

As Passed by the House

127th General Assembly

Regular Session

2007-2008

Am. Sub. S. B. No. 97

Senator Stivers

Cosponsors: Senators Schaffer, Faber, Clancy, Bocchieri, Mumper, Austria,

Goodman, Harris, Padgett, Spada, Wilson, Cates

Representatives Latta, Jones, Bubp, Blessing, Hughes, Bacon, Barrett,

Batchelder, Beatty, Bolon, Boyd, Brady, Carmichael, Combs, Core, DeBose,

DeGeeter, Domenick, Dyer, Evans, Flowers, Gerberry, Gibbs, Hagan, J.,

Healy, Heard, Hottinger, Luckie, Lundy, Mandel, Oelslager, Otterman, Patton,

Sayre, Schindel, Setzer, Stebelton, Szollosi, Uecker, Wagoner, Webster,

Williams, B., Yuko, Zehringer

—

A B I L L

To amend sections 504.04, 2907.40, 2950.99, 3319.39, 1
and 3327.10 and to enact sections 109.5721, 2
503.60, and 2950.131 of the Revised Code to modify 3
the penalties for violations of the Sexual 4
Offender Registration and Notification Law, to 5
require the inclusion of specified information on 6
the statewide and county sheriffs' internet sex 7
offender and child-victim offender databases, to 8
modify the definition of "sexually oriented 9
business," to permit townships to regulate the 10
residency of registered sex offenders and 11
child-victim offenders, to modify the law 12
pertaining to school bus driver background checks, 13
to create the Retained Applicant Fingerprint 14
Database, and to declare an emergency. 15

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

Section 1. That sections 504.04, 2907.40, 2950.99, 3319.39, 16
and 3327.10 be amended and sections 109.5721, 503.60, and 2950.131 17
of the Revised Code be enacted to read as follows: 18

Sec. 109.5721. (A) As used in this section: 19

(1) "Employment" includes volunteer service. 20

(2) "Licensure" means the authorization, evidenced by a 21
license, certificate, registration, permit, or other authority 22
that is issued or conferred by a public office, to engage in a 23
profession, occupation, or occupational activity or to have 24
control of and operate certain specific equipment, machinery, or 25
premises over which a public office has jurisdiction. 26

(3) "Participating public office" means a public office that 27
requires a fingerprint background check as a condition of 28
employment with or licensure by the public office and that elects 29
to receive notice under division (C) of this section in accordance 30
with rules adopted by the attorney general. 31

(4) "Public office" has the same meaning as in section 117.01 32
of the Revised Code. 33

(B) Within six months after the effective date of this 34
section, the superintendent of the bureau of criminal 35
identification and investigation shall establish and maintain a 36
database of fingerprints of individuals on whom the bureau has 37
conducted criminal records checks for the purpose of determining 38
eligibility for employment with or licensure by a public office. 39
The superintendent shall maintain the database separate and apart 40
from other records maintained by the bureau. The database shall be 41
known as the retained applicant fingerprint database. 42

(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. 74

(3) Whoever violates division (F)(1) or (F)(2) of this 75
section is guilty of unlawful use of retained applicant 76
fingerprint database records. A violation of division (F)(1) of 77
this section is a misdemeanor of the fourth degree. A violation of 78
division (F)(2) of this section is a misdemeanor of the first 79
degree. 80

Sec. 503.60. (A) Townships have authority to exercise all 81
powers of local self-government within their limits regarding the 82
residency of a person who has been convicted of or pleaded guilty 83
to either a sexually oriented offense or a child-victim oriented 84
offense and to adopt and enforce within their limits any local 85
police, sanitary, and similar regulations regarding the residency 86
of such persons that are not in conflict with general laws. The 87
authority granted under this division shall be exercised by the 88
adoption of resolutions. Townships have the same rights, powers, 89
and duties pursuant to the authority granted under this division 90
as municipal corporations have under Section 3 of Article XVIII, 91
Ohio Constitution relative to their authority to exercise powers 92
of local self-government and to adopt and enforce within their 93
limits local police, sanitary, and similar regulations, except to 94
the extent that the rights, powers, and duties that the municipal 95
corporations have by their nature clearly are inapplicable to 96
townships and to the exercise by townships of their authority 97
granted under this division. 98

(B) The authority of a township granted under division (A) of 99
this section applies to all townships. If a township has adopted a 100
limited home rule government pursuant to Chapter 504. of the 101
Revised Code, the authority granted under division (A) of this 102
section is in addition to the powers and authority granted to the 103
township under Chapter 504. of the Revised Code. 104

(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. 105
106
107

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: 108
109
110
111
112
113

(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; 114
115
116
117
118
119
120
121
122
123

(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; 124
125
126
127

(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; 128
129
130

(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. 131
132
133

(B) No resolution adopted pursuant to this chapter shall do 134

| | |
|--|-----|
| any of the following: | 135 |
| (1) Create a criminal offense or impose criminal penalties, | 136 |
| except as authorized by division (A) of this section or by section | 137 |
| 503.52 of the Revised Code; | 138 |
| (2) Impose civil fines other than as authorized by this | 139 |
| chapter; | 140 |
| (3) Establish or revise subdivision regulations, road | 141 |
| construction standards, urban sediment rules, or storm water and | 142 |
| drainage regulations, except as provided in section 504.21 of the | 143 |
| Revised Code; | 144 |
| (4) Establish or revise building standards, building codes, | 145 |
| and other standard codes except as provided in section 504.13 of | 146 |
| the Revised Code; | 147 |
| (5) Increase, decrease, or otherwise alter the powers or | 148 |
| duties of a township under any other chapter of the Revised Code | 149 |
| pertaining to agriculture or the conservation or development of | 150 |
| natural resources; | 151 |
| (6) Establish regulations affecting hunting, trapping, | 152 |
| fishing, or the possession, use, or sale of firearms; | 153 |
| (7) Establish or revise water or sewer regulations, except in | 154 |
| accordance with section 504.18, 504.19, or 504.21 of the Revised | 155 |
| Code. | 156 |
| Nothing in this chapter shall be construed as affecting the | 157 |
| powers of counties with regard to the subjects listed in divisions | 158 |
| (B)(3) to (5) of this section. | 159 |
| (C) Under a limited home rule government, all officers shall | 160 |
| have the qualifications, and be nominated, elected, or appointed, | 161 |
| as provided in Chapter 505. of the Revised Code, except that the | 162 |
| board of township trustees shall appoint a full-time or part-time | 163 |
| law director pursuant to section 504.15 of the Revised Code, and | 164 |

except that a five-member board of township trustees approved for 165
the township before September 26, 2003, shall continue to serve as 166
the legislative authority with successive members serving for 167
four-year terms of office until a termination of a limited home 168
rule government under section 504.03 of the Revised Code. 169

(D) In case of conflict between resolutions enacted by a 170
board of township trustees and municipal ordinances or 171
resolutions, the ordinance or resolution enacted by the municipal 172
corporation prevails. In case of conflict between resolutions 173
enacted by a board of township trustees and any county resolution, 174
the resolution enacted by the board of township trustees prevails. 175

Sec. 2907.40. (A) As used in this section: 176

(1) "Adult bookstore" or "adult video store" means a 177
commercial establishment that has as a significant or substantial 178
portion of its stock in trade or inventory in, derives a 179
significant or substantial portion of its revenues from, devotes a 180
significant or substantial portion of its interior business or 181
advertising to, or maintains a substantial section of its sales or 182
display space for the sale or rental, for any form of 183
consideration, of books, magazines, periodicals, or other printed 184
matter, or photographs, films, motion pictures, video cassettes, 185
compact discs, slides, or other visual representations, that are 186
characterized by their emphasis upon the exhibition or description 187
of specified sexual activities or specified anatomical areas. 188

(2) "Adult cabaret" means a nightclub, bar, juice bar, 189
restaurant, bottle club, or other similar commercial 190
establishment, regardless of whether alcoholic beverages are 191
served, that regularly features individuals who appear in a state 192
of nudity or seminudity. 193

(3) "Adult motion picture theater" means a commercial 194
establishment where films, motion pictures, videocassettes, 195

slides, or similar photographic reproductions that are 196
characterized by their emphasis upon the display of specified 197
sexual activities or specified anatomical areas are regularly 198
shown to more than five individuals for any form of consideration. 199

(4) "Characterized by" means describing the essential 200
character or quality of an item. 201

(5) "Employee" means any individual who performs any service 202
on the premises of a sexually oriented business on a full-time, 203
part-time, or contract basis, regardless of whether the individual 204
is denominated an employee, independent contractor, agent, or 205
otherwise, but does not include an individual exclusively on the 206
premises for repair or maintenance of the premises or for the 207
delivery of goods to the premises. 208

(6) "Nudity," "nude," or "state of nudity" has the same 209
meaning as in section 2907.39 of the Revised Code. 210

(7) "Operator" means any individual on the premises of a 211
sexually oriented business who causes the business to function or 212
who puts or keeps in operation the business or who is authorized 213
to manage the business or exercise overall operational control of 214
the business premises. 215

(8) "Patron" means any individual on the premises of a 216
sexually oriented business except for any of the following: 217

(a) An operator or an employee of the sexually oriented 218
business; 219

(b) An individual who is on the premises exclusively for 220
repair or maintenance of the premises or for the delivery of goods 221
to the premises; 222

(c) A public employee or a volunteer firefighter emergency 223
medical services worker acting within the scope of the public 224
employee's or volunteer's duties as a public employee or 225

| | |
|--|--|
| volunteer. | 226 |
| (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. | 227 228 229 230 231 232 233 |
| (10) "Regularly" means consistently or repeatedly. | 234 |
| (11) "Seminude" or "state of seminudity" has the same meaning as in section 2907.39 of the Revised Code. | 235 236 |
| (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. | 237 238 239 240 241 242 243 244 |
| (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. | 245 246 247 248 249 250 |
| (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. | 251 252 253 254 255 256 |

(15) "Sexually oriented business" means an adult bookstore, 257
adult video store, adult cabaret, adult motion picture theater, 258
sexual device shop, or sexual encounter center, but does not 259
include a business solely by reason of its showing, selling, or 260
renting materials ~~rated NC 17 or R by the motion picture~~ 261
~~association of America that may depict sex.~~ 262

(16) "Specified anatomical areas" includes human genitals, 263
pubic region, and buttocks and the human female breast below a 264
point immediately above the top of the areola. 265

(17) "Specified sexual activity" means sexual intercourse, 266
oral copulation, masturbation, or sodomy, or excretory functions 267
as a part of or in connection with any of these activities. 268

(B) No sexually oriented business shall be or remain open for 269
business between 12:00 midnight and 6:00 a.m. on any day, except 270
that a sexually oriented business that holds a liquor permit 271
pursuant to Chapter 4303. of the Revised Code may remain open 272
until the hour specified in that permit if it does not conduct, 273
offer, or allow sexually oriented entertainment activity in which 274
the performers appear nude. 275

(C)(1) No patron who is not a member of the employee's 276
immediate family shall knowingly touch any employee while that 277
employee is nude or seminude or touch the clothing of any employee 278
while that employee is nude or seminude. 279

(2) No employee who regularly appears nude or seminude on the 280
premises of a sexually oriented business, while on the premises of 281
that sexually oriented business and while nude or seminude, shall 282
knowingly touch a patron who is not a member of the employee's 283
immediate family or another employee who is not a member of the 284
employee's immediate family or the clothing of a patron who is not 285
a member of the employee's immediate family or another employee 286
who is not a member of the employee's immediate family or allow a 287

patron who is not a member of the employee's immediate family or 288
another employee who is not a member of the employee's immediate 289
family to touch the employee or the clothing of the employee. 290

(D) Whoever violates division (B) of this section is guilty 291
of illegally operating a sexually oriented business, a misdemeanor 292
of the first degree. 293

(E) Whoever violates division (C) of this section is guilty 294
of illegal sexually oriented activity in a sexually oriented 295
business. If the offender touches a specified anatomical area of 296
the patron or employee, or the clothing covering a specified 297
anatomical area, a violation of division (C) of this section is a 298
misdemeanor of the first degree. If the offender does not touch a 299
specified anatomical area of the patron or employee, or the 300
clothing covering a specified anatomical area, a violation of 301
division (C) of this section is a misdemeanor of the fourth 302
degree. 303

Sec. 2950.131. (A) By January 1, 2008, the bureau of criminal 304
identification and investigation, with the assistance of the 305
office of criminal justice services, shall include on the internet 306
sex offender and child-victim offender database established and 307
operated pursuant to division (A)(11) of section 2950.13 of the 308
Revised Code a link to educational information for the public on 309
current research about sex offenders and child-victim offenders. 310
Each sheriff who has established on the internet a sex offender 311
and child-victim offender database may include a link to this 312
information on the sheriff's internet database. 313

(B) By January 1, 2008, the internet sex offender and 314
child-victim offender database established and operated pursuant 315
to division (A)(11) of section 2950.13 of the Revised Code and 316
each sheriff's internet sex offender and child-victim offender 317
database is required to inform offenders and public 318

registry-qualified juvenile offender registrants that they may 319
contact the sheriff of the county in which the offender or 320
delinquent child registered an address if the offender or 321
delinquent child believes that information contained on the 322
internet sex offender and child-victim offender database or 323
sheriff's internet sex offender and child-victim offender database 324
pertaining to the offender or delinquent child is incorrect. 325

Sec. 2950.99. (A)(1)(a) Except as otherwise provided in 326
division (A)(1)(b) of this section, whoever violates a prohibition 327
in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised 328
Code shall be punished as follows: 329

(i) If the most serious sexually oriented offense that was 330
the basis of the registration, notice of intent to reside, change 331
of address notification, or address verification requirement that 332
was violated under the prohibition is aggravated murder or murder 333
if committed by an adult or a comparable category of offense 334
committed in another jurisdiction, the offender is guilty of a 335
felony of the first degree. 336

(ii) If the most serious sexually oriented offense or 337
child-victim oriented offense that was the basis of the 338
registration, notice of intent to reside, change of address 339
notification, or address verification requirement that was 340
violated under the prohibition is ~~aggravated murder, murder, or a~~ 341
felony of the first, second, ~~or~~ third, or fourth degree if 342
committed by an adult or a comparable category of offense 343
committed in another jurisdiction, the offender is guilty of a 344
felony of the ~~third~~ same degree as the most serious sexually 345
oriented offense or child-victim oriented offense that was the 346
basis of the registration, notice of intent to reside, change of 347
address, or address verification requirement that was violated 348
under the prohibition, or, if the most serious sexually oriented 349

offense or child-victim oriented offense that was the basis of the 350
registration, notice of intent to reside, change of address, or 351
address verification requirement that was violated under the 352
prohibition is a comparable category of offense committed in 353
another jurisdiction, the offender is guilty of a felony of the 354
same degree as that offense committed in the other jurisdiction 355
would constitute if committed in this state. 356

~~(ii)(iii) If the most serious sexually oriented offense or~~ 357
~~child-victim oriented offense that was the basis of the~~ 358
~~registration, notice of intent to reside, change of address~~ 359
~~notification, or address verification requirement that was~~ 360
~~violated under the prohibition is a felony of the ~~fourth~~ or fifth~~ 361
~~degree or a misdemeanor if committed by an adult or a comparable~~ 362
~~category of offense committed in another jurisdiction, or if the~~ 363
~~most serious sexually oriented offense or child victim oriented~~ 364
~~offense that was the basis of the registration, notice of intent~~ 365
~~to reside, change of address notification, or address verification~~ 366
~~requirement that was violated under the prohibition is a~~ 367
~~misdemeanor if committed by an adult or a comparable category of~~ 368
~~offense committed in another jurisdiction, the offender is guilty~~ 369
~~of a felony of the same fourth degree or a misdemeanor of the same~~ 370
~~degree as the most serious sexually oriented offense or~~ 371
~~child victim oriented offense that was the basis of the~~ 372
~~registration, notice of intent to reside, change of address, or~~ 373
~~address verification requirement that was violated under the~~ 374
~~prohibition or, if the most serious sexually oriented offense or~~ 375
~~child victim oriented offense that was the basis of the~~ 376
~~registration, notice of intent to reside, change of address, or~~ 377
~~address verification requirement that was violated under the~~ 378
~~prohibition was a comparable category of offense committed in~~ 379
~~another jurisdiction, the offender is guilty of a felony of the~~ 380
~~same degree or a misdemeanor of the same degree as that offense~~ 381
~~committed in the other jurisdiction would constitute or would have~~ 382

constituted if it had been committed in this state. 383

(b) If the offender previously has been convicted of or 384
pleaded guilty to, or previously has been adjudicated a delinquent 385
child for committing, a violation of a prohibition in section 386
2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code, 387
whoever violates a prohibition in section 2950.04, 2950.041, 388
2950.05, or 2950.06 of the Revised Code shall be punished as 389
follows: 390

(i) If the most serious sexually oriented offense that was 391
the basis of the registration, notice of intent to reside, change 392
of address notification, or address verification requirement that 393
was violated under the prohibition is aggravated murder or murder 394
if committed by an adult or a comparable category of offense 395
committed in another jurisdiction, the offender is guilty of a 396
felony of the first degree. 397

(ii) If the most serious sexually oriented offense or 398
child-victim oriented offense that was the basis of the 399
registration, notice of intent to reside, change of address 400
notification, or address verification requirement that was 401
violated under the prohibition is ~~aggravated murder, murder, or a~~ 402
felony of the first, second, or third,~~or fourth~~ degree if 403
committed by an adult or a comparable category of offense 404
committed in another jurisdiction, the offender is guilty of a 405
felony of the ~~third~~ same degree as the most serious sexually 406
oriented offense or child-victim oriented offense that was the 407
basis of the registration, notice of intent to reside, change of 408
address, or address verification requirement that was violated 409
under the prohibition, or, if the most serious sexually oriented 410
offense or child-victim oriented offense that was the basis of the 411
registration, notice of intent to reside, change of address, or 412
address verification requirement that was violated under the 413
prohibition is a comparable category of offense committed in 414

another jurisdiction, the offender is guilty of a felony of the 415
same degree as that offense committed in the other jurisdiction 416
would constitute if committed in this state. 417

~~(ii)(iii)~~ If the most serious sexually oriented offense or 418
child-victim oriented offense that was the basis of the 419
registration, notice of intent to reside, change of address 420
notification, or address verification requirement that was 421
violated under the prohibition is a felony of the fourth or fifth 422
degree if committed by an adult or a comparable category of 423
offense committed in another jurisdiction, the offender is guilty 424
of a felony of the fourth third degree. 425

~~(iii)~~ If the most serious sexually oriented offense or 426
child-victim oriented offense that was the basis of the 427
registration, notice of intent to reside, change of address 428
notification, or address verification requirement that was 429
violated under the prohibition is a misdemeanor of the first 430
degree if committed by an adult or a comparable category of 431
offense committed in another jurisdiction, the offender is guilty 432
of a felony of the fifth degree. 433

~~(iv)~~ If the most serious sexually oriented offense or 434
child-victim oriented offense that was the basis of the 435
registration, notice of intent to reside, change of address 436
notification, or address verification requirement that was 437
violated under the prohibition is a misdemeanor other than a 438
misdemeanor of the first degree if committed by an adult or a 439
comparable category of offense committed in another jurisdiction, 440
the offender is guilty of a misdemeanor that is one degree higher 441
than the most serious sexually oriented offense or child-victim 442
oriented offense that was the basis of the registration, change of 443
address, or address verification requirement that was violated 444
under the prohibition or, if the most serious sexually oriented 445
offense or child-victim oriented offense that was the basis of the 446

~~registration, notice of intent to reside, change of address, or 447
address verification requirement that was violated under the 448
prohibition was a comparable category of offense committed in 449
another jurisdiction, the offender is guilty of a misdemeanor that 450
is one degree higher than the most serious sexually oriented 451
offense or child victim oriented offense committed in the other 452
jurisdiction would constitute or would have constituted if it had 453
been committed in this state. 454~~

(iv) If the most serious sexually oriented offense or 455
child-victim oriented offense that was the basis of the 456
registration, notice of intent to reside, change of address 457
notification, or address verification requirement that was 458
violated under the prohibition is a misdemeanor if committed by an 459
adult or a comparable category of offense committed in another 460
jurisdiction, the offender is guilty of a felony of the fourth 461
degree. 462

(2)(a) In addition to any penalty or sanction imposed under 463
division (A)(1) of this section or any other provision of law for 464
a violation of a prohibition in section 2950.04, 2950.041, 465
2950.05, or 2950.06 of the Revised Code, if the offender or 466
delinquent child is subject to a community control sanction, is on 467
parole, is subject to one or more post-release control sanctions, 468
or is subject to any other type of supervised release at the time 469
of the violation, the violation shall constitute a violation of 470
the terms and conditions of the community control sanction, 471
parole, post-release control sanction, or other type of supervised 472
release. 473

(b) In addition to any penalty or sanction imposed under 474
division (A)(1)(b)(i), (ii), or (iii) of this section or any other 475
provision of law for a violation of a prohibition in section 476
2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code, if the 477
offender previously has been convicted of or pleaded guilty to, or 478

previously has been adjudicated a delinquent child for committing, 479
a violation of a prohibition in section 2950.04, 2950.041, 480
2950.05, or 2950.06 of the Revised Code when the most serious 481
sexually oriented offense or child-victim oriented offense that 482
was the basis of the requirement that was violated under the 483
prohibition is a felony if committed by an adult or a comparable 484
category of offense committed in another jurisdiction, the court 485
imposing a sentence upon the offender shall impose a definite 486
prison term of no less than three years. The definite prison term 487
imposed under this section is not restricted by division (B) of 488
section 2929.14 of the Revised Code and shall not be reduced to 489
less than three years pursuant to Chapter 2967. or any other 490
provision of the Revised Code. 491

(3) As used in division (A)(1) of this section, "comparable 492
category of offense committed in another jurisdiction" means a 493
sexually oriented offense or child-victim oriented offense that 494
was the basis of the registration, notice of intent to reside, 495
change of address notification, or address verification 496
requirement that was violated, that is a violation of an existing 497
or former law of another state or the United States, an existing 498
or former law applicable in a military court or in an Indian 499
tribal court, or an existing or former law of any nation other 500
than the United States, and that, if it had been committed in this 501
state, would constitute or would have constituted aggravated 502
murder, or murder for purposes of division (A)(1)(a)(i) of this 503
section, or a felony of the first, second, or third, or fourth 504
degree for purposes of division (A)(1)(a)~~(i)~~(ii) of this section, 505
a felony of the ~~fourth~~ or fifth degree or a misdemeanor for 506
purposes of division (A)(1)(a)~~(ii)~~(iii) of this section, 507
aggravated murder, or murder for purposes of division (A)(1)(b)(i) 508
of this section, or a felony of the first, second, or third, or 509
~~fourth~~ degree for purposes of division (A)(1)(b)~~(i)~~(ii) of this 510
section, a felony of the fourth or fifth degree for purposes of 511

division (A)(1)(b)~~(ii)~~(iii) of this section, ~~a misdemeanor of the~~ 512
~~first degree for purposes of division (A)(1)(b)(iii) of this~~ 513
~~section, or a misdemeanor other than a misdemeanor of the first~~ 514
~~degree for purposes of division (A)(1)(b)(iv) of this section.~~ 515

(B) If a person violates a prohibition in section 2950.04, 516
2950.041, 2950.05, or 2950.06 of the Revised Code that applies to 517
the person as a result of the person being adjudicated a 518
delinquent child and being classified a juvenile offender 519
registrant or ~~as~~ an out-of-state juvenile offender registrant, 520
both of the following apply: 521

(1) If the violation occurs while the person is under 522
eighteen years of age, the person is subject to proceedings under 523
Chapter 2152. of the Revised Code based on the violation. 524

(2) If the violation occurs while the person is eighteen 525
years of age or older, the person is subject to criminal 526
prosecution based on the violation. 527

(C) Whoever violates division (C) of section 2950.13 of the 528
Revised Code is guilty of a misdemeanor of the first degree. 529

Sec. 3319.39. (A)(1) Except as provided in division (F)(2)(b) 530
of section 109.57 of the Revised Code, the appointing or hiring 531
officer of the board of education of a school district, the 532
governing board of an educational service center, or of a 533
chartered nonpublic school shall request the superintendent of the 534
bureau of criminal identification and investigation to conduct a 535
criminal records check with respect to any applicant who has 536
applied to the school district, educational service center, or 537
school for employment in any position as a person responsible for 538
the care, custody, or control of a child. ~~If~~ Except as provided in 539
division (A)(1) of this section, if the applicant does not present 540
proof that the applicant has been a resident of this state for the 541
five-year period immediately prior to the date upon which the 542

criminal records check is requested or does not provide evidence 543
that within that five-year period the superintendent has requested 544
information about the applicant from the federal bureau of 545
investigation in a criminal records check, the appointing or 546
hiring officer shall request that the superintendent obtain 547
information from the federal bureau of investigation as a part of 548
the criminal records check for the applicant. ~~If~~ Except as 549
provided in division (A)(1) of this section, if the applicant 550
presents proof that the applicant has been a resident of this 551
state for that five-year period, the appointing or hiring officer 552
may request that the superintendent include information from the 553
federal bureau of investigation in the criminal records check. In 554
the case of an applicant who is applying to be employed as driver 555
of a school bus or motor van, the appointing or hiring officer 556
shall request that the superintendent include information from the 557
federal bureau of investigation in the criminal records check. 558

(2) A person required by division (A)(1) of this section to 559
request a criminal records check shall provide to each applicant a 560
copy of the form prescribed pursuant to division (C)(2) of section 561
109.572 of the Revised Code, provide to each applicant a standard 562
impression sheet to obtain fingerprint impressions prescribed 563
pursuant to division (C)(2) of section 109.572 of the Revised 564
Code, obtain the completed form and impression sheet from each 565
applicant, and forward the completed form and impression sheet to 566
the superintendent of the bureau of criminal identification and 567
investigation at the time the person requests a criminal records 568
check pursuant to division (A)(1) of this section. 569

(3) An applicant who receives pursuant to division (A)(2) of 570
this section a copy of the form prescribed pursuant to division 571
(C)(1) of section 109.572 of the Revised Code and a copy of an 572
impression sheet prescribed pursuant to division (C)(2) of that 573
section and who is requested to complete the form and provide a 574

set of fingerprint impressions shall complete the form or provide 575
all the information necessary to complete the form and shall 576
provide the impression sheet with the impressions of the 577
applicant's fingerprints. If an applicant, upon request, fails to 578
provide the information necessary to complete the form or fails to 579
provide impressions of the applicant's fingerprints, the board of 580
education of a school district, governing board of an educational 581
service center, or governing authority of a chartered nonpublic 582
school shall not employ that applicant for any position for which 583
a criminal records check is required pursuant to division (A)(1) 584
of this section. 585

(B)(1) Except as provided in rules adopted by the department 586
of education in accordance with division (E) of this section and 587
as provided in division (B)(3) of this section, no board of 588
education of a school district, no governing board of an 589
educational service center, and no governing authority of a 590
chartered nonpublic school shall employ a person as a person 591
responsible for the care, custody, or control of a child if the 592
person previously has been convicted of or pleaded guilty to any 593
of the following: 594

(a) A violation of section 2903.01, 2903.02, 2903.03, 595
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 596
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 597
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 598
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 599
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 600
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 601
2925.06, or 3716.11 of the Revised Code, a violation of section 602
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 603
violation of section 2919.23 of the Revised Code that would have 604
been a violation of section 2905.04 of the Revised Code as it 605
existed prior to July 1, 1996, had the violation been committed 606

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 638
fee charged under this division shall not exceed the amount of 639
fees the board or governing authority pays under division (C)(1) 640
of this section. If a fee is charged under this division, the 641
board or governing authority shall notify the applicant at the 642
time of the applicant's initial application for employment of the 643
amount of the fee and that, unless the fee is paid, the board or 644
governing authority will not consider the applicant for 645
employment. 646

(D) The report of any criminal records check conducted by the 647
bureau of criminal identification and investigation in accordance 648
with section 109.572 of the Revised Code and pursuant to a request 649
under division (A)(1) of this section is not a public record for 650
the purposes of section 149.43 of the Revised Code and shall not 651
be made available to any person other than the applicant who is 652
the subject of the criminal records check or the applicant's 653
representative, the board or governing authority requesting the 654
criminal records check or its representative, and any court, 655
hearing officer, or other necessary individual involved in a case 656
dealing with the denial of employment to the applicant. 657

(E) The department of education shall adopt rules pursuant to 658
Chapter 119. of the Revised Code to implement this section, 659
including rules specifying circumstances under which the board or 660
governing authority may hire a person who has been convicted of an 661
offense listed in division (B)(1) or (3) of this section but who 662
meets standards in regard to rehabilitation set by the department. 663

(F) Any person required by division (A)(1) of this section to 664
request a criminal records check shall inform each person, at the 665
time of the person's initial application for employment, of the 666
requirement to provide a set of fingerprint impressions and that a 667
criminal records check is required to be conducted and 668
satisfactorily completed in accordance with section 109.572 of the 669

Revised Code if the person comes under final consideration for 670
appointment or employment as a precondition to employment for the 671
school district, educational service center, or school for that 672
position. 673

(G) As used in this section: 674

(1) "Applicant" means a person who is under final 675
consideration for appointment or employment in a position with a 676
board of education, governing board of an educational service 677
center, or a chartered nonpublic school as a person responsible 678
for the care, custody, or control of a child, except that 679
"applicant" does not include a person already employed by a board 680
or chartered nonpublic school in a position of care, custody, or 681
control of a child who is under consideration for a different 682
position with such board or school. 683

(2) "Teacher" means a person holding an educator license or 684
permit issued under section 3319.22 or 3319.301 of the Revised 685
Code and teachers in a chartered nonpublic school. 686

(3) "Criminal records check" has the same meaning as in 687
section 109.572 of the Revised Code. 688

(4) "Minor drug possession offense" has the same meaning as 689
in section 2925.01 of the Revised Code. 690

(H) If the board of education of a local school district 691
adopts a resolution requesting the assistance of the educational 692
service center in which the local district has territory in 693
conducting criminal records checks of substitute teachers under 694
this section, the appointing or hiring officer of such educational 695
service center shall serve for purposes of this section as the 696
appointing or hiring officer of the local board in the case of 697
hiring substitute teachers for employment in the local district. 698

Sec. 3327.10. (A) No person shall be employed as driver of a 699

school bus or motor van, owned and operated by any school district 700
or educational service center or privately owned and operated 701
under contract with any school district or service center in this 702
state, who has not received a certificate from the educational 703
service center governing board in case such person is employed by 704
a service center or by a local school district under the 705
supervision of the service center governing board, or by the 706
superintendent of schools, in case such person is employed by the 707
board of a city or exempted village school district, certifying 708
that such person is at least eighteen years of age and is of good 709
moral character and is qualified physically and otherwise for such 710
position. The service center governing board or the 711
superintendent, as the case may be, shall provide for an annual 712
physical examination that conforms with rules adopted by the state 713
board of education of each driver to ascertain the driver's 714
physical fitness for such employment. Any certificate may be 715
revoked by the authority granting the same on proof that the 716
holder has been guilty of failing to comply with division (D)(1) 717
of this section, or upon a conviction or a guilty plea for a 718
violation, or any other action, that results in a loss or 719
suspension of driving rights. Failure to comply with such division 720
may be cause for disciplinary action or termination of employment 721
under division (C) of section 3319.081, or section 124.34 of the 722
Revised Code. 723

(B) No person shall be employed as driver of a school bus or 724
motor van not subject to the rules of the department of education 725
pursuant to division (A) of this section who has not received a 726
certificate from the school administrator or contractor certifying 727
that such person is at least eighteen years of age, is of good 728
moral character, and is qualified physically and otherwise for 729
such position. Each driver shall have an annual physical 730
examination which conforms to the state highway patrol rules, 731
ascertaining the driver's physical fitness for such employment. 732

| | |
|--|-----|
| The examination shall be performed by one of the following: | 733 |
| (1) A person licensed under Chapter 4731. of the Revised Code | 734 |
| or by another state to practice medicine and surgery or | 735 |
| osteopathic medicine and surgery; | 736 |
| (2) A physician assistant; | 737 |
| (3) A certified nurse practitioner; | 738 |
| (4) A clinical nurse specialist; | 739 |
| (5) A certified nurse-midwife. | 740 |
| Any written documentation of the physical examination shall | 741 |
| be completed by the individual who performed the examination. | 742 |
| Any certificate may be revoked by the authority granting the | 743 |
| same on proof that the holder has been guilty of failing to comply | 744 |
| with division (D)(2) of this section. | 745 |
| (C) Any person who drives a school bus or motor van must give | 746 |
| satisfactory and sufficient bond except a driver who is an | 747 |
| employee of a school district and who drives a bus or motor van | 748 |
| owned by the school district. | 749 |
| (D) No person employed as driver of a school bus or motor van | 750 |
| under this section who is convicted of a traffic violation or who | 751 |
| has had the person's commercial driver's license suspended shall | 752 |
| drive a school bus or motor van until the person has filed a | 753 |
| written notice of the conviction or suspension, as follows: | 754 |
| (1) If the person is employed under division (A) of this | 755 |
| section, the person shall file the notice with the superintendent, | 756 |
| or a person designated by the superintendent, of the school | 757 |
| district for which the person drives a school bus or motor van as | 758 |
| an employee or drives a privately owned and operated school bus or | 759 |
| motor van under contract. | 760 |
| (2) If employed under division (B) of this section, the | 761 |
| person shall file the notice with the employing school | 762 |

administrator or contractor, or a person designated by the 763
administrator or contractor. 764

(E) In addition to resulting in possible revocation of a 765
certificate as authorized by divisions (A) and (B) of this 766
section, violation of division (D) of this section is a minor 767
misdemeanor. 768

(F)(1) Not later than thirty days after ~~the effective date of~~ 769
~~this amendment June 30, 2007~~, each owner of a school bus or motor 770
van shall obtain ~~from the bureau of motor vehicles~~ the complete 771
driving record for ~~at least the prior seven year period of~~ each 772
person who is currently employed or otherwise authorized to drive 773
the school bus or motor van. An owner of a school bus or motor van 774
shall not permit a person to operate the school bus or motor van 775
for the first time before the owner has obtained ~~from the bureau~~ 776
the person's complete driving record ~~for at least the prior~~ 777
~~seven year period. Each year after obtaining a person's seven year~~ 778
~~driving record. Thereafter~~, the owner of a school bus or motor van 779
shall obtain ~~from the bureau~~ the person's driving record ~~for at~~ 780
~~least the prior year~~ not less frequently than semiannually if the 781
person remains employed or otherwise authorized to drive the 782
school bus or motor van. An owner of a school bus or motor van 783
shall not permit a person to resume operating a school bus or 784
motor van, after an interruption of one year or longer, before the 785
owner has obtained ~~from the bureau~~ the person's complete driving 786
record ~~for at least the period since the owner last obtained the~~ 787
~~person's driving record or, if the owner had never obtained a~~ 788
~~seven year driving record for the person, for at least the prior~~ 789
~~seven year period.~~ 790

(2) The owner of a school bus or motor van shall not permit a 791
person to operate the school bus or motor van for ~~seven~~ six years 792
after the date on which the person pleads guilty to or is 793
convicted of a violation ~~for which six points are assessed under~~ 794

of section 4510.036 4511.19 of the Revised Code or a substantially 795
equivalent municipal ordinance. 796

~~(3) Divisions (F)(1) and (2) of this section supersede only~~ 797
~~the requirements of paragraphs (B)(3) and (F)(2) of rule~~ 798
~~3301-83-06 of the Administrative Code, as that rule exists on the~~ 799
~~effective date of this amendment, that~~ An owner of a school bus 800
~~drivers have no six point convictions during the prior twenty-four~~ 801
~~months. All other~~ or motor van shall not permit any person to 802
operate such a vehicle unless the person meets all other 803
requirements contained in rules adopted by the state board of 804
education prescribing qualifications of drivers of school buses 805
and other student transportation, ~~including the requirement of~~ 806
~~those paragraphs that drivers not have been assessed eight points~~ 807
~~within the previous twenty-four months, remain in effect until~~ 808
~~amended or rescinded by the state board.~~ 809

(G) No superintendent of a school district, educational 810
service center, community school, or public or private employer 811
shall permit the operation of a vehicle used for pupil 812
transportation within this state by an individual unless both of 813
the following apply: 814

(1) Information pertaining to that driver has been submitted 815
to the department of education, pursuant to procedures adopted by 816
that department. Information to be reported shall include the name 817
of the employer or school district, name of the driver, driver 818
license number, date of birth, date of hire, status of physical 819
evaluation, and status of training. 820

(2) A criminal records check, including information from the 821
federal bureau of investigation, has been completed and received 822
by the superintendent or public or private employer. 823

(H) A person, school district, educational service center, 824
community school, nonpublic school, or other public or nonpublic 825

entity that owns a school bus or motor van, or that contracts with 826
another entity to operate a school bus or motor van, may impose 827
more stringent restrictions on drivers than those prescribed in 828
this section, in any other section of the Revised Code, and in 829
rules adopted by the state board. 830

(I) For qualified drivers who, on the effective date of this 831
amendment, are employed by the owner of a school bus or motor van 832
to drive the school bus or motor van, any instance in which the 833
driver was convicted of or pleaded guilty to a violation of 834
section 4511.19 of the Revised Code or a substantially equivalent 835
municipal ordinance prior to two years prior to the effective date 836
of this amendment shall not be considered a disqualifying event 837
with respect to division (F) of this section. 838

Section 2. That existing sections 504.04, 2907.40, 2950.99, 839
3319.39, and 3327.10 of the Revised Code are hereby repealed. 840

Section 3. The amendments to sections 504.04 and 2950.99 of 841
the Revised Code that are made by Sections 1 and 2 of this act and 842
the enactment of sections 503.60 and 2950.131 of the Revised Code 843
by Section 1 of the act shall take effect on January 1, 2008. 844

The amendment to section 2907.40 of the Revised Code that is 845
made by Sections 1 and 2 of this act takes effect the same day 846
section 2907.40 of the Revised Code as enacted in Sub. S.B. 16 of 847
the 127th General Assembly takes effect. 848

The amendments to sections 3319.39 and 3327.10 of the Revised 849
Code that are made by Sections 1 and 2 of this act shall take 850
effect July 1, 2007. 851

The enactment of section 109.5721 of the Revised Code by 852
Section 1 of this act shall take effect on August 15, 2007. 853

Section 4. Sections 1 to 3 of this act shall take effect July 854

1, 2007. 855

Section 5. This act is hereby declared to be an emergency 856
measure necessary for the immediate preservation of the public 857
peace, health, and safety. The reason for such necessity is that 858
the changes to the state's Sex Offender Registration and 859
Notification Law made by this act are crucially needed to provide 860
increased protection and security for the state's residents from 861
persons who have been convicted of, or found to be delinquent for 862
committing, a sexually oriented offense or a child-victim oriented 863
offense and to conform that Law by July 1, 2007, to recently 864
enacted requirements of federal law. Therefore, this act shall go 865
into immediate effect. 866