

AN ACT

To amend sections 504.04, 2907.40, 2950.99, 3319.39, and 3327.10 and to enact sections 109.5721, 503.60, and 2950.131 of the Revised Code to modify the penalties for violations of the Sexual Offender Registration and Notification Law, to require the inclusion of specified information on the statewide and county sheriffs' internet sex offender and child-victim offender databases, to modify the definition of "sexually oriented business," to permit townships to regulate the residency of registered sex offenders and child-victim offenders, to modify the law pertaining to school bus driver background checks, to create the Retained Applicant Fingerprint Database, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 504.04, 2907.40, 2950.99, 3319.39, and 3327.10 be amended and sections 109.5721, 503.60, and 2950.131 of the Revised Code be enacted to read as follows:

Sec. 109.5721. (A) As used in this section:

(1) "Employment" includes volunteer service.

(2) "Licensure" means the authorization, evidenced by a license, certificate, registration, permit, or other authority that is issued or conferred by a public office, to engage in a profession, occupation, or occupational activity or to have control of and operate certain specific equipment, machinery, or premises over which a public office has jurisdiction.

(3) "Participating public office" means a public office that requires a fingerprint background check as a condition of employment with or licensure by the public office and that elects to receive notice under division (C) of this section in accordance with rules adopted by the attorney general.

(4) "Public office" has the same meaning as in section 117.01 of the Revised Code.

(B) Within six months after the effective date of this section, the superintendent of the bureau of criminal identification and investigation shall establish and maintain a database of fingerprints of individuals on whom the bureau has conducted criminal records checks for the purpose of determining eligibility for employment with or licensure by a public office. The superintendent shall maintain the database separate and apart from other records maintained by the bureau. The database shall be known as the retained applicant fingerprint database.

(C) When the superintendent receives information that an individual whose name is in the retained applicant fingerprint database has been arrested for or convicted of any offense, the superintendent shall promptly notify any participating public office that employs or that licensed the individual of the arrest or conviction. The public office that receives the notification and its employees and officers shall use the information contained in the notification solely to determine the individual's eligibility for continued employment with the public office or to retain a license issued by the public office. The public office and its employees and officers shall not disclose that information to any person for any other purpose.

(D) The attorney general shall adopt rules in accordance with Chapter 119. of the Revised Code governing the operation and maintenance of the database. The rules shall provide for, but not be limited to, both of the following:

(1) The expungement or sealing of records of individuals who are deceased or who are no longer employed or licensed by the public office that required submission of the individual's fingerprints;

(2) The terms under which a public office may elect to receive notification under division (C) of this section, including payment of any reasonable fee that may be charged for the purpose.

(E) No public office or employee of a public office shall be considered negligent in a civil action solely because the public office did not elect to be a participating public office.

(F)(1) No person shall knowingly use information contained in or received from the retained applicant fingerprint database for purposes not authorized by this section.

(2) No person shall knowingly use information contained in or received from the retained applicant fingerprint database with the intent to harass or intimidate another person.

(3) Whoever violates division (F)(1) or (F)(2) of this section is guilty of unlawful use of retained applicant fingerprint database records. A violation of division (F)(1) of this section is a misdemeanor of the fourth degree. A

violation of division (F)(2) of this section is a misdemeanor of the first degree.

Sec. 503.60. (A) Townships have authority to exercise all powers of local self-government within their limits regarding the residency of a person who has been convicted of or pleaded guilty to either a sexually oriented offense or a child-victim oriented offense and to adopt and enforce within their limits any local police, sanitary, and similar regulations regarding the residency of such persons that are not in conflict with general laws. The authority granted under this division shall be exercised by the adoption of resolutions. Townships have the same rights, powers, and duties pursuant to the authority granted under this division as municipal corporations have under Section 3 of Article XVIII, Ohio Constitution relative to their authority to exercise powers of local self-government and to adopt and enforce within their limits local police, sanitary, and similar regulations, except to the extent that the rights, powers, and duties that the municipal corporations have by their nature clearly are inapplicable to townships and to the exercise by townships of their authority granted under this division.

(B) The authority of a township granted under division (A) of this section applies to all townships. If a township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code, the authority granted under division (A) of this section is in addition to the powers and authority granted to the township under Chapter 504. of the Revised Code.

(C) As used in this section, "child-victim oriented offense" and "sexually oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

Sec. 504.04. (A) A township that adopts a limited home rule government may do all of the following by resolution, provided that any of these resolutions, other than a resolution to supply water or sewer services in accordance with sections 504.18 to 504.20 of the Revised Code, may be enforced only by the imposition of civil fines as authorized in this chapter:

(1) Exercise all powers of local self-government within the unincorporated area of the township, other than powers that are in conflict with general laws, except that the township shall comply with the requirements and prohibitions of this chapter, and shall enact no taxes other than those authorized by general law, and except that no resolution adopted pursuant to this chapter shall encroach upon the powers, duties, and privileges of elected township officers or change, alter, combine, eliminate, or otherwise modify the form or structure of the township government unless the change is required or permitted by this chapter;

(2) Adopt and enforce within the unincorporated area of the township

local police, sanitary, and other similar regulations that are not in conflict with general laws or otherwise prohibited by division (B) of this section;

(3) Supply water and sewer services to users within the unincorporated area of the township in accordance with sections 504.18 to 504.20 of the Revised Code;

(4) Adopt and enforce within the unincorporated area of the township any resolution of a type described in section 503.52 or 503.60 of the Revised Code.

(B) No resolution adopted pursuant to this chapter shall do any of the following:

(1) Create a criminal offense or impose criminal penalties, except as authorized by division (A) of this section or by section 503.52 of the Revised Code;

(2) Impose civil fines other than as authorized by this chapter;

(3) Establish or revise subdivision regulations, road construction standards, urban sediment rules, or storm water and drainage regulations, except as provided in section 504.21 of the Revised Code;

(4) Establish or revise building standards, building codes, and other standard codes except as provided in section 504.13 of the Revised Code;

(5) Increase, decrease, or otherwise alter the powers or duties of a township under any other chapter of the Revised Code pertaining to agriculture or the conservation or development of natural resources;

(6) Establish regulations affecting hunting, trapping, fishing, or the possession, use, or sale of firearms;

(7) Establish or revise water or sewer regulations, except in accordance with section 504.18, 504.19, or 504.21 of the Revised Code.

Nothing in this chapter shall be construed as affecting the powers of counties with regard to the subjects listed in divisions (B)(3) to (5) of this section.

(C) Under a limited home rule government, all officers shall have the qualifications, and be nominated, elected, or appointed, as provided in Chapter 505. of the Revised Code, except that the board of township trustees shall appoint a full-time or part-time law director pursuant to section 504.15 of the Revised Code, and except that a five-member board of township trustees approved for the township before September 26, 2003, shall continue to serve as the legislative authority with successive members serving for four-year terms of office until a termination of a limited home rule government under section 504.03 of the Revised Code.

(D) In case of conflict between resolutions enacted by a board of township trustees and municipal ordinances or resolutions, the ordinance or

resolution enacted by the municipal corporation prevails. In case of conflict between resolutions enacted by a board of township trustees and any county resolution, the resolution enacted by the board of township trustees prevails.

Sec. 2907.40. (A) As used in this section:

(1) "Adult bookstore" or "adult video store" means a commercial establishment that has as a significant or substantial portion of its stock in trade or inventory in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(2) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other similar commercial establishment, regardless of whether alcoholic beverages are served, that regularly features individuals who appear in a state of nudity or seminudity.

(3) "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions that are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five individuals for any form of consideration.

(4) "Characterized by" means describing the essential character or quality of an item.

(5) "Employee" means any individual who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent, or otherwise, but does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(6) "Nudity," "nude," or "state of nudity" has the same meaning as in section 2907.39 of the Revised Code.

(7) "Operator" means any individual on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises.

(8) "Patron" means any individual on the premises of a sexually oriented business except for any of the following:

(a) An operator or an employee of the sexually oriented business;

(b) An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;

(c) A public employee or a volunteer firefighter emergency medical services worker acting within the scope of the public employee's or volunteer's duties as a public employee or volunteer.

(9) "Premises" means the real property on which the sexually oriented business is located and all appurtenances to the real property, including, but not limited, to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the sexually oriented business.

(10) "Regularly" means consistently or repeatedly.

(11) "Seminude" or "state of seminudity" has the same meaning as in section 2907.39 of the Revised Code.

(12) "Sexual device" means any three-dimensional object designed and marketed for stimulation of the male or female human genitals or anus or female breasts or for sadomasochistic use or abuse of oneself or others, including, but not limited to, dildos, vibrators, penis pumps, and physical representations of the human genital organs, but not including devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(13) "Sexual device shop" means a commercial establishment that regularly features sexual devices, but not including any pharmacy, drug store, medical clinic, or establishment primarily dedicated to providing medical or healthcare products or services, and not including any commercial establishment that does not restrict access to its premises by reason of age.

(14) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between individuals of the opposite sex when one or more of the individuals is nude or seminude.

(15) "Sexually oriented business" means an adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop, or sexual encounter center, but does not include a business solely by reason of its showing, selling, or renting materials ~~rated NC-17 or R by the motion picture association of America that may depict sex.~~

(16) "Specified anatomical areas" includes human genitals, pubic region, and buttocks and the human female breast below a point immediately above the top of the areola.

(17) "Specified sexual activity" means sexual intercourse, oral copulation, masturbation, or sodomy, or excretory functions as a part of or in connection with any of these activities.

(B) No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day, except that a sexually oriented business that holds a liquor permit pursuant to Chapter 4303. of the Revised Code may remain open until the hour specified in that permit if it does not conduct, offer, or allow sexually oriented entertainment activity in which the performers appear nude.

(C)(1) No patron who is not a member of the employee's immediate family shall knowingly touch any employee while that employee is nude or seminude or touch the clothing of any employee while that employee is nude or seminude.

(2) No employee who regularly appears nude or seminude on the premises of a sexually oriented business, while on the premises of that sexually oriented business and while nude or seminude, shall knowingly touch a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or the clothing of a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or allow a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family to touch the employee or the clothing of the employee.

(D) Whoever violates division (B) of this section is guilty of illegally operating a sexually oriented business, a misdemeanor of the first degree.

(E) Whoever violates division (C) of this section is guilty of illegal sexually oriented activity in a sexually oriented business. If the offender touches a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division (C) of this section is a misdemeanor of the first degree. If the offender does not touch a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division (C) of this section is a misdemeanor of the fourth degree.

Sec. 2950.131. (A) By January 1, 2008, the bureau of criminal identification and investigation, with the assistance of the office of criminal justice services, shall include on the internet sex offender and child-victim offender database established and operated pursuant to division (A)(11) of section 2950.13 of the Revised Code a link to educational information for the public on current research about sex offenders and child-victim

offenders. Each sheriff who has established on the internet a sex offender and child-victim offender database may include a link to this information on the sheriff's internet database.

(B) By January 1, 2008, the internet sex offender and child-victim offender database established and operated pursuant to division (A)(11) of section 2950.13 of the Revised Code and each sheriff's internet sex offender and child-victim offender database is required to inform offenders and public registry-qualified juvenile offender registrants that they may contact the sheriff of the county in which the offender or delinquent child registered an address if the offender or delinquent child believes that information contained on the internet sex offender and child-victim offender database or sheriff's internet sex offender and child-victim offender database pertaining to the offender or delinquent child is incorrect.

Sec. 2950.99. (A)(1)(a) Except as otherwise provided in division (A)(1)(b) of this section, whoever violates a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code shall be punished as follows:

(i) If the most serious sexually oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder or murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the first degree.

(ii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is ~~aggravated murder, murder, or~~ a felony of the first, second, ~~or~~ third, ~~or fourth~~ degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the ~~third~~ same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition, or, if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition is a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as that offense committed in the other jurisdiction would constitute if committed in this state.

~~(ii)(iii)~~ If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the ~~fourth or fifth~~ degree ~~or a misdemeanor~~ if committed by an adult or a comparable category of offense committed in another jurisdiction, ~~or if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor if committed by an adult or a comparable category of offense committed in another jurisdiction,~~ the offender is guilty of a felony of the same ~~fourth~~ degree ~~or a misdemeanor of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition or, if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition was a comparable category of offense committed in another jurisdiction,~~ the offender is guilty of a felony of the same degree ~~or a misdemeanor of the same degree as that offense committed in the other jurisdiction would constitute or would have constituted if it had been committed in this state.~~

(b) If the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code, whoever violates a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code shall be punished as follows:

(i) If the most serious sexually oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder or murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the first degree.

(ii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is ~~aggravated murder, murder, or~~ a felony of the first, second, or third, ~~or fourth~~ degree if committed by an adult or a

comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the ~~third~~ same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition, or, if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition is a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as that offense committed in the other jurisdiction would constitute if committed in this state.

~~(ii)~~(iii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the fourth or fifth degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the ~~fourth~~ third degree.

~~(iii)~~ If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor of the first degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fifth degree.

~~(iv)~~ If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor other than a misdemeanor of the first degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a misdemeanor that is one degree higher than the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, change of address, or address verification requirement that was violated under the prohibition or, if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition was a comparable category of offense committed in another jurisdiction, the offender is guilty of a misdemeanor that is one degree higher than the most

~~serious sexually oriented offense or child-victim oriented offense committed in the other jurisdiction would constitute or would have constituted if it had been committed in this state.~~

(iv) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fourth degree.

(2)(a) In addition to any penalty or sanction imposed under division (A)(1) of this section or any other provision of law for a violation of a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code, if the offender or delinquent child 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 shall constitute a violation of the terms and conditions of the community control sanction, parole, post-release control sanction, or other type of supervised release.

(b) In addition to any penalty or sanction imposed under division (A)(1)(b)(i), (ii), or (iii) of this section or any other provision of law for a violation of a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code, if the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code when the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is a felony if committed by an adult or a comparable category of offense committed in another jurisdiction, the court imposing a sentence upon the offender shall impose a definite prison term of no less than three years. The definite prison term imposed under this section is not restricted by division (B) of section 2929.14 of the Revised Code and shall not be reduced to less than three years pursuant to Chapter 2967. or any other provision of the Revised Code.

(3) As used in division (A)(1) of this section, "comparable category of offense committed in another jurisdiction" means a sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated, that is a violation of an existing or former law of another state or the United States, an existing or former law applicable in a military court or in an Indian tribal court, or an

existing or former law of any nation other than the United States, and that, if it had been committed in this state, would constitute or would have constituted aggravated murder; or murder for purposes of division (A)(1)(a)(i) of this section, ~~or~~ a felony of the first, second, ~~or third, or fourth~~ degree for purposes of division (A)(1)(a)(~~+~~ii) of this section, a felony of the ~~fourth~~ ~~or~~ fifth degree or a misdemeanor for purposes of division (A)(1)(a)(~~ii~~iii) of this section, aggravated murder; or murder for purposes of division (A)(1)(b)(i) of this section, ~~or~~ a felony of the first, second, or third, ~~or fourth~~ degree for purposes of division (A)(1)(b)(~~+~~ii) of this section, a felony of the fourth or fifth degree for purposes of division (A)(1)(b)(~~ii~~iii) of this section, ~~a misdemeanor of the first degree for purposes of division (A)(1)(b)(iii) of this section~~, or a misdemeanor ~~other than a misdemeanor of the first degree~~ for purposes of division (A)(1)(b)(iv) of this section.

(B) If a person violates a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code that applies to the person as a result of the person being adjudicated a delinquent child and being classified a juvenile offender registrant or as an out-of-state juvenile offender registrant, both of the following apply:

(1) If the violation occurs while the person is under eighteen years of age, the person is subject to proceedings under Chapter 2152. of the Revised Code based on the violation.

(2) If the violation occurs while the person is eighteen years of age or older, the person is subject to criminal prosecution based on the violation.

(C) Whoever violates division (C) of section 2950.13 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 3319.39. (A)(1) Except as provided in division (F)(2)(b) of section 109.57 of the Revised Code, the appointing or hiring officer of the board of education of a school district, the governing board of an educational service center, or of a chartered nonpublic school shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the school district, educational service center, or school for employment in any position as a person responsible for the care, custody, or control of a child. ~~If~~ Except as provided in division (A)(1) of this section, if the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records

check, the appointing or hiring officer shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. ¶ Except as provided in division (A)(1) of this section, if the applicant presents proof that the applicant has been a resident of this state for that five-year period, the appointing or hiring officer may request that the superintendent include information from the federal bureau of investigation in the criminal records check. In the case of an applicant who is applying to be employed as driver of a school bus or motor van, the appointing or hiring officer shall request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the board of education of a school district, governing board of an educational service center, or governing authority of a chartered nonpublic school shall not employ that applicant for any position for which a criminal records check is required pursuant to division (A)(1) of this section.

(B)(1) Except as provided in rules adopted by the department of education in accordance with division (E) of this section and as provided in division (B)(3) of this section, no board of education of a school district, no governing board of an educational service center, and no governing authority of a chartered nonpublic school shall employ a person as a person

responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, another state, or the United States that is substantially equivalent to any of the offenses or violations described in division (B)(1)(a) of this section.

(2) A board, governing board of an educational service center, or a governing authority of a chartered nonpublic school may employ an applicant conditionally until the criminal records check required by this section is completed and the board or governing authority receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the board or governing authority shall release the applicant from employment.

(3) No board and no governing authority of a chartered nonpublic school shall employ a teacher who previously has been convicted of or pleaded guilty to any of the offenses listed in section 3319.31 of the Revised Code.

(C)(1) Each board and each governing authority of a chartered nonpublic school shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the appointing or hiring officer of the board or governing authority.

(2) A board and the governing authority of a chartered nonpublic school may charge an applicant a fee for the costs it incurs in obtaining a criminal

records check under this section. A fee charged under this division shall not exceed the amount of fees the board or governing authority pays under division (C)(1) of this section. If a fee is charged under this division, the board or governing authority shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the board or governing authority will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the board or governing authority requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The department of education shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which the board or governing authority may hire a person who has been convicted of an offense listed in division (B)(1) or (3) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, of the requirement to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for the school district, educational service center, or school for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with a board of education, governing board of an educational service center, or a chartered nonpublic school as a person responsible for the care, custody, or control of a child, except that "applicant" does not include a person already employed by a board or chartered nonpublic school in a position of care, custody, or control of a child who is under consideration for a different position with such board or school.

(2) "Teacher" means a person holding an educator license or permit issued under section 3319.22 or 3319.301 of the Revised Code and teachers in a chartered nonpublic school.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(4) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(H) If the board of education of a local school district adopts a resolution requesting the assistance of the educational service center in which the local district has territory in conducting criminal records checks of substitute teachers under this section, the appointing or hiring officer of such educational service center shall serve for purposes of this section as the appointing or hiring officer of the local board in the case of hiring substitute teachers for employment in the local district.

Sec. 3327.10. (A) No person shall be employed as driver of a school bus or motor van, owned and operated by any school district or educational service center or privately owned and operated under contract with any school district or service center in this state, who has not received a certificate from the educational service center governing board in case such person is employed by a service center or by a local school district under the supervision of the service center governing board, or by the superintendent of schools, in case such person is employed by the board of a city or exempted village school district, certifying that such person is at least eighteen years of age and is of good moral character and is qualified physically and otherwise for such position. The service center governing board or the superintendent, as the case may be, shall provide for an annual physical examination that conforms with rules adopted by the state board of education of each driver to ascertain the driver's physical fitness for such employment. Any certificate may be revoked by the authority granting the same on proof that the holder has been guilty of failing to comply with division (D)(1) of this section, or upon a conviction or a guilty plea for a violation, or any other action, that results in a loss or suspension of driving rights. Failure to comply with such division may be cause for disciplinary action or termination of employment under division (C) of section 3319.081, or section 124.34 of the Revised Code.

(B) No person shall be employed as driver of a school bus or motor van not subject to the rules of the department of education pursuant to division (A) of this section who has not received a certificate from the school administrator or contractor certifying that such person is at least eighteen years of age, is of good moral character, and is qualified physically and

otherwise for such position. Each driver shall have an annual physical examination which conforms to the state highway patrol rules, ascertaining the driver's physical fitness for such employment. The examination shall be performed by one of the following:

(1) A person licensed under Chapter 4731. of the Revised Code or by another state to practice medicine and surgery or osteopathic medicine and surgery;

(2) A physician assistant;

(3) A certified nurse practitioner;

(4) A clinical nurse specialist;

(5) A certified nurse-midwife.

Any written documentation of the physical examination shall be completed by the individual who performed the examination.

Any certificate may be revoked by the authority granting the same on proof that the holder has been guilty of failing to comply with division (D)(2) of this section.

(C) Any person who drives a school bus or motor van must give satisfactory and sufficient bond except a driver who is an employee of a school district and who drives a bus or motor van owned by the school district.

(D) No person employed as driver of a school bus or motor van under this section who is convicted of a traffic violation or who has had the person's commercial driver's license suspended shall drive a school bus or motor van until the person has filed a written notice of the conviction or suspension, as follows:

(1) If the person is employed under division (A) of this section, the person shall file the notice with the superintendent, or a person designated by the superintendent, of the school district for which the person drives a school bus or motor van as an employee or drives a privately owned and operated school bus or motor van under contract.

(2) If employed under division (B) of this section, the person shall file the notice with the employing school administrator or contractor, or a person designated by the administrator or contractor.

(E) In addition to resulting in possible revocation of a certificate as authorized by divisions (A) and (B) of this section, violation of division (D) of this section is a minor misdemeanor.

(F)(1) Not later than thirty days after ~~the effective date of this amendment~~ June 30, 2007, each owner of a school bus or motor van shall obtain ~~from the bureau of motor vehicles~~ the complete driving record for ~~at least the prior seven-year period~~ of each person who is currently employed

or otherwise authorized to drive the school bus or motor van. An owner of a school bus or motor van shall not permit a person to operate the school bus or motor van for the first time before the owner has obtained ~~from the bureau~~ the person's complete driving record ~~for at least the prior seven-year period. Each year after obtaining a person's seven-year driving record.~~ Thereafter, the owner of a school bus or motor van shall obtain ~~from the bureau~~ the person's driving record ~~for at least the prior year~~ not less frequently than semiannually if the person remains employed or otherwise authorized to drive the school bus or motor van. An owner of a school bus or motor van shall not permit a person to resume operating a school bus or motor van, after an interruption of one year or longer, before the owner has obtained ~~from the bureau~~ the person's complete driving record ~~for at least the period since the owner last obtained the person's driving record or, if the owner had never obtained a seven-year driving record for the person, for at least the prior seven-year period.~~

(2) The owner of a school bus or motor van shall not permit a person to operate the school bus or motor van for ~~seven~~ six years after the date on which the person pleads guilty to or is convicted of a violation for which six points are assessed under of section 4510.036 4511.19 of the Revised Code or a substantially equivalent municipal ordinance.

(3) ~~Divisions (F)(1) and (2) of this section supersede only the requirements of paragraphs (B)(3) and (F)(2) of rule 3301-83-06 of the Administrative Code, as that rule exists on the effective date of this amendment, that~~ An owner of a school bus drivers have no six-point convictions during the prior twenty-four months. All other or motor van shall not permit any person to operate such a vehicle unless the person meets all other requirements contained in rules adopted by the state board of education prescribing qualifications of drivers of school buses and other student transportation, including the requirement of those paragraphs that drivers not have been assessed eight points within the previous twenty-four months, remain in effect until amended or rescinded by the state board.

(G) No superintendent of a school district, educational service center, community school, or public or private employer shall permit the operation of a vehicle used for pupil transportation within this state by an individual unless both of the following apply:

(1) Information pertaining to that driver has been submitted to the department of education, pursuant to procedures adopted by that department. Information to be reported shall include the name of the employer or school district, name of the driver, driver license number, date of birth, date of hire, status of physical evaluation, and status of training.

(2) A criminal records check, including information from the federal bureau of investigation, has been completed and received by the superintendent or public or private employer.

(H) A person, school district, educational service center, community school, nonpublic school, or other public or nonpublic entity that owns a school bus or motor van, or that contracts with another entity to operate a school bus or motor van, may impose more stringent restrictions on drivers than those prescribed in this section, in any other section of the Revised Code, and in rules adopted by the state board.

(I) For qualified drivers who, on the effective date of this amendment, are employed by the owner of a school bus or motor van to drive the school bus or motor van, any instance in which the driver was convicted of or pleaded guilty to a violation of section 4511.19 of the Revised Code or a substantially equivalent municipal ordinance prior to two years prior to the effective date of this amendment shall not be considered a disqualifying event with respect to division (F) of this section.

SECTION 2. That existing sections 504.04, 2907.40, 2950.99, 3319.39, and 3327.10 of the Revised Code are hereby repealed.

SECTION 3. The amendments to sections 504.04 and 2950.99 of the Revised Code that are made by Sections 1 and 2 of this act and the enactment of sections 503.60 and 2950.131 of the Revised Code by Section 1 of the act shall take effect on January 1, 2008.

The amendment to section 2907.40 of the Revised Code that is made by Sections 1 and 2 of this act takes effect the same day section 2907.40 of the Revised Code as enacted in Sub. S.B. 16 of the 127th General Assembly takes effect.

The amendments to sections 3319.39 and 3327.10 of the Revised Code that are made by Sections 1 and 2 of this act shall take effect July 1, 2007.

The enactment of section 109.5721 of the Revised Code by Section 1 of this act shall take effect on August 15, 2007.

SECTION 4. Sections 1 to 3 of this act shall take effect July 1, 2007.

SECTION 5. 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 the changes to the state's Sex Offender Registration and Notification Law made by this act are crucially needed to provide increased protection and security for the state's residents from persons who have been convicted of, or found to be delinquent for committing, a sexually oriented offense or a child-victim oriented offense and to conform that Law by July 1, 2007, to recently enacted requirements of federal law. Therefore, this act shall go into immediate effect.

Am. Sub. S. B. No. 97

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. S. B. No. 97

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____