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TABLE OF CONTENTS

Background..... 5
SORN Law registration of residence, school, institution of higher education,
and place of employment address..... 6
 Existing law 6
 Operation of the bill..... 7
Parole officer verification of SORN Law registration 13
Change of address notification and new registration under SORN Law 13
 Existing law 13
 Operation of the bill..... 14
Periodic verification of address under SORN Law 15
 Existing law 15
 Operation of the bill..... 15
Notification under SORN Law of intent to reside in county..... 16
Commencement and duration of SORN Law duties 17
 Existing law 17
 Operation of the bill..... 17
Notification to offender or delinquent child of duties under the SORN Law,
in general 22
 Official who must provide notice and time of provision..... 22
 Content of notice 23
 Additional duties of official, designee, or judge after notice is provided 25
Notification to offender or delinquent child who committed offense prior
to bill's effective date of duties under the SORN Law as amended by the bill..... 26

* This analysis was prepared before the report of the Senate Judiciary - Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Offenders and delinquent children who have registered before December 1, 2007, or who register on or after that date under a duty imposed prior to that date	27
Offenders and delinquent children who will be imprisoned or institutionalized on December 1, 2007; who commence a prison term or institutionalization on or after that date and have prior SORN Law duties; or who have SORN Law duties imposed on or after July 1, 2007, and are not sentenced to a prison term or institutionalization.....	34
Offenders and delinquent children whose SORN Law duties currently are scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008	40
Voiding of termination and continuance of duties	40
Presumption of knowledge of the law and of the voiding of termination and continuance of duties	42
Delinquent children to whom the extension provision applies	43
Limited authority for termination of SORN Law duties	43
Making of motion	43
When motion may be filed	44
Material to be included with motion	44
Hearing on motion, and related duties.....	44
Public access to SORN Law registration information and materials	47
Existing law	47
Operation of the bill.....	47
SORN Law restriction on residence	48
Existing law	48
Operation of the bill.....	48
Victim notification under SORN Law.....	48
Existing law	48
Operation of the bill.....	49
Community notification under SORN Law.....	50
Existing law	50
Operation of the bill.....	51
Special notice to public children services agencies	56
Duties of the AG regarding the SORN Law.....	56
State Registry of Sex Offenders and Child-victim Offenders.....	57
Internet Sex Offender and Child-victim Offender Database.....	58
Assistance to sheriff in establishing Internet database of sex offenders and child-victim offenders; development of software to be used by sheriffs in establishing the database	59
Internet database of sex offenders and child-victim offenders for law enforcement use.....	60
List of requests by volunteer organizations, or other organizations, companies, or individuals who wish to receive community notification.....	61

Notification by electronic means of officials in other states, when registration or change of address under the SORN Law	61
Rules regarding victim notification and community notification	61
Forms to be used to provide notice to registrants.....	62
Provision of materials to law enforcement officials and the FBI.....	62
Procedures for forwarding information to BCII.....	62
Guidelines to be followed in use of information received under community notification	62
Designation of geographic notification area for community notification	63
Attorney General adoption of rules to conform to federal regulations, guidelines, or standards	63
Sheriff's establishment of an Internet database	63
Existing law	63
Operation of the bill.....	64
Certification of sex offender treatment programs	64
Qualified immunity related to SORN Law.....	65
Existing law	65
Operation of the bill.....	66
Notice by DRC or DYS to BCII prior to releasing a person who is subject to SORN Law	66
Existing law	66
Operation of the bill.....	67
Declarations of the General Assembly regarding the SORN Law	67
Existing law	67
Operation of the bill.....	67
Inclusion of certain prior SORN Law terminology within the bill's terminology	68
Juvenile court classification of a delinquent child as a juvenile offender registrant.....	68
Existing law	68
Operation of the bill.....	69
Juvenile court determination of tier classification of a juvenile offender registrant.....	74
Juvenile court reclassification or declassification of a delinquent child as a juvenile offender registrant.....	78
Mandatory review upon completion of disposition, and continuation, modification, or termination of prior registration order	78
Reclassification or declassification upon petition of juvenile offender registrant.....	81
Juvenile court classification of a delinquent child as a public registry-qualified juvenile offender registrant.....	84
Issuance at time of disposition	85
Issuance upon release from DYS	85

Reclassification of previously classified juvenile offender registrant and issuance of new order	85
Duties subsequent to issuance of the order; duration of order and transition provisions	86
Hearing to contest classifications public registry-qualified juvenile offender registrant, if delinquent act committed prior to January 1, 2008.....	86
Jurisdiction of juvenile courts	88
Sexual predator, habitual sex offender, child-victim predator, and habitual child-victim offender determinations under the SORN Law	89
Existing law	89
Operation of the bill.....	89
Miscellaneous changes related to SORN Law	90
BCII maintenance of criminal records	90
Crime victims rights pamphlet; charging of a fee for compliance with SORN Law duties.....	91
Forcible Entry and Detainer Law; treatment as part of disposition	92
Repeal of existing R.C. 2152.811.....	92
Relocation of current R.C. 2152.821	92
Inclusion of status in sentence.....	92
Application to delinquent child of SORN Law-related provisions	93
Retention of control over delinquent child relative to SORN Law-related provisions	94
Taking of DNA samples.....	94
Classification of convicted rapist sentenced to life without parole under R.C. Chapter 2971.; use of global positioning device – imposition as part of sentence	95
Definitions that apply to Criminal Sentencing Law	95
SORN Law definitions	95
New prohibitions--offenses of menacing by stalking, abduction, unlawful restraint, and criminal child enticement.....	104
Menacing by stalking	104
Abduction	105
Unlawful restraint.....	105
Criminal child enticement	105
Provisions applicable to all new prohibitions	106
Penalty for kidnapping when the victim is under 13.....	106
Existing law	106
Operation of the bill.....	107
Penalty for aggravated murder when victim is under 13, when offender not sentenced to death or life imprisonment without parole, and no sexual motivation specification and sexually violent predator specification	108
Existing law	108
Operation of the bill.....	109

Penalty for murder when victim is under 13, and no sexual motivation specification and sexually violent predator specification.....	110
Existing law	110
Operation of the bill.....	111
Sexually Violent Predator Sentencing Law--sentencing provisions	111
Miscellaneous changes related to special sentencing mechanism imposing sentences served under the Sexually Violent Predator Sentencing Law.....	114
Definition of "harmful to juveniles" as used in the Sex Offenses Law.....	117
Existing law	117
Operation of the bill.....	118
New gross sexual imposition prohibition	118

CONTENT AND OPERATION

Background

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" that is not a "registration-exempt sexually oriented offense" or to a "child-victim oriented offense" (see **COMMENT 1** for definitions of these terms). Among the duties and restrictions are duties that require a person who is convicted of or pleads guilty to any such 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.

Additional duties and notice requirements are imposed if the offender is adjudicated a "sexual predator," "habitual sex offender," "child-victim predator," or "habitual child-victim offender" or if the offense in question is an "aggravated sexually oriented offense" (see **COMMENT 1** for definitions). The Law prescribes procedures in R.C. 2950.09 and 2950.091 pursuant to which the predator and habitual offender adjudications are made. The additional duties include a duty to provide notice of an intent to reside in a county. The notice requirements include a mechanism for providing victim notification and community notification of a residence address the person registers. In specified circumstances, 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 also are subject to the duties and restrictions (R.C. 2152.82 to 2152.851). The bill changes many of the SORN Law's provisions. The changes are described in succeeding parts of this analysis.

In addition to the SORN Law changes, the bill also: (1) requires the Department of Rehabilitation and Correction (DRC) and the Department of Youth Services (DYS), by July 1, 2008, to adopt rules pertaining to the certification of sex offender treatment programs, (2) enacts new prohibitions in the offenses of menacing by stalking, abduction, unlawful restraint, and criminal child enticement, (3) increases the penalty for the offenses of kidnapping, murder, compelling prostitution, promoting prostitution, and felony offenses of violence when the victim is a minor and requires that those sentences be served under the Sexually Violent Predator Sentencing Law, (4) increases the penalty for gross sexual imposition when the victim is under ten years of age and for a failure to make a mandatory report of abuse or neglect of a child, and (5) provides a new aggravating circumstance for aggravated murder involving compelling prostitution or promoting prostitution in specified circumstances.

Except as specifically stated to the contrary in the part of this analysis describing the particular provision, all of the provisions of the bill take effect on January 1, 2008 (Sections 3 to 5 of the bill).

See **COMMENT 1** for definitions of terms from existing law and "**SORN Law definitions**," below for definitions of terms used in the bill.

SORN Law registration of residence, school, institution of higher education, and place of employment address

Existing law

Under existing law, an offender who is convicted of or pleads guilty to any "sexually oriented offense" that is not a "registration-exempt sexually oriented offense" or any "child-victim oriented offense" and a child who is adjudicated a delinquent child for committing any such offense and is classified a "juvenile offender registrant" by a juvenile court (see "**Juvenile court classification of a delinquent child as a juvenile offender registrant**," below) or is an "out-of-state juvenile offender registrant" (see **COMMENT 1** for definitions) must register personally with the sheriff of the county *within five days of coming into a county in which the offender resides or temporarily is domiciled for more than five days*. An offender who is convicted of or pleads guilty to any such offense also must register personally with: (1) the sheriff of the county immediately upon coming into a county in which the offender attends a school or institution of higher education, (2) the sheriff of the county in which the offender is employed if the offender resides or has a temporary domicile in Ohio and has been employed in that county for more than 14 days or an aggregate period of 30 or more days in that calendar year, (3) the sheriff of the county in which the offender is employed if the offender does not reside or have a temporary domicile in Ohio and has been employed in Ohio for more than 14 days or for an aggregate period of 30 or more

days in that calendar year, and (4) the sheriff or other appropriate person of the other state immediately upon entering into any state other than Ohio in which the offender attends a school or upon being employed in any state other than Ohio for more than 14 days or an aggregate period of 30 or more days in that calendar year. The duty regarding schools, institutions of higher education, and places of employment does not apply to delinquent children.

The registration must be on a specified form and must include the offender's or delinquent child's photograph, current residence address, employment address if employed or commencing employment, school address if attending or commencing school, designation as a predator or habitual offender if applicable, and other information required by the Bureau of Criminal Identification and Investigation (BCII). The registration duty applies regardless of whether the conviction or adjudication occurred in Ohio or in a court of another state, in a federal court, military court, or Indian tribal court, or in a court in a nation other than the United States. When an offender or delinquent child registers, the sheriff must forward the registration form and photograph to BCII. Existing law prohibits a person who is required to register pursuant to those provisions from failing to register and provides criminal penalties for a violation of the prohibition (see **COMMENT 2**). (R.C. 2152.84, 2152.85, 2950.04, and 2950.041.)

Operation of the bill

The bill imposes upon offenders and delinquent children who are required to register under the SORN Law a registration duty that applies immediately after sentencing or the dispositional hearing of the offender or delinquent child. It shortens the period of time within which an offender or delinquent child must register a residence address. It also removes the restrictions against the registration duties applying to registration-exempt sexually oriented offenses and deletes the definition of the term. Finally, it expands the information and materials that must be included on or with a registration form. The bill generally retains the other existing provisions regarding registration of a residence, school, institution of higher education, or place of employment address.

New duty--registration at time of sentencing or disposition. Under the bill, immediately after a sentencing hearing held on or after January 1, 2008, for an offender who is convicted of or pleads guilty to a "sexually oriented offense" or "child-victim oriented offense" (the bill modifies the definitions of these terms; see "**SORN Law definitions**," below) (hereafter "sexually oriented or child-victim oriented offender") and is sentenced to any type of confinement and before the offender is transferred to the custody of DRC or to the official in charge of the institution where the offender will be confined, the offender is required to register personally with the sheriff of the county in which the offender was convicted or

pleaded guilty to the offense. Immediately after a dispositional hearing held on or after January 1, 2008, for a child who is adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, is classified a juvenile offender registrant based on that adjudication, and is committed to the custody of DYS or to a secure facility that is not operated by DYS and before the child is transferred to DYS's custody or the secure facility, the delinquent child is required to register personally with the sheriff of the county in which the child was classified a juvenile offender registrant based on that offense.

The bill requires that a law enforcement officer be present at the sentencing hearing or dispositional hearing described above to immediately transport the subject offender or delinquent child to the sheriff of the county in which the offender or child is convicted, pleads guilty, or is adjudicated a delinquent child. After an offender or delinquent child who has registered pursuant to this provision is released from any type of confinement or from the custody of DYS or from a secure facility that is not operated by DYS, the offender or child must register under the other provisions of the SORN Law described below. (R.C. 2950.04(A)(1) and 2950.041(A)(1).)

Changes to existing duty--registration of residence, school, institution of higher education, or employment address. Under the bill, regardless of when the offense was committed, each sexually oriented or child-victim oriented offender must register personally with the sheriff of the county *within three days of the offender's coming into a county in which the offender resides or temporarily is domiciled for more than three days*. As under existing law, the offender also must register personally with the sheriff of the county immediately upon coming into a county in which the offender attends a school or institution of higher education on a full-time or part-time basis regardless of where the offender resides or has a temporary domicile; the sheriff of the county where employed if the offender resides or has a temporary domicile in Ohio and has been employed in that county for more than 14 days or for an aggregate period of 30 or more days in that calendar year; the sheriff of the county where employed if the offender does not reside or have a temporary domicile in Ohio and has been employed at any Ohio location or locations more than 14 days or for an aggregate period of 30 or more days in that calendar year; and the sheriff or other appropriate person of the other state immediately upon entering into any state other than Ohio in which the offender attends a school or institution of higher education on a full-time or part-time basis or upon being employed in any state other than Ohio for more than 14 days or for an aggregate period of 30 or more days in that calendar year regardless of whether the offender resides or has a temporary domicile in Ohio, the other state, or a different state.

Under the bill, regardless of when the sexually oriented offense or child-victim oriented offense was committed, each child who is adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and who is classified a juvenile offender registrant (hereafter "juvenile offender registrant") based on that adjudication must register personally with the sheriff of the county *within three days of the delinquent child's coming into a county in which the delinquent child resides or temporarily is domiciled for more than three days*. As under existing law, if the delinquent child is committed for the sexually oriented offense to DYS or to a secure facility not operated by DYS, this duty begins when the child is discharged or released in any manner from custody in a DYS secure facility or from the secure facility not operated by DYS, if pursuant to the discharge or release the child is not committed to any other secure facility of DYS or any other secure facility. As under existing law, the registration duty regarding schools, institutions of higher education, and places of employment does not apply to delinquent children.

Under the bill, regardless of when the offense was committed, each person who is convicted, pleads guilty, or is adjudicated a delinquent child in a court 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 for committing a sexually oriented offense or child-victim oriented offense must comply with the following registration requirements if, at the time the offender or delinquent child *moves to and resides in Ohio or temporarily is domiciled in Ohio for more than three days*, the offender enters Ohio to attend a school or institution of higher education, or the offender is employed in Ohio for more than the specified period of time, the offender or child has a duty to register as a sex offender or child-victim offender under the law of that other jurisdiction as a result of the conviction, guilty plea, or adjudication: (1) each offender and delinquent child must register personally with the sheriff of the county *within three days of the offender's or child's coming into the county in which the offender or child resides or temporarily is domiciled for more than three days*, and (2) as under existing law, each offender must register personally with the sheriff of the county immediately upon coming into a county in which the offender attends a school or institution of higher education on a full-time or part-time basis regardless of whether the offender resides or has a temporary domicile in Ohio or another state, the sheriff of the county in which the offender is employed if the offender resides or has a temporary domicile in Ohio and has been employed in that county for more than 14 days or for an aggregate period of 30 days or more in that calendar year, and the sheriff of the county in which the offender is employed if the offender does not reside or have a temporary domicile in Ohio and has not been employed at any Ohio location or locations for more than 14 days or for an aggregate period of 30 or more days in that calendar year.

The bill specifies that an offender or a delinquent child who is a "public-registry qualified juvenile offender registrant (see "SORN Law definitions," below) is not required to register under the SORN Law if a court issues an order under a provision enacted by the bill terminating the offender's or child's duty to comply with the SORN Law (see "Limited authority for termination of SORN Law duties," below). A delinquent child who is a juvenile offender registrant but is not a public-registry qualified juvenile offender registrant is not required to register under those provisions if a juvenile court issues an order declassifying the child as a juvenile offender registrant pursuant to R.C. 2152.84 or 2152.85 (see "Juvenile court reclassification or declassification of a delinquent child as a juvenile offender registrant," below). (R.C. 2950.04(A) and 2950.041(A).)

Registration procedure and content of registration form. Under the bill, as under existing law, an offender or delinquent child who is required to register in Ohio personally must obtain from the sheriff or from a designee of the sheriff a registration form that conforms to specified provisions, must complete and sign the form, and must return the completed form together with the offender's or child's photograph to the sheriff or the designee. The bill specifies that the offender or delinquent child also must return with the completed form any other required material described in the succeeding paragraphs. As under existing law, the sheriff or designee must sign the form and indicate on the form the date on which it is so returned, and the registration is complete when the offender or delinquent child returns the form, containing the requisite information, photograph, signatures, and date (and other required material, as added by the bill), to the sheriff or designee. (R.C. 2950.04(B) and 2950.041(B).)

The bill requires the registration form to include or contain all of the following (R.C. 2950.04(C) and 2950.041(C)):

- (1) The offender's or child's name, any aliases used by the offender or delinquent child (added by the bill), and a photograph of the offender or delinquent child;
- (2) The offender's or child's Social Security number (added by the bill);
- (3) For an offender or child who is registering under the bill's new requirement for registration at sentencing or disposition, a statement that the offender is serving a type of confinement or that the child is in the custody of DYS or is confined in a secure facility not operated by DYS (added by the bill);
- (4) For an offender or child who is registering under a duty imposed other than under the provision described in (3), above, as a result of the offender or child *residing in Ohio or temporarily being domiciled in Ohio for more than three days*, the offender's or child's current residence address, the name and address of the

offender's or child's employer if employed when registering or knows at that time that he or she will be employed by that employer, and the name and address of the offender's school or institution of higher education if the offender attends one when registering or knows at that time that he or she will attend that school or institution of higher education (existing law, except for the reduction of the five-day period to a three-day period);

(5) Regarding an offender who is registering under a duty imposed other than under the provision described in (3), above, as a result of the offender attending a school or institution of higher education in Ohio on a full-time or part-time basis or being employed in Ohio or in a particular Ohio county for more than 14 days or for an aggregate of 30 or more days in any calendar year, *the name* and current address of the school, institution of higher education, or place of employment of the offender who is registering (existing law, except for the added requirement that the name of the school, institution, or place of employment be provided);

(6) The identification license plate number issued by Ohio or any other state of: (a) each motor vehicle the offender or child owns and each motor vehicle registered in the offender's or child's name (currently required only if the offender or child is a sexual predator or child-victim predator; due to an oversight, the bill does not include the "other state" provision in the law pertaining to sexually oriented offenses), and (b) each motor vehicle the offender or child operates as a part of employment and each other motor vehicle that is regularly available to be operated by the offender or child (added by the bill; due to an oversight, the bill does not include the "other state" provision in the law pertaining to sexually oriented offenses), and, if required by BCII, a photograph of each of those motor vehicles (added by the bill);

(7) The number of any driver's license, commercial driver's license, or state identification card (issued by Ohio or another state added by the bill; due to an oversight, the bill does not include the "other state" provision in the law pertaining to sexually oriented offenses);

(8) If the offender or child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense resulting in the registration duty in a court 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, a DNA specimen from the offender or child, a citation for, and the name of, the sex offense resulting in the registration duty, and a certified copy of a document that describes the text of that sex offense (added by the bill);

(9) Any other information required by BCII (existing law relocated by the bill).

Procedures subsequent to registration. Under the bill, as under existing law, after an offender or delinquent child registers with a sheriff, the sheriff must forward the signed, written registration form, and photograph (and other required material, as added by the bill) to BCII in accordance with forwarding procedures adopted pursuant to R.C. 2950.13. If an offender registers a school, institution of higher education, or place of employment address, or provides a school or institution of higher education address with a residence address registration, the sheriff also must provide notice to the law enforcement agency with jurisdiction over the premises of the school, institution of higher education, or place of employment of the offender's name and that the offender has registered that address as a place at which the offender attends school or an institution of higher education or is employed. BCII must include the information and materials forwarded to it under this provision in the State Registry of Sex Offenders and Child Victim Offenders established and maintained pursuant to law (see "**State Registry of Sex Offenders and Child-victim Offenders**" under "**Duties of the AG regarding the SORN Law**," below). (R.C. 2950.04(D) and 2950.041(D).)

The bill specifies that, if an offender or delinquent child registers with a sheriff on or after December 1, 2007, previously has not registered with any sheriff, and was convicted of, pleaded guilty to, or was classified a juvenile offender registrant relative to the sexually oriented offense or child-victim oriented offense upon which the registration was based prior to December 1, 2007, as soon as practicable after the registration, the sheriff must contact the Attorney General (the AG), inform the AG of the registration, and forward to the AG in the manner described in the preceding paragraph all of the information and material specified in that paragraph. Upon being informed of the registration and receiving the information and material, the AG within 14 days must determine the offender's or child's new classification as a tier I, II, or III sex offender/child-victim offender under the amended SORN Law, the offender's or child's new duties under that Law, and whether the child is a public registry-qualified juvenile offender registrant and must give the offender, child, and child's parent notice of the changes to the SORN Law, the offender's or child's classification under the new Law, and that the offender and child have a right to a hearing on the new classification. This provision of the bill will take effect on July 1, 2007. (R.C. 2950.043, and Sections 3 and 4 of the bill.)

Period of registration; prohibition against failure to register. Existing law, substantively unchanged by the bill, provides that an offender or delinquent child who is required to register pursuant to the provisions described above must do so for a specified period of time (see "**Commencement and duration of SORN Law duties**," below). It prohibits a person who is required to register pursuant to those provisions from failing to register in accordance with them, and provides

criminal penalties, unchanged by the bill, for a violation of the prohibition (see **COMMENT 2**). (R.C. 2950.04(E) and (F) and 2950.041(E) and (F).)

Transition provision. The bill provides that if, immediately prior to January 1, 2008, an offender or delinquent child was required to register for committing a sexually oriented offense or a child-victim oriented offense as defined in existing law and if, on or after January 1, 2008, that offense is a sexually oriented offense as defined in R.C. 2950.01 on and after January 1, 2008 (i.e., under the bill), the duty to register is to be considered for all purposes to be a continuation of the duty imposed upon the offender or delinquent child prior to January 1, 2008. (R.C. 2950.04(H) and 2950.041(H).)

Parole officer verification of SORN Law registration

The bill specifies that, by January 1, 2008, DRC, the Adult Parole Authority (the APA), and DYS must adopt rules to require parole officers to verify within three days of an offender's release that the offender or delinquent child has registered as provided in the bill. This provision will take effect on July 1, 2007. (R.C. 2950.042, and Sections 3 to 5 of the bill.)

Change of address notification and new registration under SORN Law

Existing law

Existing law requires an offender or delinquent child who is required to register a residence address and an offender who is required to register a school, institution of higher education, or place of employment address to provide notice of any change of that address to the sheriff with whom he or she most recently registered the address in question and to register the new address with the sheriff of the county in which the new address is located. If the new address is in a state other than Ohio, the registration of that address must be with appropriate law enforcement officials in that state in accordance with the law of that state. The notification and the new registration generally must be made at least 20 days prior to changing a residence, school, or institution of higher education address and not later than five days after changing a place of employment address. Special rules apply when a residence address change is not to a fixed address. The sheriff must forward the new address provided or a copy of the new registration form and photograph to BCII. Existing law prohibits a person who is required to provide notice of a change in address or to register a new address from failing to notify the appropriate sheriff or register the new address with the appropriate sheriff, and provides criminal penalties for a violation of the prohibition (see **COMMENT 2**). (R.C. 2950.05.)

Operation of the bill

The bill modifies the time within which an offender must comply with the SORN Law's change-of-address provisions regarding a registered place of employment address and the content of a notice of a change of a registered school, institution of higher education, or place of employment address. The bill generally retains the other existing change-of-address provisions regarding a registered residence, school, institution of higher education, or place of employment address.

Written notice of change of address. Under the bill, as under existing law, an offender or delinquent child must provide written notice of any change of residence address, and an offender must provide notice of any change of school, institution of higher education, or place of employment address, to the sheriff with whom the offender or delinquent child most recently registered the address. Under the bill, the offender or child must provide the written notice at least 20 days prior to changing the residence address (as under existing law), and the offender must provide the written notice at least 20 days prior to changing the school or institution of higher education address (as under existing law) and *not later than three days after changing the address of the place of employment* (five days under existing law). The bill also specifies that a written notice of a change of school, institution of higher education, or place of employment address must include, in addition to the changed address, the *name* of the new school, institution of higher education, or place of employment. The bill retains, without change, existing provisions that specify a special manner of providing the written notice of a change of residence address that is not to a fixed address. (R.C. 2950.05(A).)

Registration of new address. Under the bill, at least 20 days prior to changing the residence, school, or institution of higher education address (as under existing law) and *not later than three days after changing the place of employment address* (changed from five days under existing law), the offender or delinquent child must register the new address in the manner *and using the form* (added by the bill) required for original registrations with the sheriff of the county in which the offender's or delinquent child's new address is located. The bill retains, without change, existing provisions that specify a special manner of registering a new residence address when the change of residence address is not to a fixed address. (R.C. 2950.05(B).)

Procedures subsequent to change of address notification or registration of new address. Existing law, unchanged by the bill, provides that, upon receiving from an offender or delinquent child notice of a change of address, a sheriff promptly must forward the new address to BCII if the new address, is in another state or to the sheriff of the county in which the new address is located. BCII must include all information forwarded to it in the State Registry of Sex Offenders and

Child-victim Offenders and must forward notice of the new address to the appropriate officials in the other state. (R.C. 2950.05(D).)

Meaning of "change in address". Existing law, unchanged by the bill, specifies that, as used in the SORN Law relative to a change in the offender's or child's address, "change in address" includes any circumstance in which the old address no longer is accurate, regardless of whether the person in question has a new address (R.C. 2950.05(H)).

Periodic verification of address under SORN Law

Existing law

Under the existing SORN Law, an offender or delinquent child must periodically verify the offender's or child's residence address, or the offender's school, institution of higher education, or place of employment address, with the sheriff with whom he or she registered. The frequency of required verification is every 90 days after initial registration if the offender or delinquent child is a "sexual predator" or "child-victim predator" or the offender is required to register based on an "aggravated sexually oriented offense," and is annually on the anniversary of the initial registration date in all other circumstances. The verification must be done by personally appearing before the sheriff not earlier than ten days before the date on which verification is required and not later than the date of required verification and filing a specified registration form. A sheriff may send reminders of upcoming verification dates to offenders or delinquent children and must send a warning to an offender or delinquent child who fails to register that provides a seven-day grace period after the failure before a prosecution for the failure may be commenced. The sheriff must forward a copy of the filed verification form to BCII. Existing law prohibits a person who is required to verify an address pursuant to the provisions described above from failing to verify the address and provides criminal penalties, unchanged by the bill, for a violation of the prohibition but provides a "grace period" to avoid prosecution for the violation (see **COMMENT 2**). (R.C. 2950.06.)

Operation of the bill

Frequency of verification. Under the bill (changed from existing law), the frequency with which an offender or delinquent child must verify his or her current residence, school, institution of higher education, or place of employment address is as follows: (1) regardless of when the relevant sexually oriented offense or child-victim oriented was committed, if the offender or child is a *tier I sex offender/child-victim offender* (see "**SORN Law definitions**," below), the offender or child must verify his or her current residence address *on each anniversary of his or her initial registration date* during the period he or she is

required to register, (2) regardless of when the relevant sexually oriented offense or child-victim oriented offense was committed, if the offender or child is a *tier II sex offender/child-victim offender* (see "SORN Law definitions," below), the offender must verify his or her current residence, school, institution of higher education, or place of employment address, and the child must verify his or her current residence address, *every 180 days after his or her initial registration date*, and (3) regardless of when the relevant sexually oriented offense or child-victim oriented offense was committed, if the offender or child is a *tier III sex offender/child-victim offender* (see "SORN Law definitions," below), the offender or child must verify those current addresses *every 90 days after his or her initial registration date*. (R.C. 2950.06(A) and (B).)

Transition provisions. The bill provides that if, prior to January 1, 2008, an offender or delinquent child registered with a sheriff under the SORN Law as a result of a sexually oriented offense or a child-victim oriented offense as those terms are defined in existing law, the duty to register that is imposed on the offender or child on and after January 1, 2008, is a continuation of the duty imposed upon the offender or child prior to January 1, 2008, and, for purposes of the frequency of address verification, the offender's initial registration date related to that offense is the date on which the offender initially registered. (R.C. 2950.06(B)(4).)

Manner of verification; content of verification form. The bill does not change the manner in which offenders must verify registered addresses. It makes one change to the verification form used for verifying addresses. Regarding an offender who is verifying a current school, institution of higher education, or place of employment address, the bill requires the form to contain *the name* (added by the bill) and current address of the school, institution of higher education, or place of employment of the offender and any other information required by BCII. (R.C. 2950.06(C) and (D).)

Notification under SORN Law of intent to reside in county

The bill modifies the existing "notice of intent to reside" provision of the SORN Law by replacing the references to "sexual predators," "habitual sex offenders," "child-victim predators," and "habitual child-victim offenders," all of which are repealed by the bill, with a reference to a "tier III sex offender/child-victim offender." Under the bill, if an offender or delinquent child who is required to register under the SORN Law is a tier II sex offender/child victim offender, the offender or child also is required to send the sheriff of the county in which the offender or child intends to reside written notice of his or her intent to reside in the county. The offender or delinquent child must send the notice of intent to reside at least 20 days prior to the date he or she begins to reside in the county. The notice of intent to reside must contain the offender's or delinquent child's name, the

address or addresses at which he or she intends to reside, and the sexually oriented offense or child-victim oriented offense of which the offender was convicted, to which the offender pleaded guilty, or for which the child was adjudicated a delinquent child. (R.C. 2950.04(G) and 2950.041(G).)

Commencement and duration of SORN Law duties

Existing law

Under existing law, the SORN Law registration, change of address, periodic address verification, and notice of intent to reside duties described above commence on the occurrence of a specified event (e.g., the entry of judgment of the offender's conviction of the offense, the entry of judgment of the juvenile court's order classifying the delinquent child as a juvenile offender registrant, or the offender's or delinquent child's release from prison, institutionalization, or other confinement) and last for a period ranging from ten years to life, depending upon the status classification of the offender or delinquent child. If the offender or delinquent child is classified a "sexual predator" or "child-victim predator" relative to the offense on which the registration duty is based or the offender is required to register based on an "aggravated sexually oriented offense" (see **COMMENT 1**), the duty continues until the offender's or child's death (but a juvenile court may remove a predator classification for a delinquent child and reduce the duration of the duty to one of the other specified durations described below). If the offender or delinquent child is classified a "habitual sex offender" or "habitual child-victim offender" (see **COMMENT 1**) relative to the offense on which the registration duty is based, the offender's duty continues until his or her death or, if specified criteria apply, for 20 years and the child's duty continues for 20 years (but a juvenile court may remove an habitual offender classification for a delinquent child and reduce the duration of the duty to the specified duration described below). In all other cases, the offender's or delinquent child's duty continues for ten years. The duration of the duties is "tolled" during any period during which an offender or delinquent child is returned to confinement in a secure facility or is imprisoned. If an offender or delinquent child has the duties for multiple offenses, the duration of the duties is calculated separately for each of the offenses. (R.C. 2950.07.)

Operation of the bill

The bill modifies the commencement time of the SORN Law registration, change of address, periodic address verification, and notice of intent to reside duties described above and also modifies the duration of those duties.

Commencement of duties. Under the bill, the duty of an offender who is convicted of or pleads guilty to a sexually oriented or child-victim oriented offense

and of a delinquent child who is adjudicated a delinquent child for committing such an offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant to comply with the duties imposed under the SORN Law commences on whichever of the following is applicable (R.C. 2950.07(A)):

(1) If the offender's or delinquent child's duty to register is the new duty the bill imposes upon an offender or delinquent child to register immediately after sentencing or disposition in the county in which was committed the offense on which the duty is based, the offender's duty to comply commences immediately after the entry of judgment of conviction, and the child's duty to comply commences immediately after the order of disposition.

(2) If the offender's duty to register is imposed for a sexually oriented offense or child-victim oriented offense and requires him or her to register within a specified period of time in the county of residence, the county of attendance at a school or institution of higher education, and the county of employment, subject to paragraph (6), the offender's duty to comply commences on the date of release from confinement or, if the offender is not sentenced to confinement, on the date of the entry of the judgment of conviction of the offense on which the duty is based.

(3) If the offender's or delinquent child's duty to register is based on an offense committed in another jurisdiction, the offender's duty to comply commences regarding residence addresses on the date the offender begins to reside or becomes temporarily domiciled in Ohio, the offender's duty regarding addresses of schools, institutions of higher education, and places of employment commences on the date the offender begins attending any school or institution of higher education in Ohio on a full-time or part-time basis or becomes employed in Ohio, and the child's duty commences on the date the child begins to reside or becomes temporarily domiciled in Ohio.

(4) If the delinquent child's duty to register requires him or her to register within a specified period of time in the county of residence, if the child's classification as a juvenile offender registrant is made at the time of the child's disposition for the sexually oriented offense or child-victim oriented offense, and if the child is committed for that offense to DYS or to a secure facility not operated by DYS, the child's duty to comply commences on the date of the child's discharge or release from DYS custody in the secure facility or from the secure facility not operated by DYS.

(5) If the delinquent child's duty to register requires him or her to register within a specified period of time in the county of residence and if either the child's classification as a juvenile offender registrant is made at the time of the child's disposition for that offense and the child is not committed to DYS or to a secure

facility not operated by DYS or the child's classification as a juvenile offender registrant is made for an offense committed after January 1, 2002, the child was 16 or 17 at the time of the offense, and the child does have a prior such disposition, the child's duty to comply with those sections commences on the date of entry of the court's order that classifies the child a juvenile offender registrant.

(6) If the offender's or delinquent child's duty to register is described in paragraph (2), (3), or (4), above, and if the offender or child prior to January 1, 2008, has registered a residence, school, institution of higher education, or place of employment address pursuant to the SORN Law, the offender or delinquent child initially must register in accordance with the SORN Law's requirements as they exist on and after January 1, 2008, not later than the earlier of the following dates: (a) the date that is six months after the date on which the offender or child receives a registered letter from the AG notifying the offender or child of the bill's changes to the SORN Law, of the offender's or child's classification under that Law, and the offender's or child's right to a hearing to contest that classification, or (b) the earlier of the date on which the offender or child would be required to verify a previously registered address under the law that existed prior to January 1, 2008, or, if the offender or child has changed a previously registered address, the date on which the offender or child would be required to register a new address under the law that existed prior to January 1, 2008. The offender's or delinquent child's duty to comply thereafter with the SORN Law's requirements as they exist on and after January 1, 2008, commences on the date of that initial registration.

(7) If the offender's or delinquent child's duty to register was imposed pursuant to the SORN Law's requirements as they exist prior to January 1, 2008, the offender's or child's duty to comply with the SORN Law's requirements as they exist on and after January 1, 2008, is a continuation of the offender's or child's duty to register imposed prior to January 1, 2008, under the SORN Law's requirements and are to be considered for all purposes as having commenced on the date that the offender's duty under the SORN Law's requirements in existence prior to January 1, 2008.

Duration of duties. Under the bill, the duty of an offender, a delinquent child, out-of-state juvenile offender registrant to comply with the duties imposed under the SORN Law continues, after the date of commencement, for whichever of the following periods is applicable (R.C. 2950.07(B)):

(1) Except as otherwise described in this paragraph, if the person is an offender who is a tier III sex offender/child-victim offender relative to the sexually oriented offense or child-victim oriented offense, if the person is a delinquent child who is a tier III sex offender/child-victim offender relative to the sexually oriented offense or child-victim oriented offense (see "**Juvenile court determination of tier classification of a juvenile offender registrant**," below), or

if the person is a delinquent child who is a public registry-qualified juvenile offender registrant relative to the sexually oriented offense, 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 relative to the offense but is not a public registry-qualified juvenile offender registrant relative to it, 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 with the SORN Law continues for the period of time that is applicable to the child, based on the reclassification of the child, pursuant to the bill's provisions that authorize juvenile courts to revise the tier classification in which a child is placed, as a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender (see "*Juvenile court classification of a delinquent child as a juvenile offender registrant*" and "*Juvenile court declassification of a delinquent child as juvenile offender registrant*," below). In no case may the lifetime duty to comply that is 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 pursuant to the specific procedures enacted by the bill (see "*Limited authority for termination of SORN Law duties*," below).

(2) If the person is an offender who is a tier II sex victim/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 relative to the sexually oriented offense or child-victim oriented offense, the delinquent child's duty to comply with those sections continues for 20 years. Regarding a delinquent child who is a tier II sex offender/child-victim offender relative to the offense but is not a public registry-qualified juvenile offender registrant relative to it, if the judge who made the disposition for a 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 with duties imposed under the SORN Law continues for the period of time that is applicable to the delinquent child, based on the reclassification of the child, pursuant to the bill's provisions that authorize juvenile courts to revise the tier classification in which a child is placed, as a tier I sex offender/child-victim offender (see "*Juvenile court classification of a delinquent child as a juvenile offender registrant*" and "*Juvenile court reclassification or declassification of a delinquent child as juvenile offender registrant*," below).

(3) Except as otherwise described in this paragraph, if the person is an offender who is a tier I sex victim/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 relative to the sexually oriented offense or child-victim oriented offense, the delinquent child's duty to comply with the SORN Law 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 pursuant to the bill's provisions described below in "**Limited authority for termination of SORN Law duties.**"

Transition provisions. Under the bill, if a delinquent child has been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense and is classified a juvenile offender registrant relative to the offense and if the juvenile judge or that judge's successor in office subsequently reclassifies the offense tier in which the child is classified pursuant to the bill's provisions that authorize juvenile court tier reclassification (see "**Juvenile court classification of a delinquent child as a juvenile offender registrant**" and "**Juvenile court reclassification or declassification of a delinquent child as juvenile offender registrant,**" below), the judge's subsequent determination to reclassify the child does not affect the date of commencement of the child's duty to comply with the SORN Law. The child's duty to comply with those sections after the reclassification is a continuation of the child's duty to comply with the sections that were in effect prior to the reclassification, and the duty continues for the period of time described above in "**Duration of duties.**"

If, prior to January 1, 2008, an offender had a duty to comply with the SORN Law's requirements as a result of a sexually oriented offense or child-victim oriented offense as those terms are defined in existing law or a delinquent child had a duty to comply with those sections as a result of an adjudication as a delinquent child for committing one of those offenses as they are defined in existing law, the periods of time described above in "**Duration of duties**" that apply on and after January 1, 2008, for which a person must comply with the SORN Law's requirements apply to the person, automatically replace the period of time for which the person had to comply with those requirements prior to January 1, 2008, and are a continuation of the person's duty to comply with the sections that were in effect prior to the reclassification. If, prior to January 1, 2008, an offender or delinquent child had a duty to comply with those requirements, the offender's or child's classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender (hereafter collectively referred to as tier I, tier II, or tier III sex

offender/child-victim offender) for purposes of those periods of time must be determined by the AG as described below in "Notification to offender or delinquent child who committed offense prior to bill's effective date of duties under the SORN Law as amended by the bill." (R.C. 2950.07(C)(2).)

Notification to offender or delinquent child of duties under the SORN Law, in general

Official who must provide notice and time of provision

The bill specifies that each person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense or a child-victim oriented offense, and each person who is adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense and who is classified a juvenile offender registrant based on that adjudication must be provided notice as described below of his or her duties imposed under the SORN Law and of the offender's similar duties in another state if the offender resides, is temporarily domiciled, attends a school or institution of higher education, or is employed in a state other than Ohio. Under the bill, the following official is required to provide the notice to the specified person at the following time (R.C. 2950.03(A); also R.C. 2929.13(I) and 2929.23(A) and (B)):

(1) Regardless of when the person committed the offense, if the person is an offender who is sentenced for the offense to a prison term, a term of imprisonment, or any other type of confinement, and if, on or after January 1, 2008, the offender is serving that term or is under that confinement, subject to paragraph (5), below, the official in charge of the institution in which the offender serves the confinement, or a designee of that official, must provide the notice to the offender before the offender is released pursuant to any type of supervised release or before the offender otherwise is released from the confinement.

(2) Regardless of when the person committed the offense, if the person is an offender who is sentenced for the offense on or after January 1, 2008, and if the provision described in the preceding paragraph does not apply, the judge must provide the notice to the offender at the time of sentencing.

(3) If the person is a delinquent child who is classified a juvenile offender registrant on or after January 1, 2008, the judge must provide the notice to the delinquent child at the time of the classification.

(4) If the person is a delinquent child who is classified as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant on or after January 1, 2008, the judge must provide the notice to the delinquent child at the time of the classification.

(5) If the person is an offender or delinquent child in any of the following categories, the AG, DRC, or DYS must provide the notice to the offender or delinquent child at the time and in the manner specified in the bill (see "Notification to offender or delinquent child who committed offense prior to bill's effective date of duties under the SORN Law as amended by the bill," below): (a) an offender or delinquent child who, prior to December 1, 2007, has registered a residence, school, institution of higher education, or place of employment address pursuant to a SORN Law registration requirement, (b) an offender or delinquent child who registers with a sheriff pursuant to a SORN Law registration requirement on or after December 1, 2007, previously had not registered with that sheriff or any other sheriff, and was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense upon which the registration was based prior to December 1, 2007, (c) an offender who, on December 1, 2007, is serving a prison term in a state correctional institution for a sexually oriented offense or child-victim oriented offense or a delinquent child who has been classified a juvenile offender registrant for any such offense and who on that date is confined in a DYS institution for that offense, or (d) an offender or delinquent child who, on or after December 2, 2007, commences a prison term in a state correctional institution or confinement in a DYS institution for a sexually oriented offense or child-victim oriented offense and who was convicted of, pleaded guilty to, or was classified a juvenile offender registrant relative to that offense prior to that date.

(6) If the person is an offender or delinquent child who, on or after July 1, 2007, and prior to January 1, 2008, is convicted of or pleads guilty to a sexually oriented offense or a child-victim oriented offense and is not sentenced to a prison term for that offense or is classified a juvenile offender registrant relative to any such offense and is not committed to the custody of DYS for that offense, the sentencing court must provide the notice to the offender at the time of sentencing and the juvenile court must provide the notice to the delinquent child at the time that the notice is otherwise required to be provided under the Juvenile Code.

(7) As under existing law, if the person is an offender or delinquent child who has a duty to register in Ohio when the sexually oriented offense or child-victim oriented offense on which the duty is based was committed in another jurisdiction, the offender or child is presumed to have knowledge of the law and of his or her duties imposed under the SORN Law.

Content of notice

Existing law, unchanged by the bill, requires the notice provided under the provisions described above to inform the offender or delinquent child of his or her duty to register, to provide notice of a change in his or her residence address or

(for offenders) in his or her school, institution of higher education, or place of employment address and register the new address, to periodically verify his or her residence address or (for offenders) his or her school, institution of higher education, or place of employment address, and, if applicable, to provide notice of his or her intent to reside, pursuant to the requirements of the SORN Law. The notice must specify that, for an offender, it applies regarding residence addresses or school, institution of higher education, and place of employment addresses and that, for a delinquent child, it applies regarding residence addresses. Additionally, it must inform the offender of the offender's duties to similarly register, provide notice of a change in, and verify those addresses in states other than Ohio.

If a notice is provided to an offender under the provisions described above in paragraphs (1) or (2), the official, official's designee, or judge must require the offender to read and sign a form stating that the offender's registration and other duties under the SORN Law, and the offender's duties in other states, have been explained to the offender. If the offender is unable to read, the official, designee, or judge must certify on the form that the official, designee, or judge specifically informed the offender of those duties and that the offender indicated an understanding of those duties.

If a notice is provided to a delinquent child under the provisions described above in paragraphs (3) or (4), the judge must require the delinquent child and the child's parent, guardian, or custodian to read and sign a form stating that the child's registration and other duties under the SORN Law have been explained to the child and to the child's parent, guardian, or custodian. If the delinquent child or the parent, guardian, or custodian is unable to read, the judge must certify on the form that the judge specifically informed the child or the parent, guardian, or custodian of those duties and that the child or the parent, guardian, or custodian indicated an understanding of those duties. (R.C. 2950.03(B)(1).)

The notice provided under the provisions described above in paragraphs (1) to (4) must be on a form prescribed by BCII and contain all of the information specified above and all of the information required by BCII. The notice must include, but is not limited to, all of the following (R.C. 2950.03(B)(2)):

(1) For a notice provided under any of those provisions, an explanation of the offender's or delinquent child's periodic address verification process, an explanation of the frequency with which the offender or child must verify those addresses under that process, a statement that the offender or child must verify those addresses at the times specified under that process or face criminal prosecution or a delinquent child proceeding, and an explanation of the offender's duty to similarly register, verify, and reregister those addresses in another state if the offender resides in another state, attends a school or institution of higher education in another state, or is employed in another state.

(2) If the notice is provided under paragraph (3) or (4), a statement that the delinquent child has been classified a juvenile offender registrant and, if applicable, a public registry-qualified juvenile offender registrant and has a duty to comply with the SORN Law's requirements;

(3) If the notice is provided under paragraph (3) or (4), a statement that, if the delinquent child fails to comply with the SORN Law's requirements: (a) if the child's failure occurs while the child is under 18, the child is subject to delinquent child proceedings based on the failure, but if the failure occurs while the child is 18 or older, the child is subject to criminal prosecution based on the failure, and (b) if the delinquent child's failure occurs while the child is under 18, unless the child is emancipated, the failure of the parent, guardian, or custodian to ensure that the child complies with those requirements is a violation of R.C. 2919.24 and may result in the prosecution of the parent, guardian, or custodian for that violation.

Additional duties of official, designee, or judge after notice is provided

Under the bill, similar to existing law, after an offender who is subject to the provisions described above in paragraph (1) or (2) under "**Official who must provide notice, and time of provision**" has signed the specified notification form or the official, official's designee, or judge has certified on the form that the form has been explained to the offender and that the offender indicated an understanding of the duties indicated on it, the official, designee, or judge must give one copy of the form to the offender, within three days must send one copy to BCII in accordance with the procedures adopted pursuant to R.C. 2950.13, and must send one copy to the sheriff of the county in which the offender expects to reside. In addition, as added by the bill, the official, designee, or judge must send a copy of the form to the sheriff of the county in which the offender was convicted or pleaded guilty if the offender has a duty to register under the bill's new duty to register at sentencing or disposition.

Under the bill, similar to existing law, after a delinquent child who is subject to the provisions described above in paragraph (3) or (4) under "**Official who must provide notice, and time of provision**" and the child's parent, guardian, or custodian have signed the specified notification form or the judge has certified on the form that the form has been explained to the child or the parent, guardian, or custodian and that the child or the parent, guardian, or custodian indicated an understanding of the duties and information indicated on the form, the judge must give a copy of the form to both the child and the child's parent, guardian, or custodian, within three days must send one copy to BCII in accordance with the procedures adopted pursuant to R.C. 2950.13, and must send one copy to the sheriff of the county in which the child expects to reside. In addition, as added by the bill, the judge must send a copy of the form to the sheriff of the county in which the child was adjudicated a delinquent child if the child has a duty to

register under the bill's new duty to register at sentencing or disposition. (R.C. 2950.03(B)(3).)

Similar to existing law, the official, official's designee, judge, "chief of police," or sheriff who is required to provide notice to an offender or delinquent child must determine the offender's or child's name, identifying factors, and expected future residence address in Ohio or any other state, obtain the offender's or child's criminal and delinquency history, and obtain a photograph and the fingerprints of the offender or child. Regarding an offender, the official, designee, or judge also must obtain from the offender his or her current or expected future school, institution of higher education, or place of employment address in Ohio, if any. If the notice is provided by a judge, the sheriff must provide the offender's or delinquent child's criminal and delinquency history to the judge. Within three days after receiving the information and items, the official, designee, or judge must forward the information and items to BCII in accordance with the forwarding procedures adopted pursuant to R.C. 2950.13, to the sheriff of the county in which the offender or delinquent child expects to reside, and, regarding an offender, to the sheriff of the county, if any, in which the offender attends or will attend a school or institution of higher education or is or will be employed. In addition, as added by the bill, the official, designee, or judge must forward the information and items to the sheriff of the county in which the offender or delinquent child was convicted, pleaded guilty, or adjudicated a delinquent child if the offender or child has a duty to register under the bill's new duty to register at sentencing or disposition. As under existing law, if the notice is provided by a judge regarding a delinquent child and the child has been committed to DYS or to a secure facility, the judge, in addition to the other information and items described above, also must forward to BCII and the sheriff notification that the child has been so committed. If it has not already done so, BCII must forward a copy of the fingerprints and conviction data received to the FBI. (R.C. 2950.03(C).)

Notification to offender or delinquent child who committed offense prior to bill's effective date of duties under the SORN Law as amended by the bill

The bill enacts special notification provisions that must be used to notify certain offenders and delinquent children who commit a sexually oriented offense or a child-victim oriented offense prior to January 1, 2008, of their duties under the SORN Law as amended by the bill. These notification provisions will take effect on July 1, 2007 (Sections 3 to 5 of the bill).

Offenders and delinquent children who have registered before December 1, 2007, or who register on or after that date under a duty imposed prior to that date

Registration before December 1, 2007. The bill provides that, at any time on or after July 1, 2007, and not later than December 1, 2007, the AG must determine, for each offender or delinquent child who, prior to December 1, 2007, has registered a residence, school, institution of higher education, or place of employment address pursuant to the SORN Law, the offender's or child's new classification as a tier I, tier II, or tier III sex offender/child-victim offender under the SORN Law as it will exist under the bill's changes that will be implemented on January 1, 2008 (hereafter the "SORN Law as amended by the bill") the offender's or child's duties under the SORN Law Code as so changed, and, regarding a child, whether the child is a "public registry-qualified juvenile offender registrant" (see "**SORN Law definitions**," below, for definitions of the above terms and terms below that are in quotation marks).

At any time on or after July 1, 2007, and not later than December 1, 2007, the AG must send to each offender or delinquent child who, prior to December 1, 2007, has registered a residence, school, institution of higher education, or place of employment address pursuant to the SORN Law a registered letter that contains the information described in this paragraph. The registered letter must be sent return receipt requested to the last reported address of the person and, if the person is a delinquent child, the last reported address of the parents of the child. The letter sent to an offender or to a delinquent child and the child's parents pursuant to this provision must notify the offender or the child and the child's parents of all of the following: (1) the changes in the SORN Law as it will exist under the bill's changes that will be implemented on January 1, 2008, (2) subject to the provision described in clause (3) of this paragraph, the offender's or child's new classification as a tier I, tier II, or tier III sex offender/child-victim offender under the SORN Law as amended by the bill, the offender's or child's duties under the SORN Law as so changed and the duration of those duties, whether the child is classified a public registry-qualified juvenile offender registrant, and the information contained in the notice to an offender or delinquent child of the offender's or child's duties under the SORN Law to the extent it is relevant to the offender or child, (3) the fact that the offender or child has a right to a hearing to contest the offender's or child's classification under the SORN Law as amended by the bill, the procedures for requesting the hearing, and the period of time within which the request for the hearing must be made, and (4) if the offender's or child's duty to comply with the SORN Law is scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to January 1, 2008 (see "**Commencement and duration of SORN Law duties**," above), a summary of the provisions of R.C. 2950.033, as enacted in the

bill and described below in "*Offenders and delinquent children whose SORN Law duties currently are scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008,*" and the application of those provisions to the offender or child (clause (4) applies regarding a delinquent child only if the child is subject to R.C. 2950.033, as enacted in the bill).

The AG must make the determinations described in the second preceding paragraph for each offender or delinquent child who has registered an address as described in that provision, and must send the registered letter described in the preceding paragraph to each offender or delinquent child who has registered an address as described in that provision, even if the offender's duty to comply with the SORN Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to January 1, 2008 (see "*Commencement and duration of SORN Law duties,*" above) or the delinquent child is subject to R.C. 2950.033, as enacted in the bill, and the child's duty to comply with that Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to that date. R.C. 2950.033, as enacted in the bill and described below in "*Offenders and delinquent children whose SORN Law duties currently are scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008,*" applies regarding any offender who has registered an address as described in the two preceding paragraphs and whose duty to comply with the SORN Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to or any delinquent child who is subject to R.C. 2950.033, as enacted in the bill, and whose duty to comply with that Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to that date. (R.C. 2950.031(A).)

Registration on or after December 1, 2007, under a duty imposed prior to that date. The bill provides that, if a sheriff informs the AG pursuant to the bill's R.C. 2950.043, as described above, that an offender or delinquent child registered with the sheriff pursuant to the SORN Law on or after December 1, 2007, that the offender or child previously had not registered with any sheriff, and that the offender or child was convicted of, pleaded guilty to, or was classified a juvenile offender registrant relative to the sexually oriented offense or child-victim oriented offense upon which the registration was based prior to December 1, 2007, within 14 days after being so informed of the registration and receiving the information and material specified in that section, the AG must determine for the offender or delinquent child all of the matters specified in the second preceding paragraph. Upon making the determinations, the AG immediately must send to the offender or to the delinquent child and the child's parents a registered letter that contains the information specified in the preceding paragraph. (R.C. 2950.031(B).)

Additional duties of the AG subsequent to sending letter. The bill requires the AG to maintain the return receipts for all offenders, delinquent children, and parents of delinquent children who are sent a registered letter under the provisions described above. For each offender, delinquent child, and parents, the AG must send a copy of the return receipt for the offender, child, or parents must be sent to the sheriff with whom the offender or child most recently registered a residence address and, if applicable, a school, institution of higher education, or place of employment address and to the prosecutor who handled the case in which the offender or child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense that resulted in the offender's or child's registration duty under the SORN Law. If a return receipt indicates that the offender, child, or parents of a child to whom the registered letter was sent does not reside or have temporary domicile at the listed address, the AG immediately must provide notice of that fact to the sheriff with whom the offender or child registered that residence address.

The AG is required to mail to each sheriff a list of all offenders and delinquent children who have registered a residence address or a school, institution of higher education, or place of employment address with that sheriff and to whom a registered letter is sent under the provisions described above. The list must specify the offender's or child's new classification as a tier I, tier II, or tier III sex offender/child-victim offender under the SORN Law as amended by the bill, the offender's or child's duties under that Law as so changed, and whether the child is a public registry-qualified juvenile offender registrant. (R.C. 2950.03(C) and (D).)

Hearing to contest application of new SORN Law requirements. The bill permits an offender or delinquent child who is in any of the categories described above to request as a matter of right a court hearing to contest the application to the offender or child of the new registration requirements under the SORN Law as amended by the bill. The offender or child may contest the manner in which the letter sent to the offender or child as described above specifies that the new registration requirements apply to the offender or child, may contest whether those new registration requirements even apply to the offender or child, or may contest the new classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender specified by the AG. To request the hearing, the offender or child not later than the date that is 60 days after the offender or child received the registered letter sent by the AG as described above, must file a petition with the court specified in this paragraph. If the offender or child resides in or is temporarily domiciled in Ohio, the petition must be filed with, and the hearing will be in, the court of common pleas or, for a child, the juvenile court of the county in which the offender or child resides or temporarily is domiciled. If the offender does not reside in and is not temporarily domiciled in Ohio, the petition must be filed with, and the hearing will

be in, the court of common pleas of the county in which the offender registered a school, institution of higher education, or place of employment address (but if the offender has registered addresses of that nature in more than one county, the offender may file a petition in the court of only one of those counties).

If the offender or child requests a hearing by timely filing a petition with the appropriate court, the offender or child must serve a copy of the petition on the prosecutor who handled the case in which the offender or child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense that resulted in the offender's or child's registration duty under the SORN Law. The prosecutor is to represent the interests of the state in the hearing. In any hearing under this provision, the Rules of Civil Procedure or, if the hearing is in a juvenile court, the Rules of Juvenile Procedure apply, except to the extent that those Rules would by their nature be clearly inapplicable. The court must schedule a hearing, and must provide notice to the offender or child and prosecutor of the date, time, and place of the hearing. If the offender or delinquent child who requests the hearing is contesting the new classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender specified by the AG, the hearing must be conducted pursuant to and in accordance with the provisions described in this paragraph and those described below in "*Hearing to consider tier reclassification by AG.*"

If an offender or delinquent child requests a hearing, until the court issues its decision at or subsequent to the hearing, the offender or child is required to comply prior to January 1, 2008, with the SORN Law as it exists prior to that date and is required to comply on and after January 1, 2008, with the SORN Law as it will exist under the bill's changes to be implemented on that date. If an offender or child requests a hearing, at the hearing, all parties are entitled to be heard, and the court must consider all relevant information and testimony presented relative to the application to the offender or child of the new registration requirements under the SORN Law as amended by the bill. If, at the conclusion of the hearing, the court finds that the offender or child has proven by clear and convincing evidence that the new registration requirements do not apply to the offender or child in the manner specified in the letter sent to the offender or child, subject to the bill's tier reclassification provisions the court must issue an order that specifies the manner in which the court has determined that the new registration requirements do apply to the offender or child. If, at the conclusion of the hearing, the court finds that the offender or child has proven by clear and convincing evidence that the new registration requirements do not apply to the offender or child, the court must issue an order that specifies that the new registration requirements do not apply to the offender or child. The court promptly must serve a copy of an order issued under this provision upon the sheriff with whom the

offender or child most recently registered under the SORN Law and upon BCII. The offender or child and the prosecutor have the right to appeal the decision of the court issued under this provision.

If an offender or delinquent child fails to request a hearing within the applicable 60-day period, the failure constitutes the waiver by the offender or child of the offender's or child's right to a hearing under this provision, and the offender or delinquent child is bound by the determinations of the AG contained in the registered letter sent to the offender or child.

If a juvenile court issues an order under R.C. 2152.86 that classifies a delinquent child a public-registry qualified juvenile offender registrant and if the child's delinquent act was committed prior to January 1, 2008, a challenge to the classification contained in the order must be made as described below in "*Juvenile court classification of a delinquent child as a public registry-qualified juvenile offender registrant.*" (R.C. 2950.031(E).)

Hearing to consider tier reclassification by AG. The bill provides that, if an offender or a delinquent child requests a hearing as described above and contests the new classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender specified by the AG, the court generally must conduct a hearing as described in this paragraph to determine whether the offender or delinquent child should be classified a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. The tier classification specified by the AG generally is the presumptive tier classification for the offender or child for purposes of this provision. The court is prohibited from conducting a hearing for the purpose described above if federal law requires that the offender or child be classified in a particular tier based on the offense committed; in such a case, the tier classification specified by the AG is the tier classification for the offender or child. The hearing must be conducted in accordance with the following:

(1) If the presumptive tier classification for the offender or delinquent child, as determined by the AG, is a tier I sex offender/child-victim offender, notwithstanding the presumption both of the following apply: (a) the court may classify the offender or child a tier II sex offender/child-victim offender if it determines by clear and convincing evidence that the offender previously has been convicted of or pleaded guilty to one or more sexually oriented offenses or child-victim oriented offenses or that the child previously has been adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications, or (b) the court may classify the offender or child a tier III sex offender/child-victim

offender if it determines by clear and convincing evidence that the offender or child is likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses.

(2) If the presumptive tier classification for the offender or delinquent child, as determined by the AG, is a tier II sex offender/child-victim offender, notwithstanding the presumption, all of the following apply: (a) the court may classify the offender or child a tier I sex offender/child-victim offender if it determines by clear and convincing evidence that the offender previously has not been convicted of or pleaded guilty to any sexually oriented offense or child-victim oriented offense or that the child previously has not been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the child was classified a juvenile offender registrant or out-of-state juvenile offender registrant, and that the offender or child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses, (b) the court may classify the offender or child a tier I sex offender/child-victim offender if it determines that the offender's or child's duty to comply with the SORN Law's requirements, as determined under the version of R.C. 2950.07 in effect prior to January 1, 2008, is scheduled to terminate before the duty would terminate for the offender or child under the version of that section in effect on and after January 1, 2008, if the offender or child were to be classified a tier II sex offender/child-victim offender, and that the classification as a tier I sex offender/child-victim offender does not seriously threaten the public interest and safety, or (c) the court may classify the offender or child a tier III sex offender/child-victim offender if it determines by clear and convincing evidence that the offender or child is likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses.

(3) If the presumptive tier classification for the offender or delinquent child, as determined by the AG, is a tier III sex offender/child-victim offender, notwithstanding the presumption, all of the following apply: (a) the court may classify the offender or child a tier I sex offender/child-victim offender if it determines by clear and convincing evidence that the offender previously has not been convicted of or pleaded guilty to any sexually oriented offense or child-victim oriented offense or the child previously has not been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the child was classified a juvenile offender registrant or out-of-state juvenile offender registrant, and that the offender or child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses, (b) the court may classify the offender or child a tier II sex offender/child-victim offender if it determines by clear and convincing evidence that the delinquent child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses, but that the offender

previously has been convicted of or pleaded guilty to one or more sexually oriented offenses or child-victim oriented offenses or the child previously has been adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications, or (c) the court may classify the offender or child a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender if it determines that the offender's or child's duty to comply with the SORN Law's requirements, as determined under the version of R.C. 2950.07 in effect prior to January 1, 2008, has a scheduled date of termination comparable to the date of termination duty that would apply under the version of that section in effect on and after January 1, 2008, if the offender or child were to be classified a tier II sex offender/child-victim offender, and that the classification as a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender does not seriously threaten the public interest and safety.

If at the hearing, the court determines that the tier classification of the offender or delinquent child should be changed in a manner described in paragraph (1), (2), or (3), above, the court must issue an order that specifies the tier in which it has determined that the offender or delinquent child should be classified and the tier so specified applies to the offender or delinquent child. The court promptly must serve a copy of the order upon the sheriff with whom the offender or delinquent child most recently registered. The order is independent of any order of a type described above in "Hearing to contest application of new SORN Law requirements," and the court may issue both types of orders (R.C. 2950.031(F)(1), (2), and (4).)

Factors to be considered at hearing to consider tier reclassification by AG. The bill provides that, in making a decision under the provisions described above regarding tier classifications by the AG as to whether an offender or a delinquent child is likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses and as to whether an offender or delinquent child who is under consideration for reclassification from one tier of sex offender/child-victim offender to a different tier of sex offender/child-victim offender should be reclassified, the judge must consider all relevant factors, including, but not limited to, all of the following (R.C. 2950.031(F)(3)):

- (1) The offender's or child's age;
- (2) The offender's or child's prior criminal or delinquency record regarding all offenses, including, but not limited to, all sexual offenses and child-victim oriented offenses;

(3) The age of the victim of the sexually oriented offense or child-victim oriented offense in relation to which the decision is to be made;

(4) Whether the sexually oriented offense or child-victim oriented offense in relation to which the decision is to be made involved multiple victims;

(5) Whether the offender or child used drugs or alcohol to impair the victim of the sexually oriented offense or child-victim oriented offense or to prevent the victim from resisting;

(6) If the offender or child previously has been convicted of or pleaded guilty to, or been adjudicated a delinquent child for committing an act that if committed by an adult would be, a criminal offense, whether the offender or child completed any sentence or dispositional order imposed for the prior offense or act and, if the prior offense or act was a sex offense, a sexually oriented offense, or a child-victim oriented offense, whether the offender or child participated in available programs for sexual offenders or child-victim oriented offenders;

(7) Any mental illness or mental disability of the offender or child;

(8) The nature of the offender's or child's sexual conduct, sexual contact, or interaction in a sexual context with the victim of the sexually oriented offense or child-victim oriented offense and whether the sexual conduct, sexual contact, or interaction in a sexual context was part of a demonstrated pattern of abuse;

(9) Whether the offender or child, during the commission of the sexually oriented offense or child-victim oriented offense for which the order of disposition is to be made, displayed cruelty or made one or more threats of cruelty;

(10) Any additional behavioral characteristics that contribute to the offender's or child's conduct;

(11) Regarding a delinquent child, all of the factors listed in R.C. 2152.83(D) relative to the initial determination as to whether a delinquent child should be classified a juvenile offender registrant.

Offenders and delinquent children who will be imprisoned or institutionalized on December 1, 2007; who commence a prison term or institutionalization on or after that date and have prior SORN Law duties; or who have SORN Law duties imposed on or after July 1, 2007, and are not sentenced to a prison term or institutionalization

Offenders and delinquent children serving a prison term or DYS institutionalization for a sexually oriented offense or child-victim oriented offense on December 1, 2007. The bill provides that, at any time on or after July

1, 2007, and not later than December 1, 2007, for each offender who on December 1, 2007, will be serving a prison term in a state correctional institution for a sexually oriented offense or child-victim oriented offense, the AG must determine the offender's classification relative to that offense as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender under the SORN Law as amended by the bill and the offender's duties under the SORN Law as so changed and must provide to DRC a document that describes those determinations. Also, at any time on or after July 1, 2007, and not later than December 1, 2007, for each delinquent child who has been classified a juvenile offender registrant and who on December 1, 2007, will be confined in a DYS institution for a sexually oriented offense or child-victim oriented offense, the AG must determine the classification and duties of the child as identified in the preceding sentence and whether the child is a "public registry-qualified juvenile offender registrant" (see "*SORN Law definitions*," below) and must provide to DYS a document that describes those determinations.

At any time on or after July 1, 2007, and not later than December 1, 2007, for each offender and delinquent child described in the preceding paragraph, the AG also must determine whether the AG is required to send a registered letter to that offender or child and child's parents describing the bill's changes to the SORN Law, stating the offender's or child's new classification under that Law, and specifying that the offender or child may request a hearing on the application of the new law to the offender or child relative to the sexually oriented offense or child-victim oriented offense for which the offender or child is serving the prison term or is confined and, if the AG is required to send such a letter to that offender or child and child's parents relative to that offense, include in the document provided to DRC or DYS under the provisions described in the preceding paragraph a conspicuous notice that the AG will be sending the offender or child the registered letter and that the Department is not required to provide to the offender or child the written notice described in the next paragraph.

At any time on or after July 1, 2007, and not later than December 1, 2007, except as otherwise described in this paragraph, DRC must provide to each offender described in the second preceding paragraph and DYS must provide to each delinquent child described in that paragraph and to the child's parents a written notice that contains the information described in this paragraph. DRC and DYS are not required to provide such a written notice to an offender or a child and the child's parents if the AG included in the document provided to the particular Department notice that the AG will be sending that offender or that child and the child's parents a registered letter and that the Department is not required to provide to that offender or child the written notice. The written notice provided to an offender or a delinquent child and the child's parents must notify the offender or child of all of the following: (1) the changes in the SORN Law as amended by the

bill, (2) subject to the provision described in clause (3) of this paragraph, the offender's or child's new classification as a tier I, tier II, or tier III sex offender/child-victim offender under the SORN Law as amended by the bill, the offender's or child's duties under the SORN Law as so changed and the duration of those duties, whether the child is classified a public-registry qualified juvenile offender registrant, and the information contained in the notice to the offender or delinquent child of the offender's or child's duties under the SORN Law, to the extent it is relevant to the offender or child, (3) the fact that the offender or child has a right to a hearing to contest the offender's or child's classification under the SORN Law as amended by the bill, the procedures for requesting the hearing, and the period of time within which the request for the hearing must be made, and (4) if the offender's or child's duty to comply with the SORN Law is scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to January 1, 2008 (see "*Commencement and duration of SORN Law duties*," above), a summary of the provisions of R.C. 2950.033, as enacted in the bill and described below in "*Offenders and delinquent children whose SORN Law duties currently are scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008*," and the application of those provisions to the offender or child (clause (4) applies regarding a delinquent child only if the child is subject to R.C. 2950.033, as enacted by the bill).

The AG must make the determinations described in the second and third preceding paragraphs for each offender who is described in either of those provisions even if the offender's or child's duty to comply with the SORN Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to January 1, 2008 (see "*Commencement and duration of SORN Law duties*," above), or the delinquent child is subject to R.C. 2950.033, as enacted in the bill, and the child's duty to comply with that Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to that date. DRC and DYS must provide to each offender and delinquent child described in the second and third preceding paragraphs for the notice described in the second preceding paragraph even if the offender's duty to comply with the SORN Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to that date, or the delinquent child is subject to R.C. 2950.033, as enacted in the bill, and the child's duty to comply with that Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to that date. R.C. 2950.033, as enacted in the bill and described below in "*Offenders and delinquent children whose SORN Law duties currently are scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008*," applies regarding any offender described in the second and third preceding paragraphs whose duty to comply with the SORN Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to that date and any delinquent child who is subject to R.C.

2950.033, as enacted in the bill, and whose duty to comply with that Law is scheduled to terminate prior to January 1, 2008, under the version of R.C. 2950.07 in effect prior to that date. (R.C. 2950.032(A).)

Offenders and delinquent children commencing a prison term or DYS institutionalization on or after December 2, 2007, and having a registration duty imposed prior to that date. The bill provides that if, on or after December 2, 2007, an offender commences a prison term in a state correctional institution or a delinquent child commences confinement in a DYS institution for a sexually oriented offense or a child-victim oriented offense and if the offender or child was convicted of, pleaded guilty to, or was classified a juvenile offender registrant relative to the offense on or before that date, as soon as practicable, DRC or DYS, as applicable, must contact the AG, inform the AG of the commencement of the prison term or institutionalization, and forward to the AG information and material that identifies the offender or child and that describes the sexually oriented offense or child-victim oriented offense resulting in the prison term or institutionalization, the facts and circumstances of it, and the offender's or child's criminal or delinquency history. Within 14 days after being so informed of the commencement of the prison term or institutionalization and receiving the specified information and material, the AG must determine the offender's or delinquent child's classification relative to the offense as a tier I, tier II, or tier III sex offender/child-victim offender under the SORN Law as amended by the bill and the offender's or child's duties under that Law and immediately provide to the appropriate Department a document that describes the offender's or child's classification and duties as so determined.

Upon receipt from the AG of a document described in the preceding paragraph that pertains to an offender or delinquent child, DRC must provide to the offender or DYS must provide to the child, as applicable, a written notice that details the bill's changes to the SORN Law, the offender's or child's new classification as a tier I, tier II, or tier III sex offender/child-victim offender under that new Law, whether the child is a public registry-qualified juvenile offender registrant, the offender's or child's duties under the SORN Law, and the right to a hearing to contest the classification under the amended SORN Law. (R.C. 2950.032(B).)

Conviction of sexually oriented offense or child-victim oriented offense or classification as a juvenile offender registrant on or after July 1, 2007, and prior to January 1, 2008, and not sentenced to prison or committed to DYS. The bill specifies that if, on or after July 1, 2007, and prior to January 1, 2008, an offender is convicted of or pleads guilty to a sexually oriented offense or child-victim oriented offense and the court does not sentence the offender to a prison term for that offense or if, on or after July 1, 2007, and prior to January 1, 2008, a

delinquent child is classified a juvenile offender registrant relative to a sexually oriented offense or child-victim oriented offense and the juvenile court does not commit the child to the custody of DYS for that offense, the court at the time of sentencing or the juvenile court at the time of making the classification, whichever is applicable, shall do all of the following: (1) provide the offender or child with the notices required under existing law regarding the offender's or child's duties under the SORN Law as it exists prior to that date, (2) provide the offender or child with a written notice of the bill's changes to the SORN Law. The offender's or child's new tier I, tier II, or tier III sex offender/child-victim offender classification under that Law, and the offender's or child's duties under the SORN Law as amended by the bill, and (3) provide the offender or child a written notice that clearly indicates that the offender or child is required to comply with the duties described in the notice provided under clause (1) of this paragraph until January 1, 2008, and will be required to comply with the duties described in clause (2) of this paragraph on and after that date. (R.C. 2950.032(C).)

Official's or judge's duties subsequent to providing the notice. The bill provides that, except as otherwise described in this paragraph, the officer or employee of DRC or DYS who provides an offender or delinquent child with the notices described above must require the offender or child to read and sign a form stating that the changes in the SORN Law as amended by the bill, the offender's or child's classification as a tier I, tier II, or tier III sex offender/child-victim offender, the offender's or child's duties under the SORN Law as so changed and the duration of those duties, the child's classification as a public registry-qualified juvenile offender registrant if applicable, the information specified in R.C. 2950.03(B) to the extent it is relevant to the offender or child, and the right to a hearing, procedures for requesting the hearing, and period of time within which the request for the hearing must be made have been explained to the offender or child. Except as otherwise described in this paragraph, the judge who provides an offender or delinquent child with the notices described above must require the offender or child to read and sign a form stating that all of the information described in the preceding paragraph has been explained to the offender or child. If the offender or child is unable to read, the official, employee, or judge must certify on the form that the official, employee, or judge specifically informed the offender or child of all of that information and that the offender or child indicated an understanding of it.

After an offender or delinquent child has signed the form described in the preceding paragraph or the official, employee, or judge has certified on the form that the form has been explained to the offender or child and that the offender or child indicated an understanding of the specified information, the official, employee, or judge must give one copy of the form to the offender or child, within three days must send one copy to BCII in accordance with the procedures adopted

pursuant to R.C. 2950.13, and must send one copy to the sheriff of the county in which the offender or child expects to reside and one copy to the prosecutor who handled the case in which the offender or child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense that resulted in the offender's or child's registration duty under the SORN Law. (R.C. 2950.032(D).)

Hearing to contest application of new SORN Law requirements. The bill permits an offender or delinquent child who is in any of the categories described above (except for one who is convicted or adjudicated a delinquent child on or after July 1, 2007, and is provided notice by a court) to request as a matter of right a court hearing to contest the application to the offender or child of the new registration requirements under the SORN Law as amended by the bill. The offender or child may contest the manner in which the notice provided to the offender or child specifies that the new registration requirements apply to the offender or child, may contest whether those new registration requirements even apply to the offender or child, or may contest the new classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender specified by the AG. To request the hearing, an offender or child who is provided a notice on or before December 1, 2007, must file a petition with the appropriate court not later than the date that is 60 days after the offender or child is provided the notice, and an offender or child who is provided a notice on or after December 2, 2007, must file a petition with the appropriate court not later than the date that is 60 days after the offender or child is provided the notice. The request for the hearing must be made in the same manner and with the same court as is specified above in "**Offenders and delinquent children who have registered before December 1, 2007, or who register on or after that date under a duty imposed prior to that date,**" and, except as otherwise described below, the provisions described in that part of this analysis regarding the service of process and notice regarding the hearing, the conduct of the hearing, the determinations to be made at the hearing, and appeals of those determinations also apply to a hearing requested as described in this paragraph. If the offender or delinquent child who requests the hearing is contesting the new classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender specified by the AG, the hearing must be conducted pursuant to and in accordance with this paragraph and the provision described above in "**Offenders and delinquent children who have registered before December 1, 2007, or who register on or after that date under a duty imposed prior to that date,**" except that the court is prohibited from conducting a hearing for that purpose if federal law requires that the offender or child be classified in a particular tier based on the offense committed and that, if federal law requires that the offender or child must

be classified in a particular tier based on the offense committed, the tier classification specified by the AG is the tier classification for the offender or child.

If a hearing is requested, the offender or delinquent child must appear at the hearing by video conferencing equipment if available and compatible, except that, upon the court's own motion or the motion of the offender or child or the prosecutor and a determination by the court that the interests of justice require that the offender or child be present, the court may permit the offender or child to be physically present at the hearing. An appearance by video conferencing equipment pursuant to this provision has the same force and effect as if the offender or child were physically present at the hearing. The failure to timely request a hearing constitutes a waiver of the right to a hearing.

If a juvenile court issues an order under R.C. 2152.86 that classifies a delinquent child a public-registry qualified juvenile offender registrant and if the child's delinquent act was committed prior to January 1, 2008, a challenge to the classification contained in the order must be made as described below in "Juvenile court classification of a delinquent child as a public registry-qualified juvenile offender registrant." (R.C. 2950.032(E).)

Offenders and delinquent children whose SORN Law duties currently are scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008

Voiding of termination and continuance of duties

The bill provides that if, on or before July 1, 2007, an offender who has been convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense or a delinquent child in a category described below in "Delinquent children to whom the extension provision applies" has a duty to comply with the SORN Law based on that offense and if the offender's or delinquent child's duty to comply with those sections based on that offense is scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008, under the version of R.C. 2950.07 that is in effect prior to January 1, 2008 (see "Commencement and duration of SORN Law duties," above), notwithstanding that scheduled termination of those duties, the offender's or delinquent child's duties under those sections does not terminate as scheduled and remain in effect for the following period of time (R.C. 2950.033(A); these provisions will take effect on July 1, 2007, pursuant to Sections 3 to 5 of the bill):

(1) If the offender or child has registered under the SORN Law prior to December 1, 2007, receives a registered letter from the AG pursuant to the provisions described above in "Offenders and delinquent children who have registered before December 1, 2007, or who register on or after that date under a duty imposed prior to that date," and timely requests a hearing in accordance with

those provisions to contest the application to the offender or child of the new registration requirements under the SORN Law as it will exist under the changes that will be implemented on January 1, 2008, or the tier classification of the offender or child specified by the AG, the offender's or child's duty to comply with the SORN Law continues at least until the court issues its decision at or subsequent to the hearing. The offender's or child's duty to comply with that Law continues in accordance with, and for the duration specified in, the determinations of the AG that are specified in the registered letter the offender or child received from the AG, unless the court's decision terminates the offender's or child's duty to comply with that Law or provides a different duration for which the offender or child has a duty to comply with it.

(2) If the offender or child has registered under the SORN Law prior to December 1, 2007, receives a registered letter from the AG pursuant to the provisions described above in "**Offenders and delinquent children who have registered before December 1, 2007, or who register on or after that date under a duty imposed prior to that date,**" and does not timely request a hearing in accordance with those provisions to contest the application to the offender or delinquent child of the new registration requirements under the SORN Law as it will exist under the changes that will be implemented on January 1, 2008, or the tier classification of the offender or child specified by the AG, the offender's or child's duty to comply with the SORN Law continues in accordance with, and for the duration specified in, the determinations of the AG that are specified in the registered letter the offender or child received from the AG.

(3) If the offender or delinquent child is serving a prison term or is in a DYS institution, receives a notice from DRC or DYS pursuant to the provisions described above in "**Offenders and delinquent children who will be imprisoned or institutionalized on December 1, 2007; who commence a prison term or institutionalization on or after that date and have prior SORN Law duties; or who have SORN Law duties imposed on or after July 1, 2007, and are not sentenced to a prison term or institutionalization,**" and timely requests a hearing in accordance with those provisions to contest the application to the offender or child of the new registration requirements under the SORN Law as it will exist under the changes that will be implemented on January 1, 2008, or the tier classification of the offender or child specified by the AG, the offender's or child's duty to comply with the SORN Law continues in the same manner and for the same duration as is described in paragraph (1), above.

(4) If the offender or child is serving a prison term or is in a DYS institution, receives a notice from DRC or DYS pursuant to the provisions described above in "**Offenders and delinquent children who will be imprisoned or institutionalized on December 1, 2007; who commence a prison term or**"

institutionalization on or after that date and have prior SORN Law duties; or who have SORN Law duties imposed on or after July 1, 2007, and are not sentenced to a prison term or institutionalization," and does not timely request a hearing in accordance with those provisions to contest the application to the offender or child of the new registration requirements under the SORN Law as it will exist under the changes that will be implemented on January 1, 2008, or the tier classification of the offender or child specified by the AG, the offender's or child's duty to comply with the SORN Law continues in the same manner and for the same duration as is described in paragraph (2), above.

(5) If the offender or child is in a category described in paragraph (1), (2), (3), or (4), above, but does not receive a registered letter from the AG or a notice from DRC or DYS pursuant to the provisions referred to in those paragraphs, notwithstanding the failure of the offender or child to receive the registered letter or the notice, the offender's or child's duty to comply with the SORN Law continues in accordance with, and for the duration specified in, the provisions of the SORN Law as they will exist under the changes to the provisions that will be implemented on January 1, 2008.

Presumption of knowledge of the law and of the voiding of termination and continuance of duties

The bill provides that an offender or a delinquent child in a category described below in "**Delinquent children to whom the extension provision applies**" who, on or before July 1, 2007, has a duty to comply with the SORN Law based on a conviction of, plea of guilty to, or adjudication as a delinquent child for committing a sexually oriented offense or a child-victim oriented offense and whose duty to comply with those sections is scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008, under the version of R.C. 2950.07 that is in effect prior to January 1, 2008 (see "**Commencement and duration of SORN Law duties**," above) is presumed to have knowledge of the law, the content of the provisions described above in "**Voiding of termination and continuance of duties**" and its application to the offender or child, and the offender's or child's duties under the SORN Law as it will exist under the changes that will be implemented on January 1, 2008. Any failure of any such offender or delinquent child to receive a required registered letter from the AG or to receive a required written notice from DRC or DYS does not negate, limit, or modify the presumption specified in this division. (R.C. 2950.033(B).)

These provisions will take effect on July 1, 2007 (Sections 3 to 5 of the bill).

Delinquent children to whom the extension provision applies

The bill provides that the provisions described above regarding the extension of a person's duty to comply with the SORN Law apply to a person who is adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense only if the person is so adjudicated prior to January 1, 2008, and who, under the version of section 2950.01 of the Revised Code that is to take effect on January 1, 2008, will be a public registry-qualified juvenile offender registrant relative to that offense (R.C. 2950.033(C)).

These provisions will take effect on July 1, 2007 (Sections 3 to 5 of the bill).

Limited authority for termination of SORN Law duties

The bill enacts a new provision that allows certain specified offenders and certain delinquent children who have duties under the SORN Law to seek and obtain court termination of those duties (provisions of existing law, described below in "**Juvenile court classification of a delinquent child as a juvenile offender registrant**" and "**Juvenile court reclassification or declassification of a delinquent child as juvenile offender registrant**," that are retained by the bill provide in certain circumstances for other delinquent children to have those duties terminated or to be reclassified so their duties are changed). Existing law sets forth a different mechanism pursuant to which a delinquent child who has SORN Law duties may seek and obtain juvenile court modification or termination of those duties, but existing law generally does not permit a criminal offender to have those duties modified or terminated.

Making of motion

The bill provides that an "eligible offender" (see below) may make a motion to the court of common pleas or, for a delinquent child, the juvenile court of the county in which the eligible offender resides requesting that the court terminate the eligible offender's duty to comply with the SORN Law's requirements. For purposes of this provision, the bill defines "eligible offender" as a person who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented offense or child-victim oriented offense, regardless of when the offense was committed, and is a tier I sex offender/child-victim offender or a child who is or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and is a public registry-qualified juvenile offender registrant. If the eligible offender is not an Ohio resident, he or she may make a motion to the court of common pleas of the county in which he or she has registered pursuant to the SORN Law (but if the eligible offender has registered addresses of that nature in more than one county, the eligible offender

may make such a motion in the court of only one of those counties). Notwithstanding any state or local rule assigning costs and fees for filing and processing civil and criminal cases, the fee for filing the motion is \$150. This fee must be applied to any further processing of the motion, including, but not limited to, the costs associated with investigating the motion, notifying relevant parties, scheduling hearings, and recording and reporting the court's determination. (R.C. 2950.15(A) and (B).)

When motion may be filed

Under the bill, except as otherwise described in this paragraph, an eligible offender who is classified a tier I sex offender/child-victim offender may make a motion upon the expiration of ten years after the eligible offender's duty to register begins in relation to the offense for which the eligible offender is subject to registration. An eligible offender who is a delinquent child and is classified a public registry-qualified juvenile offender registrant may make a motion upon the expiration of 25 years after the eligible offender's duty to register begins in relation to the offense for which the eligible offender is subject to registration (R.C. 2950.13(C).)

Material to be included with motion

An eligible offender who makes such a motion must include all of the following with the motion (R.C. 2950.15(D)): (1) a certified copy of the judgment entry and any other documentation of the sentence or disposition given for the offense or offenses for which he or she was convicted, pleaded guilty, or was adjudicated a delinquent child, (2) documentation of the date of discharge from supervision or release, whichever is applicable, (3) evidence that the eligible offender has completed a sex offender treatment program certified by DRC or DYS pursuant to R.C. 2950.16, (4) evidence that the eligible offender has not been convicted of, pleaded guilty to, or been adjudicated delinquent for committing any subsequent sexually oriented offense or other criminal offense, except for a minor misdemeanor traffic offense, and (5) evidence that the eligible offender has paid any financial sanctions imposed upon him or her pursuant to the financial sanction provisions of the general Criminal Sentencing Law.

Hearing on motion, and related duties

Upon the filing of the motion described above, the offender or child must serve a copy of the petition on the prosecutor who handled the case in which the offender or child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense. Upon the filing of the motion, the court must set a tentative date for a hearing on the motion that is not later than 180 days from the date the motion

is filed unless good cause exists to hold the hearing at a later date and must notify the eligible offender and the prosecutor of the date, time, and place of the hearing. The court then must forward a copy of the motion and its supporting documentation to the court's probation department or another appropriate agency to investigate the merits of the motion. The probation department or agency is required to submit a written report detailing its investigation to the court within 60 days of receiving the motion and supporting documentation. Upon receipt of the written report from the probation department or other agency, the court must forward a copy of the motion, supporting documentation, and the written report to the prosecutor.

After the prosecutor is served with a copy of the motion, the prosecutor must notify the victim of any offense for which the eligible offender is requesting a termination of duties under the SORN Law. The victim may submit a written statement to the prosecutor regarding any knowledge the victim has of the eligible offender's conduct while subject to the duties imposed by the SORN Law.

At least seven days before the hearing date, the prosecutor may file an objection to the motion with the court and serve a copy of the objection to the eligible offender or the eligible offender's attorney.

In addition to the evidence that accompanies the motion and the written report submitted to the court as described above, in determining whether to grant a motion made under these provisions, the court may consider any other evidence it considers relevant, including, but not limited to, evidence of the following while the eligible offender has been subject to the duties imposed under the SORN Law: (1) whether the eligible offender's driver's or commercial driver's license or permit or nonresident operating privilege has ever been suspended, (2) whether the eligible offender has maintained financial responsibility for a motor vehicle as required by R.C. 4509.101, (3) whether the eligible offender has satisfied any child or spousal support obligations, if applicable, (4) whether the eligible offender has paid all local, state, and federal income taxes, and has timely filed all associated income tax returns, as required by local, state, or federal law, (5) whether there is evidence that the eligible offender has adequately addressed sex offending behaviors, (6) whether the eligible offender has maintained a residence for a substantial period of time, (7) whether the eligible offender has maintained employment, or if he or she has not been employed while subject to SORN Law duties, whether he or she has satisfied his or her financial obligations through other manners of support such as disability payments, a pension, spousal or child support, or scholarships or grants, (8) whether the eligible offender has adequately addressed any drug or alcohol abuse or addiction, (9) letters of reference, and (10) documentation of the eligible offender's service to the community or to specific individuals in need.

The court, without a hearing, may issue an order denying the eligible offender's motion to terminate the eligible offender's duty to comply with the SORN Law requirements if the court, based on the evidence submitted with the motion and the written report submitted to it and after considering the factors described in the preceding paragraph, finds that those duties should not be terminated. If the prosecutor does not file an objection to the eligible offender's application as described above, the court, without a hearing, may issue an order that terminates the eligible offender's duty to comply with the SORN Law requirements if the court, based on the evidence submitted with the motion and the written report submitted to it and after considering the factors described in the preceding paragraph, finds that those duties should be terminated.

If the court does not issue an order without a hearing, it must hold a hearing to determine whether to grant or deny the motion. At the hearing, the Rules of Civil Procedure or, if the hearing is in a juvenile court, the Rules of Juvenile Procedure apply, except to the extent that those Rules would by their nature be clearly inapplicable. At the hearing, the eligible offender has the burden of going forward with the evidence and the burden of proof by a preponderance of the evidence. If, after considering the evidence submitted with the motion, the written report submitted to it, and the factors described above, the court finds that the eligible offender has satisfied the burden of proof, the court is required to issue an order that terminates the eligible offender's duty to comply with the SORN Law requirements. If the court finds that the eligible offender has not satisfied the burden of proof, the court must issue an order denying the motion.

The bill requires the court to provide prompt notice of its order denying the motion or terminating the duty to comply with the SORN Law to the eligible offender or the eligible offender's attorney. If the court issues an order terminating the eligible offender's duty to comply with the SORN Law requirements, it promptly must forward a copy of the order to BCII. Upon receipt of the order, BCII is required to update all records pertaining to the eligible offender to reflect the termination order. BCII also must notify every sheriff with whom the eligible offender has most recently registered under the SORN Law of the termination order. If the court issues an order terminating the eligible offender's duty to comply with the SORN Law requirements, it promptly must forward a copy of the order to any court that sentenced the offender or adjudicated the child a delinquent child for a sexually oriented offense or child-victim oriented offense that is the basis of the termination order. The court that receives this notice must retain a copy of the order in the eligible offender's original case file. (R.C. 2950.15(E) to (H).)

Public access to SORN Law registration information and materials

Existing law

Existing law, unchanged by the bill with one exception, provides that, except as described below, the statements, information, photographs, and fingerprints required by the SORN Law and provided by a person who registers, who provides notice of a change of a registered address and registers the new address, or who provides verification of a current address pursuant to that Law and that are in BCII's possession and the information in BCII's possession that it received from DRC or DYS pursuant to R.C. 2950.14 are not open to inspection by the public or by any person other than the following persons: (1) a regularly employed peace officer or other law enforcement officer, (2) an authorized BCII employee for the purpose of providing information to a board, administrator, or person pursuant to R.C. 109.57(F) or (G), or (3) the Registrar of Motor Vehicles, or an employee of the Registrar, for the purpose of verifying and updating any of the information so provided, upon BCII's request. This restriction does not apply to any information contained in the Internet Sex Offender and Child-victim Offender Database established by the AG regarding offenders and that is disseminated as described in that provision. (R.C. 2950.08.)

Existing law, unchanged by the bill with one exception, provides that any statements, information, photographs, or fingerprints that are provided, by an offender or delinquent child pursuant to the SORN Law and that are in the possession of a county sheriff are public records open to public inspection under the state's Public Records Law and must be included in the Internet Sex Offender and Child-victim Offender Database to the extent provided in the section requiring the establishment and maintenance of the Database. Existing law imposes a restriction, though, on the sheriff's publicly disseminating of this information by means of the Internet (see "Sheriff's establishment of an Internet database," below.) (R.C. 2950.081(A).)

Operation of the bill

The bill expands these provisions so that, in addition to referring to statements, information, photographs, and fingerprints that are required to be provided and are provided under the SORN Law, they also refer to *materials* that are required to be provided and are provided under that Law (R.C. 2950.08 and 2950.081(A)).

SORN Law restriction on residence

Existing law

Existing law prohibits a person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense, from establishing a residence or occupying residential premises within 1,000 feet of any school premises. No criminal penalty is provided for a violation of the prohibition, but specified nearby property owners or prosecutors may file an injunction proceeding. This duty does not apply to children who are adjudicated delinquent by reason of committing a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense. (R.C. 2950.031.)

Operation of the bill

Consistent with all of its other provisions, the bill removes the language that restricts application of the residency restriction to a person who is convicted of or pleads guilty to a sexually oriented offense only when the sexually oriented offense is not a registration-exempt sexually oriented offense. Under the bill, the residency restriction applies to a person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense or a child-victim oriented offense. The bill also relocates the residency restriction from R.C. 2950.031 to R.C. 2950.034. (R.C. 2950.034.)

Victim notification under SORN Law

Existing law

Existing law provides a mechanism pursuant to which a victim of a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense may obtain certain information about the offender or delinquent child who committed the offense, if the offender or delinquent child registers under the SORN Law and if the offender is a sexual predator, a child-victim predator, a habitual sex offender, or a habitual child-victim offender or has been convicted of an aggravated sexually oriented offense or the delinquent child is a juvenile offender registrant or an out-of-state juvenile offender registrant and is in any of the predator or habitual offender categories identified regarding an offender. The bill retains the existing provisions regarding victim notification, except that it changes the categories of offenders and delinquent children in relation to whom the provisions apply, it removes references made in existing law to registration-exempt sexually oriented offenses,

and it specifies that the provisions apply regardless of when the offense in question was committed. (R.C. 2950.10.)

Operation of the bill

General notification provisions. Under the bill, *regardless of when the offense in question was committed*, if a person is convicted of, pleads guilty to, has been convicted of, or has pleaded a sexually oriented offense or a child-victim oriented offense or a person is or has been adjudicated a delinquent child for committing any such offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant based on that adjudication, if the offender or child is in any of the categories described below in "**Persons subjected to victim notification**," and if the victim of the offense in question has made a request in accordance with rules adopted by the AG that specifies that the victim would like to be provided the notices described in this paragraph, both of the following apply: (1) if the offender or child registers with a sheriff pursuant to a SORN Law registration duty, the sheriff is required to notify the victim of the offense, in writing, that the offender or delinquent child has registered and must include in the notice the offender's name and photograph, and the address or addresses of the offender's residence, school, institution of higher education, or place of employment, as applicable, or the delinquent child's name, photograph, and residence address or addresses, and (2) if the offender or child registers with a sheriff pursuant to the SORN Law and subsequently notifies the sheriff of a change of the registered address pursuant to that Law, the sheriff is required to notify the victim of the offense, in writing, that the offender's or delinquent child's address has changed and must include in the notice the offender's name and photograph, and the new address or addresses of the offender's residence, school, institution of higher education, or place of employment, as applicable, or the delinquent child's name, photograph, and new residence address or addresses.

Existing law limits the application of the provisions described in the preceding paragraph to sexually oriented offenses *that are not registration-exempt sexually oriented offenses* (the bill removes the italicized term) and child-victim offenses. Under the bill, as under existing law, the sheriff must provide the notice required by these provisions to the victim at the most recent residence address available for that victim, not later than five days after the offender or delinquent child registers with the sheriff or notifies the sheriff of the change in address, whichever is applicable. Under the bill, unchanged from existing law, if a victim makes a request in accordance with rules adopted by the AG pursuant to R.C. 2950.13 that specifies that the victim would like to be provided the notices described in the preceding paragraph, all information a sheriff obtains regarding the victim from or as a result of the request is confidential, and the information is not a public record under the state's Public Records Law. As under existing law,

notices provided to a victim under these provisions are in addition to any notices regarding the offender or delinquent child that the victim is entitled to receive under the existing Victims Rights Law. (R.C. 2950.10(A).)

Persons subjected to victim notification. Under the bill, the duty to provide the victim notification notices described above apply regarding: (1) any offender who is a tier III sex offender/child-victim offender relative to the offense for which a victim requested to be provided notice, (2) any delinquent child who is a "public registry-qualified juvenile offender registrant" (see "**SORN Law definitions,**" below), and a juvenile court has not removed the child's duty to comply with the SORN Law pursuant to the provisions enacted in the bill that are described below in "**Limited authority for termination of SORN Law duties,**" (3) any 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 notification provisions prior to the bill's effective date as a sexual predator, habitual sex offender, child-victim predator, or habitual child-victim offender as those terms are defined under existing law, and a juvenile court has not removed the child's duty to comply with the SORN Law pursuant to the provisions described below in "**Juvenile court reclassification or declassification of a delinquent child as a juvenile offender registrant,**" or (4) any 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 the bill's effective date, the court imposed a requirement under a provision of the bill (see "**Juvenile court classification of a delinquent child as a juvenile offender registrant,**" below) subjecting the delinquent child to the victim notification provisions, and a juvenile court has not removed the child's duty to comply with the SORN Law as described in clause (3), above, of this paragraph (R.C. 2950.10(B)).

Community notification under SORN Law

Existing law

Existing law provides a mechanism pursuant to which certain specified persons and entities in a "community" in which an offender or delinquent child who registers under the SORN Law resides, if the offender is a sexual predator, a child-victim predator, a habitual sex offender, or a habitual child-victim offender or has been convicted of an aggravated sexually oriented offense or the delinquent child is a juvenile offender registrant or an out-of-state juvenile offender registrant and is in any of the predator or habitual offender categories identified regarding an offender. The bill retains the existing provisions regarding community notification, except that it changes the categories of offenders and delinquent children in relation to whom the provisions apply, removes references to registration-exempt sexually oriented offenses, specifies that the provisions apply

regardless of when the offense in question was committed, adds a new category of persons in the community to whom the notification must be provided, revises the content of the notice, and makes conforming changes.

Operation of the bill

General notification provisions. Under the bill, *regardless of when the offense in question was committed*, if a person is convicted of, pleads guilty to, has been a sexually oriented or child-victim oriented offender, is a juvenile offender registrant, or is an out-of-state juvenile offender, and if the offender is a tier III sex offender/child-victim offender or the delinquent child is in any of the categories described below in "**Persons subjected to community notification**," the sheriff with whom the offender or child has most recently registered under the SORN Law and the sheriff to whom the offender or child most recently sent a notice of intent to reside under that Law must provide a written notice to all of the persons described in paragraphs (1) to (10), below. Existing law, unchanged by the bill, permits a sheriff to similarly provide a notice if an offender or delinquent child in relation to whom the provision described in the preceding sentence applies verifies the offender's or child's current residence, school, institution of higher education, or place of employment address with the sheriff. (R.C. 2950.11(A), (D)(2), and (F).)

The sheriff must provide the mandatory notice described in the preceding paragraph to all of the following persons (R.C. 2950.11(A); except for the persons specified in paragraph (10), all of the persons to whom notice must be provided are specified in existing law):

(1) Neighbors of the offender or delinquent child, in accordance with the following: (a) any occupant of each residential unit that is located within 1,000 feet of the offender's or child's residential premises, is within the county served by the sheriff, and is not in a multi-unit building, (b) if the offender or child resides in a multi-unit building, any occupant of each residential unit that is located in that multi-unit building and "shares a common hallway" (as defined in the existing provision) with the offender or child, (c) the building manager, or the person the building owner or condominium unit owners association authorizes to exercise management and control, of each multi-unit building that is located within 1,000 feet of the offender's or child's residential premises, including a multi-unit building in which the offender or child resides, and is within the county served by the sheriff (the sheriff also must post a copy of the notice prominently in each common entryway in the building and any other location in the building the sheriff determines appropriate; in lieu of posting copies of the notice, a sheriff may provide notice to all occupants of the multi-unit building by mail or personal contact and, if the sheriff does so, the sheriff is not required to post the notice in the common entryways); and all additional persons who are within any category of

neighbors of the offender or child that the AG by rule adopted under R.C. 2950.13 requires to be provided the notice and who reside within the sheriff's county;

(2) The executive director of the public children services agency with jurisdiction within the "specified geographical notification area" (see below) and that is located within the sheriff's county;

(3) The superintendent of each board of education of a school district that has schools within the specified geographical notification area and is located within the sheriff's county, the principal of the school within the specified geographical notification area and within the sheriff's county that the delinquent child attends, and, if the delinquent child attends a school outside of the specified geographical notification area or outside of the school district where the child resides, the superintendent of the board of education of a school district that governs the school that the child attends and the principal of that school;

(4) The appointing or hiring officer of each chartered nonpublic school, or of each other school not operated by a board of education described above in paragraph (3), located within the specified geographical notification area and within the sheriff's county, and, regardless of the location of the school, the appointing or hiring officer of a chartered nonpublic school that the delinquent child attends;

(5) The director, head teacher, elementary principal, or site administrator of each preschool program within the specified geographical notification area and within the sheriff's county;

(6) The administrator of each child day-care center or type A family day-care home, and the provider of each certified type B family day-care home, located within the specified geographical notification area and within the sheriff's county;

(7) The president or other chief administrative officer of each institution of higher education located within the specified geographical notification area and within the sheriff's county served, and the chief law enforcement officer of the state university law enforcement agency or campus police department, if any, that serves that institution;

(8) The sheriff of each county that includes any portion of the specified geographical notification area;

(9) If the offender or delinquent child resides within the sheriff's county, the chief of police, marshal, or other chief law enforcement officer of the municipal corporation in which the offender or child resides or, if the offender or

delinquent child resides in an unincorporated area, the constable or chief of the police department or police district police force of the township in which the offender or child resides;

(10) *Volunteer organizations in which contact with minors or other vulnerable individuals might occur or any organization, company, or individual who requests notification as described in the next sentence* (added by the bill). Related to this provision, the bill (in R.C. 2950.11(J)) requires each sheriff to allow a volunteer organization or other organization, company, or individual who wishes to receive this notice regarding a specific offender or delinquent child or notice regarding all offenders and delinquent children who are located in the specified geographical notification area to notify the sheriff by electronic mail or through the sheriff's web site of this election. The sheriff promptly must inform BCII of these requests in accordance with the forwarding procedures adopted by the AG pursuant to R.C. 2950.13.

Existing law, unchanged by the bill but relocated in a different division, provides that, as used in these provisions, "specified geographical notification area" means the geographic area or areas within which the AG, by rule adopted under R.C. 2950.13, requires the notice to be given to the persons identified in paragraphs (2) to (10), above (R.C. 2950.11(L)).

Content of the notice. The bill specifies that the notice provided to the specified persons in the community must include all of the following information regarding the subject offender or delinquent child (R.C. 2950.11(B)): (1) as under existing law, the offender's or child's name; the address or addresses of the offender's residence, school, institution of higher education, or place of employment, as applicable, or the child's residence address or addresses; the sexually oriented offense or child-victim oriented offense of which the offender was convicted, to which the offender pleaded guilty, or for which the child was adjudicated a delinquent child; and the offender's or child's photograph, and (2) as modified by the bill, a statement that identifies the category specified below in "**Persons subjected to community notification**" that includes the offender or delinquent child and that subjects the offender or delinquent child to community notification.

Secondary notice. Under the bill, as under existing law, if a sheriff with whom an offender or delinquent child registers under the SORN Law or to whom the offender or delinquent child most recently sent a notice of intent to reside under that Law is required to provide community notices regarding an offender or delinquent child and if, pursuant to that requirement, the sheriff provides a notice to a sheriff of one or more other counties in accordance with the provision described above in paragraph (8), the sheriff of each of the other counties who is provided that notice must provide the notices described above in paragraphs (1) to

(7) and (9) to each person or entity identified within those paragraphs that is located within the specified geographical notification area and within the county served by the sheriff in question (R.C. 2950.11(C)).

Persons subjected to community notification. Under the bill, the duty to provide the community notification notices described above apply regarding: (1) any offender who is a tier III sex offender/child-victim offender, (2) any delinquent child who is a "public registry-qualified juvenile offender registrant" (see "**SORN Law definitions**," below), and a juvenile court has not removed the child's duty to comply with the SORN Law pursuant to the provisions enacted in the bill that are described below in "**Limited authority for termination of SORN Law duties**," (3) any 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 community notification provisions prior to the bill's effective date as a sexual predator, habitual sex offender, child-victim offender, or habitual child-victim offender as those terms are defined under existing law, and a juvenile court has not removed the child's duty to comply with the SORN Law pursuant to the provisions described below in "**Juvenile court reclassification or declassification of a delinquent child as a juvenile offender registrant**," or (4) any 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 the bill's effective date, the court imposed a requirement under a provision of the bill (see "**Juvenile court classification of a delinquent child as a juvenile offender registrant**," below) 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 as described in clause (3), above, of this paragraph (R.C. 2950.11(F)).

Time for providing the notice. Under the bill (same as existing law), a sheriff required to provide community notification regarding an offender or delinquent child must provide the notices to the specified neighbors and specified law enforcement personnel as soon as practicable, but no later than five days after the offender sends the notice of intent to reside to the sheriff and again no later than five days after the offender or child registers with the sheriff or, regarding a secondary notice, no later than five days after the sheriff is provided the notice by the other sheriff. A sheriff required to provide community notification regarding an offender or delinquent child must provide the notices to all other specified persons as soon as practicable, but not later than seven days after the offender or child registers with the sheriff or, regarding a secondary notice, no later than five days after the sheriff is provided the notice by the other sheriff. (R.C. 2950.11(D)(1).)

Public access to information possessed by a sheriff. Under the bill, all information that a sheriff possesses regarding an offender or delinquent child who is in a category specified above in "**Persons subjected to community notification**" that must be provided in a notice to a specified person in the community is a public record open to inspection under the state's Public Records Law. Also, a sheriff cannot cause to be publicly disseminated by means of the Internet any of the information described in this paragraph that is provided by a delinquent child unless that child is in a category specified above in "**Persons subjected to community notification.**" These provisions are similar to existing provisions, except that they replace existing terminology that is repealed by the bill with terminology enacted in the bill and with references to the new categories of juveniles subjected to community notification. (R.C. 2950.11(E).)

Limited authority for suspension of community notification requirement. Existing law, unchanged by the bill, provides that, upon the motion of an offender who is subject to community notification or the prosecuting attorney of the county in which the offender was convicted of the offense for which the offender is subject to community notification, or upon the motion of the sentencing judge or that judge's successor in office, the judge may schedule a hearing to determine whether the interests of justice would be served by suspending the community notification requirement in relation to the offender. The judge may dismiss the motion without a hearing but may not suspend the community notification requirement without a hearing. At the hearing, all parties are entitled to be heard, and the judge is required to consider certain factors that currently are set forth in R.C. 2950.09(B)(3) but that are relocated to R.C. 2950.11(K) by the bill. If, at the conclusion of the hearing, the judge finds that the offender has proven by clear and convincing evidence that the offender is unlikely to commit in the future a sexually oriented offense or a child-victim oriented offense and if the judge finds that suspending the community notification requirement is in the interests of justice, the judge may suspend the application of the requirement in relation to the offender. The judge promptly must serve a copy of the order upon the sheriff with whom the offender most recently registered under the SORN Law and upon BCII. An order suspending the community notification requirement does not suspend or otherwise alter an offender's duties to comply with the SORN Law requirements and does not suspend the previously described victim notification requirement.

Under the bill, similar to existing law, a prosecuting attorney, a sentencing judge or that judge's successor in office, and an offender who is subject to the community notification requirement may initially make a motion under this provision upon the expiration of 20 years after the offender's duty to comply with the SORN Law's registration requirements begins in relation to the offense for which the offender is subject to community notification. After the initial making of a motion, thereafter, the prosecutor, judge, and offender may make a subsequent

motion upon the expiration of five years after the judge has entered an order denying the initial motion or the most recent motion made under that division. The offender and the prosecuting attorney have the right to appeal an order approving or denying a motion made under this provision.

Existing law specifies certain categories of offenders to whom the "suspension of community notification requirement" does not apply. In addition to the categories of offenders to whom the provision does not apply under existing law, the bill makes the "suspension of community notification requirement" not applicable to: (1) a person who is convicted of or pleads guilty to kidnapping, aggravated murder, or murder if the offender is sentenced under the bill's sentencing provisions related to the Sexually Violent Predator Sentencing Law, as described below, or (2) an offender who is subjected to community notification under the bill and who, subsequent to being subject to community notification, has been convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense. (R.C. 2950.11(H) and (K).)

Special notice to public children services agencies

Under the bill, if a person is convicted of or pleads guilty to a sexually oriented offense or child-victim oriented offense or is a juvenile offender registrant or an out-of-state juvenile offender registrant and if the offender or delinquent child is not in any of the categories of persons who is subjected to community notification, the sheriff with whom the offender or child most recently registered under the SORN Law or with whom the offender or child most recently sent a notice of intent to reside under that Law, must provide a written notice to the executive director of the public children services agency that has jurisdiction within the specified geographical notification area and is located within the county served by the sheriff. The provision generally is a retention of existing law, with modifications that eliminate a reference to "registration-exempt sexually oriented offenses" and that replace existing terminology that is repealed by the bill with terminology enacted in the bill. (R.C. 2950.11(I).)

Duties of the AG regarding the SORN Law

Existing law imposes many duties on the AG regarding the SORN Law. A summary of the existing duties imposed upon the AG that are modified by the bill, and of new duties the bill imposes upon the AG, follows. The existing duties imposed upon the AG that are not modified by the bill are summarized in **COMMENT 3**.

State Registry of Sex Offenders and Child-victim Offenders

Existing law retained by the bill requires the AG, not later than July 1, 1997, to establish and maintain a State Registry of Sex Offenders and Child-victim Offenders that is housed at BCII and that contains certain information. The bill modifies the information that must be contained in the State Registry and other provisions regarding it. Under the bill, the State Registry must contain all of the registration, change of address, and address verification information BCII receives pursuant to the SORN Law's provisions regarding each person who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a sexually oriented offense or a child-victim oriented offense and each person who is adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant based on that adjudication, all of the information BCII receives from DRC or DYS pursuant to R.C. 2950.14, and any notice of an order terminating or modifying an offender's or delinquent child's duty to comply with the SORN Law that BCII receives pursuant to the bill. For a person who was convicted of or pleaded guilty to the sexually oriented offense or child-victim related offense, the State Registry also must indicate whether conviction or guilty plea was in a criminal prosecution or in a serious youthful offender case. The bill specifies that the State Registry is not open to inspection by the public or by any person other than a person identified in R.C. 2950.08, as described above in "*Public access to SORN Law registration information and materials.*" (R.C. 2950.13(A)(1).) The bill specifies that, in addition to the information and material described above, the State Registry must include all of the following regarding each person who is listed in it (R.C. 2950.13(A)(1)):

(1) A citation for, and the name of, the most recent sexually oriented offense or child-victim oriented offense of which the person was convicted, to which the person pleaded guilty, or for which the person was adjudicated a delinquent child and that resulted in a registration duty, and the date on which that offense was committed;

(2) The text of the sexually oriented offense or child-victim oriented offense identified in paragraph (1), above, as that offense existed at the time the person was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing that offense, or a link to a database that sets forth the text of that offense;

(3) A statement as to whether the offender is a tier I, tier II, or tier III sex offender/child-victim offender for the sexually oriented offense or child-victim oriented offense identified in paragraph (1), above;

(4) The community supervision status of the person, including, but not limited to, whether the person is serving a community control sanction and the nature of any such sanction, whether the person is under supervised release and the nature of any such release, or regarding a juvenile, whether the juvenile is under any type of release authorized under R.C. Chapter 2152. or 5139. and the nature of any such release;

(5) The offense and delinquency history of the person, as determined from information gathered or provided from BCII under R.C. 109.57 or from DRC or DYS under R.C. 2950.14;

(6) The BCII tracking number assigned to the person if one has been so assigned, the FBI number assigned to the person if one has been assigned and BCII is aware of the number, and any other state identification number assigned to the person of which BCII is aware;

(7) Fingerprints and palmprints of the person;

(8) A DNA specimen from the person.

Internet Sex Offender and Child-victim Offender Database

Existing law retained by the bill requires the AG, through BCII and not later than January 1, 2004, to establish and operate on the Internet a Sex Offender and Child-victim Offender Database that contains certain information, that is a public record, and that must be searchable in a specified manner. Under existing law, the Database contains information only regarding offenders (and not regarding any delinquent children). Under the bill, the Database must contain information for every offender who has committed a sexually oriented offense or a child-victim oriented offense and registers in any Ohio county pursuant to the SORN Law *and for every delinquent child who has committed a sexually oriented offense, is a "public registry-qualified juvenile offender registrant"* (see "**SORN Law definitions**," below), *and registers in any Ohio county*. BCII cannot include on the Database any offender's or public registry-qualified juvenile offender registrant's Social Security number, the name of any school or institution of higher education attended by, or of the place of employment of, the offender or juvenile offender registrant, any BCII tracking or state identification number, or the offender's or juvenile offender registrant's driver's or commercial driver's license or permit number or state identification card number issued by Ohio or another state.

Under the bill, BCII must provide on the Database, for each offender and public registry-qualified juvenile offender registrant, at least the information specified below in clauses (1) to (6) of the next paragraph. Otherwise, BCII is

required to determine the information to be provided on the Database for each offender and public registry-qualified juvenile offender registrant and to obtain that information from the information contained in the State Registry of Sex Offenders and Child-victim Offenders, which information, while in the possession of the sheriff who provided it, is a public record open for inspection. The Database is a public record open for inspection under the state's Public Records Law, and it must be searchable by offender or public registry-qualified juvenile offender registrant name, by county, by ZIP code, and by school district. The Database must provide a direct link to the web site of each sheriff who operates on the Internet a sex offender and child-victim offender database that contains information for offenders and public registry-qualified juvenile offender registrants who register in that county pursuant to the SORN Law.

The bill requires BCII to provide on the Database, for each offender and public registry-qualified juvenile offender registrant, at least the following information: (1) the information described above in paragraphs (1) to (3) under "*State Registry of Sex Offenders and Child-victim Offenders*" relative to the offender or public registry-qualified juvenile offender registrant, (2) the address of the offender's school, institution of higher education, or place of employment provided in a registration form, (3) the identification license plate number of each motor vehicle the offender or juvenile offender registrant owns, has registered, operates as part of employment, or regularly has available for operation and, if required by BCII, a photograph of each of those motor vehicles, (4) a description of the characteristics of tier I, tier II, and tier III sex offenders/child-victim offenders and the public safety concerns related to each of those tiers, (5) fingerprints and palmprints of the offender or public registry-qualified juvenile offender registrant and a DNA specimen from the offender or juvenile offender registrant, and (6) the offender's or juvenile offender registrant's name and registered address or addresses, the sexually oriented offense or child-victim oriented offense on which the offender's or juvenile offender registrant's SORN Law duties are based, and the offender's or child's photograph. (R.C. 2950.11(A)(11).)

Assistance to sheriff in establishing Internet database of sex offenders and child-victim offenders; development of software to be used by sheriffs in establishing the database

Existing law retained by the bill requires the AG, upon the request of any sheriff, to provide technical guidance to the requesting sheriff in establishing on the Internet a sex offender and child-victim offender database for the public dissemination of certain materials. The bill expands the provision and imposes a new duty upon the AG. Under the bill, the AG is *required to develop software* (the new duty) to be used by sheriffs in establishing on the Internet a sex offender

and child-victim offender database for the public dissemination of some or all of the information and materials that are public records, that are not prohibited from inclusion, and that pertain to offenders and public registry-qualified juvenile offender registrants who register in the sheriff's county pursuant to the SORN Law and for the public dissemination of information the sheriff receives from DRC or DYS. As under existing law, upon the request of any sheriff, the AG must provide technical guidance to the sheriff in establishing on the Internet such a database. (R.C. 2950.11(A)(12).)

Internet database of sex offenders and child-victim offenders for law enforcement use

Existing law retained by the bill requires the AG, through BCII and not later than January 1, 2004, to establish and operate on the Internet a database that enables local law enforcement representatives to remotely search by electronic means the State Registry of Sex Offenders and Child-victim Offenders and any information BCII receives from a sheriff, DRC, or DYS pursuant to the SORN Law. The database must enable local law enforcement representatives to obtain detailed information regarding each offender and delinquent child who is included in the State Registry, including certain specified information. The bill specifies that the registry also must enable local law enforcement personnel to remotely search by electronic means any *materials* BCII receives from a sheriff, DRC, or DYS pursuant to the SORN Law, and expands the specified information that local law enforcement representatives must be able to obtain from the database. Under the bill, the specified information includes, but is not limited to, the offender's or delinquent child's name, *aliases*, residence address, *name and address* of any place of employment, *school, institution of higher education*, if applicable, license plate number of each motor vehicle the offender or child owns, *has registered, operates as part of employment, or regularly has available for operation* if applicable, victim preference if available, date of most recent release from confinement if applicable, fingerprints, *and palmprints*, all of the information described above in paragraphs (1) to (8) under "**State Registry of Sex Offenders and Child-victim Offenders**" regarding the offender or child, and other identification parameters BCII considers appropriate. As under existing law, the database is not a public record open for inspection under the state's Public Records Law and is available only to law enforcement representatives. Information obtained by local law enforcement representatives through use of this database is not open to inspection by the public or by any person other than a person identified above in "**Public access to SORN Law registration information and material.**" (R.C. 2950.13(A)(13).)

List of requests by volunteer organizations, or other organizations, companies, or individuals who wish to receive community notification

The bill requires the AG, through BCII, to maintain a list of requests for notice about a specified offender or delinquent child or specified geographical notification area made by a volunteer organization, or another organization, company, or individual pursuant to the bill, and, when an offender or delinquent child changes residence to another county, to forward any requests for information about that specific offender or child to the appropriate sheriff (R.C. 2950.13(A)(14)).

Notification by electronic means of officials in other states, when registration or change of address under the SORN Law

The bill requires the AG, through BCII, to establish and operate a system for the immediate notification by electronic means of the appropriate officials in other states specified in this paragraph each time an offender or delinquent child, under the SORN Law, registers a residence, school, institution of higher education, or place of employment address, provides a notice of a change of address, or registers a new address. The immediate notification by electronic means must be provided to the appropriate officials in each state in which the offender or delinquent child is required to register a residence, school, institution of higher education, or place of employment address, and it must contain the offender's or child's name and all of the information BCII receives from the sheriff with whom the offender or child registered the address, provided the notice of change of address, or registered the new address. (R.C. 2950.13(A)(15).)

Rules regarding victim notification and community notification

Existing law retained by the bill requires the AG, in consultation with local law enforcement representatives, to adopt rules for the implementation and administration of the SORN Law's community notification provisions and rules that prescribe a manner in which victims may request notification under the SORN Law's victim notification provisions. The bill modifies the terminology used in the provision to remove references to registration-exempt sexually oriented offenses and replace references to sexual predators, habitual sex offenders, aggravated sexually oriented offenses, child-victim predators, and child-victim offenders with a general reference to offenders and delinquent children who are subjected to victim and community notifications under the bill. (R.C. 2950.13(A)(3).)

Forms to be used to provide notice to registrants

Existing law retained by the bill requires the AG, in consultation with local law enforcement representatives and through BCII, to prescribe the forms to be used by judges and officials to advise offenders and delinquent children of their duties under the SORN Law and prescribe the forms to be used by sheriffs relative to those duties. Existing law refers to the use of the forms by judges and officials pursuant to the existing provisions modified by the bill, and the bill expands the provision to also refer to the use of the forms by judges and officials pursuant to the provisions enacted by the bill. (R.C. 2950.13(A)(4).)

Provision of materials to law enforcement officials and the FBI

Existing law retained by the bill requires the AG, through BCII, to provide the notifications, the information, and the documents that BCII is required to provide to appropriate law enforcement officials and to the FBI pursuant to the SORN Law address registration, change of address, and address verification provisions. The bill expands the provision to also require the AG, through BCII, to provide the *materials* that the bill requires BCII to provide to appropriate law enforcement officials and to the FBI pursuant to the SORN Law provisions. (R.C. 2950.13(A)(6).)

Procedures for forwarding information to BCII

Existing law retained by the bill requires the AG, in consultation with representatives of the officials, judges, and sheriffs, to adopt procedures for officials, judges, and sheriffs to use to forward information, photographs, and fingerprints to BCII pursuant to the SORN Law address registration, change of address, and address verification provisions. The bill expands the provision to also require the AG, in consultation with the specified representatives, to adopt procedures for sheriffs to use to forward the information that the bill requires to be forwarded with respect to volunteer organizations in which contact with minors or other vulnerable individuals might occur and organizations, companies, and individuals who request community notification regarding offenders and delinquent children subject to the SORN Law. (R.C. 2950.13(A)(8).)

Guidelines to be followed in use of information received under community notification

Existing law retained by the bill, except for the change in terminology described below, requires the AG in consultation with the Director of Education, the Director of Job and Family Services, and the Director of DRC to adopt rules that contain guidelines to be followed by boards of education, chartered nonpublic schools or other schools not operated by a board of education, preschool programs,

child day-care centers and day-care homes, and institutions of higher education regarding the proper use and administration of information received pursuant to the SORN Law's community notification provisions. The bill modifies existing law by replacing current references to a sexual predator, child-victim predator, habitual sex offender, habitual child-victim offender, and aggravated sexually oriented offense (all of which terms are repealed by the bill) with a general reference to offenders and delinquent children who are subjected to community notifications under the bill. (R.C. 2950.13(A)(9).)

Designation of geographic notification area for community notification

Existing law retained by the bill requires the AG, in consultation with local law enforcement representatives and no later than July 1, 1997, to adopt rules that designate a geographic area or areas within which the notice described in many of the SORN Law's community notification provisions must be given to the persons identified in those provisions. The bill modifies the existing provision to reflect the expansion of the list of persons who must be given notice under the community notification provisions. (R.C. 2950.13(A)(10).)

Attorney General adoption of rules to conform to federal regulations, guidelines, or standards

The bill specifies that if, on or after July 1, 2007, the United States Attorney General, or an office established under the authority of the United States Attorney General, adopts any regulation, guideline, or standard that interprets or applies the federal Sex Offender Registration and Notification Act, Pub. L. No. 109-249 (i.e., the Adam Walsh Act), and that is not consistent with the provisions of the bill, the Ohio AG must adopt rules in accordance with the Administrative Procedure Act that conform Ohio's law to the regulation, guideline, or standard adopted by the United States Attorney General or the office established under the authority of the United States Attorney General." (R.C. 2950.131)

This provision takes effect on July 1, 2007 (Sections 3 to 5 of the bill).

Sheriff's establishment of an Internet database

Existing law

Existing law generally does not address the establishment by a sheriff of an Internet database. One existing provision requires the AG, upon the request of any sheriff, to provide technical guidance to the requesting sheriff in establishing on the Internet a sex offender and child-victim offender database for the public dissemination of certain material (R.C. 2950.13(A)(12)). The other existing provision that addresses the issue specifies that, except when the child is classified

a juvenile offender registrant and the act that is the basis of the classification is the commission or attempted commission of the offense of aggravated murder, murder, or kidnapping when committed with a purpose to gratify the sexual needs or desires of the child, the offense of rape, or an attempt to commit the offense of rape, a sheriff cannot not cause to be publicly disseminated by means of the Internet any statements, information, photographs, or fingerprints that are provided by a juvenile offender registrant who sends a notice of intent to reside, registers, provides notice of a change of residence address and registers the new residence address, or provides verification of a current residence address pursuant to the SORN Law and that are in the possession of the sheriff (R.C. 2950.081(B)).

Operation of the bill

The bill modifies the first existing provision mentioned in the preceding paragraph to also required the AG to develop software to be used by sheriffs in establishing any such database (R.C. 2950.13(A)(12), as described above under "**Duties of the AG regarding the SORN Law**"). It also modifies the second existing provision mentioned in the preceding paragraph and enacts a new provision related to the issue. Under the bill, except when the child is classified a public registry-qualified juvenile offender registrant, a sheriff cannot cause to be publicly disseminated by means of the Internet any statements, information, photographs, fingerprints, *or materials* that are provided by a delinquent child who sends a notice of intent to reside, registers, provides notice of a change of residence address and registers the new residence address, or provides verification of a current residence address pursuant to the SORN Law and that are in the possession of the sheriff (R.C. 2950.081(B)).

Also under the bill, if a sheriff establishes on the Internet a sex offender and child-victim offender database for the public dissemination of some or all of the materials that are not prohibited from inclusion by the provision described in the preceding paragraph, and that pertain to offenders or delinquent children who register in the sheriff's county, in addition to all of the other information and materials included, the sheriff is required to include in the database a description of the characteristics of tier I, tier II, and tier III sex offenders/child-victim offenders and the public safety concerns related to each of those tiers, and, for each offender or delinquent child in relation to whom information and materials are provided, a statement as to the tier in which the offender or delinquent child is classified (R.C. 2950.081(C)).

Certification of sex offender treatment programs

The bill requires DRC and DYS, by July 1, 2008, to adopt rules pertaining to the certification of sex offender treatment programs. The rules must include requirements that DRC and DYS periodically inspect and certify sex offender

treatment programs and that they maintain a list of certified sex offender treatment programs that is open to public inspection. (R.C. 2950.16.)

Qualified immunity related to SORN Law

Existing law

Existing law provides that, except as described in the next paragraph, the following persons are immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by an act or omission in connection with a power, duty, responsibility, or authorization under the SORN Law or under rules adopted under authority of that Law: (1) an officer or employee of BCII, (2) the AG, a chief of police, marshal, or other chief municipal law enforcement officer, a sheriff, a constable or chief of a township police department or district police force, and a deputy, officer, or employee of the office of the AG, the law enforcement agency served by the marshal or the municipal or township chief, the office of the sheriff, or the constable, (3) a prosecutor and an officer or employee of the office of a prosecutor, (4) a supervising officer and an officer or employee of the APA, (5) a supervising officer and an officer or employee of DYS, (6) a supervisor and a caseworker or employee of a public children services agency, (7) a managing officer of a state correctional institution and an officer or employee of DRC, (8) executive directors of public children services agencies, superintendents and principals of schools, appointing or hiring officers of chartered nonpublic schools, administrators of day care facilities, and chief administrative officers of institutions of higher education who are recipients of community notification under the SORN Law's community notification provision or the agent of the recipient, or (9) a person identified in R.C. 2950.111(A)(2), regarding the person's provision of information pursuant to that statute to a sheriff or a designee of a sheriff (persons identified in that provision include persons who own, lease, or otherwise have custody, control, or supervision of residential premises, or an agent of any such person, who a sheriff or designee contacts for confirmation or denial that a person who registered that address as a residence under the SORN Law actually resides at the address).

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

Operation of the bill

The bill expands the persons to whom the qualified immunity described above applies so that, in addition to the persons to whom it applies under existing law, it also applies to any volunteer organization in which contact with minors or other vulnerable individuals might occur and any organization, company, or individual who requests community notification or the agent of any such person or organization. The existing limitation on the immunity applies to organizations, persons, and agents in this new category added by the bill. (R.C. 2950.12(A)(8) and (B).)

Notice by DRC or DYS to BCII prior to releasing a person who is subject to SORN Law

Existing law

Under existing law: (1) prior to releasing an offender who is under its custody and control and who has been convicted of or pleaded guilty to committing any sexually oriented offense that is not a *registration-exempt sexually oriented offense* or any child-victim oriented offense, DRC must provide certain specified information to BCII regarding the offender, and (2) prior to releasing a delinquent child who is in its custody who has been adjudicated a delinquent child for committing *on or after January 1, 2002*, any sexually oriented offense that is not a *registration-exempt sexually oriented offense* or any child-victim oriented offense, and who has been classified a juvenile offender registrant based on that adjudication, DYS must provide certain specified information to BCII regarding the delinquent child. Upon receipt of the information regarding an offender or delinquent child, BCII immediately must enter it into the State Registry of Sex Offenders and Child-victim Offenders that it maintains and into the criminal records that it maintains.

Existing law requires DRC and DYS to provide all of the following information to BCII regarding an offender or delinquent child described in the preceding paragraph: (1) the offender's or child's name and any aliases he or she uses, (2) all identifying factors concerning the offender or child, (3) the offender's or child's anticipated future residence, (4) the offense and delinquency history of the offender or child, (5) whether the offender or child was treated for a mental abnormality or personality disorder while under the custody and control of the Department, and (6) any other information BCII indicates is relevant that the Department possesses. (R.C. 2950.14.)

Operation of the bill

The bill retains the existing provisions, with three changes (R.C. 2950.14): (1) it removes the existing provision that limits the application of the DYS notice provision to delinquent children who committed the sexually oriented offense or child-victim oriented offense in question on or after January 1, 2002, and, instead, specifies that the provision applies regardless of when the offense was committed, (2) it removes the two existing references to registration-exempt sexually oriented offenses, and (3) it expands the information that DRC and DYS must provide regarding each subject offender or delinquent child to require that, in addition to the information currently required, DRC and DYS also must provide a physical description of the offender or child.

Declarations of the General Assembly regarding the SORN Law

Existing law

Existing law contains a section in which the General Assembly makes specified determinations and declarations with respect to offenders and delinquent children who commit sexually oriented offenses *that are not registration-exempt sexually oriented offenses* or who commit child-victim oriented offenses, states that, in providing in the SORN Law for registration regarding offenders and certain delinquent children who have committed sexually oriented offenses *that are not registration-exempt sexually oriented offenses* or who have committed child-victim oriented offenses and for community notification regarding sexual predators, child-victim predators, habitual sex offenders, and habitual child-victim offenders who are about to be or have been released from confinement or detention and who will live in or near a particular neighborhood or who otherwise will live in or near a particular neighborhood, it is the General Assembly's intent to protect the safety and general welfare of the people of Ohio, and declares that it is Ohio's policy to require the exchange in accordance with the SORN Law of relevant information about sex offenders and offenders who commit child-victim oriented offenses among public agencies and officials and to authorize the release in accordance with that Law of necessary and relevant information about such offenders to members of the general public as a means of assuring public protection and that the exchange or release of that information is not punitive. (R.C. 2950.02.)

Operation of the bill

The bill retains the existing provisions, with three changes (R.C. 2950.02): (1) it removes the two existing references to registration-exempt sexually oriented offenses, (2) it replaces the many references to offenders who commit child-victim oriented offenses with references to child-victim offenders, as newly defined in the

bill, and (3) consistent with the previously described provisions of the bill, it replaces a reference to sexual predators, habitual sex offenders, child-victim predators, and child-victim offenders with a reference to tier III sex offenders/child-victim offenders who are criminal offenders, public registry-qualified juvenile offender registrants, and certain other juvenile offender registrants.

Inclusion of certain prior SORN Law terminology within the bill's terminology

The bill provides that, except as specifically provided to the contrary in the SORN Law (R.C. 2950.011): (1) all references in any provisions of that Law to "sexually oriented offense" include, in addition to the violations specified in R.C. 2950.01(A) of that Law on and after January 1, 2008 (see "**SORN Law definitions**," below), any sexually oriented offense, as that term currently is defined in R.C. 2950.01 (see **COMMENT 1**), that is committed prior to January 1, 2008, and that is not a registration-exempt sexually oriented offense, as that term currently is defined in that section (see **COMMENT 1**), and (2) all references in any provisions of that Law to "child-victim oriented offense" include, in addition to the violations specified in R.C. 2950.01(C) of that Law on and after January 1, 2008 (see "**SORN Law definitions**," below), any child-victim oriented offense, as that term currently is defined in R.C. 2950.01 (see **COMMENT 1**), that is committed prior to January 1, 2008.

Juvenile court classification of a delinquent child as a juvenile offender registrant

Existing law

Under the existing Delinquent Child Law, if a child is adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense, the juvenile court is required in certain circumstances and is authorized in other circumstances to classify the child a juvenile offender registrant and require the child to comply with the duties imposed under the SORN Law. The court also is required to make determinations as to whether the delinquent child is a sexual predator, a habitual sex offender, a child-victim predator, or a habitual child-victim offender. Existing law contains a series of procedures that a juvenile court follows in making the classification and determinations described in this paragraph. It also contains a mechanism by which a juvenile court reviews a juvenile offender registrant classification it has made of a delinquent child, upon the child's completion of the disposition imposed and is authorized to reclassify or, in certain circumstances, declassify the child. (R.C. 2152.82 to 2152.84.)

Operation of the bill

The bill generally retains the existing Delinquent Child Law's provisions that specify the circumstances in which a juvenile court is required, and the circumstances in which a juvenile court is authorized, to classify as a juvenile offender registrant a child who has been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense (although it repeals the current references to "registration-exempt sexually oriented offenses"), but it revises some of the procedures that a juvenile court follows in making the determination. The bill repeals the existing provisions regarding determinations as to whether the delinquent child is a sexual predator, a habitual sex offender, a child-victim predator, or a habitual child-victim offender. It generally retains the existing mechanism by which a juvenile court reviews a juvenile offender registrant classification it has made of a delinquent child, upon the child's completion of the disposition imposed. The bill enacts a new provision that applies regarding children adjudicated delinquent children for committing some of the most serious sexually oriented offenses and a new provision that permits a court to impose a requirement subjecting a delinquent child to the SORN Law's victim and community notification provisions if the delinquent child is a tier III sex offender/child-victim offender but is not a public registry-qualified juvenile offender registrant. The bill repeals the SORN Law definitions of habitual sex offender, sexual predator, presumptive registration-exempt sexually oriented offense, registration-exempt sexually oriented offense, habitual child-victim offender, and child-victim predator that currently apply to the Delinquent Child Law and the existing mechanisms by which a juvenile court determines whether a child is in any of those categories, retains the SORN Law definitions (as modified by the bill) of sexually oriented offense, juvenile offender registrant, and child-victim oriented offense, adds for use in the Delinquent Child Law the SORN Law definition of public registry-qualified juvenile offender registrant, and tier I, tier II, and tier III sex offender/child-victim offender enacted by the bill, and enacts a mechanism by which a juvenile court that classifies a child a juvenile offender registrant also determines whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender (R.C. 2152.02(Y)).

Mandatory classification at time of disposition, if repeat offender. Under the bill, the court that adjudicates a child a delinquent child is required to issue as part of the dispositional order an order that classifies the child a juvenile offender registrant and specifies that the child has a duty to comply with the SORN Law's requirements if all of the following apply: (1) the act for which the child is adjudicated a delinquent child is a sexually oriented offense or a child-victim oriented offense, regardless of when it was committed, (2) the child was 14, 15, 16, or 17 at the time of committing the offense, (3) the court has determined that

the child previously was adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense, regardless of when the prior offense was committed and regardless of the child's age at the time of committing the offense, and (4) the court is not required to classify the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant under the bill.

An order required under the provision described in the preceding paragraph must be issued when the judge makes the order of disposition for the delinquent child. Prior to issuing the order, the court generally must conduct a hearing under the bill's provisions described below in "**Juvenile court determination of tier classification of a juvenile offender registrant**" to determine whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. If the court determines that the delinquent child to whom the order applies is a tier III sex offender/child-victim offender and the bill is not a public registry-qualified juvenile offender registrant, the judge may impose a requirement subjecting the child to the SORN Law's victim and community notification provisions. When a judge issues an order under the provision, the judge must do all of following: (1) include in the order a statement that, upon completion of the disposition of the delinquent child that was made for the sexually oriented offense or child-victim oriented offense upon which the order is based, a hearing will be conducted, and the order is subject to termination modification or pursuant to the provisions described below, (2) provide to the delinquent child and to the child's parent, guardian, or custodian a notice to the delinquent child of the child's duties under the SORN Law, and provide as part of the notice a copy of the order, (3) include the order in the delinquent child's dispositional order and specify in the dispositional order that the juvenile offender registrant classification was made pursuant to this provision, (4) if the court determines that the delinquent child to whom the order applies is a tier III sex offender/child-victim offender, if the child is not a public registry-qualified juvenile offender registrant, and if the judge imposes a requirement subjecting the child to the SORN Law's victim and community notification provisions, include the requirement in the order, and (5) include in the order its determination made at the hearing under the provisions described below in "**Juvenile court determination of tier classification of a juvenile offender registrant**" its determination as to whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender.

Except as described in the next paragraph, the order remains in effect for the period of time specified in R.C. 2950.07 (see "**Operation of the bill**" under "**Commencement and duration of duties**," above), subject to a modification or termination of the order under the bill's provisions described below. If such an

order is issued, the child's attainment of 18 or 21 years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this paragraph.

If a court issues an order under the provision described in the second preceding paragraph before January 1, 2008, not later than February 1, 2008, the court must terminate the order and issue a new order that reclassifies the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant if the act that was the basis of the classification of the delinquent child as a juvenile offender registrant is committing: (1) rape, (2) sexual battery when the victim was less than 12 years of age, (3) attempting to commit, conspiring to commit, or complicity in committing, gross sexual imposition when a victim is under 12, 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 (the bill enacts this prohibition within the offense; see "*New gross sexual imposition prohibition*," below), or (4) aggravated murder, murder, or kidnapping committed with purpose to gratify the sexual needs or desires of the child. (R.C. 2152.82.)

Mandatory classification at time of disposition or release from secure facility, if not repeat offender. Under the bill, the court that adjudicates a child a delinquent child is required to issue as part of the dispositional order or, if the court commits the child for the delinquent act to the custody of a "secure facility," to issue at the time of the child's release from the secure facility, an order that classifies the child a juvenile offender registrant and specifies that the child has a duty to comply with the SORN Law's requirements if all of the following apply: (1) the act for which the child is or was adjudicated a delinquent child is a sexually oriented offense or a child-victim oriented offense, regardless of when it was committed, (2) the child was 16 or 17 at the time of committing the offense, and (3) the court was not required to classify the child a juvenile offender registrant or as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant under the bill. Prior to issuing the order, the court generally must conduct a hearing under the bill's provisions described below in "*Juvenile court determination of tier classification of a juvenile offender registrant*" to determine whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. When a judge issues the order, it must include in the order its determination as to the child's tier classification.

If a judge issues an order under the provision described in the preceding paragraph and the court determines that the delinquent child to whom the order applies is a tier III sex offender/child-victim offender and the child is not a public registry-qualified juvenile offender registrant, the judge may impose a requirement

subjecting the child to the SORN Law's victim and community notification. If the judge imposes such a requirement, the judge must include the requirement in the order.

If a judge issues an order under the provision described in the second preceding paragraph, the judge must provide to the delinquent child and to the child's parent, guardian, or custodian a copy of the order and a notice of the child's duties under the SORN Law. The judge must provide the notice at the time of the issuance of the order. The judge also must include in the order a statement that, upon completion of the disposition of the delinquent child that was made for the sexually oriented offense or child-victim oriented offense upon which the order is based, a hearing will be conducted and the order is subject to termination under the bill's provisions described below. The order remains in effect for the period of time specified in R.C. 2950.07 (see "Operation of the bill" under "Commencement and duration of duties," above), subject to a modification or termination of the order under the bill's provisions described below. The child's attainment of 18 or 21 does not affect or terminate the order, and the order remains in effect for the period of time described in this paragraph.

If a judge issues an order under the provision described in the third preceding paragraph before January 1, 2008, not later than February 1, 2008, the court must terminate the order and issue a new order that reclassifies the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant if the act that was the basis of the classification of the delinquent child as a juvenile offender registrant is committing, attempting or conspiring to commit, or complicity in committing: (1) rape or sexual battery, (2) gross sexual imposition when a victim is under 12, 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 (the bill enacts this prohibition within the offense; see "New gross sexual imposition prohibition," below), or (3) aggravated murder, murder, or kidnapping committed with purpose to gratify the sexual needs or desires of the child. (R.C. 2152.83(A), (C), (E), (F), and (G).)

Discretionary classification at time of disposition or release, if no prior mandatory classification. The bill provides that the court that adjudicates a child a delinquent child, on the judge's own motion, may conduct at the time of disposition of the child or, if the court commits the child for the delinquent act to the custody of a secure facility, may conduct at the time of the child's release from the secure facility, a hearing for the purposes described in the next paragraph if all of the following apply: (1) the act for which the child is adjudicated a delinquent child is a sexually oriented offense or a child-victim oriented offense, regardless of when it was committed, (2) the child was 14 or 15 at the time of committing the

offense, and (3) the court was not required to classify the child a juvenile offender registrant or as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant.

The bill retains an existing provision that requires a judge to conduct a hearing as described in the preceding paragraph to review the effectiveness of the disposition made of the child and of any treatment provided for the child placed in a secure setting and to determine whether the child should be classified a juvenile offender registrant. The judge may conduct the hearing on the judge's own initiative or based upon a recommendation of a DYS officer or employee, a probation officer, a court employee, or a prosecutor or law enforcement officer. If the judge conducts the hearing, upon completion of the hearing, the judge, in the judge's discretion and after consideration of specified factors described below, must do either of the following: (1) decline to issue an order that classifies the child a juvenile offender registrant and specifies that the child has a duty to comply with the requirements of the SORN Law, or (2) issue an order that classifies the child a juvenile offender registrant and specifies that the child has a duty to comply with the requirements of the SORN Law and that states the determination the judge makes at the hearing held under the provisions described below in "**Juvenile court determination of tier classification of a juvenile offender registrant**" its determination as to whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. Prior to issuing an order of the type described in clause (2) of this paragraph, the court generally must conduct a hearing under the bill's provisions described below in "**Juvenile court determination of tier classification of a juvenile offender registrant**" to determine whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender (the judge may hold this hearing at the same time it holds the hearing previously described in this paragraph).

If a judge issues an order under the provisions described in the two preceding paragraphs and the court determines that the delinquent child to whom the order applies is a tier III sex offender/child-victim offender and the child is not a public registry-qualified juvenile offender registrant, the judge may impose a requirement subjecting the child to the SORN Law's victim and community notification. If the judge imposes such a requirement, the judge must include the requirement in the order. If a judge issues an order under the provisions described in the two preceding paragraphs, the provisions described above in the third preceding paragraph under "**Mandatory classification at time of disposition or at time of release from secure facility, if not repeat offender**" apply. If a judge issues an order under the provisions described in the two preceding paragraphs before January 1, 2008, not later than February 1, 2008, the court must terminate

the order and issue a new order that reclassifies the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant if the act that was the basis of the classification of the delinquent child as a juvenile offender registrant is committing, attempting or conspiring to commit, or complicity in committing: (1) rape, (2) sexual battery when the victim is less than 12 years of age, (3) gross sexual imposition when a victim is under 12, 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 (the bill enacts this prohibition within the offense; see "*New gross sexual imposition prohibition*," below), or (4) aggravated murder, or kidnapping committed with purpose to gratify the sexual needs or desires of the child.

The bill provides that, in making a decision under the provisions described in the second and third preceding paragraphs as to whether a delinquent child should be classified a juvenile offender registrant, a judge must consider all relevant factors, including, but not limited to, all of the following: (1) the nature of the sexually oriented offense or the child-victim oriented offense committed by the child, (2) whether the child has shown any genuine remorse or compunction for the offense, (3) the public interest and safety, (4) the factors set forth in R.C. 2950.11(K) that a court uses in determining whether to suspend the application of the SORN Law's community notification provisions to a person, provided that references in those factors to "the offender" are to be construed for purposes of this provision to be references to "the delinquent child," (5) the factors set forth in R.C. 2929.12(B) and (C) under the Felony Sentencing Law as those factors apply regarding the delinquent child, the offense, and the victim, and (6) the results of any treatment provided to the child and of any follow-up professional assessment of the child. (R.C. 2152.83(B) to (G).)

Juvenile court determination of tier classification of a juvenile offender registrant

The bill enacts a mechanism pursuant to which a juvenile court that classifies a delinquent child a juvenile offender registrant determines the tier classification of the child. The bill specifies that if, on or after January 1, 2008, a juvenile court adjudicates a child a delinquent child and classifies the child a juvenile offender registrant pursuant to R.C. 2152.82 or 2152.83 (both as described above), before issuing the order that classifies the child a juvenile offender registrant, the court generally must conduct a hearing to determine whether to classify the child a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. The court is prohibited from conducting a tier reclassification hearing if federal law requires that the child be classified in a particular tier based on the offense

committed; in such a case, the tier classification for the child must be determined for purposes of R.C. 2152.82 and 2152.83 solely by reference to the definitions of tier I sex offender/child-victim offender, tier II sex offender/child-victim offender, and tier III sex offender/child-victim offender set forth in R.C. 2950.01. The court must conduct the hearing in accordance with the following:

(1) If the child was adjudicated a delinquent child for committing any offense listed in the bill's definition of "tier I sex offender/child-victim offender" (see "***SORN Law definitions***," below) or any child-victim oriented offense and is not a repeat offender, it is presumed that the child is a tier I sex offender/child-victim offender. Notwithstanding the presumption, the court may classify the child a tier II sex offender/child-victim offender if it determines by clear and convincing evidence that the child previously has been adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications, and the court may classify the child a tier III sex offender/child-victim offender if it determines by clear and convincing evidence that the delinquent child is likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses.

(2) If the child was adjudicated a delinquent child for committing any offense listed or described in the bill's definition of "tier II sex offender/child-victim offender" (see "***SORN Law definitions***," below), or if the child was adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense, the sexually oriented offense or child-victim oriented offense was committed after the child previously was adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense, and the child was classified a tier I sex offender/child-victim offender relative to the prior offense, it is presumed that the child is a tier II sex offender/child-victim offender. Notwithstanding the presumption, the court may classify the child a tier I sex offender/child-victim offender if it determines by clear and convincing evidence that the child previously has not been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the child was classified a juvenile offender registrant or out-of-state juvenile offender registrant and is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses, and the court may classify the child a tier III sex offender/child-victim offender if it determines by clear and convincing evidence that the delinquent child is likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses.

(3) If the child was adjudicated a delinquent child for committing any offense listed or described in the bill's definition of "tier III sex offender/child-victim offender" (see "**SORN Law definitions**," below), or if the child was adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense, the sexually oriented offense or child-victim oriented offense was committed after the child previously was adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense, and the child was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the prior offense, it is presumed that the child is a tier III sex offender/child-victim offender. Notwithstanding the presumption, the court may classify the child a tier I sex offender/child-victim offender if it determines by clear and convincing evidence that the child previously has not been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the child was classified a juvenile offender registrant or out-of-state juvenile offender registrant and is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses, and the court may classify the child a tier II sex offender/child-victim offender if it determines by clear and convincing evidence that the delinquent child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses but previously has been adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications.

When a judge issues an order under R.C. 2152.82 or 2152.83 (both as described above) that classifies a delinquent child a juvenile offender registrant, in addition to the other statements and information required by the section under which the order is issued, the judge must include in the order its determination made at the hearing as to whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. When a judge issues an order under R.C. 2152.84 or 2152.85 (see "**Juvenile court reclassification or declassification of a delinquent child as a juvenile offender registrant**," below) that reclassifies a delinquent child from one tier of sex offender/child-victim offender to a different tier of sex offender/child-victim offender, in addition to the other statements and information required by the section under which the order is issued, the judge must include in the order its determination as to the reclassification of the child and the tier to which the child is reclassified.

The provisions of the five preceding paragraphs do not apply to a delinquent child if the court is required to classify the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant

pursuant to the bill's R.C. 2152.86, as described below in "Juvenile court classification of a delinquent child as a public registry-qualified juvenile offender registrant." (R.C. 2152.831(A), (B), and (D).)

Factors that must be considered in making tier determination. In making a decision under the provisions described above as to whether a delinquent child who is classified a juvenile offender registrant pursuant to R.C. 2152.82 or 2152.83 is likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses, and in making its decision under R.C. 2152.84 or 2152.85 as to whether a delinquent child who has been classified a juvenile offender registrant and who is under consideration for reclassification from one tier of sex offender/child-victim offender to a different tier of sex offender/child-victim offender should be reclassified, the judge must consider all relevant factors, including, but not limited to, all of the factors listed in R.C. 2152.83(D), as described above in the last paragraph under "Discretionary classification at time of disposition or release, if no prior mandatory classification," and all of the following (R.C. 2152.831(C)):

- (1) The delinquent child's age;
- (2) The delinquent child's prior delinquency record regarding all offenses, including, but not limited to, all sexually oriented offenses and child-victim oriented offenses;
- (3) The age of the victim of the sexually oriented offense or child-victim oriented offense for which the order of disposition is to be made;
- (4) Whether the sexually oriented offense or child-victim oriented offense for which the order of disposition is to be made involved multiple victims;
- (5) Whether the delinquent child used drugs or alcohol to impair the victim of the sexually oriented offense or child-victim oriented offense or to prevent the victim from resisting;
- (6) If the delinquent child previously has been adjudicated a delinquent child for committing an act that if committed by an adult would be a criminal offense, whether the child completed any dispositional order imposed for the prior act and, if the prior act was a sex offense, a sexually oriented offense, or a child-victim oriented offense, whether the child participated in available programs for sexual offenders or child-victim oriented offenders;
- (7) Any mental illness or mental disability of the delinquent child;

(8) If applicable, the nature of the delinquent child's sexual conduct, sexual contact, or interaction in a sexual context with the victim of the sexually oriented offense or child-victim oriented offense and whether the sexual conduct, sexual contact, or interaction in a sexual context was part of a demonstrated pattern of abuse;

(9) Whether the delinquent child, during the commission of the sexually oriented offense or child-victim oriented offense for which the order of disposition is to be made, displayed cruelty or made one or more threats of cruelty;

(10) Any additional behavioral characteristics that contribute to the delinquent child's conduct.

Juvenile court reclassification or declassification of a delinquent child as a juvenile offender registrant

Mandatory review upon completion of disposition, and continuation, modification, or termination of prior registration order

The bill provides that, when a juvenile court judge issues an order that classifies a delinquent child a juvenile offender registrant and specifies that the child has a duty to comply with the requirements of the SORN Law, upon completion of the disposition of that child made for the sexually oriented offense or the child-victim oriented offense on which the juvenile offender registrant order was based, the judge or the judge's successor in office is required to conduct a hearing to review the effectiveness of the disposition and of any treatment provided for the child, to determine the risks that the child might re-offend, to determine whether the prior classification of the child as a juvenile offender registrant should be continued or terminated as described below, and, generally, to determine whether its prior determination made at the hearing held pursuant to R.C. 2152.831 as to whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender should be continued or modified as described below. The court is prohibited from considering at the hearing whether to continue or modify the tier classification of the child if federal law requires that the child be classified in a particular tier based on the offense committed; in such a case, the tier classification for the child must be determined solely by reference to the definitions of tier I sex offender/child-victim offender, tier II sex offender/child-victim offender, and tier III sex offender/child-victim offender set forth in R.C. 2950.01. Upon completion of the hearing, the judge, in the judge's discretion and after consideration of all relevant factors, including, but not limited to, the factors described above in the last paragraph of "**Discretionary classification at time of disposition or release, if no prior mandatory classification**" and the factors

described above in "*Juvenile court determination of tier classification of a juvenile offender registrant*," must do one of the following, as applicable:

(1) Enter an order that continues the classification of the delinquent child as a juvenile offender registrant made in the prior order the prior determination that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable.

(2) If the prior order was not a mandatory juvenile offender registrant order, enter an order that contains a determination that the delinquent child no longer is a juvenile offender registrant and no longer has a duty to comply with the requirements of the SORN Law. An order of this type also terminates all prior determinations that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable. This provision does not apply regarding a prior mandatory juvenile offender registrant order.

(3) Regardless of whether the prior order was a mandatory juvenile offender registrant order or a discretionary juvenile offender registrant order, enter an order that continues the classification of the delinquent child as a juvenile offender registrant made in the prior order and that modifies the prior determination made at the hearing held pursuant to R.C. 2152.831 that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable. An order issued under this provision cannot include a determination that increases to a higher tier the tier classification of the delinquent child. An order issued under this provision must specify the new determination made by the court at the hearing as to whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable.

If a judge issues an order under the provisions described in paragraph (1), above, that continues the prior classification of the delinquent child as a juvenile offender registrant, the prior classification and the prior tier determination remain in effect. If a judge issues an order under those provisions that declassifies the delinquent child as a juvenile offender registrant, the judge must provide a copy of the order to BCII, and BCII, upon receipt of the copy of the order, promptly must notify the sheriff with whom the child most recently registered under the SORN Law of the declassification. If the judge imposes such a requirement, the judge must include the requirement in the order. If a judge issues any type of order, the judge must provide to the delinquent child and the child's parent, guardian, or custodian a copy of the order and, if applicable, a notice of the child's duties under the SORN Law. The order remains in effect for the period of time specified in

R.C. 2950.07 (see "Operation of the bill" under "Commencement and duration of duties," above), subject to a modification on termination of the order under the bill's provisions described below. If a judge issues an order under the provisions described in the preceding paragraph, the child's attainment of 18 or 21 years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this paragraph.

A judge may issue an order under the provisions described above that contains a determination that reclassifies a child from a tier III sex offender/child-victim offender classification to a tier II sex offender/child-victim offender classification only if the court determines by clear and convincing evidence that the child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses. A judge may issue an order under those provisions that contains a determination that reclassifies a child from a tier III sex offender/child-victim offender classification to a tier I sex offender/child-victim offender classification only if the court determines by clear and convincing evidence that the child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses and either that the child has not previously been adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses or that the child previously was adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses but the fact that the child is a repeat offender does not seriously threaten the public interest and safety.

A judge may issue an order under the provisions described above that contains a determination that reclassifies a child from a tier II sex offender/child-victim offender classification to a tier I sex offender/child-victim offender classification only if the court determines by clear and convincing evidence that the child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses and either that the child has not previously been adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses or that the child previously was adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses but the fact that the child is a repeat offender does not seriously threaten the public interest and safety. A judge may not issue an order under those provisions that contains a determination that reclassifies a child from a tier II sex offender/child-victim offender classification to a tier III sex offender/child-victim offender classification.

A judge may not issue an order under the provisions described above that contains a determination that reclassifies a child from a tier I sex offender/child-

victim offender classification to a tier II sex offender/child-victim offender classification or to a tier III sex offender/child-victim offender classification.

The bill states that the provisions described in the preceding paragraphs do not apply to a delinquent child who is classified as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant. (R.C. 2152.84.)

Transition provisions. The bill states that if, prior to January 1, 2008, a judge issues an order that classified a delinquent child a juvenile offender registrant based on an adjudication for a sexually oriented offense or a child-victim oriented offense as those terms are defined in existing law, and if, on and after January 1, 2008, the offense upon which the order was based is a sexually oriented offense or a child-victim oriented offense as those terms are defined by the bill on and after January 1, 2008 (see "**SORN Law definitions,**" below), notwithstanding the changes to the provisions under which the order was issued that are made on January 1, 2008, on and after that date, the order remains in effect for the period described in the provision under which it was issued as that provision exists on and after January 1, 2008, subject to subsequent modification or termination by the juvenile court, or the period of time described below in "**Juvenile court classification of a delinquent child as a public registry-qualified juvenile offender registrant**" if that provision applies, subject to subsequent modification or termination by the juvenile court, and the duty to comply with the requirements of the SORN Law is considered for all purposes to be a continuation of the duty imposed upon the child prior to January 1, 2008, under the order that classified the child a juvenile offender registrant. (R.C. 2950.851.)

Reclassification or declassification upon petition of juvenile offender registrant

Under the bill, regardless of when the delinquent child was classified a juvenile offender registrant, upon the expiration of a specified period of time (see the second succeeding paragraph), a delinquent child who has been classified a juvenile offender registrant generally may petition the judge who made the classification, or that judge's successor in office, to do one of the following:

(1) If the order containing the juvenile offender registrant classification also is a tier III sex offender/child-victim offender, to enter, as applicable, an order that contains a determination that reclassifies the child as either a tier II sex offender/child-victim offender or a tier I sex offender/child-victim offender, the reason or reasons for that reclassification, and a determination that the child remains a juvenile offender registrant, or an order that contains a determination that the child no longer is a juvenile offender registrant and no longer has a duty to comply with the SORN Law's requirements.

(2) If the order containing the juvenile offender registrant classification also is a tier II sex offender/child-victim offender, to enter, as applicable, an order that contains a determination that reclassifies the child as a tier I sex offender/child-victim offender, the reason or reasons for that reclassification, and a determination that the child remains a juvenile offender registrant, or an order that contains a determination that the child no longer is a juvenile offender registrant and no longer has a duty to comply with the SORN Law's requirements.

(3) If the order containing the juvenile offender registrant classification also is a tier I sex offender/child-victim offender, to enter an order that contains a determination that the child no longer is a juvenile offender registrant and no longer has a duty to comply with the SORN Law's requirements.

Upon the filing of a petition requesting declassification, generally, the judge may review the prior classification in question and, upon consideration of all relevant factors and information, including, but not limited to, the factors considered in a hearing under the bill's R.C. 2152.831 and the following factors, the judge, in the judge's discretion, must either enter an order denying the petition or issue an order that reclassifies or declassifies the delinquent child (but see the seventh succeeding paragraph): (1) the nature of the sexually oriented offense or the child-victim oriented offense committed by the child, (2) whether the child has shown any genuine remorse or compunction for the offense, (3) the public interest and safety, (4) the factors set forth in R.C. 2950.11(K) that a court uses in determining whether to suspend the application of the SORN Law's community notification provisions to a person, provided that references in those factors to "the offender" are to be construed for purposes of this provision to be references to "the delinquent child," (5) the factors set forth in R.C. 2929.12(B) and (C) under the Felony Sentencing Law as those factors apply regarding the delinquent child, the offense, and the victim, and (6) the results of any treatment provided to the child and of any follow-up professional assessment of the child.

If a judge issues an order that denies a petition, the prior classification of the delinquent child as a juvenile offender registrant and the prior tier classification remain in effect. A judge may issue an order that reclassifies a child from a tier III sex offender/child-victim offender classification to a tier II sex offender/child-victim offender classification only if the court determines by clear and convincing evidence that the child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses. A judge may issue an order that contains a determination that reclassifies a child from tier III sex offender/child-victim offender classification to a tier I sex offender/child-victim offender classification only if the court determines by clear and convincing evidence that the child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses and either that the child has not

previously been adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses or that the child previously was adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses but the fact that the child is a repeat offender does not seriously threaten the public interest and safety.

A judge may issue an order that contains a determination that reclassifies a child from a tier II sex offender/child-victim offender classification to a tier I sex offender/child-victim offender classification only if the court determines by clear and convincing evidence that the child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses and either that the child has not previously been adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses or that the child previously was adjudicated a delinquent child for committing one or more sexually oriented offenses or child-victim oriented offenses but the fact that the child is a repeat offender does not seriously threaten the public interest and safety.

If a judge issues an order that declassifies a child, the order also terminates all prior determinations that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable.

If a judge issues an order that reclassifies or declassifies the delinquent child, the judge must provide a copy of the order to BCII, and BCII, upon receipt of the copy of the order, promptly must notify the sheriff with whom the child most recently registered under the SORN Law of the declassification. If a judge issues any type of order, the judge must provide to the delinquent child and the child's parent, guardian, or custodian a copy of the order and, if applicable, notice of the delinquent child's duties under the SORN Law. The order remains in effect for the period of time specified in R.C. 2950.07 (see "**Operation of the bill**" under "**Commencement and duration of SORN Law duties**," above), subject to a future termination of the order under the provisions described in this part of the analysis. If a judge issues an order as described in this paragraph, the child's attainment of 18 or 21 years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this paragraph.

A child who has been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense, regardless of when the offense was committed, and who has been classified a juvenile offender registrant relative to that offense may file a petition as described in the second preceding paragraph requesting reclassification or declassification after the expiration of one of the following periods of time: (1) the delinquent child initially may file a petition not earlier than three years after the entry of the juvenile court judge's order after the mandatory hearing conducted after completion of the child's

disposition made for the offense on which the juvenile offender registrant classification was based to review the disposition and treatment effectiveness, determine re-offend risks, and whether to continue that classification, (2) after the child's initial filing of a petition under clause (1) of this paragraph, the child may file a second petition not earlier than three years after the judge has entered an order deciding the petition under that clause, or (3) after the child's filing of a petition under clause (2) of this paragraph, thereafter, the child may file a petition under this clause upon the expiration of five years after the judge has entered an order deciding the petition under clause (2) or the most recent petition the child has filed under this clause.

The bill states that the provisions described in the three preceding paragraphs do not apply to a delinquent child who is classified as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant under the bill. The court is prohibited from changing the tier classification for any child pursuant to the provisions described above if federal law requires that the child be classified in a particular tier based on the offense committed; in such a case, the tier classification for the child must be determined solely by reference to the definitions of tier I sex offender/child-victim offender, tier II sex offender/child-victim offender, and tier III sex offender/child-victim offender set forth in R.C. 2950.01. (R.C. 2152.85.)

If a court is making a determination under the provisions described above, the bill's provisions described below in "**Juvenile court adjudication of a juvenile offender registrant as a habitual sex/child-victim offender or a sexual/child-victim predator, for limited purposes**" apply.

The transition provisions summarized above in "**Transition provision**" under "**Operation of the bill**" under "**Juvenile court classification of a delinquent child as a juvenile offender registrant**" also apply to an order issued prior to January 1, 2008, under the provision described in this part of the analysis. (R.C. 2152.851.)

Juvenile court classification of a delinquent child as a public registry-qualified juvenile offender registrant

The bill enacts a series of provisions that require a juvenile court, at various specified times, to issue an order that classifies the child a juvenile offender registrant, specifies that the child has a duty to comply with the requirements of the SORN Law, and additionally classifies the child a "public registry-qualified juvenile offender registrant" (see "**SORN Law definitions**," below).

Issuance at time of disposition

The bill requires the court that, on or after January 1, 2008, adjudicates a child a delinquent child 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 was 14, 15, 16, or 17 years of age at the time of committing the delinquent act, and the delinquent act is committing, attempting to commit, conspiring to commit, or complicity in committing: (1) rape, (2) sexual battery if the victim is less than 12 years of age, (3) gross sexual imposition when a victim is under 12, 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 (the bill enacts this prohibition within the offense; see "**New gross sexual imposition prohibition**," below), or (4) aggravated murder, murder, or kidnapping committed with a purpose to gratify the sexual needs or desires of the child (R.C. 2152.86(A)(1)).

Issuance upon release from DYS

The bill requires the court, upon a child's release, on or after January 1, 2008, from DYS, to issue 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 was adjudicated a delinquent child for committing one of the acts described in the preceding paragraph, the child was 14, 15, 16, or 17 years of age at the time of committing the act, and the court did not issue an order classifying the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant (R.C. 2152.86(A)(2)).

Reclassification of previously classified juvenile offender registrant and issuance of new order

The bill 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 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 was adjudicated a delinquent child for committing rape, gross sexual imposition when a victim is under 13, aggravated murder, murder, or kidnapping committed with a purpose to gratify the sexual needs or desires of the child and the child was 14, 15, 16, or 17 years of age at the time of committing the act (R.C. 2152.86(A)(3)).

Duties subsequent to issuance of the order; duration of order and transition provisions

If a judge issues an order under a provision described in any of the three preceding paragraphs, the SORN Law's classification of tier I sex offender/child-victim offender, tier II sex offender/child-victim offender, or tier III sex offender/child-victim offender automatically applies to the delinquent child based on the sexually oriented offense or child-victim oriented offense the child committed, subject to a possible reclassification as described below for a child whose delinquent act was committed prior to January 1, 2008. The order must inform a child whose delinquent act was committed prior to January 1, 2008, that the child has a right to a hearing as described below and inform the child of the procedures for requesting the hearing and the period of time within which the request for the hearing must be made. When a judge issues an order under a provision described in any of the three preceding paragraphs, the judge must provide to the delinquent child who is the subject of the order and to the child's parent, guardian, or custodian notice of the child's duties under the SORN Law and provide as part of that notice a copy of the order. The judge must include the order in the delinquent child's dispositional order and specify in the dispositional order the Revised Code section pursuant to which the order was issued.

An order issued under any of those provisions remains in effect for the period of time specified in R.C. 2950.07 as it exists on and after January 1, 2008 (see "**Operation of the bill**" under "**Commencement and duration of SORN Law duties**," above), subject to a judicial termination of that period of time under the bill or a possible tier reclassification of the child if the delinquent act was committed prior to January 1, 2008. If such an order is issued, the child's attainment of 18 or 21 years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this paragraph. If the court issues a new order that reclassifies a delinquent child a juvenile offender registrant and additionally classifies the child a public registry-qualified juvenile offender registrant, the duty to comply with the requirements of the SORN Law based upon that order is considered for all purposes to be a continuation of the duty to comply with those requirements imposed upon the child prior to January 1, 2008, under the former order that classified the child a juvenile offender registrant. (R.C. 2152.86(B) and (C).)

Hearing to contest classifications public registry-qualified juvenile offender registrant, if delinquent act committed prior to January 1, 2008

Under the bill, if an order classifying a child as a public registry-qualified juvenile offender registrant is issued under the provisions described above regarding a delinquent child whose delinquent act was committed prior to January 1, 2008, the child generally may request as a matter of right a court hearing to

contest the court's classification in the order of the child as a public registry-qualified juvenile offender registrant. To request the hearing, not later than the date that is 60 days after the delinquent child is provided with the copy of the order, the delinquent child must file a petition with the juvenile court that issued the order. A delinquent child may not request, and the court is prohibited from conducting, a tier reclassification hearing if federal law requires that the child be classified a public registry-qualified juvenile offender registrant, or be subject to the duties and sanctions imposed on public registry-qualified juvenile offender registrants, based on the offense committed; in such a case, the child must be classified a public registry-qualified juvenile offender registrant solely by reference to the definition of public registry-qualified juvenile offender registrant set forth in R.C. 2950.01.

If the delinquent child requests a hearing by timely filing a petition with the juvenile court, the delinquent child must serve a copy of the petition on the prosecutor who handled the case in which the delinquent child was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense that resulted in the delinquent child's registration duty under the SORN Law. The prosecutor is to represent the interest of the state in the hearing. In the hearing, the Rules of Juvenile Procedure apply, except to the extent that those Rules would by their nature be clearly inapplicable. The court must schedule a hearing, and provide notice to the delinquent child and the prosecutor of the date, time, and place of the hearing.

If the delinquent child requests a hearing in accordance with this provision, until the court issues its decision at or subsequent to the hearing, the delinquent child must comply with the SORN Law as it exists on and after January 1, 2008. If a delinquent child requests a hearing, at the hearing, all parties are entitled to be heard, and the court must consider all relevant information and testimony presented relative to the issue of whether the child should be classified a public registry-qualified juvenile offender registrant. Notwithstanding the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant, the court may terminate that classification if it determines by clear and convincing evidence that the child is not likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses.

If the court decides to terminate the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant, the court must issue an order that specifies that it has determined that the child is not a public registry-qualified juvenile offender registrant and that it has terminated the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant. The court promptly must serve a copy of the order upon the sheriff with whom the delinquent child most recently registered under the SORN

Law and upon BCII. The delinquent child and the prosecutor have the right to appeal the decision of the court issued under this division.

If the delinquent child fails to request a hearing within the applicable 60-day period, the failure constitutes a waiver by the delinquent child of the delinquent child's right to a hearing under this division, and the child is bound by the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant.

In making a decision at the hearing as to whether a delinquent child is likely to engage in the future in one or more sexually oriented offenses or child-victim oriented offenses and as to whether the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant should be terminated, the court shall consider all relevant factors, including, but not limited to, all of the factors listed in R.C. 2152.83(D) and all of the factors identified in R.C. 2152.831(C).

An order issued under these provisions is independent of any order of a type described in division (E) or (F) of R.C. 2950.031 or 2950.032, and the court may issue an order under both types of orders. A court that conducts a hearing under the provisions described above may consolidate that hearing with a hearing conducted for the same delinquent child under division (E) or (F) of R.C. 2950.031 or 2950.032. (R.C. 2950.036(D).)

Jurisdiction of juvenile courts

An existing provision gives juvenile courts exclusive original jurisdiction to conduct the hearings, and to make the determinations, adjudications, and orders under the provisions dealing with the classification and declassification of delinquent children as juvenile offender registrants and in the SORN Law regarding a child who has been adjudicated a delinquent child and to refer the duties conferred upon the juvenile judge under those provisions and that Law to magistrates appointed by the juvenile court judge. The bill expands the provision so that juvenile courts also have exclusive original jurisdiction to conduct the hearings, and to make the determinations, adjudications, and orders under the provisions dealing with such issues and with the reclassification of juvenile offender registrants regarding a child who has been adjudicated a delinquent child and to refer the duties conferred upon the juvenile judge under those provisions to magistrates. (R.C. 2151.23(A)(15).)

Sexual predator, habitual sex offender, child-victim predator, and habitual child-victim offender determinations under the SORN Law

Existing law

Existing law sets forth a mechanism by which a person is classified a sexual predator, habitual sex offender, child-victim predator, or habitual child-victim offender. In some cases, the person automatically is classified a sexual predator or child-victim predator and in all other cases, a court must hold a hearing to classify the person in any of the categories. (R.C. 2950.09 and 2950.091, which are not in the bill; also, R.C. 2152.82(B), 2152.83(A)(2), 2929.19(A)(2), and 2929.23(B).)

Persons who are classified in any of the categories must comply with the duties imposed under the SORN Law for longer periods of time than persons who have those duties but who are not classified in any of the categories (see "**Commencement and duration of SORN Law duties**," above), and they are subject to additional duties and restrictions under the SORN Law, including more frequently required periodic verification, a duty to provide notice of an intent to reside in a county and a mechanism for providing victim notification and community notification of a residence address the person registers.

Operation of the bill

The bill repeals the terms sexual predator, habitual sex offender, child-victim predator, or habitual child-victim offender as they currently are used in the provisions described in the preceding paragraph and, generally, replaces those terms with the term "tier III sex offender/child-victim offender" and subjects persons within that category to the extended duration of SORN Law duties and the additional SORN Law duties and restrictions. Because the terms no longer are used in the SORN Law, the bill repeals the terms sexual predator, habitual sex offender, child-victim predator, and habitual child-victim offender (see "**SORN Law definitions**," below).

Corresponding to the changes described in the preceding paragraph, the bill also repeals the existing mechanism by which a person is classified a sexual predator, habitual sex offender, child-victim predator, or habitual child-victim offender. (Repeal of R.C. 2950.09 and 2950.091 in Sections 2 to 5 of the bill; also, R.C. 2152.82(B), 2152.83(A)(2), 2929.19(A)(2), 2929.23(B), and 2950.01.)

Miscellaneous changes related to SORN Law

BCII maintenance of criminal records

Existing law. Existing law requires BCII's Superintendent to procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within Ohio a felony, a crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any of a list of other specified misdemeanors, of all children under 18 who have been adjudicated delinquent children for committing within Ohio an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within Ohio a felony or an offense of violence, and of all well-known and habitual criminals.

Existing law requires the person in charge of any detention facility with custody of a person suspected of committing such an offense or with custody of a child under 18 with respect to whom there is probable cause to believe that the child may have committed such an act to furnish material of the type described in the preceding paragraph to BCII's Superintendent. Also, every clerk of an Ohio court of record that is a trial court must send to the Superintendent a weekly report containing a summary of each case involving any crime in a category described in the preceding sentence, or an adjudication in a case in which a child under 18 was alleged to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult.

Existing law requires BCII's Superintendent to cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in establishing a system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested for such an offense and of all children under 18 arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The Superintendent must file for record the fingerprint impressions of all persons confined in detention facilities for the violation of state laws and of all children under 18 who are confined in a facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult and any other information the Superintendent receives from state or local law enforcement officials. (R.C. 109.57(A)(1) to (3).)

Existing law requires the Superintendent to carry out the SORN Law with respect to the registration of persons who are convicted of or plead guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense and with respect to all other duties imposed on BCII under that Law. It authorizes the Superintendent to operate a

center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under 18 who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and to establish and operate a statewide communications network to gather and disseminate information, data, and statistics for law enforcement agencies. (R.C. 109.57(A)(4) and (C).)

The information and materials furnished to the Superintendent pursuant to the provisions described above are not public records under the state's Public Records Law. The AG is required to adopt rules setting forth the procedure by which a person may receive or release information gathered under those provisions by the Superintendent, and may charge a reasonable fee for this service. (R.C. 109.57(E).)

Operation of the bill. The bill modifies the existing provisions regarding the use of information provided to BCII's Superintendent under R.C. 109.57(A). It specifies that the Superintendent must gather information of the nature described above in "**Existing law**" that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for inclusion in the State Registry of Sex Offenders and in the Internet Sex Offender and Child-victim Offender Database operated by the AG and for possible inclusion in the Internet database operated by the AG for law enforcement use. (R.C. 109.57(C)(1), (C)(2), (D), and (J).)

The bill also removes, from the provision requiring the Superintendent to carry out the SORN Law, a reference to "registration-exempt sexually oriented offenses" (R.C. 109.57(A)(4)).

Crime victims rights pamphlet; charging of a fee for compliance with SORN Law duties

In existing provisions that pertain to a crime victims rights pamphlet and to the charging of a fee for compliance with SORN Law duties, the bill modifies the provisions by removing references to "registration-exempt sexually oriented offense" and "aggravated sexually oriented offense" and by replacing references to "sexual predator," "habitual sex offender," "child-victim predator," and "habitual child-victim offender" (all of which terms are repealed by the bill) with a reference to "tier III sex offenders/child-victim offenders" and, in the crime victims rights pamphlet provisions, to delinquent children who are subjected to victim and community notification (R.C. 109.42(A)(16) and 311.171; see "**SORN Law definitions**," below).

Forcible Entry and Detainer Law; treatment as part of disposition

In existing provisions that pertain to the bringing of a Forcible Entry and Detainer proceeding against a person who occupies residential premises located within 1,000 feet of school premises and who is listed on the State Registry of Sex Offenders and Child-victim Offenders and to the provision of treatment for delinquent child sex offenders, the bill removes from the provisions references to "registration-exempt sexually oriented offenses" (R.C. 1923.02(A)(14) and (15), 2152.19(G), 5139.13(A)(2), and 5321.03(A)(5)).

Repeal of existing R.C. 2152.811

Consistent with its repeal of the terms "registration-exempt sexually oriented offense" and "presumptive registration-exempt sexually oriented offense" and its elimination of the use of those terms in the SORN Law, the bill repeals an existing provision that contains procedures for a court that adjudicates a child a delinquent child for committing a presumptive registration-exempt sexually oriented offense to remove the presumption and subject the child to the SORN Law (repeal of R.C. 2152.811 in Sections 3 to 5 of the bill).

Relocation of current R.C. 2152.821

The bill relocates, from current R.C. 2152.821 to R.C. 2151.811, a provision that pertains to the taking of depositions of mentally retarded or developmentally disabled victims of specified delinquent acts, the taking of their testimony outside the courtroom for televising by closed circuit equipment into the courtroom, or the taking and recording of their testimony outside of the courtroom for showing in the courtroom (R.C. 2151.811, relocated from existing R.C. 2152.821).

Inclusion of status in sentence

Existing law. Under existing law, if an offender is being sentenced for any of the following offenses in the specified circumstances, the court must include in the offender's sentence a statement that the offender has been adjudicated a sexual predator or child-victim predator or has been convicted of or pleaded guilty to an aggravated sexually oriented offense, whichever is applicable: (1) a violent sex offense or designated homicide, assault, or kidnapping offense committed on or after January 1, 1997, if the offender is adjudicated a sexually violent predator in relation to that offense, (2) a sexually oriented offense that is not a registration-exempt sexually oriented offense and that the offender committed on or after January 1, 1997, if the court has determined that the offender is a sexual predator, (3) a child-victim oriented offense, if the court has determined that the offender is a child-victim predator, (4) an aggravated sexually oriented offense, (5) the

offense of rape, when sentence is being imposed under R.C. 2971.03 because the victim is under 13 years of age, (6) the offense of rape, if a sentence of life without parole is imposed, or (7) the offense of attempted rape, if the offender has been convicted of a specification of the type described in R.C. 2941.1418, 2941.1419, or 2941.1420. (R.C. 2929.19(B)(4).)

If an offender is being sentenced for a sexually oriented offense that is a misdemeanor committed on or after January 1, 1997, and if the judge imposing sentence for the offense determines that the offender is a sexual predator, the judge must include in the offender's sentence a statement that the offender has been adjudicated a sexual predator (R.C. 2929.23(A).)

Operation of the bill. The bill modifies these provisions by removing the references to "registration-exempt sexually oriented offense" and "aggravated sexually oriented offense," and by replacing references to "sexual predator" and "child-victim predator" (all of which terms are repealed by the bill), with a reference to "tier III sex offenders/child-victim offenders." (R.C. 2929.19(B)(4) and 2929.23(A); see "**SORN Law definitions**," below.)

Application to delinquent child of SORN Law-related provisions

Existing law. Existing law provides that, if a child is adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense or for committing a child-victim oriented offense, if the child is 14 years of age or older at the time of committing the offense, and if the child committed the offense on or after January 1, 2002: (1) the provisions dealing with juvenile court classification and declassification of a delinquent child as a juvenile offender registrant and the SORN Law apply to the child and the adjudication, and (2) in addition to any order of disposition it makes under the Delinquent Child Law, the court may make any determination, adjudication, or order authorized under the provisions identified in clause (1) and the SORN Law and must make any determination, adjudication, or order required under those provisions and that Law (R.C. 2151.191).

Operation of the bill. The bill repeals the reference in the existing provision to a "registration-exempt sexually oriented offense," removes the January 1, 2002, date, and specifies that the provision applies regardless of when the sexually oriented offense or child-victim oriented offense was committed. It also expands the portions of the provision described above in clauses (1) and (2) under "**Existing law**" so that they also refer to the provisions dealing with the classification and reclassification of delinquent children as juvenile offender registrants and public registry-qualified juvenile offender registrants (R.C. 2152.191.)

Retention of control over delinquent child relative to SORN Law-related provisions

Existing law. Existing law provides that (R.C. 2152.22(A)): (1) when a child is committed to the legal custody of DYS, the juvenile court relinquishes control with respect to the child, except as provided in R.C. 2152.22(B), (C), and (G), which are not relevant to the bill, or in the provisions dealing with the classification and declassification of delinquent children as juvenile offender registrants, and (2) subject to a series of specified statutory provisions, including the provisions dealing with the classification and declassification of delinquent children as juvenile offender registrants, all other dispositional orders made by a juvenile court under the Delinquent Child Law are temporary and continue for a period designated by the court, until terminated or modified by the court or until the child attains 21 years of age.

Operation of the bill. The bill expands the existing exception to the relinquishment provision and the existing exception to the dispositional order-duration provision so they do not apply to the court's duties and activities dealing with the classification and declassification of delinquent children as juvenile offender registrants and public registry-qualified juvenile offender registrants. (R.C. 2152.22(A).)

Taking of DNA samples

Existing law. Existing law requires in certain specified circumstances that DRC's Director, the chief administrative officer of a local correctional facility, or the chief administrative office of a court probation department or the APA to cause a DNA specimen to be collected in accordance with specified procedures from a person in its custody or under its supervision. The bill modifies these existing provisions by replacing the references to "sexual predator," "child-victim predator," "habitual sex offender," and "habitual child-victim offender" (all of which terms are repealed by the bill) with a reference to "tier III sex offender/child-victim offender" and conforms the list of circumstances specified in the Felony Sentencing Law and Misdemeanor Sentencing Law that require the judge to include the DNA specimen requirement in the offender's sentence with the list of circumstances under existing law that require the collection of a DNA specimen. (R.C. 2901.07(D)(4), 2929.13(H), and 2929.23(A); see "**SORN Law definitions**," below).

Classification of convicted rapist sentenced to life without parole under R.C. Chapter 2971.; use of global positioning device – imposition as part of sentence

In existing provisions that pertain to the classification of a convicted rapist sentenced to life without parole under R.C. Chapter 2971. and to the discretionary imposition as part of a sentence under that Chapter of the use of a global positioning device, the bill replaces references to "sexual predator" (which term is repealed by the bill) with a reference to "tier III sex offender/child-victim offender" (R.C. 2901.07(D)(4) and 2929.13(L).

Definitions that apply to Criminal Sentencing Law

The existing Criminal Sentencing Law provides many definitions that apply throughout that Law, including the SORN Law definitions of "habitual sex offender," "sexual predator," "registration-exempt sexually oriented offense," "habitual child-victim offender," and "child-victim predator." The bill repeals the existing reference to "registration-exempt sexually oriented offenses" and replaces the existing references to "habitual sex offender," "sexual predator," "habitual child-victim offender," and "child-victim predator" (all of which terms are repealed by the bill) with a reference to "tier III sex offender/child-victim offender" (R.C. 2929.01(LL); see "**SORN Law definitions**," below).

SORN Law definitions

Existing law defines numerous terms that are used in the SORN Law, including "sexually oriented offense," "registration-exempt sexually oriented offense," "presumptive registration-exempt sexually oriented offense," "aggravated sexually oriented offense," "child-victim oriented offense," "sexual predator," "habitual sex offender," "child-victim predator," and "habitual child-victim predator." The existing SORN Law definitions are set forth in **COMMENT 1**. The bill repeals some of the existing definitions, replaces some of them, and retains some of them. The bill's definitions, and a summary of the bill's treatment of the existing definitions, follow (unless specified otherwise, each definition is a new definition). Under the bill:

"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); this definition replaces the definition of the term from existing law, set forth in **COMMENT 1**):

(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, which the bill enacts;

(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, all of which the bill enacts, 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.

"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: (1) 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 (2) 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); this is a new definition.)

"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: (1) 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, (2) abduction except when committed with a sexual motivation, unlawful restraint except when committed with a sexual motivation, or

criminal child enticement except when committed with a sexual motivation, (3) 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 (1) or (2) of this paragraph, or (4) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (1), (2), or (3) of this paragraph (R.C. 2950.01(C); this definition replaces the definition of the term from existing law, set forth in **COMMENT 1**, and is similar to that definition).

"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); this is a new definition).

"Tier I sex offender/child-victim offender" means any of the following (R.C. 2950.01(E); this is a new definition):

(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) sexual imposition, importuning, voyeurism, or pandering obscenity, (b) 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, (c) gross sexual imposition committed other than when the victim, or one of the victims, is less than 13, (d) illegal use of a minor in a nudity-oriented material or performance based on possession or viewing of the material or performance, (e) menacing by stalking committed with a sexual motivation, which the bill enacts, unlawful restraint committed with a sexual motivation, which the bill enacts, or criminal child enticement committed with a sexual motivation, which the bill enacts, (f) 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), or (e) of this paragraph, or (g) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (a), (b), (c), (d), (e), or (f) of this paragraph.

(2) 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.

(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, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, 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, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, 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); this is a new definition):

(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) compelling prostitution, pandering obscenity involving a minor, or pandering sexually oriented matter involving a minor, (b) 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, (c) gross sexual imposition committed when the victim is under 13 (but see the definition of tier III sex offender/child-victim offender) 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, (d) 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, (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 18 or older, (f) abduction committed with a sexual motivation, which the bill enacts 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, (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 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 as a tier I 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 I 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, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier II 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, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a tier II 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 II sex offender/child-victim offender set forth in paragraph (1) to (4), 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: (a) 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 (b) a juvenile court, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies the child a tier I sex offender offender/child-victim offender or a tier III sex offender offender/child-victim offender relative to the offense.

"Tier III sex offender/child-victim offender" means any of the following (R.C. 2950.01(G); this is a new definition):

(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 (the bill enacts this prohibition within the offense; see "**New gross sexual imposition prohibition**," below), (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 that is 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 tier 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 tier 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, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, 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, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, 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 sex offender/child-victim offender or a tier 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, pursuant to R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies the child a tier I sex offender/child-victim offender or a tier 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.

"Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense, who is 14 years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under R.C. 2152.82, 2152.83, 2152.84, or 2152.85 (see "**Juvenile court classification of a delinquent child as a juvenile offender registrant,**" above) classifies a juvenile offender registrant and has a duty to comply with the SORN Law. The term includes a person who, prior to January 1, 2008, was a "juvenile offender registrant" under the definition of that term in existence prior to January 1, 2008, and a person who, prior to July 31, 2003, was a "juvenile sex offender registrant" under the former definition of that former term (R.C. 2950.01(M); this definition replaces the definition of the term from existing law, set forth in **COMMENT 1**).

"Public registry-qualified juvenile offender registrant" means a person who is adjudicated a delinquent child before, on, or after, January 1, 2008, and to whom all of the following apply (R.C. 2951.01(N); this is a new definition): (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 or 2907.05(B), a violation of R.C. 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, pursuant to an order issued under R.C. 2152.86 (see "**Juvenile court classification of a delinquent child as a juvenile offender registrant,**" above), 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).

"Out-of-state juvenile offender registrant" means a person who is adjudicated a delinquent child in a court in a state other than Ohio, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for committing a sexually oriented offense or a child-victim oriented offense, who on or after January 1, 2002, moves to and resides in Ohio or temporarily is domiciled in Ohio for more than five days, and who has a duty to comply with the SORN Law. The term includes a person who, prior to January 1, 2008, was an "out-of-state juvenile offender registrant" under the definition of that

term in existence prior to January 1, 2008, and a person who, prior to July 31, 2003, was an "out-of-state juvenile sex offender registrant" under the former definition of that former term (R.C. 2951.01(P); this definition replaces the definition of the term from existing law, set forth in **COMMENT 1**).

"Sexually violent predator" means a person who, on or after January 1, 1997, commits a sexually violent offense and is likely to engage in the future in one or more sexually violent offenses. For purposes of this provision, any of the following factors may be considered as evidence tending to indicate that there is a likelihood that the person will engage in the future in one or more sexually violent offenses: (1) the person has been convicted two or more times, in separate criminal actions, of a sexually oriented offense or a child-victim oriented offense (for purposes of this division, convictions that result from or are connected with the same act or result from offenses committed at the same time are one conviction, and a conviction set aside pursuant to law is not a conviction), (2) the person has a documented history from childhood, into the juvenile developmental years, that exhibits sexually deviant behavior, (3) available information or evidence suggests that the person chronically commits offenses with a sexual motivation, (4) the person has committed one or more offenses in which the person has tortured or engaged in ritualistic acts with one or more victims, (5) the person has committed one or more offenses in which one or more victims were physically harmed to the degree that the particular victim's life was in jeopardy, or (6) any other relevant evidence. (R.C. 2950.01(K), by reference to existing R.C. 2971.01, not in the bill.)

"Presumptive registration-exempt sexually oriented offense," **"registration-exempt sexually oriented offense,"** **"habitual sex offender,"** **"sexual predator,"** **"adjudicated a sexual predator,"** **"aggravated sexually oriented offense,"** **"habitual child-victim offender,"** **"child-victim predator,"** and **"adjudicated a child-victim predator."** The bill repeals the existing definitions of these terms, all of which are set forth in **COMMENT 1**. Under the bill, the SORN Law no longer will use any of these terms.

The bill retains, without substantive change several definitions, some of which are set forth in **COMMENT 1**.

New prohibitions--offenses of menacing by stalking, abduction, unlawful restraint, and criminal child enticement

Menacing by stalking

Existing law. Existing law prohibits a person, by engaging in a pattern of conduct, from knowingly causing another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other

person. It also prohibits a person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, from posting a message with purpose to urge or incite another to commit a violation of the prior prohibition. A violation of either prohibition is the offense of menacing by stalking. The offense generally is a misdemeanor of the first degree, but it is a felony of the fourth or fifth degree if certain specified circumstances apply. (R.C. 2903.211.)

Operation of the bill. The bill additionally prohibits a person with a sexual motivation from engaging in any of the conduct currently prohibited under the offense of menacing by stalking. The existing penalty structure for menacing by stalking applies to a violation of the new prohibition. (R.C. 2903.211.)

Abduction

Existing law. Existing law prohibits a person, without privilege to do so, from knowingly doing any of the following: (1) by force or threat, removing another from the place where the other person is found, (2) by force or threat, restraining the liberty of another person under circumstances that create a risk of physical harm to the victim or place the other person in fear, or (3) holding another in a condition of involuntary servitude. A violation of any of the prohibitions is the offense of "abduction," a felony of the third degree. (R.C. 2905.02.)

Operation of the bill. The bill additionally prohibits a person with a sexual motivation from engaging in any of the conduct currently prohibited under the offense of abduction. As with a violation of any of the existing prohibitions, a violation of the new prohibition is a felony of the third degree. (R.C. 2905.02.)

Unlawful restraint

Existing law. Existing law prohibits a person, without privilege to do so, from knowingly restraining another of the other person's liberty. A violation of the prohibition is the offense of "unlawful restraint," a misdemeanor of the third degree. (R.C. 2905.03.)

Operation of the bill. The bill additionally prohibits a person with a sexual motivation from engaging in currently prohibited conduct. As with a violation of the existing prohibition, a violation of the new prohibition is a misdemeanor of the third degree. (R.C. 2905.03.)

Criminal child enticement

Existing law. Existing law prohibits a person, by any means and without privilege to do so, from knowingly soliciting, coaxing, enticing, or luring any child

under 14 years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply: (1) the actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity, and (2) the actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any of those persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity. A violation of the prohibition is the offense of "criminal child enticement." The offense generally is a misdemeanor of the first degree but is a felony of the fifth degree if the offender previously has been convicted of criminal child enticement or any of a list of other specified offenses. (R.C. 2905.05.)

Operation of the bill. The bill additionally prohibits a person with a sexual motivation from engaging in the conduct currently prohibited under the offense of criminal child enticement. As with a violation of the existing prohibition, a violation of the new prohibition generally is a misdemeanor of the first degree, but is a felony of the fifth degree if the offender previously has been convicted of criminal child enticement or any of a list of other specified offenses. (R.C. 2905.05.)

Provisions applicable to all new prohibitions

As used in all of the new prohibitions, "sexual motivation" means a purpose to gratify the sexual needs or desires of the offender (R.C. 2903.211(D)(9), 2905.02(D), 2905.03(D), and 2905.05(E)(1) and, by reference, R.C. 2971.01, not in the bill).

A violation of any of the new prohibitions is included within the bill's definitions of "sexually oriented offense," and a person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a violation of any of the prohibitions is a "tier I sex offender/child-victim offender" (see "**SORN Law definitions**," above).

Penalty for kidnapping when the victim is under 13

Existing law

Existing law prohibits a person from doing any of the following by force, threat, or deception, or, in the case of a victim under 13 or mentally incompetent, by any means: (1) removing another from the place where the other person is found or restraining the liberty of the other person for any of the following purposes: (a) to hold for ransom, or as a shield or hostage, (b) to facilitate the

commission of any felony or flight thereafter, (c) to terrorize, or to inflict serious physical harm on the victim or another, (d) to engage in sexual activity with the victim against the victim's will, or (e) to hinder, impede, or obstruct a function of government, or to force any action or concession on the part of governmental authority, or (2) knowingly doing any of the following, under circumstances that create a substantial risk of serious physical harm to the victim or, in the case of a minor victim, under circumstances that either create a substantial risk of serious physical harm to the victim or cause physical harm to the victim: (a) removing another from the place where the other person is found, (b) restraining another of the other person's liberty, or (c) holding another in a condition of involuntary servitude.

A violation of any of the prohibitions is the offense of "kidnapping." Kidnapping generally is a felony of the first degree, but it is a felony of the second degree if the offender releases the victim in a safe place unharmed. (R.C. 2905.01.)

Operation of the bill

Change in penalty. The bill changes the penalty for kidnapping committed on or after its effective date when the victim of the offense is less than 13 years of age and the offender also is convicted of a sexual motivation specification so that it always is a felony of the first degree. The bill also specifies that, notwithstanding the definite sentence provided for a felony of the first degree in R.C. 2929.14 or another Revised Code section other than R.C. 2929.14(D) and (E) that authorizes or requires a specified prison term or a mandatory prison term for a person who is convicted of or pleads guilty to kidnapping or that specifies the manner and place of service of a prison term and if the sentencing provisions of the Sexually Violent Predator Sentencing Law as modified by the bill do not apply regarding the person (see "**Sexually Violent Predator Sentencing Law--sentencing provisions.**" below), when the victim is under 13 and the offender also is convicted of a sexual motivation specification, the offender must be sentenced pursuant to R.C. 2971.03 (see "**Sentence pursuant to R.C. 2971.03.**" below) to one of the following terms: (1) except as provided in clause (2), an indefinite prison term consisting of a minimum term of 15 years and a maximum term of life imprisonment, or (2) if the offender releases the victim in a safe place unharmed, an indefinite prison term consisting of a minimum term of ten years and a maximum term of life imprisonment. (R.C. 2905.01(C), 2929.13(F)(15), 2929.14(G)(4), and 2971.03(A)(3)(b) and (B)(3)(a) and (b).)

The bill also specifies that the offender's conviction of or plea of guilty to kidnapping of a person less than 18 years of age automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of the SORN Law (R.C. 2971.03(F)(4)).

Sentence pursuant to R.C. 2971.03. When a person is sentenced for kidnapping pursuant to this special sentencing mechanism, with one exception regarding the mandatory use of active global positioning system device to supervise the person, the person must serve the term of imprisonment so imposed under the provisions of the Sexually Violent Predator Sentencing Law that govern the place and manner of service of a prison term imposed under that Law and in the same manner as if the person had been convicted of a sexually violent offense and a sexually violent predator specification under that Law (see "**Sexually Violent Predator Sentencing Law--sentencing provisions,**" below). (R.C. 2971.03, 2971.04, 2971.05(A) to (D), 2971.06, and 2971.07.)

Under the bill, if a prison term imposed for a kidnapping conviction under the bill's special sentencing mechanism is modified or terminated, the court must require the APA to supervise the offender and may require that the APA's supervision of the offender be in the manner described in this paragraph. If the court requires the APA to supervise the offender in the manner described in this paragraph, the APA must supervise the offender with an active global positioning system device during any time period in which the offender is not incarcerated in a state correctional institution. If the APA is required to so supervise the offender, unless the court terminates that requirement, the offender is subject to supervision with an active global positioning system device for his or her entire life. The costs of administering the supervision of offenders with an active global positioning system device pursuant to this division is paid out of funds from the Reparations Fund (R.C. 2743.191). The procedures described in this paragraph are similar to the procedures that apply under existing law to a person who is convicted of a sexually violent offense and a sexually violent predator specification and sentenced under the Sexually Violent Predator Sentencing Law, except that, under the existing provisions, the APA supervision of the offender with an active global positioning system device when not incarcerated in a state correctional institution is mandatory. (R.C. 2971.05(E).)

Penalty for aggravated murder when victim is under 13, when offender not sentenced to death or life imprisonment without parole, and no sexual motivation specification and sexually violent predator specification

Existing law

Existing law prohibits a person from doing any of the following: (1) purposely, and with prior calculation and design, causing the death of another or the unlawful termination of another's pregnancy, (2) purposely causing the death of another or the unlawful termination of another's pregnancy while committing, attempting to commit, or fleeing immediately after committing or attempting to commit kidnapping, rape, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, terrorism, or escape, (3) purposely causing the

death of another who is under 13 years of age at the time of the commission of the offense, (4) if the person is under detention as a result of having been found guilty of or having pleaded guilty to a felony or has broken that detention, purposely causing the death of another, (5) purposely causing the death of a law enforcement officer whom the offender knows or has reasonable cause to know is a law enforcement officer, when either the victim, at the time of the commission of the offense, is engaged in the victim's duties or it is the offender's specific purpose to kill a law enforcement officer. A violation of any of the prohibitions is the offense of aggravated murder. (R.C. 2903.01, not in the bill.)

Under existing law, a person who is convicted of or pleads guilty to aggravated murder must be sentenced, depending upon the facts and circumstances present and certain determinations made at a sentencing hearing, to death or to life imprisonment without parole, life imprisonment with parole eligibility after serving 30 full years of imprisonment, life imprisonment with parole eligibility after serving 25 full years of imprisonment, or life imprisonment with parole eligibility after serving 20 years of imprisonment. If the offender also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent predator specification that were included in the charging document and is not sentenced to death, the court must impose upon the offender a term of life imprisonment without parole that is served under the Sexually Violent Predator Sentencing Law. (R.C. 2929.022, 2929.03, and 2929.06.)

Operation of the bill

Change in penalty. Under the bill, notwithstanding the felony Sentencing Law or another Revised Code section other than R.C. 2929.14(D) and (E) that authorizes or requires a specified prison term or a mandatory prison term for aggravated murder or that specifies the manner and place of service of a prison term and if the sentencing provisions of the Sexually Violent Predator Sentencing Law as modified by the bill do not apply regarding the person (see "**Sexually Violent Predator Sentencing Law--sentencing provisions,**" below), the court sentencing an offender for aggravated murder committed on or after its effective date when the victim is less than 13 years of age, when the offender also is convicted of a sexual motivation specification, when the offender is not sentenced to death or a term of life imprisonment without parole under the Aggravated Murder Sentencing Law, and when a sentence of life without parole is not required under R.C. 2971.03 must sentence the offender to an indefinite term of 30 years to life that must be served pursuant to R.C. 2971.03 (see "**Sentence pursuant to R.C. 2971.03,**" below). (R.C. 2929.02(A), 2929.022(A)(2)(b) and (B), 2929.03(A)(1), (C)(1), (C)(2), (D)(2), (D)(3), (E)(1), and (F), 2929.06(A) and (B), 2929.14(G)(5), and 2971.03(B)(3)(c).)

The bill also specifies that the offender's conviction of or plea of guilty to aggravated murder in the circumstances described in the preceding paragraph automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of the SORN Law (R.C. 2971.03(F)(4)).

Sentence pursuant to R.C. 2971.03. When a person is sentenced for aggravated murder pursuant to this special sentencing mechanism, with one exception (regarding the mandatory use of active global positioning system device to supervise the person), the person must serve the term of imprisonment so imposed under the provisions of the Sexually Violent Predator Sentencing Law that govern the place and manner of service of a prison term imposed under that Law and in the same manner as if the person had been convicted of a sexually violent offense and a sexually violent predator specification under that Law. The bill's discretionary active global positioning system device provisions regarding APA monitoring that are summarized above in "**Sentence pursuant to R.C. 2971.03**" under "**Operation of the bill**" under "**Penalty for kidnapping when the victim is under 13**" also apply to a person sentenced for murder pursuant to this special sentencing mechanism (R.C. 2971.03, 2971.04, 2971.05, 2971.06, and 2971.07).

Penalty for murder when victim is under 13, and no sexual motivation specification and sexually violent predator specification

Existing law

Existing law prohibits a person from doing either of the following: (1) purposely causing the death of another or the unlawful termination of another's pregnancy, (2) causing the death of another as a proximate result of the offender's committing or attempting to commit an offense of violence that is a felony of the first or second degree and that is not a violation of R.C. 2903.03 (voluntary manslaughter) or 2903.04 (involuntary manslaughter). The prohibition described in clause (2) does not apply to an offense that becomes a felony of the first or second degree only if the offender previously has been convicted of that offense or another specified offense. A violation of either prohibition is the offense of murder. (R.C. 2903.02, not in the bill.)

Under existing law, a person who is convicted of or pleads guilty to murder generally is imprisoned for an indefinite term of 15 years to life, but if the offender also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent predator specification that were included in the charging document, the court must impose upon the offender a term of life imprisonment without parole that is served under the Sexually Violent Predator Law. (R.C. 2929.02(B).)

Operation of the bill

Change in penalty. Under the bill, notwithstanding the Felony Sentencing Law or another Revised Code section other than R.C. 2929.14(D) and (E) that authorizes or requires a specified prison term or a mandatory prison term for murder or that specifies the manner and place of service of a prison term and if the sentencing provisions of the Sexually Violent Predator Sentencing Law as modified by the bill do not apply regarding the person (see "**Sexually Violent Predator Sentencing Law--sentencing provisions,**" below), the court sentencing an offender for murder committed on or after its effective date when the victim is less than 13 years of age, the offender also is convicted of a sexual motivation specification, and a sentence of life without parole is not required under R.C. 2971.03 must sentence the offender to an indefinite prison term of 30 years to life that must be served pursuant to R.C. 2971.03 (see "**Sentence pursuant to R.C. 2971.03,**" below). (R.C. 2929.02(B), 2929.14(G)(6), and 2971.03(B)(3)(d).)

The bill also specifies that the offender's conviction of or plea of guilty to murder in the circumstances described in the preceding paragraph automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of the SORN Law (R.C. 2971.03(F)(4)).

Sentence pursuant to R.C. 2971.03. When a person is sentenced for murder pursuant to this special sentencing mechanism, with one exception regarding the mandatory use of active global positioning system device to supervise the person, the person must serve the term of imprisonment so imposed under the provisions of the Sexually Violent Predator Sentencing Law that govern the place and manner of service of a prison term imposed under that Law and in the same manner as if the person had been convicted of a sexually violent offense and a sexually violent predator specification under that Law. The bill's discretionary active global positioning system device provisions regarding APA monitoring that are summarized above in "**Sentence pursuant to R.C. 2971.03**" under "**Operation of the bill**" under "**Penalty for kidnapping when the victim is under 18**" also apply to a person sentenced for murder pursuant to this special sentencing mechanism (R.C. 2971.03, 2971.04, 2971.05, 2971.06, and 2971.07).

Sexually Violent Predator Sentencing Law--sentencing provisions

Existing law provides that, notwithstanding the Felony Sentencing Law or another Revised Code section, other than R.C. 2929.14(D) and (E), that authorizes or requires a specified prison term or a mandatory prison term or specifies the manner and place of service of a prison term or term of imprisonment, the court must impose a specified sentence upon a person who is convicted of or pleads guilty to a "violent sex offense" and who also is convicted of or pleads guilty to a "sexually violent predator specification" that was included in the legal document

charging that offense, and upon a person who is convicted of or pleads guilty to a "designated homicide, assault, or kidnapping offense" and also is convicted of or pleads guilty to both a "sexual motivation specification" and a "sexually violent predator specification" that were included in the legal document charging that offense (see **COMMENT 1** for definitions of the terms in quotation marks in this sentence). The bill modifies this sexually violent predator sentencing scheme to conform it to the new sentencing mechanism the bill enacts that is described above regarding the offenses of kidnapping, aggravated murder, and murder. Except for the increase in penalty provided in the circumstances described below in paragraph (3), the penalty under the bill for a person convicted of a sexually violent predator specification is the same as under existing law. Under the bill, a person must be sentenced under the sexually violent predator sentencing scheme as follows (R.C. 2971.03(A)):

(1) If the offense for which the sentence is being imposed is aggravated murder and the court does not impose a sentence of death, if the offense is murder, if the offense is another offense for which a term of life imprisonment may be imposed, if the offense is rape and it is committed in specified circumstances, or if the offender previously has been convicted of or pleaded guilty to an offense that is subject to the Sexually Violent Predator Sentencing Law, the court must impose a term of life imprisonment without parole (no change to existing law.)

(2) Except as otherwise provided in paragraph (3), (4), (5), or (6), below, or in paragraph (1), above, regarding repeat offenders, if the offense for which the sentence is being imposed is an offense other than aggravated murder, murder, or rape and other than an offense for which a term of life imprisonment may be imposed, the court must impose an indefinite prison term consisting of a minimum term fixed by the court from among the range of terms available as a definite term for the offense, but not less than two years, and a maximum term of life imprisonment (no change to existing law).

(3) Except as otherwise provided in paragraph (1), above, regarding repeat offenders, if the offense is kidnapping that is a felony of the first degree: (a) *if the offense is committed on or after the bill's effective date and the victim is less than 13 years of age, the court must impose an indefinite prison term consisting of one of the following terms: (1) except as provided in clause (2), an indefinite prison term consisting of a minimum term of 15 years and a maximum term of life imprisonment, or (2) if the offender releases the victim in a safe place unharmed, an indefinite prison term consisting of a minimum term of ten years and a maximum term of life imprisonment* (added by the bill), or (b) if the kidnapping is committed prior to the bill's effective date or the provision described in clause (a) of this paragraph does not apply, the court must impose an indefinite term

consisting of a minimum term fixed by the court that is not less than ten years and a maximum term of life imprisonment (same as existing law).

(4) Except as otherwise provided in paragraph (1), above, regarding repeat offenders, if the offense is kidnapping that is a felony of the second degree, the court must impose an indefinite term consisting of a minimum term fixed by the court that is not less than eight years and a maximum term of life imprisonment (no change to existing law).

(5) Except as otherwise provided in paragraph (1), above, regarding repeat offenders, if the offense is rape for which a term of life imprisonment is not imposed under the provision described above in paragraph (1) or under R.C. 2907.02(B), it must impose an indefinite prison term consisting of a minimum term of 25 years and a maximum term of life imprisonment or consisting of a minimum term fixed by the court that is not less than ten years and a maximum term of life imprisonment, depending upon the circumstances present (no change to existing law).

(6) Except as otherwise provided in paragraph (1), above, regarding repeat offenders, if the offense is attempted rape, the court must impose an indefinite prison term consisting of a minimum term fixed by the court from among the range of terms available as a definite term for the offense, but not less than two years, and a maximum term of life imprisonment; an indefinite prison term consisting of a minimum term of five years and a maximum term of 25 years; an indefinite prison term consisting of a minimum term of ten years and a maximum term of life imprisonment; or an indefinite prison term consisting of a minimum term of 15 years and a maximum term of life imprisonment, depending upon the circumstances present (no change to existing law).

A person who is sentenced to an indefinite prison term under the Sexually Violent Predator Sentencing Law must serve the entire prison term in a state correctional institution unless: (1) the offender has served at least the minimum term of the prison term, (2) the Parole Board has terminated its control over the offender's service of the prison term after determining that the offender does not represent a substantial risk of physical harm to others, (3) the sentencing court finds by clear and convincing evidence either that the offender is unlikely to commit a sexually violent offense in the future or that the offender does not represent a substantial risk of physical harm to others, and (4) the court either terminates the prison term subsequent to its finding that the offender is unlikely to commit a sexually violent offense in the future or modifies the requirement that the offender serve the entire term in a state correctional institution subsequent to its finding that the offender does not represent a substantial risk of physical harm to others.

If a court modifies the requirement that the offender serve the entire term in a state correctional institution, the offender is supervised by the APA, the modification does not terminate the prison term, and the term remains in effect and the offender remains under the court's jurisdiction for the offender's entire life unless the court terminates the prison term. The court may revoke a modification and order that the offender be returned to a state correctional institution to continue serving the prison term to which the modification applied. If a court terminates an offender's prison term, the offender is placed on conditional release for five years, and the offender is supervised by the APA during the conditional release. The court must conduct hearings to determine whether to finalize the termination, to extend the conditional release, or to take another type of authorized action including the revocation of the conditional release and return of the offender to a state correctional institution. The Law provides procedures for taking an offender who is on conditional release into custody for a violation of the release conditions and for returning the offender to a state correctional institution. The bill specifies that all of these provisions apply to a person sentenced for a kidnapping conviction under the bill's special sentencing mechanism described in the preceding paragraph. (R.C. 2971.03, 2971.04, 2971.05(A) to (D), 2971.06, and 2971.07.)

Under existing law and the bill, if a prison term imposed upon an offender sentenced under paragraph (2), (3), (4), (5), or (6), above, is modified or terminated, the APA must supervise the offender with an active global positioning system device during any time period in which the offender is not incarcerated in a state correctional institution. Unless the court removes the offender's classification as a sexually violent predator, the offender is subject to supervision with an active global positioning system device for the offender's entire life. (R.C. 2971.05(E).)

Miscellaneous changes related to special sentencing mechanism imposing sentences served under the Sexually Violent Predator Sentencing Law

The bill amends numerous existing provisions to conform them to the special sentencing mechanism it enacts for kidnapping, aggravated murder, and murder and that is described above (hereafter, this special sentencing mechanism for these offenses is referred to as "the bill's Sexually Violent Predator Law-related sentencing mechanism"). A brief summary of those provisions, and the conforming changes made, follows:

(1) Existing R.C. 109.42 requires the AG to prepare and distribute to local law enforcement agencies a crime victim's rights pamphlet containing specified information. Among the rights that must be explained in the pamphlet is the right of a victim of certain sexually violent offenses committed by an offender who also is convicted of or pleads guilty to a sexually violent predator specification and

who is sentenced to an indefinite prison term under the Sexually Violent Predator Sentencing Law and of a victim of rape or attempted rape to receive notice of a hearing to modify the requirement that the offender serve the entire term in a state correctional facility or whether to terminate the prison term. The bill amends this provision to also require the pamphlet to explain this right regarding an offender sentenced under the bill's Sexually Violent Predator Law-related sentencing mechanism. (R.C. 109.42(A)(17).)

(2) Existing R.C. 2743.191 creates in the state treasury the Reparations Fund and specifies 13 purposes for which the Fund may be used. One of the authorized uses is the cost of administering the APA's supervision of sexually violent predators with an active global positioning system device pursuant to the Sexually Violent Predator Sentencing Law. The bill amends this provision to also permit the use of the Fund for the APA's supervision with an active global positioning system device of offenders who are sentenced under the bill's Sexually Violent Predator Law-related sentencing mechanism. (R.C. 2743.191(A)(1)(m).)

(3) Existing R.C. 2921.34 sets forth the offense of "escape." One of the ways that offense is committed is if a person who is adjudicated a sexually violent predator or is convicted of rape or attempted rape and is sentenced to an indefinite prison term under the Sexually Violent Predator Sentencing Law, who is released from a state correctional institution under a modification of the requirement that the entire term be served in prison, and who pursuant to that modification is restricted to a geographic area purposely leaves the geographic area to which the restriction applies or purposely fails to return after a grant of a temporary leave. The penalty for the offense is a felony of the second or third degree, depending upon the offense for which the person was under detention. The bill expands this prohibition and the penalties to also apply to offenders who are sentenced under the bill's Sexually Violent Predator Law-related sentencing mechanism. (R.C. 2921.34(A)(2) and (C)(2).)

(4) Existing R.C. 2929.01 sets forth the definitions that apply to the Felony Sentencing Law and Misdemeanor Sentencing Law. One of the terms defined is "mandatory prison term," and it includes a prison term imposed under the Sexually Violent Predator Sentencing Law, including a term imposed for rape or attempted rape under that Law. The bill expands the definition to also include a prison term imposed on offenders who are sentenced under the bill's Sexually Violent Predator Law-related sentencing mechanism. (R.C. 2929.01(Y)(3).)

(5) Existing R.C. 2941.148 sets forth the form of the sexually violent predator specification of which an offender must be convicted in order to be sentenced under the Sexually Violent Predator Sentencing Law. If an offender is not convicted of and does not plead guilty to that specification, or is not convicted of rape or attempted rape in circumstances in which a sentence must be imposed in

accordance with that Law, the offender cannot be sentenced under that Law. The bill specifies that a person also may be sentenced under R.C. Chapter 2971. if the person is convicted of or pleads guilty to an offense that the bill specifies must be sentenced under the bill's Sexually Violent Predator Law-related sentencing mechanism. (R.C. 2941.148.)

(6) Existing R.C. 2950.11(H) provides a procedure pursuant to which a court may suspend, in the interests of justice, the SORN Law's community notification procedures as they apply to a sexual predator, habitual sex offender, child-victim predator, habitual child-victim offender, or person convicted of an aggravated sexually oriented offense and specifies that the procedure does not apply regarding certain offenders, including offenders sentenced under the Sexually Violent Predator Law and offenders convicted of rape or attempted rape in circumstances in which a sentence must be imposed in accordance with that Law. The bill specifies that the procedure also does not apply to offenders who are sentenced under the bill's Sexually Violent Predator Law-related sentencing mechanism. (R.C. 2950.11(H)(4).)

(7) The bill expands, revises, or extends the following provisions so that they also apply to an offender who is sentenced under the bill's Sexually Violent Predator Law-related sentencing mechanism:

(a) Existing R.C. 2930.16(B)(2), which provides that, if an offender is sentenced to an indefinite prison term under the Sexually Violent Predator Sentencing Law, including a term imposed for rape or attempted rape under that Law, upon the request of the victim of the crime, the prosecutor in the case promptly must notify the victim of the offender's crime of any hearing conducted under R.C. 2971.05 to determine whether to modify the requirement that the offender serve the entire term in prison or whether to terminate the prison term (R.C. 2930.16(B)(2)).

(b) Existing R.C. 2967.12(E), which specifies that, if an offender is serving an indefinite prison term imposed under the Sexually Violent Predator Sentencing Law, including a term imposed for rape or attempted rape under that Law, and if the Parole Board terminates its control over the offender's service of that term under R.C. 2971.04 as contained in that Law, the Board immediately must provide written notice of that fact to the entities and persons specified in R.C. 2971.04 (R.C. 2967.12(E)).

(c) Existing R.C. 2967.121, which provides that, if an offender is serving an indefinite prison term imposed under the Sexually Violent Predator Sentencing Law, including a term imposed for rape or attempted rape under that Law, if the court pursuant to R.C. 2971.05 modifies the requirement that the offender serve that entire term in a state correctional institution, and if the offender is released

from confinement pursuant to that modification, the court promptly must provide written notice of the modification and the court order to the offender, DRC, the prosecuting attorney, and any state agency or political subdivision that is affected by the order (R.C. 2967.121(C)).

(d) Existing R.C. 5120.49, which requires DRC to prescribe standards and guidelines to be used by the Parole Board in determining, pursuant to R.C. 2971.04, whether it should terminate its control over an offender's service of an indefinite prison term imposed upon the offender under the Sexually Violent Predator Sentencing Law, including a term imposed for rape or attempted rape under that Law (R.C. 5120.49).

(e) Existing R.C. 5120.61, which requires DRC to adopt assessment standards for offenders who are sentenced under the Sexually Violent Predator Sentencing Law, including those sentenced for rape or attempted rape under that Law, and, upon request of the Parole Board or a sentencing court, to provide a risk assessment report of the offender to be used under R.C. 2971.04 and 2971.05 (R.C. 5120.61).

(f) Existing R.C. 5120.66, which requires DRC to establish and operate on the Internet a database that contains specified information about offenders in its custody. One of the items of information that must be on the database is, regarding an offender sentenced to an indefinite prison term under the Sexually Violent Predator Sentencing Law, including a term imposed for rape or attempted rape under that Law, prior notice of any hearing pursuant to R.C. 2971.05 to determine whether to modify the requirement that the offender serve the entire term in a state correctional institution or whether to terminate the prison term (R.C. 5120.66(A)(1)(c)(ii)).

(g) Existing R.C. 5149.10, which affirms that the Parole Board has control over the service of the prison term of an offender sentenced to an indefinite prison term under the Sexually Violent Predator Sentencing Law, including a term imposed for rape or attempted rape under that Law (R.C. 5149.10(E)).

Definition of "harmful to juveniles" as used in the Sex Offenses Law

Existing law

Existing law provides that, as used in R.C. Chapter 2907. (the Sex Offenses Law), "harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply: (1) the material or performance, when considered as a whole, *appeals to the prurient interest in sex of juveniles*, (2) the material or performance is patently offensive to

prevailing standards in the adult community as a whole with respect to what is suitable for juveniles, and (3) the material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value (R.C. 2907.01).

The definition is used in the offenses of "disseminating matter harmful to juveniles" (R.C. 2907.31), "displaying matter harmful to juveniles" (R.C. 2907.311), and "deception to obtain matter harmful to juveniles" (R.C. 2907.33) and in a provision located outside of the Sex Offenses Law that requires Internet-based or computer-based community schools to use or install filtering devices or software to protect against Internet access to materials that are harmful to juveniles (R.C. 3314.21).

Operation of the bill

The bill modifies the definition of "harmful to juveniles" by changing the first clause of the definition so that it refers to material or a performance, when considered as a whole, that *appeals to the prurient interest of juveniles in sex* (R.C. 2907.01(E)(1)).

New gross sexual imposition prohibition

The bill enacts a new prohibition in the offense of "gross sexual imposition." The new prohibition prohibits a person from intentionally touching the genitalia of another, when the touching is not through clothing, the other person is less than 12 years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person (R.C. 2907.05(B)).

A violation of the new prohibition is penalized in the same manner as a violation of the existing prohibition included in the offense that prohibits a person from having sexual contact with another, causing another to have sexual contact with the offender, or causing two or more other persons to have sexual contact when the other person, or one of the other persons is less than 13 years of age, whether or not the offender knows the age of that person (i.e., it is a felony of the third degree, with a presumption for a prison term in most cases and a mandatory prison term in certain specified cases) (R.C. 2907.05(C)).

COMMENT

1. Existing law provides the following definitions, for use in the SORN Law (R.C. 2950.01):

"Sexually oriented offense" means any of the following:

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

(i) Regardless of the age of the victim, rape, sexual battery, gross sexual imposition, or importuning;

(ii) Any of the following offenses involving a minor, in the circumstances specified: kidnapping for the purpose of engaging in sexual activity with the victim against the victim's will, unlawful sexual conduct with a minor, sexual imposition, or voyeurism, when the victim of the offense is under 18 years of age; compelling prostitution when the person compelled, induced, procured, etc. to engage in the sexual activity in question is under 18; certain violations under the offense of pandering obscenity to a minor or pandering sexually oriented matter involving a minor; illegal use of a minor in a nudity-oriented material or performance when the offense is a felony of the second degree; endangering children when the offense is committed by enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing a child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter and the child is under 18; or kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will, menacing by stalking, abduction, unlawful restraint, criminal child enticement, or the former offense of child stealing when the victim of the offense is under 18 and the offense is committed with a sexual motivation.

(iii) Regardless of the age of the victim, aggravated murder, murder, involuntary manslaughter that is the proximate result of the offender's committing or attempting to commit a felony, felonious assault, or kidnapping that is committed with a sexual motivation;

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

(v) Sexual imposition or voyeurism when the victim of the offense is 18 or older or menacing by stalking when the victim of the offense is 18 or older and the offense is 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 U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law

of any foreign nation that is or was substantially equivalent to any offense listed in paragraph (a)(i) to (v), above;

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

(b) Any of the following violations when committed by a person under 18 (but subject to paragraph (b)(ix), below):

(i) Regardless of the age of the victim, rape, sexual battery, gross sexual imposition, or importuning;

(ii) Any of the following offenses involving a minor, in the circumstances specified: kidnapping for the purpose of engaging in sexual activity with the victim against the victim's will, sexual imposition, or voyeurism when the victim of the offense is under 18; compelling prostitution when the person compelled, induced, procured, etc. to engage in the sexual activity in question is under 18; endangering children when the offense is committed by enticing, coercing, permitting, encouraging, compelling, hiring, employing, using, or allowing a child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter and the child is under 18; or kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will, menacing by stalking, or the former offense of child stealing when the victim of the offense is under 18 and the offense is committed with a sexual motivation;

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

(iv) Aggravated murder, murder, involuntary manslaughter that is the proximate result of the offender's committing or attempting to commit a felony, felonious assault, abduction, or kidnapping or an attempt to violate any of these provisions that is committed with a sexual motivation;

(v) Certain violations under the offense of pandering obscenity to a minor, pandering sexually oriented matter involving a minor, or illegal use of a minor in a nudity-oriented material or performance, or an attempt to violate any of these

provisions, if the person who violates or attempts to violate the provision is four or more years older than the minor who is the victim of the violation;

(vi) Sexual imposition or voyeurism when the victim of the offense is 18 or older, or menacing by stalking when the victim of the offense is 18 or older and the offense is committed with a sexual motivation;

(vii) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed in paragraph (b)(i) to (vi), above;

(viii) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (b)(i) to (viii), above.

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

"Presumptive registration-exempt sexually oriented offense" means a sexually oriented offense described in paragraph (a) to (e), below, when the offense is committed by a person who previously has not been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense, and when the victim or intended victim of the offense is 18 years of age or older:

(a) Sexual imposition or voyeurism when the victim is 18 years of age or older, or menacing by stalking when the victim is 18 years of age or older and the offense is committed with sexual motivation;

(b) Any violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation that is committed by a person who is 18 years of age or older and is or was substantially equivalent to any offense listed in paragraph (a), above;

(c) Subject to paragraph (e), below, a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation committed by a person who is under 18 that is or was substantially equivalent to any offense listed in paragraph (a), above, and that would be a felony of the fourth degree if committed by an adult;

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

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

"Registration-exempt sexually oriented offense" means any presumptive registration-exempt sexually oriented offense, when a court has not issued an order that removes the presumptive exemption and subjects the offender, or potentially subjects the delinquent child, to registration and other duties and responsibilities under the SORN Law.

"Child-victim oriented offense" excludes all sexually violent offenses (as defined in R.C. 2971.01) and means any of the following:

(a) Any of the following violations committed by a person 18 years of age or older, when the victim of the offense is under 18 and is not the child of the person who commits the offense: (i) kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will, abduction, unlawful restraint, criminal child enticement, or the former offense of child stealing, (ii) a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed in clause (i) of this paragraph, or (iii) an attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (i) or (ii) of this paragraph.

(b) Any of the following violations committed by a person under the age of 18, when the victim of the offense is under 18 years of age and is not the child of the person who commits the offense: (i) subject to clause (iv) of this paragraph, below, kidnapping for a purpose other than engaging in sexual activity with the victim against the victim's will or the former offense of child stealing, (ii) subject to clause (iv) of this paragraph, a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the U.S., any existing or former law applicable in a military court or Indian tribal court, or any existing or former law of any foreign nation that is or was substantially equivalent to any offense listed in clause (i) of this paragraph, (iii) subject to clause (iv) of this paragraph, below, an attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (i) or (ii) of this paragraph, or (iv) if the child's case has been transferred for criminal prosecution under R.C. 2152.12, the

act is any violation listed in paragraph (i), above, or would be any offense listed in that paragraph if committed by an adult.

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

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

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

"Sexual predator" means a person to whom either of the following applies: (a) the person has been convicted of or pleaded guilty to a sexually oriented offense that is not a registration-exempt sexually oriented offense and is likely to engage in the future in one or more sexually oriented offenses or (b) the person has been adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense, was 14 years of age or older at the time of committing the offense, was classified a juvenile offender registrant based on that adjudication, and is likely to engage in the future in one or more sexually oriented offenses.

"Adjudicated a sexual predator." An offender or delinquent child is "**adjudicated as being a sexual predator**" or "**adjudicated a sexual predator**" if any of the following applies and if, regarding a delinquent child, that status has not been removed pursuant to R.C. 2152.84, 2152.85, or 2950.09:

(a) The offender is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense that is not a registration-exempt sexually oriented offense, and any of the following applies: (i) the sexually oriented offense is a violent sex offense or a designated homicide, assault, or kidnapping offense, and the offender is adjudicated a sexually violent predator in relation to that offense, (ii) the sexually oriented offense is the offense of rape committed against a victim who is under age 13 and not the spouse of the offender, and either the offender is sentenced under the Sexually Violent Predator Law or a sentence of life without parole is imposed for the rape, or (iii) the sexually oriented offense is attempted rape, and the offender also was convicted of or pleaded guilty to a specification of the type described in R.C. 2941.1418, 2941.1419, or 2941.1420.

(b) Regardless of when the sexually oriented offense was committed, on or after January 1, 1997, the offender is sentenced for a sexually oriented offense that is not a registration-exempt sexually oriented offense, and the sentencing judge determines pursuant to R.C. 2950.09(B) that the offender is a sexual predator.

(c) The delinquent child is adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense, was 14 years of age or older at the time of committing the offense, and has been classified a juvenile offender registrant based on that adjudication, and the adjudicating judge or that judge's successor in office determines pursuant to R.C. 2950.09(B) or R.C. 2152.82, 2152.83, 2152.84, or 2152.85 that the delinquent child is a sexual predator.

(d) Prior to January 1, 1997, the offender was convicted of or pleaded guilty to, and was sentenced for, a sexually oriented offense that is not a registration-exempt sexually oriented offense, the offender is imprisoned in a state correctional institution on or after January 1, 1997, and the court determines pursuant to R.C. 2950.09(C) that the offender is a sexual predator.

(e) Regardless of when the sexually oriented offense was committed, the offender or delinquent child is convicted of or pleads guilty to, has been convicted of or pleaded guilty to, or is adjudicated a delinquent child for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense in a state other than Ohio, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States, as a result of that conviction, plea of guilty, or adjudication, the offender or delinquent child is required, under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, to register as a sex offender until the offender's or delinquent child's death, and, on or after July 1, 1997, for offenders or January 1, 2002, for delinquent children, the offender or delinquent child moves to and resides in Ohio or temporarily is domiciled in Ohio for more

than five days or the offender is required under the SORN Law to register a school, institution of higher education, or place of employment address in Ohio, unless a court of common pleas or juvenile court determines that the offender or delinquent child is not a sexual predator pursuant to R.C. 2950.09(F).

"Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense, who is 14 years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under R.C. 2152.82, 2152.83, 2152.84, or 2152.85, classifies a juvenile offender registrant and specifies has a duty to comply with the SORN Law. "Juvenile offender registrant" includes a person who, prior to July 31, 2003, was a "juvenile sex offender registrant" under the former definition of that former term.

"Out-of-state juvenile offender registrant" means a person who is adjudicated a delinquent child in a court in a state other than Ohio, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for committing a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense, who on or after January 1, 2002, moves to and resides in Ohio or temporarily is domiciled in Ohio for more than five days, and who has a duty to comply with the SORN Law. "Out-of-state juvenile offender registrant" includes a person who, prior to July 31, 2003, was an "out-of-state juvenile sex offender registrant" under the former definition of that former term.

"Aggravated sexually oriented offense" means the offense of rape committed on or after June 13, 2002, against a victim who is under age 13 and not the spouse of the offender, or committed on or after July 31, 2003, when the offender purposely compels the victim to submit by force or threat of force.

"Habitual child-victim offender" means, except when a juvenile judge removes this classification pursuant to R.C. 2152.84(A)(2) or R.C. 2152.85(C)(2), a person to whom both of the following apply: (a) the person is convicted of or pleads guilty to a child-victim oriented offense, or the person is adjudicated a delinquent child for committing on or after January 1, 2002, a child-victim oriented offense, was 14 years of age or older at the time of committing the offense, and is classified a juvenile offender registrant based on that adjudication and (b) one of the following applies to the person: (i) regarding a person who is an offender, the person previously was convicted of or pleaded guilty to one or more child-victim oriented offenses or previously was adjudicated a delinquent child for committing one or more child-victim oriented offenses and was classified a juvenile offender registrant or out-of-state juvenile offender registrant based on one or more of those adjudications, regardless of when the offense was committed

and regardless of the person's age at the time of committing the offense, or (ii) regarding a delinquent child, the person previously was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing one or more child-victim oriented offenses, regardless of when the offense was committed and regardless of the person's age at the time of committing the offense. "Habitual child-victim offender" includes a person who has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing, a child-victim oriented offense and who, on and after July 31, 2003, is automatically classified a habitual child-victim offender pursuant to R.C. 2950.091(E).

"Child-victim predator" means a person to whom either of the following applies: (a) the person has been convicted of or pleaded guilty to committing a child-victim oriented offense and is likely to engage in the future in one or more child-victim oriented offenses or (b) the person has been adjudicated a delinquent child for committing a child-victim oriented offense, was 14 years of age or older at the time of committing the offense, was classified a juvenile offender registrant based on that adjudication, and is likely to engage in the future in one or more child-victim oriented offenses.

"Adjudicated a child-victim predator." An offender or delinquent child is **"adjudicated as being a child-victim predator"** or **"adjudicated a child-victim predator"** if any of the following applies and if, regarding a delinquent child, that status has not been removed pursuant to R.C. 2152.84, 2152.85, or 2950.09:

(a) The offender or delinquent child has been convicted of, pleaded guilty to, or adjudicated a delinquent child for committing, a child-victim oriented offense and, on and after July 31, 2003, is automatically classified a child-victim predator pursuant to R.C. 2950.091(A).

(b) Regardless of when the child-victim oriented offense was committed, on or after July 31, 2003, the offender is sentenced for a child-victim oriented offense, and the sentencing judge determines pursuant to R.C. 2950.091(B) that the offender is a child-victim predator.

(c) The delinquent child is adjudicated a delinquent child for committing a child-victim oriented offense, was 14 years of age or older at the time of committing the offense, and has been classified a juvenile offender registrant based on that adjudication, and the adjudicating judge or that judge's successor in office determines pursuant to R.C. 2950.09(B) or R.C. 2152.82, 2152.83, 2152.84, or 2152.85 that the delinquent child is a child-victim predator.

(d) Prior to July 31, 2003, the offender was convicted of or pleaded guilty to a child-victim oriented offense, at the time of the conviction or guilty plea, the offense was considered a sexually oriented offense, on or after July 31, 2003, the

offender is serving a term of imprisonment in a state correctional institution, and the court determines pursuant to R.C. 2950.091(C) that the offender is a child-victim predator.

(e) Regardless of when the child-victim oriented offense was committed, the offender or delinquent child is convicted, pleads guilty, has been convicted, pleaded guilty, or adjudicated a delinquent child in a court in a state other than Ohio, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for committing a child-victim oriented offense, as a result of that conviction, plea of guilty, or adjudication, the offender or delinquent child is required under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, to register as a child-victim offender or sex offender until the offender's or delinquent child's death, and, on or after July 1, 1997, for offenders or January 1, 2002, for delinquent children the offender or delinquent child moves to and resides in Ohio or temporarily is domiciled in Ohio for more than five days or the offender is required under the SORN Law to register a school, institution of higher education, or place of employment address in Ohio, unless a court of common pleas or juvenile court determines that the offender or delinquent child is not a child-victim predator pursuant to R.C. 2950.091(F).

"Sexually violent predator specification" means a specification, as described in R.C. 2941.148, that charges that a person charged with a violent sex offense, or a person charged with a designated homicide, assault, or kidnapping offense and a sexual motivation specification, is a sexually violent predator (by reference to R.C. 2971.01, which is not in the bill).

"Sexual motivation specification" means a specification, as described in R.C. 2941.147, that charges that a person charged with a designated homicide, assault, or kidnapping offense committed the offense with a sexual motivation (by reference to R.C. 2971.01, which is not in the bill; under R.C. 2971.01, "sexual motivation" means a purpose to gratify the sexual needs or desires of the offender).

"Designated homicide, assault, or kidnapping offense" means any of the following: (a) a violation of R.C. 2903.01, 2903.02, 2903.11, 2903.04(A), or 2905.01 or (b) an attempt to commit or complicity in committing a violation listed in clause (a) under this definition, if the attempt or complicity is a felony (by reference to R.C. 2971.01, which is not in the bill).

"Violent sex offense" means any of the following: (a) a violation of R.C. 2907.02, 2907.03, 2907.05(A)(4), or former R.C. 2907.12, (b) a felony violation of a former Ohio law that is substantially equivalent to a violation listed in clause (a) under this definition or of an existing or former law of the United States or of

another state that is substantially equivalent to a violation listed in clause (a) under this definition, or (c) an attempt to commit or complicity in committing a violation listed in clause (a) or (b) under this definition if the attempt or complicity is a felony.

2. The existing SORN Law prohibits a person from failing to comply with any of the SORN Law registration, change of address notification and registration, and address verification duties (R.C. 2950.04(E), 2950.041(E), 2950.05(E), and 2950.06(F)). Existing law, unchanged by the bill, provides criminal penalties that apply if an offender or delinquent child violates any of the prohibitions by failing to comply with any of these duties (the penalties are imposed in accordance with the Delinquent Child Law if the person who fails to comply is a juvenile at the time of the violation). The penalties vary, depending upon the most serious offense for which the duties were imposed upon the offender or delinquent child and whether the offender or delinquent child previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of any of the prohibitions. The lowest penalty is an offense of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the SORN Law duty violates and the highest is a felony of the third degree. (R.C. 2950.99.)

3. Existing law imposes many duties on the AG regarding the SORN Law. The bill modifies some of those duties and imposes new duties, as described in the **CONTENT AND OPERATION** portion of this analysis. The duties imposed by existing law upon the AG that are not modified by the bill are (R.C. 2950.13(A)(2), (5), and (7) and (B)): (a) in consultation with local law enforcement representatives and no later than July 1, 1997, to adopt rules that contain guidelines necessary for the implementation of the SORN Law, (b) to make copies of the forms the AG adopts available to judges, officials, and sheriffs, (c) through BCII, to maintain the verification forms returned under the SORN Law's address verification mechanism, and (d) in the AG's discretion, in consultation with local law enforcement representatives, to adopt rules that establish one or more categories of neighbors of an offender or delinquent child who, in addition to the occupants of residential premises and other persons specified as mandatory recipients in the SORN Law's community notification provisions, must be given the notice described in those provisions.

HISTORY

ACTION

DATE

Introduced

02-20-07

Reported, S. Judiciary - Criminal Justice

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