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Sub. S. B. No. 175

SENATORS Jacobson, Oelslager, Randy Gardner, Harris, Mumper

REPRESENTATIVES Willamowski, Faber, Young, Hughes, Latta, Callender

A BILL

To amend sections 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, and to declare an emergency.

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

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

Sec. 2950.09. (A) If a person 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 charging the sexually violent offense, the conviction of or plea of guilty to the specification automatically classifies the offender as a sexual predator for purposes of this chapter. If a person is convicted of, pleads

guilty to, or is adjudicated a delinquent child for committing, a 20
sexually oriented offense in another state, or in a federal court, 21
military court, or an Indian tribal court and if, as a result of 22
that conviction, plea of guilty, or adjudication, the person is 23
required, under the law of the jurisdiction in which the person 24
was convicted, pleaded guilty, or was adjudicated, to register as 25
a sex offender until the person's death and is required to verify 26
the person's address on at least a quarterly basis each year, that 27
conviction, plea of guilty, or adjudication automatically 28
classifies the person as a sexual predator for the purposes of 29
this chapter, but the person may challenge that classification 30
pursuant to division (F) of this section. In all other cases, a 31
person who is convicted of or pleads guilty to, has been convicted 32
of or pleaded guilty to, or is adjudicated a delinquent child for 33
committing, a sexually oriented offense may be classified as a 34
sexual predator for purposes of this chapter only in accordance 35
with division (B) or (C) of this section or, regarding delinquent 36
children, divisions (B) and (C) of section 2152.83 of the Revised 37
Code. 38

(B)(1) The judge who is to impose sentence on a person who is 39
convicted of or pleads guilty to a sexually oriented offense or 40
the judge who is to impose or has imposed, pursuant to section 41
2152.82 or division (A) of section 2152.83 of the Revised Code, an 42
order of disposition upon a child who is adjudicated a delinquent 43
child for committing on or after ~~the effective date of this~~ 44
~~amendment~~ January 1, 2002, a sexually oriented offense shall 45
conduct a hearing to determine whether the offender is a sexual 46
predator if any of the following circumstances apply: 47

(a) Regardless of when the sexually oriented offense was 48
committed, the offender is to be sentenced on or after January 1, 49
1997, for a sexually oriented offense that is not a sexually 50
violent offense. 51

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

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

(d) Regardless of when the sexually oriented offense was committed, the offender is to be sentenced on or after the effective date of this amendment for a sexually oriented offense, 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 84
and, if indigent, the right to have counsel appointed to represent 85
the offender or delinquent child. 86

(3) In making a determination under divisions (B)(1) and (4) 87
of this section as to whether an offender or delinquent child is a 88
sexual predator, the judge shall consider all relevant factors, 89
including, but not limited to, all of the following: 90

(a) The offender's or delinquent child's age; 91

(b) The offender's or delinquent child's prior criminal or 92
delinquency record regarding all offenses, including, but not 93
limited to, all sexual offenses; 94

(c) The age of the victim of the sexually oriented offense 95
for which sentence is to be imposed or the order of disposition is 96
to be made; 97

(d) Whether the sexually oriented offense for which sentence 98
is to be imposed or the order of disposition is to be made 99
involved multiple victims; 100

(e) Whether the offender or delinquent child used drugs or 101
alcohol to impair the victim of the sexually oriented offense or 102
to prevent the victim from resisting; 103

(f) If the offender or delinquent child previously has been 104
convicted of or pleaded guilty to, or been adjudicated a 105
delinquent child for committing an act that if committed by an 106
adult would be, a criminal offense, whether the offender or 107
delinquent child completed any sentence or dispositional order 108
imposed for the prior offense or act and, if the prior offense or 109
act was a sex offense or a sexually oriented offense, whether the 110
offender or delinquent child participated in available programs 111
for sexual offenders; 112

(g) Any mental illness or mental disability of the offender 113
or delinquent child; 114

(h) The nature of the offender's or delinquent child's sexual 115
conduct, sexual contact, or interaction in a sexual context with 116
the victim of the sexually oriented offense and whether the sexual 117
conduct, sexual contact, or interaction in a sexual context was 118
part of a demonstrated pattern of abuse; 119

(i) Whether the offender or delinquent child, during the 120
commission of the sexually oriented offense for which sentence is 121
to be imposed or the order of disposition is to be made, displayed 122
cruelty or made one or more threats of cruelty; 123

(j) Any additional behavioral characteristics that contribute 124
to the offender's or delinquent child's conduct. 125

(4) After reviewing all testimony and evidence presented at 126
the hearing conducted under division (B)(1) of this section and 127
the factors specified in division (B)(3) of this section, the 128
court shall determine by clear and convincing evidence whether the 129
subject offender or delinquent child is a sexual predator. If the 130
court determines that the subject offender or delinquent child is 131
not a sexual predator, the court shall specify in the offender's 132
sentence and the judgment of conviction that contains the sentence 133
or in the delinquent child's dispositional order, as appropriate, 134
that the court has determined that the offender or delinquent 135
child is not a sexual predator. If the court determines by clear 136
and convincing evidence that the subject offender or delinquent 137
child is a sexual predator, the court shall specify in the 138
offender's sentence and the judgment of conviction that contains 139
the sentence or in the delinquent child's dispositional order, as 140
appropriate, that the court has determined that the offender or 141
delinquent child is a sexual predator and shall specify that the 142
determination was pursuant to division (B) of this section. The 143
offender or delinquent child and the prosecutor who prosecuted the 144
offender or handled the case against the delinquent child for the 145
sexually oriented offense in question may appeal as a matter of 146

right the court's determination under this division as to whether
the offender or delinquent child is, or is not, a sexual predator.

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

(C)(1) If a person was convicted of or pleaded guilty to a
sexually oriented offense prior to January 1, 1997, if the person
was not sentenced for the offense on or after January 1, 1997, and
if, on or after January 1, 1997, the offender is serving a term of
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 179
to determine whether the offender is a sexual predator. The court 180
may deny the recommendation and determine that the offender is not 181
a sexual predator without a hearing but shall not make a 182
determination that the offender is a sexual predator in any case 183
without a hearing. The court may hold the hearing and make the 184
determination prior to the offender's release from imprisonment or 185
at any time within one year following the offender's release from 186
that imprisonment. If the court determines without a hearing that 187
the offender is not a sexual predator, it shall include its 188
determination in the offender's institutional record and shall 189
determine whether the offender previously has been convicted of or 190
pleaded guilty to a sexually oriented offense other than the 191
offense in relation to which the court determined that the 192
offender is not a sexual predator. 193

The court may make the determination as to whether the 194
offender previously has been convicted of or pleaded guilty to a 195
sexually oriented offense without a hearing, but, if the court 196
determines that the offender previously has been convicted of or 197
pleaded guilty to such an offense, it shall not impose a 198
requirement that the offender be subject to the community 199
notification provisions regarding the offender's place of 200
residence that are contained in sections 2950.10 and 2950.11 of 201
the Revised Code without a hearing. The court may conduct a 202
hearing to determine both whether the offender previously has been 203
convicted of or pleaded guilty to a sexually oriented offense and 204
whether to impose a requirement that the offender be subject to 205
the community notification provisions as described in this 206
division, or may conduct a hearing solely to make the latter 207
determination. The court shall include in the offender's 208
institutional record any determination made under this division as 209
to whether the offender previously has been convicted of or 210

pleaded guilty to a sexually oriented offense, and, as such, 211
whether the offender is a habitual sex offender. 212

(b) If the court schedules a hearing under division (C)(2)(a) 213
of this section, the court shall give the offender and the 214
prosecutor who prosecuted the offender for the sexually oriented 215
offense, or that prosecutor's successor in office, notice of the 216
date, time, and place of the hearing. If the hearing is to 217
determine whether the offender is a sexual predator, it shall be 218
conducted in the manner described in division (B)(1) of this 219
section regarding hearings conducted under that division and, in 220
making a determination under this division as to whether the 221
offender is a sexual predator, the court shall consider all 222
relevant factors, including, but not limited to, all of the 223
factors specified in division (B)(2) of this section. After 224
reviewing all testimony and evidence presented at the sexual 225
predator hearing and the factors specified in division (B)(2) of 226
this section, the court shall determine by clear and convincing 227
evidence whether the offender is a sexual predator. If the court 228
determines that the offender is not a sexual predator, it also 229
shall determine whether the offender previously has been convicted 230
of or pleaded guilty to a sexually oriented offense other than the 231
offense in relation to which the hearing is being conducted. 232

Upon making its determinations at the hearing, the court 233
shall proceed as follows: 234

(i) If the hearing is to determine whether the offender is a 235
sexual predator, and if the court determines that the offender is 236
not a sexual predator and that the offender previously has not 237
been convicted of or pleaded guilty to a sexually oriented offense 238
other than the offense in relation to which the hearing is being 239
conducted, it shall include its determinations in the offender's 240
institutional record. 241

(ii) If the hearing is to determine whether the offender is a 242

sexual predator, and if the court determines that the offender is 243
not a sexual predator but that the offender previously has been 244
convicted of or pleaded guilty to a sexually oriented offense 245
other than the offense in relation to which the hearing is being 246
conducted, it shall include its determination that the offender is 247
not a sexual predator but is a habitual sex offender in the 248
offender's institutional record, shall attach the determinations 249
to the offender's sentence, shall specify that the determinations 250
were pursuant to division (C) of this section, shall provide a 251
copy of the determinations to the offender, to the prosecuting 252
attorney, and to the department of rehabilitation and correction, 253
and may impose a requirement that the offender be subject to the 254
community notification provisions regarding the offender's place 255
of residence that are contained in sections 2950.10 and 2950.11 of 256
the Revised Code. The offender shall not be subject to those 257
community notification provisions relative to the sexually 258
oriented offense in question if the court does not so impose the 259
requirement described in this division. If the court imposes those 260
community notification provisions, the offender may appeal the 261
judge's determination that the offender is a habitual sex 262
offender. 263

(iii) If the hearing is to determine whether the offender 264
previously has been convicted of or pleaded guilty to a sexually 265
oriented offense other than the offense in relation to which the 266
hearing is being conducted and whether to impose a requirement 267
that the offender be subject to the specified community 268
notification provisions, and if the court determines that the 269
offender previously has been convicted of or pleaded guilty to 270
such an offense, the court shall proceed as described in division 271
(C)(2)(b)(ii) of this section and may impose a community 272
notification requirement as described in that division. The 273
offender shall not be subject to the specified community 274

notification provisions relative to the sexually oriented offense 275
in question if the court does not so impose the requirement 276
described in that division. If the court imposes those community 277
notification provisions, the offender may appeal the judge's 278
determination that the offender is a habitual sex offender. 279

(iv) If the court determined without a hearing that the 280
offender previously has been convicted of or pleaded guilty to a 281
sexually oriented offense other than the offense in relation to 282
which the court determined that the offender is not a sexual 283
predator, and, as such, is a habitual sex offender, and the 284
hearing is solely to determine whether to impose a requirement 285
that the offender be subject to the specified community 286
notification provisions, after the hearing, the court may impose a 287
community notification requirement as described in division 288
(C)(2)(b)(ii) of this section. The offender shall not be subject 289
to the specified community notification provisions relative to the 290
sexually oriented offense in question if the court does not so 291
impose the requirement described in that division. If the court 292
imposes those community notification provisions, the offender may 293
appeal the judge's determination that the offender is a habitual 294
sex offender. 295

(v) If the hearing is to determine whether the offender is a 296
sexual predator, and if the court determines by clear and 297
convincing evidence that the offender is a sexual predator, it 298
shall enter its determination in the offender's institutional 299
record, shall attach the determination to the offender's sentence, 300
shall specify that the determination was pursuant to division (C) 301
of this section, and shall provide a copy of the determination to 302
the offender, to the prosecuting attorney, and to the department 303
of rehabilitation and correction. The offender and the prosecutor 304
may appeal as a matter of right the judge's determination under 305
this division as to whether the offender is, or is not, a sexual 306

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

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Upon the expiration of the applicable period of time
specified in division (D)(1)(a) or (b) of this section, an
offender who has been convicted of or pleaded guilty to a sexually
oriented offense and who has been adjudicated as being a sexual
predator relative to the sexually oriented offense in the manner
described in division (B) or (C) of this section may petition the
judge who made the determination that the offender was a sexual
predator, or that judge's successor in office, to enter a
determination that the offender no longer is a sexual predator.
Upon the filing of the petition, the judge may review the prior
sexual predator determination that comprises the ~~sexually violent~~
sexual predator adjudication, and, upon consideration of all
relevant evidence and information, including, but not limited to,
the factors set forth in division (B)(3) of this section, either
shall enter a determination that the offender no longer is a

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sexual predator or shall enter an order denying the petition. The 339
judge shall not enter a determination under this division that the 340
offender no longer is a sexual predator unless the judge 341
determines by clear and convincing evidence that the offender is 342
unlikely to commit a sexually oriented offense in the future. If 343
the judge enters a determination under this division that the 344
offender no longer is a sexual predator, the judge shall notify 345
the bureau of criminal identification and investigation and the 346
parole board of the determination. Upon receipt of the 347
notification, the bureau promptly shall notify the sheriff with 348
whom the offender most recently registered under section 2950.04 349
or 2950.05 of the Revised Code of the determination that the 350
offender no longer is a sexual predator. If the judge enters an 351
order denying the petition, the prior adjudication of the offender 352
as a sexual predator shall remain in effect. An offender 353
determined to be a sexual predator in the manner described in 354
division (B) or (C) of this section may file a petition under this 355
division after the expiration of the following periods of time: 356

(a) Regardless of when the sexually oriented offense was 357
committed, if, on or after January 1, 1997, the offender is 358
imprisoned or sentenced to a prison term or other confinement for 359
the sexually oriented offense in relation to which the 360
determination was made, the offender initially may file the 361
petition not earlier than one year prior to the offender's release 362
from the imprisonment, prison term, or other confinement by 363
discharge, parole, judicial release, or any other final release. 364
If the offender is sentenced on or after January 1, 1997, for the 365
sexually oriented offense in relation to which the determination 366
is made and is not imprisoned or sentenced to a prison term or 367
other confinement for the sexually oriented offense, the offender 368
initially may file the petition upon the expiration of one year 369
after the entry of the offender's judgment of conviction. 370

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

(2) Except as otherwise provided in this division, division (D)(1) of this section does not apply to a person who is classified as a sexual predator pursuant to division (A) of this section. If a person who is so classified was sentenced to a prison term pursuant to division (A)(3) of section 2971.03 of the Revised Code and if the sentencing court terminates the offender's prison term as provided in division (D) of section 2971.05 of the Revised Code, the court's termination of the prison term automatically shall constitute a determination by the court that the offender no longer is a sexual predator. If the court so terminates the offender's prison term, the court shall notify the bureau of criminal identification and investigation and the parole board of the determination that the offender no longer is a sexual predator. Upon receipt of the notification, the bureau promptly shall notify the sheriff with whom the offender most recently registered under section 2950.04 or 2950.05 of the Revised Code that the offender no longer is a sexual predator. If an offender who is classified as a sexual predator pursuant to division (A) of this section is released from prison pursuant to a pardon or commutation, the classification of the offender as a sexual predator shall remain in effect after the offender's release, and the offender may file one or more petitions in accordance with the procedures and time limitations contained in division (D)(1) of this section for a determination that the offender no longer is a sexual predator.

(E) If a person is convicted of or pleads guilty to

committing, on or after January 1, 1997, a sexually oriented 403
offense, the judge who is to impose sentence on the offender shall 404
determine, prior to sentencing, whether the offender previously 405
has been convicted of or pleaded guilty to a sexually oriented 406
offense. If a person is classified a juvenile sex offender 407
registrant, pursuant to section 2152.82 or division (A) of section 408
2152.83 of the Revised Code, the adjudicating judge shall 409
determine, prior to entering the order classifying the delinquent 410
child a juvenile sex offender registrant, whether the delinquent 411
child previously has been adjudicated a delinquent child for 412
committing a sexually oriented offense. If the adjudicating judge 413
has classified the delinquent child under division (A) of section 414
2152.83 of the Revised Code based on that adjudication a juvenile 415
sex offender registrant, the judge shall determine, prior to 416
entering the classification order, whether the delinquent child 417
previously has been adjudicated a delinquent child for committing 418
a sexually oriented offense. If the judge determines that the 419
offender previously has not been convicted of or pleaded guilty to 420
a sexually oriented offense or that the delinquent child 421
previously has not been adjudicated a delinquent child for 422
committing a sexually oriented offense, the judge shall specify in 423
the offender's sentence or in the order classifying the delinquent 424
child a juvenile sex offender registrant that the judge has 425
determined that the offender or delinquent child is not a habitual 426
sex offender. If the judge determines that the offender previously 427
has been convicted of or pleaded guilty to a sexually oriented 428
offense or that the delinquent child previously has been 429
adjudicated a delinquent child for committing a sexually oriented 430
offense, the judge shall specify in the offender's sentence and 431
the judgment of conviction that contains the sentence or in the 432
order classifying the delinquent child a juvenile sex offender 433
registrant that the judge has determined that the offender or 434
delinquent child is a habitual sex offender and may impose a 435

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.

(F)(1) An offender or delinquent child classified as a sexual
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. 468

(c) The offender or delinquent child was automatically 469
classified as a sexual predator under division (A) of this section 470
in relation to the conviction, guilty plea, or adjudication 471
described in division (F)(1)(a) of this section. 472

(2) The court may enter a determination that the offender or 473
delinquent child filing the petition described in division (F)(1) 474
of this section is not an adjudicated sexual predator in this 475
state for purposes of the sex offender registration requirements 476
of this chapter or the community notification provisions contained 477
in sections 2950.10 and 2950.11 of the Revised Code only if the 478
offender or delinquent child proves by clear and convincing 479
evidence that the requirement of the other jurisdiction that the 480
offender or delinquent child register as a sex offender until the 481
offender's or delinquent child's death and the requirement that 482
the offender or delinquent child verify the offender's or 483
delinquent child's address on at least a quarterly basis each year 484
is not substantially similar to a classification as a sexual 485
predator for purposes of this chapter. 486

Sec. 2950.12. (A) Except as provided in division (B) of this 487
section, any of the following persons shall be immune from 488
liability in a civil action to recover damages for injury, death, 489
or loss to person or property allegedly caused by an act or 490
omission in connection with a power, duty, responsibility, or 491
authorization under this chapter or under rules adopted under 492
authority of this chapter: 493

(1) An officer or employee of the bureau of criminal 494
identification and investigation; 495

(2) The attorney general, a chief of police, marshal, or 496
other chief law enforcement officer of a municipal corporation, a 497
sheriff, a constable or chief of police of a township police 498

department or police district police force, and a deputy, officer,
or employee of the office of the attorney general, the law
enforcement agency served by the marshal or the municipal or
township chief, the office of the sheriff, or the constable;

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

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

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

(6) A supervisor and a caseworker or employee of a public
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 2950.09 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 specification included in the charges for that offense is a sexual predator. Therefore, this act shall go into immediate effect.