

**As Reported by the House Criminal Justice Committee**

**127th General Assembly**

**Regular Session**

**2007-2008**

**Sub. S. B. No. 97**

**Senator Stivers**

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

**Goodman, Harris, Padgett, Spada, Wilson, Cates**

**Representatives Latta, Jones, Bulp, Blessing, Hughes**

—

**A BILL**

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

<u>Sec. 109.5721. (A) As used in this section:</u>	19
<u>(1) "Employment" includes volunteer service.</u>	20
<u>(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.</u>	21 22 23 24 25 26
<u>(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.</u>	27 28 29 30 31
<u>(4) "Public office" has the same meaning as in section 117.01 of the Revised Code.</u>	32 33
<u>(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.</u>	34 35 36 37 38 39 40 41 42
<u>(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</u>	43 44 45 46 47 48

and its employees and officers shall use the information contained 49  
in the notification solely to determine the individual's 50  
eligibility for continued employment with the public office or to 51  
retain a license issued by the public office. The public office 52  
and its employees and officers shall not disclose that information 53  
to any person for any other purpose. 54

(D) The attorney general shall adopt rules in accordance with 55  
Chapter 119. of the Revised Code governing the operation and 56  
maintenance of the database. The rules shall provide for, but not 57  
be limited to, both of the following: 58

(1) The expungement or sealing of records of individuals who 59  
are deceased or who are no longer employed or licensed by the 60  
public office that required submission of the individual's 61  
fingerprints; 62

(2) The terms under which a public office may elect to 63  
receive notification under division (C) of this section, including 64  
payment of any reasonable fee that may be charged for the purpose. 65

(E) No public office or employee of a public office shall be 66  
considered negligent in a civil action solely because the public 67  
office did not elect to be a participating public office. 68

(F)(1) No person shall knowingly use information contained in 69  
or received from the retained applicant fingerprint database for 70  
purposes not authorized by this section. 71

(2) No person shall knowingly use information contained in or 72  
received from the retained applicant fingerprint database with the 73  
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" 105  
and "sexually oriented offense" have the same meanings as in 106  
section 2950.01 of the Revised Code. 107

Sec. 504.04. (A) A township that adopts a limited home rule 108  
government may do all of the following by resolution, provided 109

that any of these resolutions, other than a resolution to supply 110  
water or sewer services in accordance with sections 504.18 to 111  
504.20 of the Revised Code, may be enforced only by the imposition 112  
of civil fines as authorized in this chapter: 113

(1) Exercise all powers of local self-government within the 114  
unincorporated area of the township, other than powers that are in 115  
conflict with general laws, except that the township shall comply 116  
with the requirements and prohibitions of this chapter, and shall 117  
enact no taxes other than those authorized by general law, and 118  
except that no resolution adopted pursuant to this chapter shall 119  
encroach upon the powers, duties, and privileges of elected 120  
township officers or change, alter, combine, eliminate, or 121  
otherwise modify the form or structure of the township government 122  
unless the change is required or permitted by this chapter; 123

(2) Adopt and enforce within the unincorporated area of the 124  
township local police, sanitary, and other similar regulations 125  
that are not in conflict with general laws or otherwise prohibited 126  
by division (B) of this section; 127

(3) Supply water and sewer services to users within the 128  
unincorporated area of the township in accordance with sections 129  
504.18 to 504.20 of the Revised Code; 130

(4) Adopt and enforce within the unincorporated area of the 131  
township any resolution of a type described in section 503.52 or 132  
503.60 of the Revised Code. 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 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 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 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.	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, 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 <del>rated NC 17 or R by the motion picture association of America that may depict sex.</del>	257 258 259 260 261 262
(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 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: 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 607  
Code that is not a minor drug possession offense, or felonious 608  
sexual penetration in violation of former section 2907.12 of the 609  
Revised Code; 610

(b) A violation of an existing or former law of this state, 611  
another state, or the United States that is substantially 612

equivalent to any of the offenses or violations described in 613  
division (B)(1)(a) of this section. 614

(2) A board, governing board of an educational service 615  
center, or a governing authority of a chartered nonpublic school 616  
may employ an applicant conditionally until the criminal records 617  
check required by this section is completed and the board or 618  
governing authority receives the results of the criminal records 619  
check. If the results of the criminal records check indicate that, 620  
pursuant to division (B)(1) of this section, the applicant does 621  
not qualify for employment, the board or governing authority shall 622  
release the applicant from employment. 623

(3) No board and no governing authority of a chartered 624  
nonpublic school shall employ a teacher who previously has been 625  
convicted of or pleaded guilty to any of the offenses listed in 626  
section 3319.31 of the Revised Code. 627

(C)(1) Each board and each governing authority of a chartered 628  
nonpublic school shall pay to the bureau of criminal 629  
identification and investigation the fee prescribed pursuant to 630  
division (C)(3) of section 109.572 of the Revised Code for each 631  
criminal records check conducted in accordance with that section 632  
upon the request pursuant to division (A)(1) of this section of 633  
the appointing or hiring officer of the board or governing 634  
authority. 635

(2) A board and the governing authority of a chartered 636  
nonpublic school may charge an applicant a fee for the costs it 637  
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 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 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 and the 850  
enactment of section 109.5721 of the Revised Code by Section 1 of 851  
this act shall take effect on August 15, 2007. 852

**Section 4.** Sections 1 to 3 of this act shall take effect July 853  
1, 2007. 854

**Section 5.** This act is hereby declared to be an emergency 855  
measure necessary for the immediate preservation of the public 856  
peace, health, and safety. The reason for such necessity is that 857  
the changes to the state's Sex Offender Registration and 858  
Notification Law made by this act are crucially needed to provide 859  
increased protection and security for the state's residents from 860

persons who have been convicted of, or found to be delinquent for 861  
committing, a sexually oriented offense or a child-victim oriented 862  
offense and to conform that Law by July 1, 2007, to recently 863  
enacted requirements of federal law. Therefore, this act shall go 864  
into immediate effect. 865