



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 161
134th General Assembly

Bill Analysis

[Click here for H.B. 161's Fiscal Note](#)

Version: As Passed by the House

Primary Sponsor: Rep. Lampton

Dennis M. Papp, Attorney

SUMMARY

- Expands the application of the law governing the Violent Offender Database, including enrollment requirements, so that, in addition to the persons currently within its scope, it also will apply to:
 - Persons convicted of domestic violence, permitting child abuse, or an attempt or conspiracy to commit or complicity in committing either of those offenses, committed when the offender was 18 or older and that involved a victim who was under 14.
 - Persons convicted of a violation of a municipal ordinance or law of another state or the United States or a law applicable in a military court or Indian tribal court, that is or was substantially equivalent to any offense listed in the preceding dot point.
- Names the bill “Jacob’s Law.”

DETAILED ANALYSIS

New “violent offender” qualifying offenses

Current law, unchanged by the bill except with respect to the definitional changes described below, establishes the Violent Offender Database (VOD) and specifies that a person it classifies as a “violent offender” or as a “qualifying out-of-state violent offender” is subject to certain duties to enroll in the Database. Currently, a “violent offender” under the law governing the VOD is a person who (1) on or after March 20, 2019 (the effective date of the law governing the VOD), is convicted of aggravated murder, murder, voluntary manslaughter, kidnapping, second degree felony abduction, or any attempt or conspiracy to commit or complicity in

committing any of those offenses, or (2) on that date has been convicted of any of those offenses and is serving a term of confinement for the offense.¹ Currently, an “out-of-state violent offender” under that law is a person who is convicted, or has been convicted, of a violation of any existing or former municipal ordinance or law of another state or the United States, or any existing or former law applicable in a military court or in an Indian tribal court, that is or was substantially equivalent to any offense listed in clause (1) of the definition of “violent offender” and a “qualifying out-of-state violent offender” is an out-of-state violent offender who is aware of the existence of the VOD.²

Definition of “violent offender”

The bill, entitled “Jacob’s Law,” adds all of the following to the VOD law classification of “violent offender,” with the changes taking effect six months after the bill’s effective date:³

- A person who on or after March 20, 2019, is convicted of any of the following offenses when the offender was age 18 or older and that involved a victim who was under age 14 at the time of the offense:
 - Domestic violence;
 - Permitting child abuse;
 - Any attempt or conspiracy to commit or complicity in committing any of the above offenses.
- A person who, on March 20, 2019, has been convicted of any of the above offenses when the offender was 18 years old or older and that involved a victim who was under 14 years old at the time of the offense and is serving a term of confinement for that offense, or a person who attempts to commit, conspires to commit, or is complicit in committing any of those offenses.

Definition of “out-of-state violent offender”

The bill does not modify the current classification of “out-of-state violent offender,” but its expansion of the “violent offender” classification described above affects the categories of offenders under the out-of-state violent offender classification. As a result of the expansion: (1) an “out-of-state violent offender” also includes a person who is convicted, or has been convicted, of a violation of any existing or former municipal ordinance or law of another state or the United States, or any existing or former law applicable in a military court or in an Indian tribal court, that is or was substantially equivalent to any of the offenses the bill adds to the violent offender classification, and (2) a “qualifying out-of-state violent offender” also includes

¹ R.C. 2903.41(A).

² R.C. 2903.41(C) and (D).

³ R.C. 2903.41(A)(1)(b) and (2) and Sections 3 and 4.

an out-of-state violent offender described in clause (1) of this paragraph who is aware of the existence of the VOD.⁴

Effect of the violent offender classification

Under continuing law governing the VOD, persons convicted of offenses that classify them as “violent offenders,” including those added by the bill, and persons convicted of offenses that classify them as “out-of-state violent offenders” and “qualifying out-of-state violent offenders” may be subject to a number of enrollment duties.

Determination of violent offenders’ duties – presumption, notice, and rebuttal mechanism

For each person who is classified a violent offender, continuing law creates a rebuttable presumption that the violent offender is required to enroll in the VOD with respect to the offense that so classifies the person. A violent offender is also presumed to have a duty to enroll, duty to reenroll, and duty to provide notice of a change of address (VOD duties) with respect to the qualifying offense for ten years after the offender initially enrolls. Each violent offender must be notified of the presumption, the right to file a motion to rebut the presumption, the procedure regarding the motion, and the effect of a rebuttal or denial of a rebuttal.⁵ Continuing law includes a detailed procedure that applies when a violent offender files a rebuttal motion:⁶

- If an offender does not file a motion, the offender will have VOD duties (the duties to enroll, to reenroll, and to provide notice of a change of address) with respect to the offense;
- If an offender files a motion and at the hearing does not satisfy the specified criteria for rebuttal, the court must issue an order specifying that the offender has VOD duties with respect to the offense;
- If an offender files a motion and at the hearing satisfies the specified criteria for rebuttal, the court will continue the hearing to consider specified factors to determine whether the offender, notwithstanding the rebuttal, should have VOD duties imposed. If the court, after considering the factors, determines that the offender should have VOD duties, the court must issue an order specifying that the offender has VOD duties with respect to the offense; absent such a determination, the court must issue an order specifying that the offender has no VOD duties with respect to the offense.

⁴ R.C. 2903.41(C) and (D).

⁵ R.C. 2903.41(H), and R.C. 2903.42(A), not in the bill.

⁶ R.C. 2903.42(A)(3), (A)(4), and (B), not in the bill.

Determination of qualifying out-of-state violent offenders' duties – presumption and rebuttal mechanism

For each person who is classified a qualifying out-of-state violent offender, continuing law creates a rebuttable presumption that the offender is required to enroll in the VOD with respect to the offense that so classifies the person. The person is also presumed to have all VOD duties with respect to that offense for ten years after the offender initially enrolls. Continuing law authorizes an out-of-state violent offender to file a motion to rebut the presumption and includes a detailed procedure that applies when an offender files a rebuttal motion. The procedures and outcomes are similar to, and parallel, those described above in “**Determination of violent offenders' duties – presumption, notice, and rebuttal mechanism**” regarding a violent offender’s duties.⁷

Enrollment duties

Duty of violent offenders and out-of-state violent offenders

Continuing law requires each violent offender who has VOD duties to enroll in the VOD personally with the sheriff of the county in which the offender resides or that sheriff’s designee. A violent offender who receives notice before release from confinement must enroll within ten days after release, unless the offender is being transferred to the custody of another confinement institution. The violent offender is not required to enroll prior to release. A violent offender with VOD duties who is not sentenced to a term of confinement must enroll within ten days after the sentencing hearing.⁸

Continuing law requires each qualifying out-of-state violent offender who has VOD duties to enroll in the VOD personally with the sheriff of the county in which the out-of-state violent offender resides or that sheriff’s designee within ten days after residing in Ohio for either (1) more than three consecutive days after the offender becomes aware of the VOD and has the duty, or (2) an aggregate period of 14 or more days in a calendar year, after becoming aware of the VOD and having the duty.⁹

Manner of enrollment

An offender who has VOD duties must obtain from the sheriff or sheriff’s designee a copy of an enrollment form prescribed by the AG, complete and sign the form, and return it together with fingerprints, palm prints, and a photograph.¹⁰

The VOD enrollment form must include all of the following information:¹¹

⁷ R.C. 2903.42(H) and R.C. 2903.421(A) to (D), not in the bill.

⁸ R.C. 2903.43(A), not in the bill.

⁹ R.C. 2903.43(B), not in the bill.

¹⁰ R.C. 2903.43(C)(1) and (3), not in the bill.

¹¹ R.C. 2903.43(C)(2), not in the bill.

- The offender's full name, any alias used, and residence address;
- The offender's Social Security number;
- Any driver's license number, commercial driver's license number, or state identification card number issued to the offender by Ohio or another state;
- The offense of which the offender was convicted;
- The name and address of any place where the offender is employed and of any school or institution of higher education that the offender is attending;
- The identification license plate number of each vehicle owned or operated by the offender or registered in the offender's name, the vehicle identification number of each vehicle, and a description of each vehicle;
- A description of any scars, tattoos, or other distinguishing marks on the offender.

Reenrollment duty and manner of reenrollment

Under continuing law, each offender who has VOD duties must reenroll in the VOD annually, in person, with the sheriff of the county in which the offender resides, or with that sheriff's designee, within ten days prior to the anniversary of the calendar date on which the offender initially enrolled. The duty to reenroll remains in effect for the entire ten-year enrollment period of the offender. The enrollee must reenroll by completing, signing, and returning to the sheriff or designee a copy of the enrollment form prescribed by the AG, amending any information that has changed since the last enrollment, and providing any additional enrollment information required by the AG. The sheriff or designee with whom the offender reenrolls must obtain a new photograph of the offender annually at reenrollment. Additionally, if the offender's most recent enrollment or reenrollment was in a different county, the offender must provide written notice of the change of address to the sheriff or designee where the offender previously resided.¹²

Termination of VOD duties

Under continuing law, VOD duties terminate on the expiration of an offender's ten-year enrollment period. The enrollment period may be extended indefinitely by the court, if the prosecutor files a motion for extension and the court makes specified findings.¹³ If the court extends an offender's VOD duties, the offender may file a motion once every five years in the common pleas court where the offender resides to terminate the extended VOD duties and the court, under certain circumstances, can issue an order that grants the motion.¹⁴

¹² R.C. 2903.43(D)(1), not in the bill.

¹³ R.C. 2903.43(D)(2), not in the bill.

¹⁴ R.C. 2903.44(A) and (F), not in the bill.

Duty to notify sheriff of change of address

Continuing law specifies that each offender who has VOD duties must notify the sheriff with whom the offender most recently enrolled or reenrolled or that sheriff's designee within three business days of a change to the offender's residence address, employment address, or school or institution of higher education address.¹⁵

Sheriff's duties, access to information provided, and operation of Database

Under continuing law, after an offender who has VOD duties enrolls or reenrolls in the VOD, the sheriff or a designee must forward the offender's form, photograph, fingerprints, palm prints, and other materials to the Bureau of Criminal Identification and Investigation (BCII) in accordance with forwarding procedures the Attorney General has adopted. BCII includes the forwarded information and materials in the VOD, which BCII has established and maintains. Subject to a few limited exceptions (e.g., Social Security number, driver's license number, information when the offender shows a valid fear for safety, etc.) any statements, information, photographs, fingerprints, or materials provided by an offender with VOD duties that are in a sheriff's possession are public records open to inspection under Ohio's Public Records Law. The VOD is available to federal, state, and local law enforcement officers, but it is not a public record under the Public Records Law.¹⁶

Prohibition and penalty for failure to enroll or reenroll

Continuing law prohibits an offender who has VOD duties from recklessly failing to enroll, reenroll, or notify the sheriff or sheriff's designee of a change of address during the ten-year enrollment period or extended enrollment period. A violation of the prohibition is a fifth degree felony. If an offender who violates the prohibition is on parole or subject to a community control sanction, one or more post-release control sanctions, or 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.¹⁷

An offender being sentenced for failure to comply with VOD duties is eligible for the Targeting Community Alternatives to Prison (T-CAP) program, meaning that any term of confinement imposed for the offense would be served in a local correctional facility. Generally, a person convicted of a fifth degree felony otherwise is ineligible for T-CAP if previously convicted of a felony offense of violence.¹⁸

¹⁵ R.C. 2903.43(E), not in the bill.

¹⁶ R.C. 2903.43(F)(1) to (3).

¹⁷ R.C. 2903.43(I), not in the bill.

¹⁸ R.C. 2929.34(B)(3)(d), not in the bill.

Background – underlying offenses

Permitting child abuse

The continuing law offense of “permitting child abuse” prohibits a parent, guardian, custodian, or person having custody of a child under age 18 or a mentally or physically handicapped child under age 21 from causing physical harm to the child, or the death of the child, as a proximate result of permitting the child to be abused, to be tortured, to be administered corporal punishment or other physical disciplinary measure, or to be physically restrained in a cruel manner for a prolonged period. It is an affirmative defense to a charge of the offense that the defendant did not have readily available a means to prevent the harm to the child or the death of the child and that the defendant took timely and reasonable steps to summon aid. If the violation causes serious physical harm to the child, the offense is a third degree felony. If the violation causes the death of the child, the offense is a first degree felony.¹⁹

Domestic violence

The continuing law offense of “domestic violence” prohibits a person from: (1) knowingly causing or attempting to cause physical harm to a family or household member, (2) recklessly causing serious physical harm to a family or household member, or (3) by threat of force, knowingly causing a family or household member to believe that the offender will cause imminent physical harm to the family or household member. A base offense of domestic violence involving a threat of force is a fourth degree misdemeanor, while any other base offense of domestic violence is a first degree misdemeanor. If additional circumstances are proven (e.g., a prior conviction of the offense or any of a list of other specified offenses or knowledge that the victim was pregnant), the offense involving a threat of force may be elevated as high as a first degree misdemeanor and the offense in any other circumstance may be elevated as high as a third degree felony with a mandatory prison term.²⁰

HISTORY

Action	Date
Introduced	03-02-21
Reported, H. Criminal Justice	02-08-22
Passed House (89-4)	02-09-22

ANHB0161PH-134/ec

¹⁹ R.C. 2903.15, not in the bill.

²⁰ R.C. 2919.25, not in the bill.