



H.B. 57

127th General Assembly
(As Introduced)

Reps. Combs, J. McGregor, Fessler, Setzer, Jones, Adams, D. Stewart, Collier

BILL SUMMARY

- Requires the sheriff with whom an offender or delinquent child has most recently registered under the SORN Law and the sheriff to whom the offender or delinquent child most recently sent a notice of intent to reside under that Law to provide written notice that includes specified information about the offender or delinquent child to the manager of a long-term care facility where the offender or delinquent child will reside or that is located within the specified geographical notification area and within the county served by the sheriff.
- Requires the manager of a long-term care facility to provide a copy of the notice described in the preceding dot point to all residents of the facility and to the sponsor of each of those residents.
- Directs the Department of Aging to compile, maintain, and update twice a year a list of all long-term care facilities that contains the name of each long-term care facility, the county in which it is located, its address and telephone number, and the name of the facility's manager and requires the Department to provide the list, upon request, to the sheriff who is required to provide community notification.

CONTENT AND OPERATION

Community notification of certain sex offenders and child-victim offenders

Current law

The current Sex Offender Registration and Notification Law ("SORN Law") requires community notification for the following three classifications of offenders (R.C. 2950.11(A) and (F)):

(1) Sexual or child-victim predators, provided that a court has not subsequently determined that a delinquent child is no longer a sexual or child-victim predator;

(2) Habitual sex offenders or habitual child-victim offenders if a court requires community notification and a court has not subsequently determined that a delinquent child is no longer a habitual sex offender or habitual child-victim offender;

(3) An offender who is required to register under the SORN Law because of a conviction or guilty plea to an aggravated sexually oriented offense.

The notice includes the offender's or delinquent child's name; address of residence, school, institution of higher education, or place of employment; the offense the offender or delinquent child committed; a statement that either the offender or delinquent child currently is adjudicated a sexual predator or child-victim predator or currently is determined to be a habitual sex offender or habitual child-victim offender; and the offender's or delinquent child's photograph.¹

The sheriff with whom the offender or delinquent child has most recently registered under the SORN Law and the sheriff to whom the offender or delinquent child most recently sent a notice of intent to reside under that Law must provide the written notice to all of the following persons if they are located in the sheriff's county (R.C. 2950.11(A)):

(1) All occupants of residences within 1,000 feet of, or in the same building as, the offender's or delinquent child's place of residence and all additional neighbors of the offender or delinquent child who are in any category that the Attorney General by rule requires to be provided the notice;

(2) Specified public children services agency officials;

(3) Specified school district, school, and chartered nonpublic school officials, including the principal of the school or the appointing or hiring authority of each chartered nonpublic school that the delinquent child attends;

(4) Specified preschool and child and family day-care officials;

(5) Specified institution of higher education officials;

(6) The sheriffs of specified adjoining counties;

¹ For a juvenile offender, the notification only includes residential addresses and not addresses of employment or school.

(7) The chief of police, marshal, or other chief law enforcement officer of the municipality in which the offender or delinquent child resides or, if the offender or delinquent child resides in an unincorporated area, the constable or police chief of the township in which the offender or delinquent child resides.

The bill

The bill additionally requires the sheriff with whom the offender or delinquent child has most recently registered under the SORN Law and the sheriff to whom the offender or delinquent child most recently sent a notice of intent to reside under that Law to provide the written notice to the manager of a long-term care facility where the offender or delinquent child will reside or that is located within the specified geographical notification area and within the county served by the sheriff. The manager is required to provide a copy of the notice to all residents of the facility and to the sponsor of each of those residents. The manager and facility are generally immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by an act or omission in connection with this notification duty.² (R.C. 2950.11(A)(9) and 2950.12(A)(8).)

The notice must be provided in the same manner and within the same period of time as under existing law (R.C. 2950.11(C) and (D)).

The bill additionally directs the Department of Aging to compile, maintain, and update in January and July of each year, a list of all long-term care facilities that contains the name of each long-term care facility, the county in which it is located, its address and telephone number, and the name of the facility's manager. The sheriff who is required to provide community notification may request this information from the Department of Aging, and the Department must provide the information to the sheriff. (R.C. 2950.11(G).)

The bill defines the following terms for use in the SORN Law (R.C. 2950.01(CC)):

"Long-term care facility" includes any residential facility that provides personal care services for more than 24 hours for two or more unrelated adults, including all of the following (R.C. 2950.01(CC), referencing R.C. 173.14(A), *not in the bill*):

² Immunity does not apply if, in relation to the act or omission in question, any of the following apply: (1) the act or omission was manifestly outside the scope of the person's employment or official responsibilities, (2) the act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner, or (3) liability for the act or omission is expressly imposed by a section of the Revised Code (R.C. 2950.12(B)).

(1) A "nursing home," "residential care facility," or "home for the aging" as defined in R.C. 3721.01;

(2) A facility authorized to provide extended care services under Title XVIII of the Social Security Act;

(3) A county home or district home operated pursuant to R.C. Chapter 5155.;

(4) An "adult care facility," as defined in R.C. 3722.01;

(5) A facility approved by the Veterans Administration and used exclusively for the placement and care of veterans;

(6) An adult foster home certified under R.C. 173.36.

"Long-term care facility" does not include a "residential facility," as defined in R.C. 5119.22, or a "residential facility," as defined in R.C. 5123.19.

"Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient (R.C. 2950.01(CC), referencing R.C. 173.14(E), *not in the bill*).

The following terms are relevant to the definition of sponsor:

"Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility (R.C. 173.14(B), *not in the bill*).

"Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services (R.C. 173.14(D), *not in the bill*).

"Specified geographical notification area" means the school district, as classified and defined in RC. Chapter 3311., within which the person who is subject to community notification, resides, is employed, or attends a school or institution of higher education (O.A.C. 109:5-2-03, promulgated pursuant to R.C. 2950.13(A)(10)).

Other existing definitions

"Child-victim oriented offense" means any of the following (R.C. 2950.01(S)):

(1)(a) Subject to paragraph (2) below, any of the following violations or offenses committed by a person 18 years of age or older, when the victim of the

violation is under 18 years of age and is not a child of the person who commits the violation:

(i) A violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping), R.C. 2905.02 (abduction), 2905.03 (unlawful restraint), or 2905.05 (criminal child enticement), or former R.C. 2905.04 (child stealing);

(ii) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in paragraph (1)(a)(i) above;

(iii) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1)(a)(i) or (ii) above.

(b) Subject to paragraph (2) below, an act committed by a person under 18 years of age that is any of the following, when the victim of the violation is under 18 years of age and is not a child of the person who commits the violation:

(i) Subject to paragraph (1)(b)(iv), a violation of R.C. 2905.01(A)(1), (2), (3), or (5) or of former R.C. 2905.04;

(ii) Subject to paragraph (1)(b)(iv) below, any violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in paragraph (1)(b)(i) above and that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(iii) Subject to paragraph (1)(b)(iv) below, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1)(b)(i) or (ii) above;

(iv) If the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in paragraph (1)(a)(i), (ii), or (iii) above or would be any offense listed in any of those paragraphs if committed by an adult.

(2) "Child-victim oriented offense" does not include any offense identified in paragraph (1)(a) or (b) above that is a sexually violent offense. An offense identified in paragraph (1)(a) or (b) above that is a sexually violent offense is within the definition of a sexually oriented offense.

"Child-victim predator" means a person to whom either of the following applies (R.C. 2950.01(U)):

(1) The person has been convicted of or pleaded guilty to committing a child-victim oriented offense and is likely to engage in the future in one or more child-victim oriented offenses.

(2) The person has been adjudicated a delinquent child for committing a child-victim oriented offense, was 14 years of age or older at the time of committing the offense, was classified a juvenile offender registrant based on that adjudication, and is likely to engage in the future in one or more child-victim oriented offenses.

"Habitual child-victim offender" means, except when a juvenile judge removes this classification pursuant to R.C. 2152.84(A)(2) or 2152.85(C)(2), a person to whom both of the following apply (R.C. 2950.01(T)):

(1)(a) The person is convicted of or pleads guilty to a child-victim oriented offense, or the person is adjudicated a delinquent child for committing on or after January 1, 2002, a child-victim oriented offense, was 14 years of age or older at the time of committing the offense, and is classified a juvenile offender registrant based on that adjudication.

(b) One of the following applies to the person:

(i) Regarding a person who is an offender, the person previously was convicted of or pleaded guilty to one or more child-victim oriented offenses or previously was adjudicated a delinquent child for committing one or more child-victim oriented offenses and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications, regardless of when the offense was committed and regardless of the person's age at the time of committing the offense.

(ii) Regarding a delinquent child, the person previously was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing one or more child-victim oriented offenses, regardless of when the offense was committed and regardless of the person's age at the time of committing the offense.

(2) "Habitual child-victim offender" includes a person who has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing, a child-victim oriented offense and who, on and after July 31, 2003, is automatically classified a habitual child-victim offender pursuant to R.C. 2950.091(E).

"Habitual sex offender" means, except when a juvenile judge removes this classification pursuant to R.C. 2152.84(A)(2) or 2152.85(C)(2), a person to whom both of the following apply (R.C. 2950.01(B)):

(1) The person is convicted of or pleads guilty to a sexually oriented offense that is not a registration-exempt sexually oriented offense, or the person is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense that is not a registration-exempt sexually oriented offense, was 14 years of age or older at the time of committing the offense, and is classified a juvenile sex offender registrant based on that adjudication.

(2) One of the following applies to the person:

(a) Regarding a person who is an offender, the person previously was convicted of or pleaded guilty to one or more sexually oriented offenses or child-victim oriented offenses or previously was adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications, regardless of when the offense was committed and regardless of the person's age at the time of committing the offense.

(b) Regarding a delinquent child, the person previously was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses, regardless of when the offense was committed and regardless of the person's age at the time of committing the offense.

"Presumptive registration-exempt sexually oriented offense" means any of the following sexually oriented offenses when the offense is committed by a person who previously has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing any of these sexually oriented offenses, any other sexually oriented offense, or any child-victim oriented offense and when the victim or intended victim of the offense is 18 years of age or older (R.C. 2950.01(P)):

(1)(a) Any sexually oriented offense listed in R.C. 2950.01(D)(1)(e) or (D)(2)(f) committed by a person who is 18 years of age or older or, subject to division paragraph (1)(e), below, committed by a person who is under 18 years of age;

(b) Any violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any



existing or former law of any nation other than the United States that is committed by a person who is 18 years of age or older and that is or was substantially equivalent to any sexually oriented offense listed in paragraph (1)(a), above;

(c) Subject to paragraph (1)(e), any violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is committed by a person who is under 18 years of age, that is or was substantially equivalent to any sexually oriented offense listed in paragraph (1)(a), and that would be a felony of the fourth degree if committed by an adult;

(d) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1)(a) or (b), above, if the person is 18 years of age or older or, subject to paragraph (1)(e), listed in paragraph (1)(a) or (b) if the person is under 18 years of age;

(e) Regarding an act committed by a person under 18 years of age, if the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any sexually oriented offense listed in paragraphs (1)(a), (b), (c), or (d).

(2) "Presumptive registration-exempt sexually oriented offense" does not include any sexually oriented offense described in paragraph (1)(a), (b), (c), (d), or (e) that is committed by a person who previously has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing any sexually oriented offense described in paragraph (1)(a), (b), (c), (d), or (e) or any other sexually oriented offense.

"Registration-exempt sexually oriented offense" means any presumptive registration-exempt sexually oriented offense, if a court does not issue an order under R.C. 2950.021 that removes the presumptive exemption and subjects the offender who was convicted of or pleaded guilty to the offense to registration under R.C. 2950.04 and all other duties and responsibilities generally imposed under R.C. Chapter 2950. upon persons who are convicted of or plead guilty to any sexually oriented offense other than a presumptive registration-exempt sexually oriented offense or that removes the presumptive exemption and potentially subjects the child who was adjudicated a delinquent child for committing the offense to classification as a juvenile offender registrant (R.C. 2950.01(Q)(1)).

"Registration-exempt sexually oriented offense" does not include a presumptive registration-exempt sexually oriented offense if a court issues an order under R.C. 2950.021 that removes the presumptive exemption and subjects

the offender or potentially subjects the delinquent child to the duties and responsibilities described in the preceding paragraph (R.C. 2950.01(Q)(2)).

"Sexually oriented offense" means any of the following (R.C. 2950.01(D)):

(1) Any of the following violations or offenses committed by a person 18 years of age or older:

(a) Regardless of the age of the victim of the offense, a violation of R.C. 2907.02 (rape), 2907.03 (sexual battery), 2907.05 (gross sexual imposition), or 2907.07 (importuning);

(b) Any of the following offenses involving a minor, in the circumstances specified:

(i) A violation of R.C. 2905.01(A)(4) (kidnapping to engage in sexual activity with the victim against the victim's will), R.C. 2907.04 (unlawful sexual conduct with a minor), 2907.06 (sexual imposition), or 2907.08 (voyeurism), when the victim of the offense is under 18 years of age;

(ii) A violation of R.C. 2907.21 (compelling prostitution) when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age;

(iii) A violation of R.C. 2907.321(A)(1) (pandering obscenity involving a minor when the offender creates, reproduces, or publishes any obscene material that has a minor as one of its participants or portrayed observers), 2907.321(A)(3) (pandering obscenity involving a minor when the offender creates, directs, or produces an obscene performance that has a minor as one of its participants), 2907.322(A)(1) (pandering sexually oriented matter involving a minor when the offender creates, records, photographs, films, develops, reproduces, or publishes any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality), or 2907.322(A)(3) (pandering sexually oriented matter involving a minor when the offender creates, directs, or produces a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality);

(iv) A violation of R.C. 2907.323(A)(1) or (2) (illegal use of a minor in a nudity-oriented material or performance in specified circumstances);

(v) A violation of R.C. 2919.22(B)(5) (child endangering when the offender entices, coerces, permits, encourages, compels, hires, employs, uses, or allows a child under 18 years of age or a mentally or physically handicapped child under 21 years of age to act, model, or in any other way participate in, or be

photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter) when the child who is involved in the offense is under 18 years of age;

(vi) A violation of R.C. 2905.01(A)(1), (2), (3), or (5) (kidnapping), 2903.211 (menacing by stalking), 2905.02 (abduction), 2905.03 (unlawful restraint), or 2905.05 (criminal child enticement), or of former R.C. 2905.04 (child stealing), when the victim of the offense is under 18 years of age and the offense is committed with a sexual motivation.

(c) Regardless of the age of the victim of the offense, a violation of R.C. 2903.01 (aggravated murder), 2903.02 (murder), 2903.11 (felonious assault), 2905.01 (kidnapping) or R.C. 2903.04(A) (involuntary manslaughter in specified circumstances), that is committed with a sexual motivation;

(d) A violent sex offense, or a designated homicide, assault, or kidnapping offense if the offender also was convicted of or pleaded guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging the designated homicide, assault, or kidnapping offense;

(e) A violation of R.C. 2907.06 (sexual imposition) or 2907.08 (voyeurism) when the victim of the offense is 18 years of age or older, or a violation of R.C. 2903.211 (menacing by stalking) when the victim of the offense is 18 years of age or older and the offense is committed with a sexual motivation;

(f) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in paragraph (1)(a), (b), (c), (d), or (e) above;

(g) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1)(a), (b), (c), (d), (e), or (f) above.

(2) An act committed by a person under 18 years of age that is any of the following:

(a) Subject to paragraph (2)(i) below, regardless of the age of the victim of the violation, a violation of R.C. 2907.02, 2907.03, 2907.05, or 2907.07;

(b) Subject to paragraph (2)(i) below, any of the following acts involving a minor in the circumstances specified:

(i) A violation of R.C. 2905.01(A)(4) or R.C. 2907.06 or 2907.08 when the victim of the violation is under 18 years of age;

(ii) A violation of R.C. 2907.21 when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under 18 years of age;

(iii) A violation of R.C. 2919.22(B)(5) when the child who is involved in the violation is under 18 years of age;

(iv) A violation of R.C. 2905.01(A)(1), (2), (3), or (5), R.C. 2903.211, or former R.C. 2905.04, when the victim of the violation is under 18 years of age and the offense is committed with a sexual motivation.

(c) Subject to paragraph (2)(i) below, any of the following:

(i) Any violent sex offense that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(ii) Any designated homicide, assault, or kidnapping offense if that offense, if committed by an adult, would be a felony of the first, second, third, or fourth degree and if the court determined that, if the child was an adult, the child would be guilty of a sexual motivation specification regarding that offense.

(d) Subject to paragraph (2)(i) below, a violation of R.C. 2903.01, 2903.02, 2903.11, 2905.01, or 2905.02, a violation of R.C. 2903.04(A), or an attempt to violate any of those sections or that division that is committed with a sexual motivation;

(e) Subject to paragraph (2)(i) below, a violation of R.C. 2907.321(A)(1) or (3), 2907.322(A)(1) or (3), or 2907.323(A)(1) or (2), or an attempt to violate any of those divisions, if the person who violates or attempts to violate the division is four or more years older than the minor who is the victim of the violation;

(f) Subject to paragraph (2)(i) below, a violation of R.C. 2907.06 or 2907.08 when the victim of the violation is 18 years of age or older, or a violation of R.C. 2903.211 when the victim of the violation is 18 years of age or older and the offense is committed with a sexual motivation;

(g) Subject to paragraph (2)(i) below, any violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the



United States, that is or was substantially equivalent to any offense listed in paragraph (2)(a), (b), (c), (d), (e), or (f) above and that, if committed by an adult, would be a felony of the first, second, third, or fourth degree;

(h) Subject to paragraph (2)(i) below, any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (2)(a), (b), (c), (d), (e), (f), or (g) above;

(i) If the child's case has been transferred for criminal prosecution under R.C. 2152.12, the act is any violation listed in paragraph (1)(a), (b), (c), (d), (e), (f), or (g) above or would be any offense listed in any of those paragraphs if committed by an adult.

"Sexual predator" means a person to whom either of the following applies (R.C. 2950.01(E)):

(1) The person has been convicted of or pleaded guilty to committing a sexually oriented offense that is not a registration-exempt sexually oriented offense and is likely to engage in the future in one or more sexually oriented offenses.

(2) The person has been adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense, was 14 years of age or older at the time of committing the offense, was classified a juvenile offender registrant based on that adjudication, and is likely to engage in the future in one or more sexually oriented offenses.

HISTORY

ACTION	DATE
Introduced	02-21-07

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