



H.B. 343

127th General Assembly
(As Introduced)

**Reps. Bacon, Patton, Combs, Harwood, Fende, Stebelton, Jones, Fessler,
Latta, Webster**

BILL SUMMARY

- Requires that any hearing held on a motion for judicial release be held not less than 30 days or more than 60 days after the date on which the motion is filed, requires a prosecuting attorney who receives notice that a court has scheduled a judicial release hearing with respect to an offense of violence that is a felony of the first, second, or third degree to send written notice to the victim or the victim's representative of the hearing regardless of whether they requested notification, and requires the prosecuting attorney to send written notice of any judicial release to the victim or the victim's representative.
- Revises the Crime Victims Rights Law by: (1) providing that, if a defendant is incarcerated for an offense of violence that is a felony of the first, second, or third degree or a juvenile offender has been charged with such an act, the notices that a prosecutor must give to a victim regarding a hearing for judicial release and regarding a hearing to be conducted under the Sexually Violent Predator Sentencing Law to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, etc., and the notices that a custodial agency must give to a victim must be given regardless of whether the victim requested notice, (2) requiring the custodial agency to give similar notice to the prosecutor, the sentencing court, the law enforcement agency that arrested the defendant or juvenile offender, and any other person who requests notification, (3) requiring a custodial agency to keep a record of notices sent pursuant to that Law, and (4) requiring a custodial agency to give the victim some of the notices it must provide under that Law at least 60 days before the event about which the notice is given.

- Requires the Adult Parole Authority (the APA) to adopt rules providing for a victim conference prior to a parole hearing for a prisoner incarcerated for an offense of violence that is a felony of the first, second, or third degree and requires the rules to provide for at least the following: (1) attendance by the victim, family members, the victim's representative, and, if practicable, other individuals, (2) allotment of at least one hour for the conference, (3) the order of priority in which persons may speak and permission for any person to speak if time allows, (4) attendance by the news media upon request of the victim, family members, the victim's representative, or a victims'-rights advocate, and (5) recording of the conference.
- Requires the APA to provide notices to a prosecuting attorney, judge, and victim or victim's representative of its recommendation of a pardon or commutation of sentence, or its granting of a parole, at least 60 days before the event and specifies that, if a defendant is incarcerated for an offense of violence that is a felony of the first, second, or third degree, those notices must be given regardless of whether the victim requested notice.
- Requires the APA to notify the prosecutor at least two weeks prior to the release of a convict serving a sentence of life imprisonment from confinement in any state correctional institution pursuant to a pardon, commutation of sentence, parole, or completed prison term and requires notice to the prosecutor of the actual release pursuant to a pardon, commutation of sentence, parole, or completed prison term of a convict serving a sentence for committing a felony of the first, second, or third degree or serving a sentence of life imprisonment.
- Changes the period of time within which the APA must provide notice to a court of the pendency of the transfer of a prisoner to transitional control, must notify a victim prior to transferring a prisoner to transitional control, and must post on its Database a pending transfer of a prisoner to transitional control, so that the notices must be given at least 60 days prior to the event about which the notice is given, and specifies that, if a prisoner is incarcerated for an offense of violence that is a felony of the first, second, or third degree, the notices to a victim of the APA's upcoming transfer of a prisoner to transitional control must be given regardless of whether the victim requested notice.

- Expands the categories of prisoners for whom post-release control is mandatory upon release and modifies the duration of the periods of mandatory post-release control and specifies that at least 30 days before the prisoner is released from imprisonment the Department of Rehabilitation and Correction (DRC) must send notice to the victim, the victim's family, the prosecuting attorney, the law enforcement agency that arrested the prisoner, and any other person who requests notification of the date on which the prisoner will be released, the period for which the prisoner will be under parole or post-release control supervision, and the terms and conditions of the parole or post-release control.
- Changes the period of time within which DRC must include on its Internet Database information regarding an upcoming recommendation by the APA of a pardon or commutation of sentence for an inmate, an upcoming parole hearing for an inmate before the APA, or an upcoming transitional control hearing for an inmate, so that the information must be included at least 60 days before the recommendation or hearing, and specifies that, for ten years after the final discharge of an inmate who was imprisoned for an offense of violence that is a felony of the first, second, or third degree, DRC must keep on the Database all the information that it is required to include on the Database relative to the inmate.
- Requires DRC, at the end of each quarter, to submit to the chairpersons of the committees of the Senate and the House of Representatives that consider criminal justice legislation a report on the number and results of parole hearings conducted during the quarter and a list of persons incarcerated for committing offenses of violence who were granted parole and a summary of the terms and conditions of their parole and, upon request, to provide a detailed statement, supported by documentation, of the reasons why a particular prisoner was granted parole to the law enforcement agency that arrested the prisoner, the prosecuting attorney, or any member of the General Assembly.
- Specifies that Parole Board-related rules adopted by the Chief of the APA must prohibit the Board from considering sentences in effect on and after July 1, 1996, in making determinations relative to the release of an inmate who is imprisoned for an offense committed before July 1, 1996.
- Permits a victim of an offense of violence that is a felony of the first, second, or third degree (aggravated murder or murder under existing

law), the victim's representative, or the spouse, parent or parents, sibling, or child or children of the victim to request the Parole Board to hold a full Board hearing that relates to the proposed parole or re-parole of the person that committed the violation, specifies that at least 30 days before a full Board hearing the Board must send notice of the date, time, and place of the hearing to the victim, the victim's family, the prosecuting attorney, and the law enforcement agency that arrested the prisoner, and specifies that, if the victim of the original offense died as a result of the offense and the offense was an offense of violence that is a felony of the first, second, or third degree, the family of the victim may show at a full Board hearing a video recording not exceeding five minutes in length memorializing the victim.

- Specifies that its victim notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding a pending commutation of sentence, parole, or transitional control, regarding post-release control, and regarding full Board hearings of the Parole Board, all as described above, are to be known as "Roberta's Law."
- Expands the offense of "voluntary manslaughter" to also prohibit a person from engaging with a sexual motivation in any of the conduct currently prohibited under the offense.
- Provides that "voluntary manslaughter" when committed with a sexual motivation is a sexually oriented offense for purposes of the Sex Offender Registration and Notification Law and that an offender who commits, attempts or conspires to commit, or engages in complicity in committing the offense with a sexual motivation is a Tier III sex offender/child-victim offender.
- Specifies that a child who is adjudicated a delinquent child for committing "voluntary manslaughter" with a sexual motivation, or an attempt to commit, conspiracy to commit, or complicity in committing that offense with such a motivation, is a public registry-qualified juvenile offender registrant if the juvenile court imposes a serious youthful offender dispositional sentence on the child, the child was 14, 15, 16, or 17 years of age at the time of committing the act, and the juvenile court classifies the child a juvenile offender registrant.
- Declares an emergency.

TABLE OF CONTENTS

Judicial release.....	6
Existing law	6
Operation of the bill.....	7
Crime Victims Rights Law	8
Existing law	8
Operation of the bill.....	10
Adult Parole Authority rules--victim conference prior to a parole hearing	12
Adult Parole Authority recommendations for pardon or commutation of sentence, or grant of parole	13
Existing law	13
Operation of the bill.....	14
Release from confinement of a convict serving a prison term for a serious felony.....	15
Existing law	15
Operation of the bill.....	15
Transitional control program.....	16
Existing law	16
Operation of the bill.....	17
Post-release control.....	18
Existing law	18
Operation of the bill.....	19
Department of Rehabilitation and Correction Internet Database	19
Existing law	19
Operation of the bill.....	21
Parole-related reports by the Department of Rehabilitation and Correction.....	21
Restriction on Parole Board's consideration of post-July 1, 1996, sentences in making release decisions for prisoner under a sentence for a pre-July 1, 1996, crime	22
Full hearings of the Parole Board.....	22
Existing law	22
Operation of the bill.....	23
Voluntary manslaughter--new prohibition when involving sexual motivation	24
Existing law	24
Operation of the bill.....	24
Sex Offender Registration and Notification Law--inclusion of voluntary manslaughter committed with a sexual motivation as a sexually oriented offense under the Law and related changes.....	24
SORN Law background	24
Sexually oriented offense	27
Tier III sex offender/child-victim offender	29

Public registry-qualified juvenile offender registrant	32
Classification of certain juvenile offender registrants as public registry-qualified juvenile offenders	33

CONTENT AND OPERATION

Judicial release

Existing law

Existing law provides that, upon the filing of a motion by an "eligible offender" or upon its own motion, a sentencing court may reduce the stated prison term of an "eligible offender" through a judicial release. Existing law specifies periods of time that must expire, after an eligible offender begins serving his or her sentence, before the eligible offender may file a motion for judicial release. The periods of time vary with the offense for which the offender is serving the prison term. "Eligible offender" means any person serving a stated prison term of ten years or less when either the stated prison term does not include a mandatory prison term, or the stated prison term includes a mandatory prison term, and the person has served the mandatory prison term.

Upon receipt of a timely motion for judicial release filed by an eligible offender or upon its own motion, the court may schedule a hearing on the motion. The court may deny the motion without a hearing but cannot grant the motion without a hearing. If a court denies a motion without a hearing, it may consider a subsequent judicial release for that eligible offender. If a court denies a motion after a hearing, it cannot consider a subsequent motion for that eligible offender. A court may hold only one hearing for any eligible offender. A hearing must be conducted in open court within 60 days after the date on which the motion is filed, provided that the court may delay the hearing for a period not to exceed 180 additional days. If the court holds a hearing, it must enter a ruling on the motion within ten days after the hearing, and, if it denies the motion without a hearing, it must enter its ruling within 60 days after the motion is filed.

If a court schedules a judicial release hearing, it must notify the eligible offender and the head of the state correctional institution in which the offender is confined of the hearing prior to the hearing. The head of the institution immediately must notify the appropriate person at the Department of Rehabilitation and Correction (DRC) of the hearing, and the Department within 24 hours after receipt of the notice, must post on its Database the offender's name and specified information. If the court schedules a judicial release hearing, it promptly must give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted. Upon receipt of the notice from the court, the

prosecuting attorney must notify the victim of the offense for which the stated prison term was imposed or the victim's representative of the hearing.

Existing law specifies procedures that govern judicial release hearings. If a court grants a motion for judicial release to any eligible offender, it must order the release of the offender, place the offender under appropriate community control sanctions, appropriate community control conditions, and the supervision of the department of probation serving the court, and reserve the right to reimpose the sentence it reduced under the judicial release if the offender violates the sanction. The period of the community control sanction may be no longer than five years. If a court grants a motion for judicial release, it must notify the appropriate person at DRC of the judicial release, and DRC must post notice of the release on its Database maintained pursuant to R.C. 5120.66.

In addition to and independent of the right of a victim to make a statement pursuant to the Crime Victims Rights Law and any right of a person to present written information or make a statement under the judicial release provisions, any person may submit to the court, at any time prior to the hearing on the offender's motion for judicial release, a written statement concerning the effects of the offender's crime or crimes, the circumstances surrounding the crime or crimes, the manner in which the crime or crimes were perpetrated, and the person's opinion as to whether the offender should be released. (R.C. 2929.20.)

Operation of the bill

The bill modifies the time within which a court that opts to conduct a judicial release hearing must conduct the hearing. Under the bill, if a court that receives a timely motion for judicial release filed by an eligible offender or that itself makes a timely motion for judicial release schedules a hearing on the motion, the hearing must be conducted in open court not less than 30 days or more than 60 days after the date on which the motion is filed. As under existing law, the court may delay the hearing for a period not to exceed 180 additional days. (R.C. 2929.20(C).)

The bill also imposes two new victim notification duties on prosecuting attorneys relative to judicial releases, as follows:

(1) Under the bill, when a prosecuting attorney receives notice from a court that the court has scheduled a judicial release hearing, if the offense was an "offense of violence" (see **COMMENT 1**) that is a felony of the first, second, or third degree, the prosecuting attorney must send written notice to the victim or the victim's representative of the hearing regardless of whether the victim or the victim's representative requested notification pursuant to any section of the Revised Code and, if the victim or victim's representative has not provided the

prosecuting attorney with a mailing address, attempt to identify a mailing address for the victim or the victim's representative and send the written notice to that address. The bill specifies that this provision, the bill's notice-related provisions described in the next paragraph, and the bill's notice-related provisions of R.C. 2930.16(D)(1), 2967.12(H), 2967.26(A)(3)(b), 2967.28(D)(1), and 5149.101(A)(2) are to be known as "Roberta's Law." (R.C. 2929.20(D).)

(2) Under the bill, if a court grants a motion for judicial release, the prosecuting attorney must send written notice of the judicial release to the victim or the victim's representative at the address provided by the victim or victim's representative pursuant to any section of the Revised Code or the address to which the prosecuting attorney sent notice of the hearing pursuant to the bill's provision described in the preceding paragraph (R.C. 2929.20(I)).

Crime Victims Rights Law

Existing law

Notices to a victim--offender's confinement, release, and related matters.

Existing R.C. Chapter 2930. sets forth the state's Crime Victims Rights Law. Among the provisions of that Law are the following provisions that specify certain notices that must be given in specified circumstances to the "victim" of a "crime" (see **COMMENT 2** for definitions of the terms in quotation marks) (R.C. 2930.16):

(1) If a defendant is incarcerated, a victim in a case who has requested to receive notice (see "**Request by victim**," below) must be given notice of the incarceration of the defendant. If an alleged juvenile offender is committed to the temporary custody of a school, camp, institution, or other facility operated for the care of delinquent children or to the legal custody of the Department of Youth Services (DYS), a victim in a case who has requested to receive notice must be given notice of the commitment. Promptly after sentence is imposed upon the defendant or the commitment of the alleged juvenile offender is ordered, the "prosecutor" must notify the victim of the date on which the defendant will be released from confinement or the prosecutor's reasonable estimate of that date or the date on which the alleged juvenile offender will have served the minimum period of commitment or the prosecutor's reasonable estimate of that date. The prosecutor also must notify the victim of the name of the custodial agency of the defendant or alleged juvenile offender and tell the victim how to contact that custodial agency. If the custodial agency is DRC, the prosecutor must notify the victim of the services offered by the Office of Victims' Services. If the custodial agency is DYS, the prosecutor must notify the victim of the services provided by the Office of Victims' Services within DYS's release authority and the victim's right to submit a written request to the release authority to be notified of actions

the release authority takes with respect to the alleged juvenile offender. The victim must keep the custodial agency informed of the victim's current address and telephone number.

(2) Upon the victim's request, the prosecutor promptly must notify the victim of any hearing for judicial release of the defendant or of any hearing for judicial release or early release of the alleged juvenile offender and of the victim's right to make a statement with respect to such a release. The court must notify the victim of its ruling in each of those hearings and on each of those applications.

(3) If an offender is sentenced to a prison term pursuant to the state's Sexually Violent Predator Sentencing Law, upon the request of the victim of the crime, the prosecutor promptly must notify the victim of any hearing to be conducted pursuant to that Law to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term in accordance with that Law. The court must notify the victim of any order issued at the conclusion of the hearing.

(4) Upon the victim's request made at any time before the particular notice would be due, the "custodial agency" of a defendant or alleged juvenile offender must give the victim any of the following notices that is applicable:

(a) *At least three weeks before* the Adult Parole Authority (the APA) recommends a pardon or commutation of sentence for the defendant or *at least three weeks prior* to a hearing before the Authority regarding a grant of parole to the defendant, notice of the victim's right to submit a statement regarding the impact of the defendant's release in accordance with R.C. 2967.12 and, if applicable, of the victim's right to appear at a full board hearing of the Parole Board to give testimony as authorized by R.C. 5149.101;

(b) *At least three weeks before* the defendant is transferred to transitional control under R.C. 2967.26, notice of the pendency of the transfer and of the victim's right under that section to submit a statement regarding the impact of the transfer;

(c) *At least 30 days before* DYS's release authority holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if the notice pertains to a hearing, of the victim's right to attend and make statements or comments at the hearing as authorized by R.C. 5139.56;

(d) Prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant was incarcerated or in which the alleged juvenile offender was placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or mental retardation and developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence;

(e) Notice of the defendant's or alleged juvenile offender's death while in confinement or custody;

(f) Notice of the defendant's or alleged juvenile offender's release from confinement or custody and the terms and conditions of the release.

Request by victim. Existing law specifies that, except for a few specified notices, a victim who wishes to receive any notice under the Crime Victims Rights Law, including any of the notices described above in "**Notices to a victim--offender's confinement, release, and related matters,**" must make a request for the notice to the prosecutor or the custodial agency that is to provide the notice. If the victim does not make such a request, the prosecutor or custodial agency is not required to provide any of those notices. A prosecutor or custodial agency that is required to furnish any of those notices must give the particular notice to the victim at the address or telephone number provided by the victim. A victim must inform the prosecutor or custodial agency of the name, address, or telephone number of the victim and of any change to that information. (R.C. 2930.03.)

Existing law also specifies that, after a prosecution in a case has been commenced, the prosecutor or a designee of the prosecutor other than a court or court employee, to the extent practicable, promptly must give the victim certain specified information, except that, if the juvenile court disposes of a case prior to the prosecutor's involvement in the case, the court or a court employee, to the extent practicable, promptly must give the victim the specified information. Related to the provision described in the preceding paragraph, among the information that the prosecutor or the juvenile court must provide to the victim is notice that most notifications under the Crime Victims Rights Law, including the notices described above in "**Notices to a victim--offender's confinement, release, and related matters,**" will be given to the victim only if the victim asks to receive the notification. (R.C. 2930.06.)

Operation of the bill

Request by victim not required in certain circumstances. The bill provides that, if a defendant is incarcerated for the commission of an "offense of violence" that is a felony of the first, second, or third degree or if an alleged

juvenile offender has been charged with the commission of an act that would be an offense of violence that is a felony of the first, second, or third degree if committed by an adult, the existing notice that a prosecutor must give to a victim regarding a hearing for judicial release, the existing notice that a prosecutor must give to a victim regarding a hearing to be conducted under the Sexually Violent Predator Sentencing Law to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term in accordance with that Law, and all of the existing notices that a custodial agency must give to a victim (modified as described below in "**Revision of time of notice by custodial agency**") *must be given regardless of whether the victim requested notice*. The bill also requires the custodial agency to give similar notice to the prosecutor in the case, the sentencing court, the law enforcement agency that arrested the defendant or alleged juvenile offender, and any other person who requests notification. The custodial agency must attempt to identify a mailing address for the victim and send notice to that address by ordinary mail. The bill specifies that these provisions, and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2967.12(H), 2967.26(A)(3)(b), 2967.28(D)(1), and 5149.101(A)(2) are to be known as "Roberta's Law." (R.C. 2930.16(D)(1).)

The bill requires a custodial agency to keep a record of notices sent pursuant to the provisions described in the preceding paragraph. The record must be kept in a manner that allows public inspection of notices to persons other than victims without revealing the names, addresses, or other identifying information relating to victims. The record of notices to victims is not a public record. The record of notices to persons other than victims is a public record. (R.C. 2930.16(D)(2).)

The bill modifies the provisions described above in "**Request by victim**" under "**Existing law**" to reflect that a request for notice by a victim will not be required under the bill in the circumstances described in the two preceding paragraphs (R.C. 2930.03(B), 2930.06(B)(8), and 2930.16(B)(1), (B)(2), and (C)).

Revision of time of notice by custodial agency. Under the bill, upon the victim's request made at any time before the particular notice would be due or in accordance with the provisions described above in "**Request by victim not required in certain circumstances**," the custodial agency of a defendant or alleged juvenile offender must give the victim any of the following notices that is applicable (R.C. 2930.16(C)):

(a) *At least 60 days before* the APA recommends a pardon or commutation of sentence for the defendant or *at least 60 days prior* to a hearing before the Authority regarding a grant of parole to the defendant, notice of the victim's right

to submit a statement regarding the impact of the defendant's release in accordance with R.C. 2967.12 and, if applicable, of the victim's right to appear at a full board hearing of the Parole Board to give testimony as authorized by R.C. 5149.101;

(b) *At least 60 days before* the defendant is transferred to transitional control under R.C. 2967.26, notice of the pendency of the transfer and of the victim's right under that section to submit a statement regarding the impact of the transfer;

(c) *At least 60 days before* DYS's release authority holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if the notice pertains to a hearing, of the victim's right to attend and make statements or comments at the hearing as authorized by R.C. 5139.56;

(d) Unchanged from existing law: (i) prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant was incarcerated or in which the alleged juvenile offender was placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or mental retardation and developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence, (ii) notice of the defendant's or alleged juvenile offender's death while in confinement or custody, and (iii) notice of the defendant's or alleged juvenile offender's release from confinement or custody and the terms and conditions of the release.

Adult Parole Authority rules--victim conference prior to a parole hearing

The bill requires the APA to adopt rules under the Administrative Procedure Act providing for a victim conference prior to a parole hearing in the case of a prisoner who is incarcerated for the commission of an "offense of violence" that is a felony of the first, second, or third degree. The rules must provide for, but not be limited to, all of the following: (1) attendance by the victim, members of the victim's family, the victim's representative, and, if practicable, other individuals, (2) allotment of at least one hour for the conference, (3) the order of priority in which persons in attendance may speak and permission for any person in attendance to speak if time allows, (4) attendance by the news media upon request of the victim, members of the victim's family, the victim's representative, or, if none of those persons attend, a victims'-rights advocate, and (5) recording of the conference by videotape or other media. (R.C. 2930.16(E).)

Adult Parole Authority recommendations for pardon or commutation of sentence, or grant of parole

Existing law

Existing law provides that, except for a release that is related to the state's shock incarceration program, *at least three weeks before* the APA recommends any pardon or commutation of sentence, or grants any parole, the APA must send a notice of the pendency of the pardon, commutation, or parole, setting forth the name of the person on whose behalf it is made, the offense of which the person was convicted or to which the person pleaded guilty, the time of conviction or the guilty plea, and the term of the person's sentence, to the prosecuting attorney and the judge of the court of common pleas of the county in which the indictment against the person was found. If there is more than one judge of that court, the APA must send the notice to the presiding judge. DRC, at the same time that it provides this notice to the prosecuting attorney and judge, also must post on its Database maintained pursuant to R.C. 5120.66 the offender's name and all of the information specified in that section.

Existing law also provides that, if a request for notification has been made pursuant to the Crime Victims Rights Law, the APA must give notice to the victim or the victim's representative prior to recommending any pardon or commutation of sentence for, or granting any parole to, the person. The APA must provide the notice at the same time as the notice described in the preceding paragraph and must include in the notice the information required to be set forth in that notice. The notice also must inform the victim or the victim's representative that the victim or representative may send a written statement relative to the victimization and the pending action to the APA and that, if the APA receives any written statement prior to recommending a pardon or commutation or granting a parole for a person, it will consider the statement before it recommends a pardon or commutation or grants a parole. If the person is being considered for parole, the notice must inform the victim or the victim's representative that a full board hearing of the Parole Board may be held and that the victim or victim's representative may contact the Office of Victims' Services for further information. If the person being considered for parole was convicted of aggravated murder or murder, the notice must inform the victim of that offense, the victim's representative, or a member of the victim's immediate family that the victim, the victim's representative, and the victim's immediate family have the right to give testimony at a full board hearing of the Parole Board and that the victim or victim's representative may contact the Office of Victims' Services for further information.

When notice of the pendency of any pardon, commutation of sentence, or parole has been given to a judge or prosecutor or posted on the Database as

described in the second preceding paragraph and a hearing on the pending action is continued to a date certain, the APA must provide notice of the further consideration of the pardon, commutation, or parole at least ten days before the further consideration. The notice must be provided to the proper judge and prosecuting attorney by mail at least ten days before the further consideration, and, if the initial notice was posted on the Database, the notice of the further consideration must be posted on the Database at least ten days before the further consideration. When notice of the pendency of any pardon, commutation, or parole has been given as described in the preceding paragraph and the hearing on it is continued to a date certain, the APA must give notice of the further consideration to the victim or the victim's representative. The failure of the APA or the Parole Board to comply with the notice or posting provisions described above do not give any rights or any grounds for appeal or post-conviction relief to the person serving the sentence.

In case of an application for the pardon or commutation of sentence of a person sentenced to capital punishment, the Governor may modify the requirements of notification and publication if there is not sufficient time for compliance with the requirements before the date fixed for the execution of sentence. Special notice provisions apply regarding an offender serving a prison term under the state's Sexually Violent Predator Sentencing Law. Existing law specifies that, in addition to and independent of any other rights provided by statute, any person may send to the APA at any time prior to its recommending a pardon or commutation or granting a parole for the offender a written statement relative to the offense and the pending action. (R.C. 2967.12.)

Operation of the bill

The bill revises the existing notification provisions described above in several ways:

(1) Under the bill, the APA must provide notices to a prosecuting attorney and judge of the APA's recommendation of a pardon or commutation of sentence, or the granting of a parole, *at least 60 days before* the APA recommends any pardon or commutation of sentence, or grants any parole (changed from at least three weeks before any such recommendation or grant). This change also applies to the notice to the victim or victim's representative. (R.C. 2967.12(A) and (B).)

(2) It specifies that, if a defendant is incarcerated for the commission of an offense of violence that is a felony of the first, second, or third degree, the notices to a prosecuting attorney, a judge, and a victim or victim's representative of the APA's recommendation of a pardon or commutation of sentence, or the granting of a parole must be given regardless of whether the victim requested notice. The APA must give similar notice to the law enforcement agency that arrested the

defendant and to any other person who requests notification. The APA must attempt to identify a mailing address for the victim and send notice to that address. The APA may give notice to the law enforcement agency and to other persons who request notice by any reasonable means, including telephone and electronic mail. The bill specifies that these provisions, and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2930.16(D)(1), 2967.26(A)(3)(b), 2967.28(D)(1), and 5149.101(A)(2) are to be known as "Roberta's Law." (R.C. 2967.12(B) and (H).)

Release from confinement of a convict serving a prison term for a serious felony

Existing law

Existing law provides that, except for a release of a person serving a sentence under the state's Sexually Violent Predator Sentencing Law, at least two weeks before any convict who is serving a sentence for committing a felony of the first, second, or third degree is released from confinement in any state correctional institution pursuant to a pardon, commutation of sentence, parole, or completed prison term, the APA must send notice of the release to the prosecuting attorney of the county in which the indictment of the convict was found. The notice may be contained in a weekly list of all felons of the first, second, or third degree who are scheduled for release. The notice must contain all of the following: (1) the name of the convict being released, (2) the date of the release, (3) the offense for which the convict was convicted and incarcerated, (4) the date of the conviction pursuant to which the convict was incarcerated, (5) the sentence imposed for that conviction, (6) the length of any supervision the convict will be under, (7) the name, business address, and business phone number of the convict's supervising officer, and (8) the address at which the convict will reside. (R.C. 2967.121.)

Operation of the bill

The bill expands the existing notification provision described above so that it also applies regarding a convict who is serving a sentence of life imprisonment (R.C. 2967.121(A)).

It enacts a new provision that specifies that, except for a release of a person serving a sentence under the state's Sexually Violent Predator Sentencing Law, if a convict who is serving a sentence for committing a felony of the first, second, or third degree or who is serving a sentence of life imprisonment is released from confinement pursuant to a pardon, commutation of sentence, parole, or completed prison term, the APA must send notice of the release to the prosecuting attorney of the county in which the indictment of the convict was filed. The notice required by this provision must be sent to the appropriate prosecuting attorney at the end of the month in which the convict is released and may be contained in a monthly list

of all convicts who are released in that month and for whom this provision requires a notice to be sent to that prosecuting attorney. This notice must contain the same information that must be in the existing notice to be provided to prosecuting attorneys prior to the release of the convict. (R.C. 2967.121(B) to (D).)

Transitional control program

Existing law

Existing law authorizes DRC to establish a transitional control program for the purpose of closely monitoring a prisoner's adjustment to community supervision during the final 180 days of the prisoner's confinement. If DRC establishes a transitional control program, the APA may transfer eligible prisoners to transitional control status under the program during the final 180 days of their confinement and under the terms and conditions established by DRC, must provide for the confinement as described below of each eligible prisoner so transferred, and must supervise each eligible prisoner so transferred in one or more community control sanctions. Each eligible prisoner who is transferred to transitional control status under the program must be confined in a suitable licensed facility, or be confined in a residence DRC has approved for this purpose and be monitored pursuant to an electronic monitoring device. The rules establishing a transitional control program must include certain specified criteria, including criteria that define which prisoners are eligible for the program and that conform to specified statutory eligibility criteria.

At least three weeks prior to transferring to transitional control a prisoner who is serving a term of imprisonment or prison term, the APA must give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the indictment against the prisoner was found and of the fact that the court may disapprove the transfer of the prisoner to transitional control and must include a report prepared by the head of the state correctional institution in which the prisoner is confined. If the court disapproves of the transfer of the prisoner to transitional control, it must notify the APA of the disapproval within 30 days after receipt of the notice. If the court timely disapproves the transfer, the APA cannot proceed with the transfer. If the court does not timely disapprove the transfer, the APA may transfer the prisoner to transitional control.

If the victim of an offense for which a prisoner was sentenced to a prison term or term of imprisonment has requested notification under the Crime Victims Rights Law and has provided DRC with the victim's name and address, the APA, *at least three weeks prior* to transferring the prisoner to transitional control, must notify the victim of the pendency of the transfer and of the victim's right to submit

a statement to the APA regarding the impact of the transfer of the prisoner to transitional control. If the victim subsequently submits a statement of that nature to the APA, it must consider the statement in deciding whether to transfer the prisoner to transitional control.

DRC, *at least three weeks prior* to a hearing to transfer the prisoner to transitional control, must post on its Database maintained pursuant to R.C. 5120.66 the prisoner's name and all of the information specified in that section. In addition to and independent of any right or duty of a person to present information or make a statement, any person may send to the APA at any time prior to its transfer of the prisoner to transitional control a written statement regarding the transfer of the prisoner to transitional control. The APA must consider each statement so submitted in deciding whether to transfer the prisoner to transitional control.

Each prisoner transferred to transitional control must be confined in the manner described above during any period of time that the prisoner is not actually working at the prisoner's approved employment, engaged in a vocational training or another educational program, engaged in another program designated by DRC's director, or engaged in other activities approved by DRC. DRC may adopt rules for the issuance of passes for specified limited purposes (to visit a relative in imminent danger of death, to have a private viewing of the body of a deceased relative, to visit with family, or to otherwise aid in the rehabilitation of the prisoner) to prisoners who are transferred to transitional control. If a prisoner is transferred to transitional control, upon successful completion of the period of transitional control, the prisoner may be released on parole or under post-release control. (R.C. 2967.26.)

Operation of the bill

The bill changes from at least three weeks prior to the transfer to at least 60 days prior to the transfer the period of time within which the APA must provide notice to a court of the pendency of the transfer of a prisoner to transitional control, the period of time within which the APA must notify a victim prior to transferring a prisoner to transitional control, and the period of time within which the APA must post on its Database a pending transfer of a prisoner to transitional control (R.C. 2967.26(A)(2), (3), and (4)).

It specifies that, if a prisoner is incarcerated for the commission of an offense of violence that is a felony of the first, second, or third degree, the notices to a victim of the APA's upcoming transfer of a prisoner to transitional control must be given regardless of whether the victim requested notice. The APA must send the notice by ordinary mail to an address previously provided by the victim. If the victim has not provided an address, the APA must attempt to identify a

mailing address for the victim and send notice to that address. The bill specifies that these provisions, and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2930.16(D)(1), 2967.12(H), 2967.28(D)(1), and 5149.101(A)(2) are to be known as "Roberta's Law." (R.C. 2967.12(A)(3)(b).)

Post-release control

Existing law

Under existing law, each sentence to a prison term for a felony of the first or second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person must include a requirement that the offender be subject to a period of post-release control imposed by the Parole Board after the offender's release from imprisonment. Unless reduced by the Parole Board in accordance with a specified procedure when it is authorized to do so, a period of post-release control for an offender that is imposed under this provision must be of one of the following periods: (1) for a felony of the first degree or for a felony sex offense, five years, (2) for a felony of the second degree that is not a felony sex offense, three years, and (3) for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened physical harm to a person, three years.

Any sentence to a prison term for a felony of the third, fourth, or fifth degree that is not subject to the mandatory post-release control provision described in the preceding paragraph must include a requirement that the offender be subject to a period of post-release control of up to three years after the offender's release from imprisonment, if the Parole Board, in accordance with a specified procedure, determines that a period of post-release control is necessary for that offender.

Before the prisoner is released from imprisonment, the Parole Board must impose upon a prisoner described in the second preceding paragraph, and may impose upon a prisoner described in the immediately preceding paragraph, one or more post-release control sanctions to apply during the prisoner's period of post-release control. The conditions of post-release control must include a condition that the individual not leave the state without permission of the court or the individual's parole or probation officer and that the individual or felon abide by the law. The Board may impose any other conditions of release that it considers appropriate, including any community residential sanction, community nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to the Felony Sentencing Law. Existing law provides procedures and guidelines for determining the post-release control sanctions to impose. A post-release control sanction takes effect upon the prisoner's release from imprisonment. Existing law provides procedures for the

APA's review and possible modification of post-release control sanctions imposed upon a prisoner, for supervision of a prisoner released under post-release control, and for further sanctioning (including the potential imprisonment) of a prisoner under post-release control who violates the conditions of the post-release control. (R.C. 2967.28.)

Operation of the bill

The bill modifies the categories of prisoners for whom post-release control is mandatory upon release and the duration of the periods of mandatory post-release control. Under the bill, each sentence to a prison term for an offense that is a felony of the first or second degree, a felony sex offense, or a felony of the third degree that is not a felony sex offense *and that is either an offense of violence* (added by the bill) or an offense in the commission of which the offender caused or threatened to cause physical harm to a person must include a requirement that the offender be subject to a period of post-release control imposed by the Parole Board after the offender's release from imprisonment. Under the bill, unless reduced by the Parole Board in accordance with a specified procedure when it is authorized to do so, a period of post-release control for an offender that is imposed under this provision must be of one of the following periods: (1) for a felony of the first degree, a felony sex offense, *or an offense of violence that is a felony of the first, second, or third degree*, five years, (2) for a felony of the second degree that is not a felony sex offense *or an offense of violence*, three years, and (3) for a felony of the third degree that is not a felony sex offense *or an offense of violence* and in the commission of which the offender caused or threatened physical harm to a person, three years (italicized language added by the bill). (R.C. 2967.28(B).)

It specifies that, at least 30 days before the prisoner is released from imprisonment, DRC must send notice by ordinary mail to the victim, the victim's family, the prosecuting attorney in the case, the law enforcement agency that arrested the prisoner, and any other person who requests notification of the date on which the prisoner will be released, the period for which the prisoner will be under parole or post-release control supervision, and the terms and conditions of the prisoner's parole or post-release control. The bill specifies that these provisions, and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2930.16(D)(1), 2967.12(H), 2967.26(A)(3)(b), and 5149.101(A)(2) are to be known as "Roberta's Law." (R.C. 2967.28(D)(1).)

Department of Rehabilitation and Correction Internet Database

Existing law

Existing law requires DRC to establish and operate on the Internet a Database that contains all of the following information for each inmate in its

custody under a sentence imposed for a conviction of or plea of guilty to any offense:

(1) The inmate's name;

(2) For each offense for which the inmate is in DRC's custody, the name of the offense, the Revised Code section violated, the gender of each victim of the offense if known, whether each victim of the offense was an adult or child if known, the range of the possible prison terms that could have been imposed and the actual prison term imposed for the offense, the county in which the offense was committed, the date on which the inmate began serving the prison term imposed for the offense, and either the date on which the inmate will be eligible for parole relative to the offense if the prison term is an indefinite term or life term or the date on which the term ends if the prison term is a definite term;

(3) All of the following information that is applicable regarding the inmate: (a) if known to DRC prior to the conduct of any judicial release hearing for the defendant in relation to any prison term the inmate is serving, notice of the fact that the inmate will be having a hearing regarding a possible grant of judicial release, the hearing date, and the right of any person to submit to the court a written statement regarding the possible judicial release, (b) if the inmate is serving a prison term pursuant to the Sexually Violent Predator Sentencing Law, prior to the conduct of any hearing to determine whether to modify the requirement that the inmate serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term, notice of the fact that the inmate will be having a hearing regarding those determinations and of the date of the hearing, (c) *at least three weeks before* the APA recommends a pardon or commutation of sentence for the inmate or *at least three weeks prior* to a hearing before the APA regarding a grant of parole to the inmate in relation to any prison term the inmate is serving, notice of the fact that the inmate might be under consideration for a pardon or commutation of sentence or will be having a hearing regarding a possible grant of parole, of the hearing date regarding a possible grant of parole, and of the right of any person to submit a written statement regarding the pending action, (d) *at least three weeks before* the inmate has a hearing regarding a transfer to transitional control in relation to any prison term the inmate is serving, notice of the pendency of the transfer, the date of the possible transfer, and the right of any person to submit a statement regarding the possible transfer, (e) prompt notice of the inmate's escape from any facility in which the inmate was incarcerated and of the capture of the inmate after an escape, (f) notice of the inmate's death while in confinement, (g) prior to the release of the inmate from confinement, notice of the fact that the inmate will be released, the date of the

release, and, if applicable, the standard terms and conditions of the release, and (h) notice of the inmate's judicial release.

The Database also must contain information as to where a person can send written statements of the types referred to in paragraph (3), above, and may contain other information regarding listed inmates in addition to the required information. DRC must update the Database every 24 hours to ensure that the information it contains is accurate and current. The Database is a public record open for inspection under the state's Public Records Law. DRC must make the Database searchable by inmate name and by the county and ZIP Code where the offender intends to reside after release from a state correctional institution if DRC knows this information. No information included on the Database may identify or enable the identification of any victim of any offense. (R.C. 5120.66.)

Operation of the bill

The bill changes from three weeks before the upcoming recommendation or hearing to *at least 60 days before* the recommendation or hearing the period of time within which DRC must include on its Internet Database information regarding an upcoming recommendation by the APA of a pardon or commutation of sentence for an inmate, an upcoming parole hearing for an inmate before the APA, or an upcoming transitional control hearing for an inmate (R.C. 5120.66(A)(1)(c)(iii) and (iv)). It also specifies that, for ten years after the final discharge of an inmate who was imprisoned for the commission of an "offense of violence" that is a felony of the first, second, or third degree, DRC must keep on the Database all the information that it is required to include on the Database relative to the inmate (R.C. 5120.66(C)).

Parole-related reports by the Department of Rehabilitation and Correction

The bill requires DRC, at the end of each quarter, to submit to the chairpersons of the committees of the Senate and the House of Representatives that consider criminal justice legislation a report on the number and results of parole hearings conducted during the quarter and a list of persons incarcerated for committing "offenses of violence" who were granted parole and a summary of the terms and conditions of their parole. DRC must provide the committees with any documentation related to the reports that members of the committees may request. Upon request, DRC must provide a detailed statement, supported by documentation, of the reasons why a particular prisoner was granted parole to the law enforcement agency that arrested the prisoner, the prosecuting attorney who prosecuted the case, or any person who is a member of the General Assembly at the time the person makes the request. (R.C. 5149.07.)

Restriction on Parole Board's consideration of post-July 1, 1996, sentences in making release decisions for prisoner under a sentence for a pre-July 1, 1996, crime

Existing law requires the Chief of the APA, subject to the approval of the Chief of DRC's Division of Parole and Community Services, to adopt rules governing the proceedings of the Parole Board. The rules must provide for the convening of full Board hearings, the procedures to be followed in full Board hearings, and general procedures to be followed in other hearings of the Board and by the Board's hearing officers. The rules also must require agreement by a majority of all the Board members to any recommendation of clemency transmitted to the Governor.

The bill specifies that the rules adopted by the Chief of the APA must prohibit the Board from considering sentences in effect on and after July 1, 1996, in making determinations relative to the release of an inmate who is imprisoned for an offense committed before July 1, 1996 (July 1, 1996, was the effective date of the major restructuring of Ohio's Felony Sentencing Law that generally switched from an indeterminate sentencing system to a determinate sentencing system) (R.C. 5149.10).

Full hearings of the Parole Board

Existing law

Under existing law, a Parole Board hearing officer, a Board member, or the Office of Victims' Services may petition the Board for a full Board hearing that relates to the proposed parole or re-parole of a prisoner. At a meeting of the Board at which a majority of its members are present, the majority of those present must determine whether a full Board hearing will be held. Additionally, a victim of an aggravated murder or murder, the victim's representative, or the spouse, parent or parents, sibling, or child or children of the victim of the original offense, may request the Board to hold a full Board hearing that relates to the proposed parole or re-parole of the person that committed the violation. If a victim, victim's representative, or other authorized person requests a full Board hearing pursuant to this provision, the Board must hold a full Board hearing.

At a full Board hearing that relates to the proposed parole or re-parole of a prisoner and that is being held under a provision described in the preceding paragraph, the Parole Board must permit the following persons to appear and to give testimony or to submit written statements: (1) the prosecuting attorney of the county in which the original indictment against the prisoner was found and members of any law enforcement agency that assisted in the prosecution of the original offense, (2) the judge of the court of common pleas who imposed the

original sentence upon the prisoner, or the judge's successor, (3) the victim of the original offense for which the prisoner is serving the sentence or the victim's representative, (4) the victim of any behavior that resulted in parole being revoked, (5) with respect to a full Board hearing held pursuant to a request by a victim, victim's representative, or specified family member, the spouse, parent or parents, sibling, or child or children of the victim of the original offense, and (6) counsel or another person designated by the prisoner as a representative.

A full Board hearing generally is not subject to the state's Open Meetings Law. The persons who may attend a full Board hearing are the persons described in the preceding paragraph, and representatives of the press, radio and television stations, and broadcasting networks who are members of a generally recognized professional media organization. At the request of the victim of the original offense, representatives of the news media must be excluded from the hearing while that person is giving testimony at the hearing. The prisoner being considered for parole has no right to be present at the hearing, but may be represented by counsel or another person designated by the prisoner. If there is an objection at a full Board hearing to a recommendation for the parole of a prisoner, the Board may approve or disapprove the recommendation or defer its decision until a subsequent full Board hearing. The Board may permit interested persons other than those previously identified to attend full Board hearings pursuant to rules adopted by the APA.

The APA is required to adopt rules for the implementation of the full Board hearing provisions described above. The rules must specify reasonable restrictions on the number of media representatives that may attend a hearing, based on considerations of space, and other procedures designed to accomplish an effective, orderly process for full Board hearings. (R.C. 5149.101.)

Operation of the bill

The bill expands the categories of victims who may request a full Board hearing so that a victim of an "offense of violence" that is a felony of the first, second, or third degree, the representative of such a victim, or the spouse, parent or parents, sibling, or child or children of such a victim may request a full Board hearing relates to the proposed parole or re-parole of the person that committed the violation (R.C. 5149.101(A)(2)).

It specifies that, at least 30 days before a full Board hearing, the Board must send notice of the date, time, and place of the hearing by ordinary mail to the victim, the victim's family, the prosecuting attorney in the case, and the law enforcement agency that arrested the prisoner. The APA must send the notice to the victim and the victim's family to addresses previously provided by them. If the victim or victim's family has not provided an address, the APA must attempt to

identify a mailing address for the victim or victim's family and send notice to that address. The bill specifies that these provisions, and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2930.16(D)(1), 2967.12(H), 2967.26(A)(3)(b), and 2967.28(D)(1) are to be known as "Roberta's Law." (R.C. 5149.101(A)(2).)

It also specifies that, if the victim of the original offense died as a result of the offense and the offense was an "offense of violence" that is a felony of the first, second, or third degree, the family of the victim may show at a full Board hearing a video recording not exceeding five minutes in length memorializing the victim (R.C. 5149.101(D)).

Voluntary manslaughter--new prohibition when involving sexual motivation

Existing law

Existing law prohibits a person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, from knowingly causing the death of another or the unlawful termination of another's pregnancy. A violation of the prohibition is the offense of "voluntary manslaughter," a felony of the first degree. (R.C. 2903.03.)

Operation of the bill

The bill additionally prohibits a person, with a "sexual motivation" (see below), from engaging in any of the conduct currently prohibited under the offense of voluntary manslaughter. The existing penalty for voluntary manslaughter applies to a violation of the new prohibition. (R.C. 2903.03.)

As used in this provision, "sexual motivation" means a purpose to gratify the sexual needs or desires of the offender (R.C. 2903.03(D), by reference to existing R.C. 2971.01, not in the bill).

Sex Offender Registration and Notification Law--inclusion of voluntary manslaughter committed with a sexual motivation as a sexually oriented offense under the Law and related changes

SORN Law background

Duties, restrictions, and notice requirements under the SORN Law. The Sex Offender Registration and Notification Law (the SORN Law) is contained in R.C. Chapter 2950. It imposes a series of duties and restrictions upon a person who is convicted of or pleads guilty to a "sexually oriented offense" (see "**Sexually oriented offense**," below) or a "child-victim oriented offense" (see

COMMENT 3 for definition of terms in quotation marks). Among the duties and restrictions are duties that require a person who is convicted of or pleads guilty to any such offense to register with the sheriff of the county in which the person was convicted of or pleaded guilty to the offense, to register a residence address and a school, institution of higher education, or work address, to provide notice of a change of address and register the new address, and to periodically verify the registered address. There is also a restriction against residing within 1,000 feet of any school premises, a preschool, or child day-care premises if a person has been convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense. (R.C. 2950.04 to 2950.06.) Children who are adjudicated delinquent children for committing an act that would be a sexually oriented offense or a child-victim oriented offense if committed by an adult and who are classified by the juvenile court as "juvenile offender registrants" also are subject to these duties (they are subject to the school, institution of higher education, and work address provisions only in specified circumstances and are not subject to the residency restriction) (R.C. 2152.82 to 2152.86).

An offender who is convicted of or pleads guilty to a sexually oriented offense or a child-victim oriented offense and who is classified a "Tier III sex offender/child-victim offender" (see "**Tier III sex offender/child-victim offender**," below) or a child who is adjudicated a delinquent child for committing any such offense and is classified a juvenile offender registrant and a "Tier III sex offender/child-victim offender" also has a duty to provide notice of an intent to reside in a county (R.C. 2950.04(G) and 2950.041(G)).

Additionally, certain categories of offenders and delinquent children who must register under the SORN Law also are subject to mechanisms for providing victim notification and community notification of a residence address the person registers. Except as described in the next sentence, the victim and community notification provisions apply to: (1) an offender who is a Tier III sex offender/child-victim offender, (2) a delinquent child who is a public registry-qualified juvenile offender registrant and for whom a juvenile court has not removed the child's duty to comply with the SORN Law, (3) a delinquent child who is a Tier III sex offender/child-victim offender and is not a public registry-qualified juvenile offender registrant if the child was subjected to the victim and community notification provisions prior to January 1, 2008 as a sexual predator, habitual sex offender, child-victim offender, or habitual child-victim offender as those terms were formerly defined and if a juvenile court has not removed the child's duty to comply with the SORN Law, and (4) a delinquent child who is a Tier III sex offender/child-victim offender and is not a public registry-qualified juvenile offender registrant if the delinquent child was classified a juvenile offender registrant on or after January 1, 2008, the court imposed a requirement subjecting the delinquent child to the community notification provisions, and a

juvenile court has not removed the child's duty to comply with the SORN Law. However, the community notification provisions do not apply to a person described in the above four categories if a court finds at a hearing, after considering specified factors, that the person would not be subject to the notification provisions as they existed immediately prior to January 1, 2008. (R.C. 2950.10 and 2950.11.)

Duration of duties under the SORN Law. The duration of an offender's or juvenile offender registrant's duties imposed under the SORN Law varies, depending upon whether the offender is a Tier I, a Tier II, or a Tier III sex offender/child-victim offender and, regarding a juvenile offender registrant, whether the juvenile is a public registry-qualified juvenile offender registrant. The duration of the duties is as follows (R.C. 2950.07):

(1) Except as otherwise described in this paragraph, if the person is an offender or a juvenile offender registrant who is a "Tier III sex offender/child-victim offender" (see "**Tier III sex offender/child-victim offender,**" below), or if the person is a delinquent child who is a "public registry-qualified juvenile offender registrant" (see "**Public registry-qualified juvenile offender registrant,**" below), the offender's or child's duty to comply continues until the offender's or child's death. Regarding a delinquent child who is a Tier III sex offender/child-victim offender but is not a public registry-qualified juvenile offender registrant, if the judge who made the disposition for the child or that judge's successor in office subsequently enters a determination that the child no longer is a Tier III sex offender/child-victim offender, the child's duty to comply continues for the period of time that is applicable to the child, based on the reclassification of the child. In no case may the lifetime duty to comply imposed under this provision on an offender who is a Tier III sex offender/child-victim offender be removed or terminated. A delinquent child who is a public registry-qualified juvenile offender registrant may have the lifetime duty to register terminated only in limited circumstances.

(2) If the person is an offender who is a "Tier II sex offender/child-victim offender," the offender's duty to comply continues for 25 years. Except as otherwise described in this paragraph, if the person is a delinquent child who is a Tier II sex offender/child-victim offender, the delinquent child's duty to comply continues for 20 years. Regarding a delinquent child who is a Tier II sex offender/child-victim offender but is not a public registry-qualified juvenile offender registrant, if the judge who made the disposition for the delinquent child or that judge's successor in office subsequently enters a determination that the child no longer is a Tier II sex offender/child-victim offender but remains a juvenile offender registrant, the child's duty to comply continues for the period of

time that is applicable to the delinquent child, based on the reclassification of the child.

(3) Except as otherwise described in this paragraph, if the person is an offender who is a "Tier I sex offender/child-victim offender," the offender's duty to comply continues for 15 years. Except as otherwise described in this paragraph, if the person is a delinquent child who is a Tier I sex offender/child-victim offender, the delinquent child's duty to comply continues for ten years. Regarding a delinquent child who is a juvenile offender registrant and a Tier I sex offender/child-victim offender but is not a public registry-qualified juvenile offender registrant, if the judge who made the disposition for the child or that judge's successor in office subsequently enters a determination that the child no longer is a juvenile offender registrant, the child's duty to comply with duties imposed under the SORN Law is terminated. A person who is an offender who is a Tier I sex offender/child-victim offender may have the 15-year duty to register terminated only in limited circumstances.

Sexually oriented offense

Existing law. Existing law provides that, as used in the SORN Law, "sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of whether the person is 18 years of age or older or is under 18 years of age (R.C. 2950.01(A)):

(1) Rape, sexual battery, gross sexual imposition, sexual imposition, importuning, voyeurism, compelling prostitution, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, or illegal use of a minor in nudity-oriented material or performance;

(2) Unlawful sexual conduct with a minor when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(3) Unlawful sexual conduct with a minor when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(4) Aggravated murder, murder, or felonious assault when the violation was committed with a sexual motivation;

(5) Involuntary manslaughter, when the base offense is a felony and when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(6) Menacing by stalking committed with a sexual motivation;

(7) Kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the offense is committed with a sexual motivation;

(8) Kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will;

(9) Kidnapping when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the victim of the offense is under 18 and the offender is not a parent of the victim of the offense;

(10) Abduction, unlawful restraint, and criminal child enticement committed with a sexual motivation, or endangering children committed by enticing, permitting, using, or allowing, etc., a child to participate in or be photographed for material or performance that is obscene, is sexually oriented matter, or is nudity-oriented matter;

(11) A violation of any former law of Ohio, 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), (2), (3), (4), (5), (6), (7), (8), (9), or (10) under this definition;

(12) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) under this definition.

Operation of the bill. The bill expands the definition of "sexually oriented offense" so that, in addition to the offenses currently included within the definition, it also includes the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by

the bill (see "*Voluntary manslaughter--new prohibition when involving sexual motivation*," above) (R.C. 2950.01(A)(10)).

Tier III sex offender/child-victim offender

Existing law. Existing law provides that, as used in the SORN Law, "Tier III sex offender/child-victim offender" means any of the following (R.C. 2950.01(G)):

(1) A "sex offender" who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to, any of the following sexually oriented offenses: (a) rape or sexual battery, (b) gross sexual imposition committed when the victim is less than 12 years of age, the offender intentionally touches the genitalia of the victim, the touching is not through clothing, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, (c) aggravated murder, murder, or felonious assault when the violation was committed with a sexual motivation, (d) involuntary manslaughter, when the base offense is a felony, when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation, (e) kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will, when the victim of the offense is under 18, (f) kidnapping when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the victim of the offense is under 18 and the offender is not a parent of the victim of the offense, (g) a violation of any former law of Ohio, 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 clause (a), (b), (c), (d), (e), or (f) of this paragraph, (h) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (a), (b), (c), (d), (e), (f), or (g) of this paragraph, or (i) any sexually oriented offense committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing, any sexually oriented offense or child-victim oriented offense for which the sex offender was classified a Tier II or III sex offender/child-victim offender.

(2) A "child-victim offender" who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a Tier II or III sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of Tier III sex offender/child-victim offender set forth in paragraph (1) to (4) of this definition, who, prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who, prior to that date, was adjudicated a sexual predator or child-victim predator, or determined to be a habitual child-victim offender and made subject to community notification relative to that offense, unless either of the following applies: (a) the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a Tier I or II sex offender/child-victim offender relative to the offense, or (b) the sex offender or child-victim offender is a delinquent child and a juvenile court classifies the child a Tier I or II sex offender/child-victim offender relative to the offense.

(6) A sex offender who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented offense, if the sexually oriented offense and the circumstances in which it was committed are such that R.C. 2971.03(F), in the Sexually Violent Predator Sentencing Law, automatically classifies the offender as a Tier III sex offender/child-victim offender.

(7) A sex offender or child-victim offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States, if both of the following apply: (a) under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of Tier III sex offender/child-victim offender described in paragraph (1), (2), (3), (4), (5), or (6) of this definition and (b) subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to

reside in Ohio in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under R.C. 2950.04 or 2950.041.

Operation of the bill. The bill expands the definition of "Tier III sex offender/child victim offender" so that, in addition to the persons currently included within the definition, it also includes the following (R.C. 2950.01(G)):

(1) A "sex offender" who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to, any of the following sexually oriented offenses: (a) the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill (see "**Voluntary manslaughter--new prohibition when involving sexual motivation,**" above), (b) a violation of any former law of Ohio, 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 the offense of "voluntary manslaughter" when it is committed with a sexual motivation as described in clause (a) of this paragraph, or (c) any attempt to commit, conspiracy to commit, or complicity in committing the offense of "voluntary manslaughter" when it is committed with a sexual motivation as described in clause (a) of this paragraph;

(2) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill (see "**Voluntary manslaughter--new prohibition when involving sexual motivation,**" above) and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the offense;

(3) A sex offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing an offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States that is or was substantially equivalent to "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill (see "**Voluntary manslaughter--new prohibition when involving sexual motivation,**" above), if both of the following apply: (a) under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of Tier III sex offender/child-victim offender described in the Ohio definition of the term, and (b) subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an

institution of higher education, is employed, or intends to reside in Ohio in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under R.C. 2950.04 or 2950.041.

Public registry-qualified juvenile offender registrant

Existing law. Existing law provides that, as used in the SORN Law, "public registry-qualified juvenile offender registrant" means a person who is adjudicated a delinquent child and on whom a juvenile court has imposed a "serious youthful offender dispositional sentence" under R.C. 2152.13 before, on, or after, January 1, 2008, and to whom all of the following apply (R.C. 2950.01(N)): (1) the person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing a violation of R.C. 2907.02, 2907.05(B), or 2907.03 when the victim was less than 12 years of age, or a violation of R.C. 2903.01, 2903.02, or 2905.01 that was committed with a purpose to gratify the sexual needs or desires of the child, (2) the person was 14, 15, 16, or 17 years of age at the time of committing the act, and (3) a juvenile court judge classifies the person a juvenile offender registrant, specifies the person has a duty to comply with the SORN Law, and classifies the person a public registry-qualified juvenile offender registrant and the classification has not been terminated pursuant to R.C. 2152.86(D).

Operation of the bill. The bill expands the definition of "public registry-qualified juvenile offender registrant" so that, in addition to the persons currently included within the definition, it also includes a person who is adjudicated a delinquent child and on whom a juvenile court has imposed a "serious youthful offender dispositional sentence" under R.C. 2152.13 before, on, or after, January 1, 2008, and to whom all of the following apply (R.C. 2950.01(N)): (1) the person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing a violation that, if committed by an adult, would be the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill (see "**Voluntary manslaughter--new prohibition when involving sexual motivation,**" above), (2) the person was 14, 15, 16, or 17 years of age at the time of committing the act, and (3) a juvenile court judge classifies the person a juvenile offender registrant, specifies the person has a duty to comply with the SORN Law, and classifies the person a public registry-qualified juvenile offender registrant and the classification has not been terminated pursuant to R.C. 2152.86(D).

Classification of certain juvenile offender registrants as public registry-qualified juvenile offenders

Existing law. Existing law provides mechanisms for the classification of certain juvenile offender registrants as public registry-qualified juvenile offender registrants (R.C. 2152.86):

(1) It requires each juvenile court that, on or after January 1, 2008, adjudicates a child a delinquent child for committing an act to issue as part of the dispositional order an order that classifies the child a juvenile offender registrant, specifies that the child has a duty to comply with the SORN Law, and additionally classifies the child a public registry-qualified juvenile offender registrant if the child satisfies all of the criteria for inclusion within the definition of "public registry-qualified juvenile offender registrant," as described above in "**Public registry-qualified juvenile offender registrant.**"

(2) It requires each juvenile court, upon a child's release, on or after January 1, 2008, from the Department of Youth Services, to issue an order of the type described in the preceding paragraph if the child was adjudicated a delinquent child and a juvenile court imposed on the child a serious youthful offender dispositional sentence under R.C. 2152.13 for committing one of the acts specified in the definition of "public registry-qualified juvenile offender registrant," as described above in "**Public registry-qualified juvenile offender registrant.**" if the child was 14, 15, 16, or 17 years of age at the time of committing the act, and if the court did not issue an order classifying the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant pursuant to the provision described in the preceding paragraph.

(3) It provides that, if a court issued an order classifying a child a juvenile offender registrant prior to January 1, 2008, not later than February 1, 2008, the court must issue a new order that reclassifies the child as a juvenile offender registrant, specifies that the child has a duty to comply with the SORN Law, and additionally classifies the child a public registry-qualified juvenile offender registrant if the sexually oriented offense that was the basis of the previous order that classified the child a juvenile offender registrant was an act specified in the definition of "public registry-qualified juvenile offender registrant," as described above in "**Public registry-qualified juvenile offender registrant.**" if the child was 14, 15, 16, or 17 years of age at the time of committing the act, and if the court imposed on the child a serious youthful offender dispositional sentence under R.C. 2152.13 for that act.

(4) It specifies that, if an order is issued under the provision described in any of the three preceding paragraphs, the classification of Tier III sex offender/child-victim offender automatically applies to the delinquent child based

on the sexually oriented offense the child committed, subject to a possible reclassification in limited circumstances for a child whose delinquent act was committed prior to January 1, 2008. If an order is issued under the provision described in the second preceding paragraph regarding a child whose delinquent act was committed prior to January 1, 2008, or if an order is issued under the provision described in the immediately preceding paragraph regarding a delinquent child, the order must inform the child and the child's parent, guardian, or custodian, that the child has a right to a hearing and inform them of the procedures and time for requesting the hearing. Existing law provides procedures for the hearing.

Operation of the bill. The bill modifies the provisions described in paragraphs (1) and (2), above, under "**Existing law**" to reflect the expansion in the definition of "public registry-qualified juvenile offender registrant" that it makes, as described above in "**Public registry-qualified juvenile offender registrant**" (R.C. 2152.86(A)(1) and (2)).

COMMENT

1. Existing R.C. 2901.01, not in the bill, specifies that, as used in the Revised Code, "offense of violence" means any of the following: (a) a violation of R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2911.12(A)(1), (2), or (3), or 2919.22(B)(1), (2), (3), or (4), or former R.C. 2907.12, (b) a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States, substantially equivalent to any section, division, or offense listed in clause (a) of this paragraph, (c) an offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons, or (d) a conspiracy or attempt to commit, or complicity in committing, any offense under clause (a), (b), or (c) of this paragraph.

2. Existing R.C. 2930.01, not in the bill, defines a series of terms that are used in the Crime Victims Rights Law. Relevant to the bill are the following definitions:

"Crime" means any of the following: (a) a felony, (b) a violation of R.C. 2903.05, 2903.06, 2903.13, 2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04, a violation of former R.C. 2903.07, or a violation of a substantially equivalent municipal ordinance, (c) a violation of R.C. 4511.19(A) or (B),

1547.11(A) or (B), or 4561.15(A)(3) or of a municipal ordinance substantially similar to any of those divisions that is the proximate cause of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident in which the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility, (d) a motor vehicle accident to which both of the following apply: (i) the accident is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher, and (ii) as a result of the accident, the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

"Custodial agency" means one of the following: (a) the entity that has custody of a defendant or an alleged juvenile offender who is incarcerated for a crime, is under detention for the commission of a specified delinquent act, or who is detained after a finding of incompetence to stand trial or not guilty by reason of insanity relative to a crime, including DRC or the APA, a county sheriff, the entity that administers a jail, as defined in R.C. 2929.01, the entity that administers a community-based correctional facility and program or a district community-based correctional facility and program, or the Department of Mental Health or other entity to which a defendant found incompetent to stand trial or not guilty by reason of insanity is committed, or (b) the entity that has custody of an alleged juvenile offender pursuant to an order of disposition of a juvenile court, including the department of youth services or a school, camp, institution, or other facility operated for the care of delinquent children.

"Prosecutor" means one of the following: (a) with respect to a criminal case, it has the same meaning as in R.C. 2935.01 and also includes the Attorney General and, when appropriate, the employees of any person listed in R.C. 2935.01 or of the Attorney General, or (b) with respect to a delinquency proceeding, it includes any person listed in R.C. 2935.01(C) or an employee of a person listed in that division who prosecutes a delinquency proceeding.

"Victim" means either of the following: (a) a person who is identified as the victim of a crime or specified delinquent act in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution or delinquency proceeding and subsequent proceedings to which this chapter makes reference, or (b) a person who receives injuries as a result of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a specified violation or a motor vehicle accident that is proximately caused by a specified violation and who receives specified medical treatment, whichever is applicable.

3. Existing R.C. 2950.01 provides definitions for numerous terms that are used in to the SORN Law. Among the definitions are the following, which are relevant to the bill and are not changed by the bill (R.C. 2950.01):

"Child-victim oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age, when the victim is under 18 and is not a child of the person who commits the violation: (a) kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the violation is not included in paragraph (7) of the definition of "sexually oriented offense" set forth above in the **CONTENT AND OPERATION** portion of this analysis, (b) except when committed with a sexual motivation, abduction, unlawful restraint, or criminal child enticement, (c) a violation of any former law of Ohio, 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 clause (a) or (b) of this paragraph, or (d) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (a), (b), or (c) of this paragraph (R.C. 2950.01(C)).

"Sex offender" means, subject to the provision described in the next sentence, a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any sexually oriented offense. "Sex offender" does not include a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing a sexually oriented offense if the offense involves consensual sexual conduct or consensual sexual contact and either of the following applies: (a) the victim of the sexually oriented offense was 18 years of age or older and, at the time of the sexually oriented offense, was not under the custodial authority of the person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing, the sexually oriented offense, or (b) the victim of the offense was 13 years of age or older, and the person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing the sexually oriented offense is not more than four years older than the victim. (R.C. 2950.01(B).)

"Child-victim offender" means a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any child-victim oriented offense (R.C. 2950.01(D)).

"Tier I sex offender/child-victim offender" means any of the following (R.C. 2950.01(E)):

(a) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses: (i) sexual imposition, importuning, voyeurism, or pandering obscenity, (ii) unlawful sexual conduct with a minor when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, or unlawful sexual conduct with a minor or the former offense of felonious sexual penetration, (iii) gross sexual imposition committed other than when the victim, or one of the victims, is less than 13, (iv) illegal use of a minor in a nudity-oriented material or performance based on possession or viewing of the material or performance, (v) menacing by stalking committed with a sexual motivation, unlawful restraint committed with a sexual motivation, or criminal child enticement committed with a sexual motivation, (vi) a violation of any former law of Ohio, 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 clause (i), (ii), (iii), (iv), or (v) of this paragraph, or (vii) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (i), (ii), (iii), (iv), (v), or (vi) of this paragraph.

(b) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not in either category of child-victim offender that is included in the definition of Tier II sex offender/child-victim offender or the definition of Tier III sex offender/child-victim offender, both as described below.

(c) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court classifies a Tier I sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-

victim oriented offense and who a juvenile court classifies a Tier I sex offender/child-victim offender relative to the offense.

"Tier II sex offender/child-victim offender" means any of the following (R.C. 2950.01(F)):

(a) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to, any of the following sexually oriented offenses: (i) compelling prostitution, pandering obscenity involving a minor, or pandering sexually oriented matter involving a minor, (ii) unlawful sexual conduct with a minor when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration, (iii) gross sexual imposition committed when the victim is under 13 (but see the definition of Tier III sex offender/child-victim offender) or illegal use of a minor in a nudity-oriented material or performance that is based on proscribed conduct other than possessing or viewing the material or performance, (iv) kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the offense is committed with a sexual motivation, (v) kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will, when the victim of the offense is 18 or older, (vi) abduction committed with a sexual motivation, or endangering children committed by enticing, permitting, using, or allowing, etc., a child to participate in or be photographed for material or performance that is obscene, is sexually oriented matter, or is nudity-oriented matter, (vii) a violation of any former law of Ohio, 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 clause (i), (ii), (iii), (iv), (v), or (vi) of this paragraph, (viii) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (i), (ii), (iii), (iv), (v), (vi), or (vii) of this paragraph, or (ix) any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or has been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the sex offender was classified a Tier I sex offender/child-victim offender.

(b) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to, any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a Tier I sex offender/child-victim offender.

(c) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court classifies a Tier II sex offender/child-victim offender relative to the offense.

(d) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and who a juvenile court classifies a Tier II sex offender/child-victim offender relative to the current offense.

(e) A sex offender or child-victim offender who is not in any category of Tier II sex offender/child-victim offender set forth in paragraph (a) to (d), above, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, unless either of the following applies: (i) the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a Tier I sex offender/child-victim offender or a Tier III sex offender/child-victim offender relative to the offense, or (ii) a juvenile court classifies the child a Tier I sex offender/child-victim offender or a Tier III sex offender/child-victim offender relative to the offense.

HISTORY

ACTION	DATE
Introduced	10-04-07

h0343-i-127.doc/kl