to determine whether the offender
previously has been convicted of or pleaded guilty to a sexually
oriented offense other than the offense in relation to which the
hearing is being conducted and whether to impose a requirement
that the offender be subject to the specified community
notification provisions, and if the court determines that the
offender previously has been convicted of or pleaded guilty to
such an offense, the court shall proceed as described in division
(C)(2)(b)(ii) of this section and may impose a community
notification requirement as described in that division. The
offender shall not be subject to the specified community
notification provisions relative to the sexually oriented offense
in question if the court does not so impose the requirement
described in that division. If the court imposes those community
notification provisions, the offender may appeal the judge's
determination that the offender is a habitual sex offender.

(iv) If the court determined without a hearing that the
offender previously has been convicted of or pleaded guilty to a
sexually oriented offense other than the offense in relation to
which the court determined that the offender is not a sexual
predator, and, as such, is a habitual sex offender, and the
hearing is solely to determine whether to impose a requirement
that the offender be subject to the specified community
notification provisions, after the hearing, the court may impose a
community notification requirement as described in division

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(C)(2)(b)(ii) of this section. The offender shall not be subject to the specified community notification provisions relative to the sexually oriented offense in question if the court does not so impose the requirement described in that division. If the court imposes those community notification provisions, the offender may appeal the judge's determination that the offender is a habitual sex offender.

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(v) If the hearing is to determine whether the offender is a sexual predator, and if the court determines by clear and convincing evidence that the offender is a sexual predator, it shall enter its determination in the offender's institutional record, shall attach the determination to the offender's sentence, shall specify that the determination was pursuant to division (C) of this section, and shall provide a copy of the determination to the offender, to the prosecuting attorney, and to the department of rehabilitation and correction. The offender and the prosecutor may appeal as a matter of right the judge's determination under this division as to whether the offender is, or is not, a sexual predator.

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(D)(1) Division (D) of this section applies to persons who have been convicted of or pleaded guilty to a sexually oriented offense. The procedures set forth in division (D) of this section regarding a determination of whether a person no longer is a sexual predator also apply, to the extent specified in section 2152.84 or 2152.85 of the Revised Code, to persons who have been adjudicated a delinquent child for committing a sexually oriented offense and have been determined by a juvenile court judge to be a sexual predator. A person who has been adjudicated a delinquent child for committing a sexually oriented offense and who has been classified by a juvenile court judge a juvenile sex offender registrant or, if applicable, additionally has been determined by a juvenile court judge to be a sexual predator or habitual sex

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offender, may petition the adjudicating court for a 520
reclassification or declassification pursuant to section 2152.85 521
of the Revised Code. 522

Upon the expiration of the applicable period of time 523
specified in division (D)(1)(a) or (b) of this section, an 524
offender who has been convicted of or pleaded guilty to a sexually 525
oriented offense and who has been adjudicated as being a sexual 526
predator relative to the sexually oriented offense in the manner 527
described in division (B) or (C) of this section may petition the 528
judge who made the determination that the offender was a sexual 529
predator, or that judge's successor in office, to enter a 530
determination that the offender no longer is a sexual predator. 531
Upon the filing of the petition, the judge may review the prior 532
sexual predator determination that comprises the ~~sexually violent~~ 533
sexual predator adjudication, and, upon consideration of all 534
relevant evidence and information, including, but not limited to, 535
the factors set forth in division (B)(3) of this section, either 536
shall enter a determination that the offender no longer is a 537
sexual predator or shall enter an order denying the petition. The 538
judge shall not enter a determination under this division that the 539
offender no longer is a sexual predator unless the judge 540
determines by clear and convincing evidence that the offender is 541
unlikely to commit a sexually oriented offense in the future. If 542
the judge enters a determination under this division that the 543
offender no longer is a sexual predator, the judge shall notify 544
the bureau of criminal identification and investigation and the 545
parole board of the determination. Upon receipt of the 546
notification, the bureau promptly shall notify the sheriff with 547
whom the offender most recently registered under section 2950.04 548
or 2950.05 of the Revised Code of the determination that the 549
offender no longer is a sexual predator. If the judge enters an 550
order denying the petition, the prior adjudication of the offender 551

as a sexual predator shall remain in effect. An offender 552
determined to be a sexual predator in the manner described in 553
division (B) or (C) of this section may file a petition under this 554
division after the expiration of the following periods of time: 555

(a) Regardless of when the sexually oriented offense was 556
committed, if, on or after January 1, 1997, the offender is 557
imprisoned or sentenced to a prison term or other confinement for 558
the sexually oriented offense in relation to which the 559
determination was made, the offender initially may file the 560
petition not earlier than one year prior to the offender's release 561
from the imprisonment, prison term, or other confinement by 562
discharge, parole, judicial release, or any other final release. 563
If the offender is sentenced on or after January 1, 1997, for the 564
sexually oriented offense in relation to which the determination 565
is made and is not imprisoned or sentenced to a prison term or 566
other confinement for the sexually oriented offense, the offender 567
initially may file the petition upon the expiration of one year 568
after the entry of the offender's judgment of conviction. 569

(b) After the offender's initial filing of a petition under 570
division (D)(1)(a) of this section, thereafter, an offender may 571
file a petition under this division upon the expiration of five 572
years after the court has entered an order denying the petition 573
under division (D)(1)(a) of this section or the most recent 574
petition the offender has filed under this division. 575

(2) Except as otherwise provided in this division, division 576
(D)(1) of this section does not apply to a person who is 577
classified as a sexual predator pursuant to division (A) of this 578
section. If a person who is so classified was sentenced to a 579
prison term pursuant to division (A)(3) of section 2971.03 of the 580
Revised Code and if the sentencing court terminates the offender's 581
prison term as provided in division (D) of section 2971.05 of the 582
Revised Code, the court's termination of the prison term 583

automatically shall constitute a determination by the court that 584
the offender no longer is a sexual predator. If the court so 585
terminates the offender's prison term, the court shall notify the 586
bureau of criminal identification and investigation and the parole 587
board of the determination that the offender no longer is a sexual 588
predator. Upon receipt of the notification, the bureau promptly 589
shall notify the sheriff with whom the offender most recently 590
registered under section 2950.04 or 2950.05 of the Revised Code 591
that the offender no longer is a sexual predator. If an offender 592
who is classified as a sexual predator pursuant to division (A) of 593
this section is released from prison pursuant to a pardon or 594
commutation, the classification of the offender as a sexual 595
predator shall remain in effect after the offender's release, and 596
the offender may file one or more petitions in accordance with the 597
procedures and time limitations contained in division (D)(1) of 598
this section for a determination that the offender no longer is a 599
sexual predator. 600

(E) If a person is convicted of or pleads guilty to 601
committing, on or after January 1, 1997, a sexually oriented 602
offense, the judge who is to impose sentence on the offender shall 603
determine, prior to sentencing, whether the offender previously 604
has been convicted of or pleaded guilty to a sexually oriented 605
offense. If a person is classified a juvenile sex offender 606
registrant, pursuant to section 2152.82 or division (A) of section 607
2152.83 of the Revised Code, the adjudicating judge shall 608
determine, prior to entering the order classifying the delinquent 609
child a juvenile sex offender registrant, whether the delinquent 610
child previously has been adjudicated a delinquent child for 611
committing a sexually oriented offense. If the adjudicating judge 612
has classified the delinquent child under division (A) of section 613
2152.83 of the Revised Code based on that adjudication a juvenile 614
sex offender registrant, the judge shall determine, prior to 615

entering the classification order, whether the delinquent child
previously has been adjudicated a delinquent child for committing
a sexually oriented offense. If the judge determines that the
offender previously has not been convicted of or pleaded guilty to
a sexually oriented offense or that the delinquent child
previously has not been adjudicated a delinquent child for
committing a sexually oriented offense, the judge shall specify in
the offender's sentence or in the order classifying the delinquent
child a juvenile sex offender registrant that the judge has
determined that the offender or delinquent child is not a habitual
sex offender. If the judge determines that the offender previously
has been convicted of or pleaded guilty to a sexually oriented
offense or that the delinquent child previously has been
adjudicated a delinquent child for committing a sexually oriented
offense, the judge shall specify in the offender's sentence and
the judgment of conviction that contains the sentence or in the
order classifying the delinquent child a juvenile sex offender
registrant that the judge has determined that the offender or
delinquent child is a habitual sex offender and may impose a
requirement in that sentence and judgment of conviction or in that
order that the offender or delinquent child be subject to the
community notification provisions regarding the offender's or
delinquent child's place of residence that are contained in
sections 2950.10 and 2950.11 of the Revised Code. Unless the
habitual sex offender also has been adjudicated as being a sexual
predator relative to the sexually oriented offense in question,
the offender or delinquent child shall be subject to those
community notification provisions only if the court imposes the
requirement described in this division in the offender's sentence
and the judgment of conviction or in the order classifying the
delinquent child a juvenile sex offender registrant.

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(F)(1) An offender or delinquent child classified as a sexual

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predator may petition the court of common pleas or, for a
delinquent child, the juvenile court of the county in which the
offender or delinquent child resides or temporarily is domiciled
to enter a determination that the offender or delinquent child is
not an adjudicated sexual predator in this state for purposes of
the sex offender registration requirements of this chapter or the
community notification provisions contained in sections 2950.10
and 2950.11 of the Revised Code if all of the following apply:

(a) The offender or delinquent child was convicted of,
pleaded guilty to, or was adjudicated a delinquent child for
committing, a sexually oriented offense in another state or in a
federal court, a military court, or an Indian tribal court.

(b) As a result of the conviction, plea of guilty, or
adjudication described in division (F)(1)(a) of this section, the
offender or delinquent child is required under the law of the
jurisdiction under which the offender or delinquent child was
convicted, pleaded guilty, or was adjudicated to register as a sex
offender until the offender's or delinquent child's death and is
required to verify the offender's or delinquent child's address on
at least a quarterly basis each year.

(c) The offender or delinquent child was automatically
classified as a sexual predator under division (A) of this section
in relation to the conviction, guilty plea, or adjudication
described in division (F)(1)(a) of this section.

(2) The court may enter a determination that the offender or
delinquent child filing the petition described in division (F)(1)
of this section is not an adjudicated sexual predator in this
state for purposes of the sex offender registration requirements
of this chapter or the community notification provisions contained
in sections 2950.10 and 2950.11 of the Revised Code only if the
offender or delinquent child proves by clear and convincing
evidence that the requirement of the other jurisdiction that the

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offender or delinquent child register as a sex offender until the 680
offender's or delinquent child's death and the requirement that 681
the offender or delinquent child verify the offender's or 682
delinquent child's address on at least a quarterly basis each year 683
is not substantially similar to a classification as a sexual 684
predator for purposes of this chapter. 685

Sec. 2950.12. (A) Except as provided in division (B) of this 686
section, any of the following persons shall be immune from 687
liability in a civil action to recover damages for injury, death, 688
or loss to person or property allegedly caused by an act or 689
omission in connection with a power, duty, responsibility, or 690
authorization under this chapter or under rules adopted under 691
authority of this chapter: 692

(1) An officer or employee of the bureau of criminal 693
identification and investigation; 694

(2) The attorney general, a chief of police, marshal, or 695
other chief law enforcement officer of a municipal corporation, a 696
sheriff, a constable or chief of police of a township police 697
department or police district police force, and a deputy, officer, 698
or employee of the office of the attorney general, the law 699
enforcement agency served by the marshal or the municipal or 700
township chief, the office of the sheriff, or the constable; 701

(3) A prosecutor and an officer or employee of the office of 702
a prosecutor; 703

(4) A supervising officer and an officer or employee of the 704
adult parole authority of the department of rehabilitation and 705
correction; 706

(5) A supervising officer and an officer or employee of the 707
department of youth services; 708

(6) A supervisor and a caseworker or employee of a public 709

children services agency acting pursuant to section 5153.16 of the
Revised Code;

(7) A managing officer of a state correctional institution
and an officer or employee of the department of rehabilitation and
correction;

(8) A person identified in division (A)(2), (3), (4), (5),
(6), or (7) of section 2950.11 of the Revised Code or the agent of
that person.

(B) The immunity described in division (A) of this section
does not apply to a person described in divisions (A)(1) to ~~(7)~~
(8) of this section if, in relation to the act or omission in
question, any of the following applies:

(1) The act or omission was manifestly outside the scope of
the person's employment or official responsibilities.

(2) The act or omission was with malicious purpose, in bad
faith, or in a wanton or reckless manner.

(3) Liability for the act or omission is expressly imposed by
a section of the Revised Code.

Section 2. That existing sections 2950.01, 2950.09, and
2950.12 of the Revised Code are hereby repealed.

Section 3. This act is hereby declared to be an emergency
measure necessary for the immediate preservation of the public
peace, health, and safety. The reason for such necessity is that,
because sexual predators are subjected to more stringent
registration requirements and to community notification
requirements that provide for increased public safety, it is
crucial for courts to have the mechanism enacted in this act for
determining whether a person who is convicted of a sexually
oriented offense but acquitted of a sexually violent predator

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specification included in the charges for that offense is a sexual 739
predator. Therefore, this act shall go into immediate effect. 740