As Reported by the House Judiciary and Ethics Committee

129th General Assembly
Regular Session **Sub. S. B. No. 70**
2011-2012

Senator Schaffer

Cosponsors: Senators Hughes, Manning, Bacon, Balderson, Burke, Faber, Hite, Jones, Kearney, LaRose, Lehner, Oelslager, Patton, Peterson, Widener
Representatives Bubp, Conditt

A B I L L

To enact sections 2909.13, 2909.14, and 2909.15 of the Revised Code to establish a registry for arson offenders.

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

Section 1. That sections 2909.13, 2909.14, and 2909.15 of the Revised Code be enacted to read as follows:

Sec. 2909.13. As used in sections 2909.13 to 2909.15 of the Revised Code:

(A) "Arson-related offense" means any of the following violations or offenses committed by a person, regardless of the person's age:

(1) A violation of section 2909.02 or 2909.03 of the Revised Code;

(2) Any attempt to commit, conspiracy to commit, or complicity in committing either offense listed in division (A)(1) of this section.

(B) "Arson offender" means any of the following:

(1) A person who on or after the effective date of this section is convicted of or pleads guilty to an arson-related offense;

(2) A person who on the effective date of this section has been convicted of or pleaded guilty to an arson-related offense and is confined in a jail, workhouse, state correctional institution, or other institution, serving a prison term, term of imprisonment, or other term of confinement for the offense;

(3) A person who on or after the effective date of this section is charged with committing, attempting to commit, conspiring to commit, or complicity in committing a violation of section 2909.02 or 2909.03 of the Revised Code and who pleads guilty to a violation of any provision of Chapter 2909. of the Revised Code other than section 2909.02 or 2909.03 of the Revised Code.

(C) "Community control sanction," "jail," and "prison" have the same meanings as in section 2929.01 of the Revised Code.

(D) "Firefighter" has the same meaning as in section 4765.01 of the Revised Code.

(E) "Out-of-state arson offender" means a person who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a violation of any existing or former municipal ordinance or law of another state or the United States, or any existing or former law applicable in a military court or in an Indian tribal court, that is or was substantially equivalent to a violation of section 2909.02 or 2909.03 of the Revised Code.

(F) "Post-release control sanction" and "supervised release" have the same meanings as in section 2950.01 of the Revised Code.

Sec. 2909.14. (A) Each arson offender shall be provided notice of the arson offender's duty to register personally with

the sheriff of the county in which the arson offender resides or that sheriff's designee. The following persons shall provide the notice at the following times:

(1) On or after the effective date of this section, the official in charge of a jail, workhouse, state correctional institution, or other institution in which an arson offender is serving a prison term, term of imprisonment, or other term of confinement, or the official's designee, shall provide the notice to the arson offender before the arson offender is released pursuant to any type of supervised release or before the arson offender is otherwise released from the prison term, term of imprisonment, or other term of confinement.

(2) If an arson offender is sentenced on or after the effective date of this section for an arson-related offense and the judge does not sentence the arson offender to a prison term, term of imprisonment, or other term of confinement in a jail, workhouse, state correctional institution, or other institution for that offense, the judge shall provide the notice to the arson offender at the time of the arson offender's sentencing.

(B) The judge, official, or official's designee providing the notice under divisions (A)(1) and (2) of this section shall require the arson offender to read and sign a form stating that the arson offender has received and understands the notice. If the arson offender is unable to read, the judge, official, or official's designee shall inform the arson offender of the arson offender's duties as set forth in the notice and shall certify on the form that the judge, official, or official's designee informed the arson offender of the arson offender's duties and that the arson offender indicated an understanding of those duties.

(C) The attorney general shall prescribe the notice and the form provided under division (B) of this section. The notice shall

include notice of the arson offender's duties to reregister annually.

(D) The person providing the notice under division (B) of this section shall provide a copy of the notice and signed form to the arson offender. The person providing the notice also shall determine the county in which the arson offender intends to reside and shall provide a copy of the signed form to the sheriff of that county in accordance with rules adopted by the attorney general pursuant to Chapter 119. of the Revised Code.

Sec. 2909.15. (A) Each arson offender who has received notice pursuant to section 2909.14 of the Revised Code shall register personally with the sheriff of the county in which the arson offender resides or that sheriff's designee within the following time periods:

(1) An arson offender who receives notice under division (A)(1) of section 2909.14 of the Revised Code shall register within ten days after the arson offender is released from a jail, workhouse, state correctional institution, or other institution, unless the arson offender is being transferred to the custody of another jail, workhouse, state correctional institution, or other institution. The arson offender is not required to register with any sheriff or designee prior to release.

(2) An arson offender who receives notice under division (A)(2) of section 2909.14 of the Revised Code shall register within ten days after the sentencing hearing.

(B) Each out-of-state arson offender shall register personally with the sheriff of the county in which the out-of-state arson offender resides or that sheriff's designee within ten days after residing in or occupying a dwelling in this state for more than three consecutive days.

(C)(1) An arson offender or out-of-state arson offender shall register personally with the sheriff of the county in which the offender resides or that sheriff's designee. The registrant shall obtain from the sheriff or designee a copy of a registration form prescribed by the attorney general that conforms to division (C)(2) of this section, shall complete and sign the form, and shall return to the sheriff or designee the completed and signed form together with the identification records required under division (C)(3) of this section.

(2) The registration form to be used under division (C)(1) of this section shall include or contain all of the following for the arson offender or out-of-state arson offender who is registering:

(a) The arson offender's or out-of-state arson offender's full name and any alias used;

(b) The arson offender's or out-of-state arson offender's residence address;

(c) The arson offender's or out-of-state arson offender's social security number;

(d) Any driver's license number, commercial driver's license number, or state identification card number issued to the arson offender or out-of-state arson offender by this or another state;

(e) The offense that the arson offender or out-of-state arson offender was convicted of or pleaded guilty to;

(f) The name and address of any place where the arson offender or out-of-state arson offender is employed;

(g) The name and address of any school or institution of higher education that the arson offender or out-of-state arson offender is attending;

(h) The identification license plate number of each vehicle owned or operated by the arson offender or out-of-state arson

offender or registered in the arson offender's or out-of-state arson offender's name, the vehicle identification number of each vehicle, and a description of each vehicle;

(i) A description of any scars, tattoos, or other distinguishing marks on the arson offender or out-of-state arson offender;

(j) Any other information required by the attorney general.

(3) The arson offender or out-of-state arson offender shall provide fingerprints and palm prints at the time of registration. The sheriff or sheriff's designee shall obtain a photograph of the arson offender or out-of-state arson offender at the time of registration.

(D)(1) Each arson offender or out-of-state arson offender shall reregister annually, in person, with the sheriff of the county in which the offender resides or that sheriff's designee within ten days of the anniversary of the calendar date on which the offender initially registered. The registrant shall reregister by completing, signing, and returning to the sheriff or designee a copy of the registration form prescribed by the attorney general and described in divisions (C)(1) and (2) of this section, amending any information required under division (C) of this section that has changed since the registrant's last registration, and providing any additional registration information required by the attorney general. The sheriff or designee with whom the arson offender or out-of-state arson offender reregisters shall obtain a new photograph of the offender annually when the offender reregisters. Additionally, if the arson offender's or out-of-state arson offender's most recent registration or reregistration was with a sheriff or designee of a sheriff of a different county, the offender shall provide written notice of the offender's change of residence address to that sheriff or a designee of that sheriff.

(2)(a) Except as provided in division (D)(2)(b) of this section, the duty of an arson offender or out-of-state arson offender to reregister annually shall continue until the offender's death.

(b) The judge may limit an arson offender's duty to reregister at an arson offender's sentencing hearing to not less than ten years if the judge receives a request from the prosecutor and the investigating law enforcement agency to consider limiting the arson offender's registration period.

(3) The official in charge of a jail, workhouse, state correctional institution, or other institution shall notify the attorney general in accordance with rules adopted by the attorney general pursuant to Chapter 119. of the Revised Code if a registered arson offender or out-of-state arson offender is confined in the jail, workhouse, state correctional institution, or other institution.

(E)(1) After an arson offender or out-of-state arson offender registers or reregisters with a sheriff or a sheriff's designee pursuant to this section, the sheriff or designee shall forward the offender's signed, written registration form, photograph, fingerprints, palm prints, and other materials to the bureau of criminal identification and investigation in accordance with forwarding procedures adopted by the attorney general under division (G) of this section. The bureau shall include the information and materials forwarded to it under this division in the registry of arson offenders and out-of-state arson offenders established and maintained under division (E)(2) of this section.

(2) The bureau of criminal identification and investigation shall establish and maintain a registry of arson offenders and out-of-state arson offenders that includes the information and materials the bureau receives pursuant to division (D)(1) of this section. The bureau shall make the registry available to the fire

marshal's office, to state and local law enforcement officers, and to any firefighter who is authorized by the chief of the agency the firefighter serves to review the record through the Ohio law enforcement gateway or its successor. The registry of arson offenders and out-of-state arson offenders maintained by the bureau is not a public record under section 149.43 of the Revised Code.

(F) Each sheriff or sheriff's designee with whom an arson offender or out-of-state arson offender registers or reregisters under this section shall collect a registration fee of fifty dollars and an annual reregistration fee of twenty-five dollars from each arson offender or out-of-state arson offender who registers or reregisters with the sheriff or designee. By the last day of March, the last day of June, the last day of September, and the last day of December in each year, each sheriff who collects or whose designee collects any fees under this division in the preceding three-month period shall send to the attorney general the fees collected during that period. The fees shall be used for the maintenance of the registry of arson offenders and out-of-state arson offenders. A sheriff or designee may waive a fee for an indigent arson offender or out-of-state arson offender.

(G) The attorney general shall prescribe the forms to be used by arson offenders and out-of-state arson offenders to register, reregister, and provide notice of a change of residence address under divisions (A) to (D) of this section. The attorney general shall adopt procedures for sheriffs to use to forward information, photographs, fingerprints, palm prints, and other materials to the bureau of criminal identification and investigation pursuant to division (E)(1) of this section.

(H) Whoever fails to register or reregister as required by this section is guilty of a felony of the fifth degree. If the violation occurs while the person is under eighteen years of age,

the person is subject to proceedings under Chapter 2152. of the Revised Code based on the violation. If an arson offender or out-of-state arson offender is subject to a community control sanction, is on parole, is subject to one or more post-release control sanctions, or is subject to any other type of supervised release at the time of the violation, the violation shall constitute a violation of the terms and conditions of the community control sanction, parole, post-release control sanction, or other type of supervised released.

Section 2. Section 1 of this act shall take effect on January 1, 2013.