



**Sub. S.B. 97**

127th General Assembly  
(As Reported by H. Criminal Justice)

**Sens. Stivers, Schaffer, Faber, Clancy, Bocchieri, Mumper, Austria, Goodman, Harris, Padgett, Spada, Wilson, Cates**

**Reps. Latta, Jones, Bulp, Blessing, Hughes**

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**BILL SUMMARY**

- Modifies the penalties for a violation of any prohibition in the Sex Offender Registration and Notification Law that prohibits a person from failing to comply with the Law's address registration, notice of intent to reside, change of address, and address verification, so that: (1) subject to clause (2) of this paragraph, (a) if the most serious offense that was the basis of the requirement violated is aggravated murder or murder, the offender is guilty of a felony of the first degree, (b) if the most serious offense is a felony of the first, second, third, or fourth degree, the offender is guilty of a felony of the same degree as the most serious offense that was the basis of the requirement violated, and (c) if the most serious offense is a felony of the fifth degree or a misdemeanor, the offender is guilty of a felony of the fourth degree, (2) if the offender previously has been convicted of or pleaded guilty to or been adjudicated delinquent for violating any of the prohibitions: (a) if the most serious offense that was the basis of the requirement violated is aggravated murder or murder, the offender is guilty of a felony of the first degree, (b) if the most serious offense is a felony of the first, second, or third degree, the offender is guilty of a felony of the same degree as the most serious offense that was the basis of the requirement violated and, in addition to any other sanction imposed, the court must impose a definite prison term of no less than three years, (c) if the most serious offense that was the basis of the requirement violated is a felony of the fourth or fifth degree, the offender is guilty of a felony of the third degree and, in addition to any other sanction imposed, the court must impose a definite prison term of no less than three years, and (d) if the most serious offense that was

the basis of the requirement violated is a misdemeanor, the offender is guilty of a felony of the fourth degree.

- Provides that, by January 1, 2008, the Bureau of Criminal Identification and Investigation, with the assistance of the Office of Criminal Justice Services, must include on the Internet Sex Offender and Child-victim Offender Database the Bureau maintains a link to educational information for the public on current research about sex offenders and child-victim offenders and that each sheriff who has established on the Internet a sex offender and child-victim offender database may include on the database a link of that nature.
- Provides that, by January 1, 2008, the Internet Sex Offender and Child-victim Offender Database the Bureau of Criminal Identification and Investigation maintains and each sheriff's Internet sex offender and child-victim offender database is required to inform offenders and public registry-qualified juvenile offender registrants that they may contact the sheriff of the county in which the offender or delinquent child registered an address if the offender or delinquent child believes that information contained on the Internet Sex Offender and Child-victim Offender Database or sheriff's Internet sex offender and child-victim offender database is incorrect.
- Modifies the definition of "sexually oriented business" as enacted in Sub. S.B. 16 of the 127th General Assembly.
- Gives townships the authority, by resolution, to restrict the residency of sex offenders and child-victim offenders in the same manner as municipal corporations.
- Directs the Superintendent of BCII to establish and maintain a Retained Applicant Fingerprint Database comprised of fingerprints of individuals on whom BCII has conducted criminal records checks for the purpose of determining eligibility for employment with or licensure by a public office.
- Prohibits a superintendent of a school district, educational service center, community school, or public or private employer from permitting the operation of a vehicle used for pupil transportation within Ohio by an individual unless certain information about that driver has been submitted to the Department of Education and a criminal records check by BCII,



including information from the FBI, has been completed and received by the Superintendent or public or private employer.

- Prohibits the owner of a school bus or van from permitting a person to operate the bus or van for six years after the date on which the person pleads guilty to or is convicted of state OVI or state OVUAC or a substantially equivalent municipal ordinance.

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## CONTENT AND OPERATION

### Background on the SORN Law

The Sex Offender Registration and Notification Law (the SORN Law) is contained in R.C. Chapter 2950. It imposes a series of duties and restrictions upon a person who is convicted of or pleads guilty to a "sexually oriented offense" that is not a "registration-exempt sexually oriented offense" or a "child-victim oriented offense" (all three terms are defined in R.C. 2950.01, which is not in the bill). Among the duties and restrictions are duties that require a person who is or has been convicted of, or pleads or has pleaded 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, and a restriction against residing within 1,000 feet of any school premises (R.C. 2950.04, 2950.041, 2950.05, and 2950.06, which are not in the bill). A child who is adjudicated a delinquent child for committing an act that is a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense and whom the juvenile court classifies a "juvenile offender registrant" or who is an out-of-state juvenile offender registrant also is subject to the duties and restrictions (R.C. 2152.82 to 2152.851, 2950.04, 2950.041, 2950.05, and 2950.06, which are not in the bill).

Additional duties and restrictions 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" (all five terms are defined in R.C. 2950.01, which is not in the bill; the Law prescribes procedures in R.C. 2950.09 and 2950.091, which are not in the bill, pursuant to which the predator and habitual offender adjudications are made). The additional duties and restrictions include 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 (R.C. 2950.04(G), 2950.041(G), 2950.10, and 2950.11, which are not in the bill).

The SORN Law specifies a period of time for which an offender or delinquent child upon whom SORN Law duties are imposed is subject to the duties. The duration of the duties last for a period ranging from ten years to life, depending upon the 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 duties are based or the offender is required to register based on an "aggravated sexually oriented offense" (defined in R.C. 2950.01, which is not in the bill), the duty continues until the offender's or delinquent child's death (but a juvenile court may remove a delinquent child's

predator classification 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 relative to the offense on which the duties are based, the offender's duty continues until his or her death or, if specified criteria apply, for 20 years and the delinquent child's duty continues for 20 years (but a juvenile court may remove a delinquent child's habitual offender classification 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. (R.C. 2950.07, which is not in the bill.)

### **Penalty for failure to comply with SORN Law duty**

#### **Prohibitions**

Existing law prohibits a person who is or has been convicted of, or pleads or has pleaded guilty to, a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense, and a person who is or has been 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 and who is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant from failing to comply with the address registration, notice of intent to reside, change of address notification, and address verification duties prescribed under R.C. 2950.04, 2950.041, 2950.05, and 2950.06, as described above in "**Background**" (R.C. 2950.04(E), 2950.041(E), 2950.05(E), and 2950.06(F), which are not in the bill).

The bill does not change any of the above prohibitions.

#### **Penalties**

**Operation of the bill.** The bill modifies the penalties for a violation of any prohibition in the SORN Law described above in "**Prohibitions**," with the modifications to take effect on January 1, 2008 (Sections 3 to 5 of the bill). Under the bill, a person who violates any of those prohibitions must be punished as follows (see "**Existing law**," below for description of current penalties):

(1) Except as otherwise described below in (2), under the bill, the offender must be punished as follows (R.C. 2950.99(A)(1)(a)):

(a) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under

the prohibition is aggravated murder or murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the first degree.

(b) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated is a felony of the first, second, third, or fourth degree if committed by an adult or a comparable category of offense committed in another jurisdiction, under the bill, the offender is guilty of: (i) a felony of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated, or (ii) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated was a comparable category of offense committed in another jurisdiction, a felony of the same degree as that offense committed in the other jurisdiction would constitute if it had been committed in Ohio.

(c) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated is a felony of the fifth degree or a misdemeanor if committed by an adult, or a comparable category of offense committed in another jurisdiction, under the bill, the offender is guilty of a felony of the fourth degree.

(2) If the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of any of the prohibitions in the SORN Law described above in "Prohibitions" under the bill, the offender must be punished as follows (R.C. 2950.99(A)(1)(b) and (A)(2)(b)):

(a) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder or murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the first degree. In addition to any penalty or sanction imposed under this provision, or any other provision of law for the violation, the court must impose a definite prison term of no less than three years. The definite prison term is not restricted by R.C. 2929.14(B), which generally requires a sentencing court to impose the shortest prison term authorized for the offense unless the court makes specified findings, and cannot be reduced to less than three years pursuant to R.C. Chapter 2967. or any other Revised Code provision.

(b) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated is a felony of the first, second, or third degree if committed by an adult or a comparable category of

offense committed in another jurisdiction, under the bill, the offender is guilty of: (i) a felony of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated, or (ii) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated was a comparable category of offense committed in another jurisdiction, a felony of the same degree as that offense committed in the other jurisdiction would constitute if it had been committed in Ohio. In addition to any penalty or sanction imposed under this provision, or any other provision of law for the violation, the court must impose a definite prison term of no less than three years. The definite prison term is not restricted by R.C. 2929.14(B), which generally requires a sentencing court to impose the shortest prison term authorized for the offense unless the court makes specified findings, and cannot be reduced to less than three years pursuant to R.C. Chapter 2967. or any other Revised Code provision.

(c) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the fourth or fifth degree if committed by an adult, or a comparable category of offense committed in another jurisdiction, under the bill, the offender is guilty of a felony of the third degree. In addition to any penalty or sanction imposed under this provision, or any other provision of law for the violation, the court must impose a definite prison term of no less than three years. The definite prison term is not restricted by R.C. 2929.14(B), which generally requires a sentencing court to impose the shortest prison term authorized for the offense unless the court makes specified findings, and cannot be reduced to less than three years pursuant to R.C. Chapter 2967. or any other Revised Code provision.

(d) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fourth degree.

(3) The bill retains, without any substantive change, the existing penalty-related provisions for a violation of the SORN Law requirements that are described below in paragraphs (3) and (4) of "**Penalties**" under "**Existing law**."

The bill retains the existing definition of "comparable category of offense committed in another jurisdiction" that is described below in "**Penalties**" under "**Existing law**." That definition is used in the above provisions, but conforms the



definition to the penalty changes described in (1) and (2), above. (R.C. 2950.99(A)(2)(a), (A)(3), and (B).)

**Existing law.** Existing law provides that a person who violates any prohibition described above in "**Prohibitions**" must be punished as follows (R.C. 2950.99(A)(1), (A)(2), and (B)):

(1) Except as otherwise described below in (2), the offender must be punished as follows:

(a) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder, murder, or a felony of the first, second, or third degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the third degree.

(b) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the fourth or fifth degree if committed by an adult, a misdemeanor if committed by an adult, or a comparable category of offense committed in another jurisdiction, the offender is guilty of: (i) a felony of the same degree or a misdemeanor of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated, or (ii) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated was a comparable category of offense committed in another jurisdiction, a felony of the same degree or a misdemeanor of the same degree as that offense committed in the other jurisdiction would constitute or would have constituted if it had been committed in Ohio.

(2) If the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of any of the prohibitions in the SORN Law described above in "**Prohibitions**," the offender must be punished as follows:

(a) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder, murder, or a felony of the first, second, third, or fourth degree if committed by an adult or a comparable category of offense



committed in another jurisdiction, the offender is guilty of a felony of the third degree.

(b) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the fifth degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fourth degree.

(c) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor of the first degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fifth degree.

(d) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor other than a misdemeanor of the first degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of: (i) a misdemeanor that is one degree higher than the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated, or (ii) if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated was a comparable category of offense committed in another jurisdiction, the offender is guilty of a misdemeanor that is one degree higher than the most serious sexually oriented offense or child-victim oriented offense committed in the other jurisdiction would constitute or would have constituted if it had been committed in Ohio.

(3) In addition to any penalty or sanction imposed under the provisions described above in paragraphs (1) and (2) or any other provision of law for a violation of any of the prohibitions in the SORN Law described above in "**Prohibitions**," if the offender or delinquent child is subject to a community control sanction, is on parole, is subject to one or more post-release control sanctions, or is subject to any other type of supervised release at the time of the violation, the violation constitutes a violation of the terms and conditions of the community control sanction, parole, post-release control sanction, or other type of supervised release.

(4) If a person violates any of the prohibitions in the SORN Law described above in "**Prohibitions**" that applies to the person as a result of the person being

adjudicated a delinquent child and being classified a juvenile offender registrant or as an out-of-state juvenile offender registrant, both of the following apply: (a) if the violation occurs while the person is under 18, the person is subject to proceedings under the Delinquent Child Law based on the violation, and (b) if the violation occurs while the person is 18 or older, the person is subject to criminal prosecution based on the violation.

As used in the SORN Law penalty provisions described above in paragraphs (1) and (2), "comparable category of offense committed in another jurisdiction" means a sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated, that is a violation of an existing or former law of another state or the United States, an existing or former law applicable in a military court or in an Indian tribal court, or an existing or former law of any nation other than the United States, and that, if it had been committed in Ohio, would constitute or would have constituted aggravated murder, murder, or a felony of the first, second, or third degree for purposes of the provision described above in paragraph (1)(a), a felony of the fourth or fifth degree or a misdemeanor for purposes of the provision described above in paragraph (1)(b), aggravated murder, murder, or a felony of the first, second, third, or fourth degree for purposes of the provision described above in paragraph (2)(a), a felony of the fifth degree for purposes of the provision described above in paragraph (2)(b), a misdemeanor of the first degree for purposes of the provision described above in paragraph (2)(c), or a misdemeanor other than a misdemeanor of the first degree for purposes of the provision described above in paragraph (2)(d) (R.C. 2950.99(A)(3)).

***Internet Sex Offender and Child-victim Offender Database--link to educational information on current research about sex offenders and child-victim offenders and notice to offenders and juvenile registrants regarding incorrect information***

### ***Existing law***

Existing law requires the Attorney General (the AG), through the Bureau of Criminal Identification and Investigation (BCII) to establish and operate on the Internet a Sex Offender and Child-victim Offender Database that contains information for every offender who has committed either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense and who registers in any Ohio county pursuant to the SORN Law. BCII is required to determine the information to be provided on the database for each offender and to obtain that information from the information contained in the State Registry of Sex Offenders and Child-victim Offenders the AG currently maintains, which information, while in the possession of the sheriff who provided it, is a public record open for inspection under the state's Public Records Law (the

State Registry contains all information the AG receives from a person who complies with the SORN Law's address registration, change of address notification, and address verification duties prescribed under R.C. 2950.04, 2950.041, 2950.05, and 2950.06, as described above in "**Background**"). The information provided for each offender must include at least the offender's name, the address or addresses of the offender's residence, school, institution of higher education, or place of employment, as applicable, the sexually oriented offense or child-victim oriented offense of which the offender was convicted or to which the offender pleaded guilty, a statement that the offender has been adjudicated a sexual predator, child-victim predator, habitual sex offender, or habitual child-victim offender, to the extent applicable, and the offender's photograph.

The Database is a public record open for inspection under R.C. 149.43, and it must be searchable by offender name, by county, by ZIP Code, and by school district. The Database must provide a link to the web site of each sheriff who has established and operates on the Internet a sex offender and child-victim offender database that contains information for offenders who register in that county pursuant to the SORN Law, with the link being a direct link to the sex offender and child-victim offender database for the sheriff. (R.C. 2950.13(A)(11).)

### **Operation of the bill**

The bill expands the required content of the Sex Offender and Child-victim Offender Database operated by BCII, as follows (R.C. 2950.131; the changes will take effect on January 1, 2008, pursuant to Sections 3 to 5 of the bill):

(1) **Link to educational information on current research about sex offenders and child-victim offenders.** It provides that, by January 1, 2008, BCII, with the assistance of the Office of Criminal Justice Services, must include on the Internet Sex Offender and Child-victim Offender Database a link to educational information for the public on current research about sex offenders and child-victim offenders.

(2) **Notice to offenders and juvenile registrants regarding incorrect information.** It provides that, by January 1, 2008, the Internet Sex Offender and Child-victim Offender Database is required to inform offenders and "public registry-qualified juvenile offender registrants" (that term does not exist in the current SORN Law and is not enacted by the bill) that they may contact the sheriff of the county in which the offender or delinquent child registered an address if the offender or delinquent child believes that information contained on the Internet Sex Offender and Child-victim Offender Database or a sheriff's internet sex offender and child-victim offender database is incorrect.

**Internet sex offender and child-victim offender database established and maintained by a sheriff--link to educational information on current research about sex offenders and child-victim offenders and notice to offenders and juvenile registrants regarding incorrect information**

**Existing law**

Existing law provides that any statements, information, photographs, or fingerprints that are required to be provided, and that are provided, by an offender or delinquent child pursuant to the SORN Law's address registration, notice of intent to reside, change of address notification, and address verification duties prescribed under R.C. 2950.04, 2950.041, 2950.05, and 2950.06, as described above in **'Background,'** and that are in the possession of a county sheriff are public records open to public inspection under the state's Public Records Law. (R.C. 2950.081(A).)

Existing law generally does not address the establishment and maintenance by a sheriff of an Internet database to include information of the type described in the preceding paragraph. Existing law does provide that, except when the child is classified a juvenile offender registrant and the act that is the basis of the classification is the offense of "aggravated murder," "murder," or "kidnapping" 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," the sheriff cannot cause to be publicly disseminated by means of the Internet any statements, information, photographs, or fingerprints 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 a county sheriff. It also provides that, upon the request of any sheriff, the AG must 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 some or all of the materials described in the preceding paragraph that are public records and that pertain to offenders who register in that county pursuant to the SORN Law. (R.C. 2950.081(B) and 2950.13(A)(12).)

**Operation of the bill**

The bill enacts new provisions that relate to any Internet sex offender and child-victim offender database established and maintained by a sheriff, as follows (R.C. 2950.131; the changes will take effect on January 1, 2008, pursuant to Sections 3 to 5 of the bill):

(1) **Link to educational information on current research about sex offenders and child-victim offenders.** It provides that each sheriff who has

established on the Internet a sex offender and child-victim offender database may include on the database a link to educational information for the public on current research about sex offenders and child-victim offenders.

(2) **Notice to offenders and juvenile registrants regarding incorrect information.** It provides that, by January 1, 2008, each sheriff's Internet sex offender and child-victim offender database is required to inform offenders and "public registry-qualified juvenile offender registrants" (that term does not exist in the current SORN Law and is not enacted by the bill) that they may contact the sheriff of the county in which the offender or delinquent child registered an address if the offender or delinquent child believes that information contained on the sheriff's internet sex offender and child-victim offender database or the Internet Sex Offender and Child-victim Offender Database is incorrect.

**Definition of "sexually oriented business" in Sub. S.B. 16 of the 127th General Assembly**

Recently enacted Sub. S.B. 16 of the 127th General Assembly defines a "sexually oriented business" for purposes of several prohibitions pertaining to these businesses. That act defines a "sexually oriented business" as meaning an adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop, or sexual encounter center, but does not include a business solely by reason of its showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America. (R.C. 2907.40(B)(15).)

The bill changes the definition so that a "sexually oriented business" means an adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop, or sexual encounter center, but does not include a business solely by reason of its showing, selling, or renting materials *that may depict sex*. (R.C. 2907.40(B)(15).) The bill also specifies that this amendment to R.C. 2907.40 takes effect on the same date as Sub. S.B. 16 takes effect (Section 3).

**Township authority to regulate the residency of sex offenders and child-victim offenders**

The bill specifies that townships, by resolution, have authority to exercise all powers of local self-government within their limits regarding the residency of a person who has been convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense and to adopt and enforce within their limits any local police, sanitary, and similar regulations regarding the residence of such persons that are not in conflict with general laws. The bill also states that townships have the same rights, powers, and duties pursuant to this authority as municipal corporations have under Section 3, Article XVIII of the Ohio Constitution relative to their authority to exercise powers of local self-government



and to adopt and enforce within their limits local police, sanitary, and similar regulations, except to the extent that the rights, powers, and duties that municipal corporations have by their nature clearly are inapplicable to townships and to the exercise by townships of this authority regarding the residence of sex offenders and child-victim offenders.

The bill provides that this authority applies to all townships. If a township has adopted a limited home rule government pursuant to R.C. Chapter 504., this authority is in addition to the powers and authority granted under that chapter. (R.C. 503.60 and 504.04(A)(4).)

These provisions take effect January 1, 2008 (Section 3).

### **Provisions pertaining to school bus drivers**

#### **Background checks for school bus drivers**

The bill prohibits a superintendent of a school district, educational service center, community school, or public or private employer from permitting the operation of a vehicle used for pupil transportation within Ohio by an individual unless both of the following apply (R.C. 3327.10(G), conforming change in R.C. 3319.39(A)(1) for new hires):

(1) Information pertaining to that driver has been submitted to the Department of Education, pursuant to Department procedures. Information to be reported includes the name of the employer or school district, name of the driver, driver license number, date of birth, date of hire, status of physical evaluation, and status of training.

(2) A criminal records check by BCII, including information from the FBI, has been completed and received by the Superintendent or public or private employer.

#### **Obtaining the complete driving record of a driver**

The bill also provides, modifying current law, that not later than 30 days after June 30, 2007, each owner of a school bus or motor van must obtain the complete driving record for each person who is currently employed or otherwise authorized to drive the school bus or motor van. An owner of such a bus or van is prohibited from permitting a person to operate the vehicle for the first time before the owner has obtained the person's complete driving record. Thereafter, the owner must obtain the person's driving record not less frequently than semiannually (increased from the one-year requirement of current law) if the person remains employed or otherwise authorized to drive the school bus or van. An owner is also prohibited from permitting a person to resume operating a school



bus or van, after an interruption of one year or longer, before the owner has obtained the person's complete driving record. (R.C. 3327.10(F)(1).)

### **State OVI as a disqualifying offense**

Under current law, an owner of a school bus or van is prohibited from permitting a person to operate the bus or van for seven years after the date of a violation for which six points are assessed under R.C. 4510.036. The bill repeals this provision and instead prohibits the owner of a school bus or van from permitting a person to operate the bus or van for six years after the date on which the person pleads guilty to or is convicted of state OVI or state OVUAC or a substantially equivalent municipal ordinance. (R.C. 3327.10(F)(2).)

The bill provides that for qualified drivers who, on the effective date of the these provisions, are employed by the owner of a school bus or motor van to drive the school bus or motor van, any instance in which the driver was convicted of or pleaded guilty to state OVI or state OVUAC or a substantially equivalent municipal ordinance prior to two years prior to the effective date of these provisions is not to be considered a disqualifying event (R.C. 3327.10(I)).

The bill additionally specifies that an owner of a school bus or motor van is prohibited from permitting any person to operate such a vehicle unless the person meets all other requirements contained in rules adopted by the State Board of Education (R.C. 3327.10(F)(3)).

The bill's school bus driver provisions take effect August 15, 2007 (Section 3).

### **Retained Applicant Fingerprint Database**

The bill directs the Superintendent of BCII, within six months of the provision's effective date, to establish and maintain a database of fingerprints of individuals on whom BCII has conducted criminal records checks for the purpose of determining eligibility for employment with or licensure by a public office. The Superintendent must maintain the database separate and apart from other records maintained by BCII, and the database is to be known as the Retained Applicant Fingerprint Database.

When the Superintendent receives information that an individual whose name is in the Database has been arrested for or convicted of any offense, the Superintendent must promptly notify any participating public office that employs or that licensed the individual of the arrest or conviction. The public office that receives the notification and its employees and officers may use the information contained in the notification solely to determine the individual's eligibility for



continued employment with the public office or to retain a license issued by the public office. The public office and its employees and officers are prohibited from disclosing that information to any person for any other purpose. (R.C. 109.5721(B) and (C).)

The bill also requires the AG to adopt rules in accordance with R.C. Chapter 119. governing the operation and maintenance of the Database. The rules must provide for, but are not limited to, both of the following (R.C. 109.5721(D)):

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

(2) The terms under which a public office may elect to receive notification of an arrest or conviction, including payment of any reasonable fee that may be charged for the purpose.

The bill also provides that no public office or employee of a public office is to be considered negligent in a civil action solely because the public office did not elect to be a participating public office (R.C. 109.5721(E)).

Finally, the bill creates two new criminal prohibitions associated with the unlawful use of the Database. First, the bill prohibits a person from knowingly using information contained in or received from the Database for purposes not authorized by R.C. 109.5721. Second, the bill prohibits a person from knowingly using information contained in or received from the Database with the intent to harass or intimidate another person. A violation of either of these prohibitions is the offense of "unlawful use of retained applicant fingerprint database records." A violation of the first prohibition is a misdemeanor of the fourth degree. A violation of the second prohibition is a misdemeanor of the first degree.

These provisions take effect August 15, 2007 (Section 3).

### **Definitions**

For purposes of the Retained Applicant Fingerprint Database, the following definitions are applicable (R.C. 109.5721(A)):

(1) "Employment" includes volunteer service.

(2) "Licensure" means the authorization, evidenced by a license, certificate, registration, permit, or other authority that is issued or conferred by a public office, to engage in a profession, occupation, or occupational activity or to have control of and operate certain specific equipment, machinery, or premises over which a public office has jurisdiction.

(3) "Participating public office" means a public office that requires a fingerprint background check as a condition of employment with or licensure by the public office and that elects to receive notice of an arrest or conviction in accordance with rules adopted by the AG.

(4) "Public office" means any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government (referencing R.C. 117.01).

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## HISTORY

ACTION	DATE
Introduced	03-06-07
Reported, S. Judiciary - Criminal Justice	05-16-07
Passed Senate (31-1)	05-16-07
Reported, H. Criminal Justice	06-19-07

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