



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **Sub. S.B. 231\***

132nd General Assembly  
(As Reported by H. Criminal Justice)

**Sens.** Gardner, Balderson, Burke, Eklund, Hackett, Hoagland, Hottinger, Huffman, Kunze, Lehner, Manning, McColley, O'Brien, Oelslager, Terhar, Thomas, Uecker, Wilson, Yuko

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## **BILL SUMMARY**

- Provides for a Violent Offender Database, establishes a presumption that violent offenders will be required to enroll in the database, and provides procedures for violent offenders to rebut the presumption and not be subjected to enrollment duties in the database.
- Provides that, if a violent offender has the duty to enroll in the database, the duty generally will last for ten years, subject to possible extension upon motion by the prosecutor and an extension order issued by a court.
- Provides that if a violent offender has the duty to enroll in the database and the ten-year enrollment period is extended, the offender may request a court to terminate the extended period and enrollment duty.
- Provides that an offender who has a duty to enroll in the database also has an annual duty to re-enroll and a duty to provide notice of a change in address.
- Names the database-related provisions of the act "Sierah's Law."
- Provides that the notice of release from prison of specified serious offense offenders that is given to sheriffs is to be the same as that provided to prosecuting attorneys and eliminates the notice to sheriffs regarding pardons, commutations, paroles, and transitional control transfers of offenders.

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

- Modifies the membership and duties of the Ex-Offender Reentry Coalition and eliminates the repeal of the Coalition.
- Requires halfway houses to use the single validated risk assessment tool for adult offenders that the Department of Rehabilitation and Correction has selected.

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## CONTENT AND OPERATION

### Violent offender database

#### In general

The bill provides for the establishment and operation by the Bureau of Criminal Identification and Investigation (BCII) of a Violent Offender Database (VOD), requires persons convicted of specified violent offenses in Ohio (violent offenders) or those convicted of a comparable offense in another state (out-of-state violent offenders) who become aware of the Database to enroll in the Database, and names the database-related provisions of the act "Sierah's Law." For purposes of the database-related provisions:<sup>1</sup>

**"Violent offender"** means: (1) a person who on or after the bill's effective date is convicted of aggravated murder, murder, voluntary manslaughter, kidnapping, abduction when it is a second degree felony, or any attempt or conspiracy to commit or complicity in committing any of the previously specified offenses, or (2) a person who on the bill's effective date has been convicted of an offense listed in clause (1) and is confined in a jail, workhouse, state correctional institution, or other institution, serving a term of confinement for the offense.

**"Out-of-state violent offender"** means a person who is 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 specified in clause (1) under the definition of violent offender. **"Qualifying out-of-state violent offender"** means an out-of-state violent offender who is aware of the existence of the violent offender database.

**"Change of address"** means a change to a violent offender's or out-of-state violent offender's residence address, employment address, or school or institution of higher education address.

**"Violent offender database"** means the database of violent offenders and out-of-state violent offenders that is established and maintained by BCII under the bill's provisions, that is operated by sheriffs under the bill's provisions, and for which sheriffs obtain information from violent offenders and out-of-state violent offenders pursuant to the bill's provisions, all as described below.

**"Violent offender database duties"** and **"VOD duties"** mean the duty to enroll, duty to re-enroll, and duty to provide notice of a change of address imposed on a

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<sup>1</sup> R.C. 2903.41.

violent offender or a qualifying out-of-state violent offender under the bill's provisions described below.

**"Ten-year enrollment period"** means, for a violent offender who has violent offender database duties pursuant to the bill's provisions described below or a qualifying out-of-state violent offender who has violent offender database duties pursuant to the bill's provisions described below, ten years from the date on which the offender initially enrolls in the violent offender database.

**"Extended enrollment period"** means, for a violent offender who has violent offender database duties pursuant to the bill's provisions described below or a qualifying out-of-state violent offender who has violent offender database duties pursuant to the bill's provisions described below, the offender's enrollment period as extended pursuant to the bill's provisions regarding extension of the ten-year enrollment period, as described below.

**"Prosecutor"** means one of the following: (1) as used in the bill's provision regarding registration duties of a violent offender, the office of the prosecuting attorney who handled a violent offender's underlying case or the office of that prosecutor's successor, or (2) as used in the bill's provisions regarding registration duties of an out-of-state violent offender or regarding all of the bill's other provisions not referred to in clause (1), the office of the prosecuting attorney of the county in which a violent offender resides or of the county in which an out-of-state violent offender resides or occupies a dwelling.

**"Community control sanction," "jail," "prison," "post-release control sanction,"** and **"supervised release"** have the same meanings as under the Criminal Sentencing Law and Sex Offender Registration and Notification Law.<sup>2</sup>

## **Determination of duties of violent offenders**

### **Presumption of duties**

For each person who is classified a violent offender, it is presumed that the violent offender is required to enroll in the VOD with respect to the offense that so classifies the person and has all VOD duties with respect to that offense for ten years after the offender initially enrolls. The presumption is a rebuttable presumption that the violent offender may rebut as described below in **"If violent offender files a motion contesting presumption,"** after filing a motion in accordance with whichever one of the provisions described below in **"Filing of motion"** is applicable. Each violent

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<sup>2</sup> By reference to R.C. 2929.01 and 2950.01, not in the bill.



offender must be informed of the presumption, of the offender's right to file a motion to rebut the presumption, of the procedure and criteria for rebutting the presumption, and of the effect of a rebuttal and the post-rebuttal hearing procedures and possible outcome, as follows:<sup>3</sup>

(1) If the person is classified a violent offender under clause (1) of the definition of "violent offender," the court that is sentencing the offender for the offense that so classifies the person must inform the offender before sentencing of the presumption, the right, and the procedure, criteria, and possible outcome.

(2) If the person is classified a violent offender under clause (2) of that definition, the official in charge of the jail, workhouse, state correctional institution, or other institution in which the offender is confined, or the official's designee, must inform the offender in writing, a reasonable period of time before the offender is released from the confinement, of the presumption, the right, and the procedure, criteria, and possible outcome.

#### **Filing of motion**

A violent offender who wishes to rebut the presumption established under the bill, as described above, must file a motion in accordance with whichever of the following is applicable, and serve a copy of the motion on the prosecutor:<sup>4</sup>

(1) If the person is classified a violent offender under clause (1) of the definition of "violent offender," the offender must file the motion with the court that is sentencing the offender for the offense that classifies the person a violent offender. The motion must assert that the offender was not the principal offender in the commission of that offense and request that the court not require the offender to enroll in the VOD and not have all VOD duties with respect to that offense. The motion must be filed prior to or at the time of sentencing.

(2) If the person is classified a violent offender under clause (2) of the definition of "violent offender," the offender must file the motion with the court that sentenced the offender for the offense that classifies the person a violent offender. The motion must assert that the offender was not the principal offender in the commission of that offense and request that the court not require the offender to enroll in the VOD and not have all VOD duties with respect to that offense. The motion must be filed prior to the time of the person's release from confinement in the jail, workhouse, state correctional institution, or other institution under the term of confinement for the offense.

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<sup>3</sup> R.C. 2903.42(A)(1).

<sup>4</sup> R.C. 2903.42(A)(2).



### **If violent offender does not file a motion contesting presumption**

If a violent offender does not file a motion as described above to rebut the registration presumption, the violent offender will be required to enroll in the VOD with respect to the offense that classifies the person a violent offender and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls. If the person is classified a violent offender under clause (1) of the definition of "violent offender," the sentencing court must provide the offender notice of the duties. If the person is classified a violent offender under clause (2) of the definition of "violent offender," the offender must be provided notice of the duties by the official or designee of the institution of confinement. The notices are to be provided as described below in "**Notice of VOD duties.**"<sup>5</sup>

### **If violent offender files a motion contesting presumption**

If a violent offender files a motion as described above to rebut the registration presumption, the offender has the burden of proving to the court that is sentencing, or that has sentenced, the offender, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person a violent offender. If a violent offender files such a motion, one of the following applies:<sup>6</sup>

(1) If the violent offender proves to the court, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person a violent offender, the presumption is rebutted and the court must continue the hearing for the purpose of determining whether the offender, notwithstanding the rebuttal of the presumption, should be required to enroll in the VOD and have all VOD duties with respect to that offense. In making that determination, the court must consider all of the factors identified below. If the court, after considering those factors at the hearing, determines that the offender, notwithstanding the rebuttal of the presumption, should be required to enroll in the VOD and have all VOD duties with respect to that offense, the court must issue an order specifying that the offender is required to enroll in the VOD with respect to that offense and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls. Upon the court's issuance of such an order, the offender must enroll in the VOD and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls. The court must provide the offender notice of the duties as described below in "**Notice of VOD duties,**" and provide a copy of the order

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<sup>5</sup> R.C. 2903.42(A)(3).

<sup>6</sup> R.C. 2903.42(A)(4).

to the prosecutor and to BCII. Absent such a determination at the hearing after consideration of those factors, the court must issue an order specifying that the offender is not required to enroll in the VOD and has no VOD duties with respect to the offense that classifies the person a violent offender, and must provide a copy of the order to the prosecutor and to BCII. In making a determination at the hearing, a court must consider all of the following factors: (a) whether the offender has any convictions for any offense of violence, prior to the offense at issue that classifies the person a violent offender, and whether those prior convictions indicate that the offender has a propensity for violence, (b) the results of a risk assessment of the offender conducted through use of the single validated risk assessment tool established under the Corrections Law,<sup>7</sup> (c) the degree of culpability or involvement of the offender in the offense at issue that classifies the person a violent offender, and (d) the public interest and safety.

(2) If the violent offender does not prove to the court, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person a violent offender, the court must issue an order specifying that the offender is required to enroll in the VOD and has all VOD duties with respect to that offense, and provide a copy of the order to the prosecutor and to BCII. Upon the court's issuance of such an order, the offender is required to enroll in the VOD with respect to that offense and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls. The court must provide the offender notice of the duties as described below in "**Notice of VOD duties.**"

#### **Notice of VOD duties**

Each person who is classified a violent offender under clause (1) of the definition of "violent offender" and does not file a motion contesting the registration presumption is provided notice of the offender's duties by the sentencing court.<sup>8</sup>

Each person who is classified a violent offender under clause (2) of the definition of "violent offender" and who does not file a motion contesting the registration presumption is provided notice of the offender's duty to enroll in the VOD with respect to the offense that classifies the person a violent offender and of all VOD duties with respect to that offense and that those duties last for ten years after the offender initially enrolls. The official in charge of the jail, workhouse, state correctional institution, or other institution in which the offender is serving the term of confinement, or the official's designee, must provide the notice to the offender before the offender is

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<sup>7</sup> R.C. 5120.114.

<sup>8</sup> R.C. 2903.42(A)(3).



released pursuant to any type of supervised release or before the offender is otherwise released from the term of confinement.<sup>9</sup>

The judge, official, or official's designee providing the notice to a violent offender in any of the circumstances described above must require the offender to read and sign a form stating that the offender has received and understands the notice. If the violent offender is unable to read, the judge, official, or official's designee must inform the offender of the offender's duties as set forth in the notice and must certify on the form that the judge, official, or official's designee informed the violent offender of the violent offender's duties and that the violent offender indicated an understanding of those duties.

The Attorney General (AG) must prescribe the notice and the form provided under this division. The notice must inform the offender that, to satisfy the duty to enroll, the violent offender must enroll personally with the sheriff of the county in which the offender resides or that sheriff's designee and include notice of the offender's duties to re-enroll annually and when the offender has a change of address.

The person providing the notice must provide a copy of the notice and signed form to the violent offender, must determine the county in which the offender intends to reside, and must provide a copy of the signed form to the sheriff of that county in accordance with rules adopted by the AG and to BCII.

These notice provisions also apply with respect to notices to be provided to qualifying out-of-state violent offenders under the bill, as described below.<sup>10</sup>

## **Determination of duties of qualifying out-of-state violent offenders**

### **Presumption of duties**

For each person who is a qualifying out-of-state violent offender, it is presumed that the qualifying out-of-state violent offender is required to enroll in the VOD with respect to the offense that so classifies the person and has all VOD duties with respect to that offense for ten years after the offender initially enrolls. The presumption is a rebuttable presumption that the qualifying out-of-state violent offender may rebut as described below in "**If qualifying out-of-state violent offender files a motion**

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<sup>9</sup> R.C. 2903.42(B).

<sup>10</sup> R.C. 2903.42(C).





**contesting presumption,"** after filing a motion in accordance with the provision described below in "**Filing of petition.**"<sup>11</sup>

### **Filing of motion**

A qualifying out-of-state violent offender who wishes to rebut the presumption established under the bill, as described above, must file a motion with the court of common pleas of the county in which the offender resides or occupies a dwelling and serve a copy of the motion on the prosecutor. The motion must assert that the offender was not the principal offender in the commission of that offense and request that the court not require the offender to enroll in the VOD and not have all VOD duties with respect to that offense. The motion must be filed at any time before the offender's initial enrollment in the VOD.<sup>12</sup>

### **If qualifying out-of-state violent offender does not file a motion contesting presumption**

If a qualifying out-of-state violent offender does not file a motion as described above to rebut the registration presumption, the offender will be required to enroll in the VOD with respect to the offense that classifies the person an out-of-state violent offender and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls.<sup>13</sup>

### **If qualifying out-of-state violent offender files a motion contesting presumption**

If a qualifying out-of-state violent offender files a motion as described above to rebut the registration presumption, the offender has the burden of proving to the court that is sentencing, or that has sentenced, the offender, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person an out-of-state violent offender. If a qualifying out-of-state violent offender files such a motion, one of the following applies:<sup>14</sup>

(1) If the qualifying out-of-state violent offender proves to the court, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person an out-of-state violent offender, the presumption is rebutted and the court must continue the hearing for the purpose of determining whether the offender, notwithstanding the rebuttal of the presumption,

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<sup>11</sup> R.C. 2903.421(A).

<sup>12</sup> R.C. 2903.421(B).

<sup>13</sup> R.C. 2903.421(C).

<sup>14</sup> R.C. 2903.421(D).

should be required to enroll in the VOD and have all VOD duties with respect to that offense. In making that determination, the court must consider all of the factors identified above in **"If violent offender files a motion contesting presumption."** If the court, after considering those factors at the hearing, determines that the offender, notwithstanding the rebuttal of the presumption, should be required to enroll in the VOD and have all VOD duties with respect to that offense, the court must issue an order specifying that the offender is required to enroll in the VOD with respect to that offense and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls. Upon the court's issuance of such an order, the offender must enroll in the VOD and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls. The court must provide the offender notice of the duties as described above in **"Notice of VOD duties,"** and provide a copy of the order to the prosecutor and to BCII. This duty commences when the court issues an order under this provision. Absent such a determination at the hearing after consideration of those factors, the court must issue an order specifying that the offender is not required to enroll in the VOD and has no VOD duties with respect to the offense that classifies the person an out-of-state violent offender.

(2) If the qualifying out-of-state violent offender does not prove to the court, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person an out-of-state violent offender, the court must issue an order specifying that the offender is required to enroll in the VOD and has all VOD duties with respect to that offense, and provide a copy of the order to the prosecutor and to BCII. Upon the court's issuance of such an order, the offender is required to enroll in the VOD with respect to that offense and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls. The court must provide the offender notice of the duties as described above in **"Notice of VOD duties."**

## **Enrollment duties**

### **Duty of violent offenders**

The bill requires that each violent offender who has VOD duties imposed as described above must enroll in the VOD personally with the sheriff of the county in which the offender resides or that sheriff's designee within a specified period of time. A violent offender who receives notice before release from confinement in a jail, workhouse, state correctional institution, or other institution must enroll in the VOD within ten days after being released from the confinement, unless the offender is being transferred to the custody of another such confinement institution. The violent offender is not required to enroll in the VOD with any sheriff or designee prior to release. A violent offender who, upon being sentenced for the offense that classifies the person as

a violent offender without being sentenced to a term of confinement in a jail, workhouse, state correctional institution, or other institution for that offense, receives notice from the sentencing judge must enroll in the violent offender database within ten days after the sentencing hearing.<sup>15</sup>

### **Duty of out-of-state violent offenders**

The bill requires that each qualifying out-of-state violent offender who has VOD duties must 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 either of the following: (1) residing in or occupying a dwelling in Ohio, after the offender becomes aware of the VOD and has the duty, for more than three consecutive days, or (2) residing in or occupying a dwelling in Ohio, after the offender becomes aware of the VOD and has the duty, for an aggregate period in a calendar year of 14 or more days in that calendar year.<sup>16</sup>

### **Manner of enrollment**

Under the bill, a violent offender or qualifying out-of-state violent offender who has VOD duties under the bill must enroll in the VOD personally with the sheriff of the county in which the offender resides or that sheriff's designee. The enrollee must obtain from the sheriff or designee a copy of an enrollment form prescribed by the AG that must include spaces for specified information (see below), complete and sign the form, and return to the sheriff or designee the completed and signed form, together with fingerprints and palm prints and a photograph.<sup>17</sup>

The enrollment form to be used under the VOD must include or contain all of the following for the violent offender or qualifying out-of-state violent offender who is enrolling:<sup>18</sup>

(1) The offender's full name, any alias used, and residence address;

(2) The offender's Social Security number;

(3) Any driver's license number, commercial driver's license number, or state identification card number issued to the offender by Ohio or another state;

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<sup>15</sup> R.C. 2903.43(A).

<sup>16</sup> R.C. 2903.43(B).

<sup>17</sup> R.C. 2903.43(C)(1) and (3).

<sup>18</sup> R.C. 2903.43(C)(2).

(4) The offense of which the offender was convicted;

(5) 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;

(6) 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;

(7) A description of any scars, tattoos, or other distinguishing marks on the offender.

### **Re-enrollment duty and manner of re-enrollment**

Under the bill, each violent offender or qualifying out-of-state violent offender who has VOD duties imposed under the bill must re-enroll in the VOD annually, in person, with the sheriff of the county in which the offender resides or the out-of-state violent offender resides or occupies a dwelling or that sheriff's designee within ten days prior to the anniversary of the calendar date on which the offender initially enrolled. The duty to re-enroll remains in effect for the entire ten-year enrollment period of the offender. The enrollee must re-enroll by completing, signing, and returning to the sheriff or designee a copy of the enrollment form prescribed by the AG and described above regarding initial enrollment, amending any information required to be provided at initial enrollment that has changed since the enrollee's last enrollment, and providing any additional enrollment information required by the AG. The sheriff or designee with whom the offender re-enrolls must obtain a new photograph of the offender annually at re-enrollment. Additionally, if the offender's most recent enrollment or re-enrollment was with a sheriff or designee of a sheriff of a different county, as part of the re-enrollment duty, the offender must provide written notice of the offender's change of residence address to that sheriff or a designee of that sheriff.<sup>19</sup>

### **Termination of VOD duties at end of ten-year enrollment period, subject to extension**

Under the bill, if a violent offender or qualifying out-of-state violent offender has VOD duties imposed under the bill, the offender's VOD duties terminate on the expiration of the offender's ten-year enrollment period. The ten-year enrollment period may be extended, but only if the prosecutor files a motion with the common pleas court of the county in which the violent offender resides or in which the qualifying out-of-state offender resides or occupies a dwelling requesting that the court extend the offender's ten-year enrollment period and the court makes the appropriate finding

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<sup>19</sup> R.C. 2903.43(D)(1).

described below. For a violent offender, the court may extend the offender's ten-year enrollment period only if the sentencing court finds that the offender has violated a term or condition of a sanction imposed under the offender's sentence or has committed another felony or any misdemeanor offense of violence during that ten-year period. For a qualifying out-of-state offender, the court may extend the offender's ten-year enrollment period only if the court finds that the offender has violated a term or condition of a sanction imposed under the offender's sentence by the court of the other jurisdiction or has committed another felony or any misdemeanor offense of violence during that ten-year period. If the specified court makes either of the specified findings, the court must issue an order that extends the offender's VOD duties indefinitely and the offender's VOD duties continue indefinitely, subject to termination as described below in "**Court termination of re-enrollment duty after extension of ten-year period.**"

If the court issues an order under this provision that extends an offender's VOD duties, the court promptly must forward a copy of the order to BCII and to the prosecutor. Upon receipt of the order from the court, BCII must update all records pertaining to the offender to reflect the extended enrollment period and must provide notice of the issuance of the order to every sheriff with whom the offender has most recently enrolled or re-enrolled.<sup>20</sup>

#### **Duty to notify sheriff of change of address**

The bill requires each violent offender or qualifying out-of-state violent offender who has VOD duties imposed under the bill to notify the sheriff with whom the offender most recently enrolled or re-enrolled or that sheriff's designee in person within three business days of a "change of address."<sup>21</sup>

#### **Official's notice to Attorney General of offender's confinement**

The bill requires the official in charge of a jail, workhouse, state correctional institution, or other institution to notify the AG in accordance with rules adopted by the AG if a violent offender or qualifying out-of-state violent offender is confined in the jail, workhouse, state correctional institution, or other institution.<sup>22</sup>

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<sup>20</sup> R.C. 2903.43(D)(2).

<sup>21</sup> R.C. 2903.43(E).

<sup>22</sup> R.C. 2903.43(D)(3).



## **Sheriff's duties after offender's enrollment or re-enrollment**

After a violent offender or qualifying out-of-state violent offender who has VOD duties imposed under the bill enrolls or re-enrolls in the VOD with a sheriff or a sheriff's designee, the sheriff or designee must forward the offender's signed, written enrollment form, photograph, fingerprints, palm prints, and other materials to BCII in accordance with forwarding procedures adopted by the AG, as described below. BCII is required to include the information and materials forwarded to it under this provision in the VOD.<sup>23</sup>

### **Access to information provided to sheriff at enrollment or re-enrollment**

#### **In general**

Except as described in the next paragraph, any statements, information, photographs, fingerprints, or materials provided by a violent offender or qualifying out-of-state violent offender who has VOD duties imposed under the bill and that are in the possession of a sheriff are public records open to public inspection under Ohio's Public Records Law.<sup>24</sup>

#### **Restriction of access upon offender's request and court order**

Any Social Security number, driver's license number, or state identification number provided to the county sheriff by a violent offender or qualifying out-of-state offender is not a public record. In addition, an offender who has VOD duties imposed under the bill may file a motion with the common pleas court in the county in which the offender resides stating that the offender fears for the offender's safety if the statements, information, photographs, fingerprints, or materials provided by the offender and in the possession of a sheriff as described in the preceding paragraph are open for public inspection, and requesting the court to issue an order to ban or restrict access to those statements, information, etc. The motion must expressly state the reasons for which the offender fears for the offender's safety, identify each county in which the offender has enrolled or re-enrolled, and provide information and materials in support of the motion. The court, upon the filing of the motion, may determine whether to grant or deny the motion without a hearing or may conduct a hearing to determine whether to grant or deny the motion. The court may grant the motion if it determines, upon review of the motion, the supporting information and materials, and, if the court conducts a hearing, any additional information provided at the hearing, that the offender's fears for the offender's safety are valid and that the interests of justice and the offender's safety

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<sup>23</sup> R.C. 2903.43(F)(1).

<sup>24</sup> R.C. 2903.43(F)(3)(a).



require that the motion be granted. If the court grants the motion, the statements, information, photographs, fingerprints, or materials provided by the offender that are in the possession of a county sheriff are not public records open to public inspection under Ohio's Public Records Law, the court must issue an order to that effect, and the court must notify the sheriff in each county in which the offender has enrolled or re-enrolled of the issuance of the order. Each sheriff so notified must comply with the order.<sup>25</sup>

### **Establishment of, and access to, Violent Offender Database**

The bill requires BCII to establish and maintain a VOD and to include in the VOD the information and materials forwarded to it under this provision. BCII must make the VOD available to federal, state, and local law enforcement officers, but the VOD is not a public record under Ohio's Public Records Law.<sup>26</sup>

### **Attorney General adoption of forms, procedures, and rules**

The bill requires the AG, with respect to the VOD, to: (1) prescribe the forms to be used by violent offenders and qualifying out-of-state violent offenders who have VOD duties imposed under the bill to enroll, re-enroll, and provide notice of a change of address under its provisions, and (2) adopt procedures for sheriffs to use to forward information, photographs, fingerprints, palm prints, and other materials to BCII under its provisions.<sup>27</sup>

The bill authorizes the AG to adopt rules regarding enrollment dates different than those the bill prescribes, as described above in "**Enrollment duties**" and "**Re-enrollment duty and manner of re-enrollment**," for any violent offender or qualifying out-of-state violent offender who has VOD duties and who also is an arson offender, as defined<sup>28</sup> with respect to the Arson Offender Registry, or a sex offender or child-victim offender as defined<sup>29</sup> with respect to the Sex Offender Registration and Notification Law.<sup>30</sup>

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<sup>25</sup> R.C. 2903.43(F)(3)(b) and (c).

<sup>26</sup> R.C. 2903.43(F)(1) and (2); also R.C. 2903.41(G).

<sup>27</sup> R.C. 2903.43(G).

<sup>28</sup> R.C. 2909.13, not in the bill.

<sup>29</sup> R.C. 2950.01, not in the bill.

<sup>30</sup> R.C. 2903.43(H).



## Prohibition and penalty for failure to enroll or re-enroll

The bill prohibits a violent offender or qualifying out-of-state violent offender who has VOD duties imposed under the bill from recklessly failing during the ten-year enrollment period or extended enrollment period of the offender to enroll, re-enroll, or notify the sheriff or sheriff's designee of a change of address as required by its provisions described above in "**Enrollment duties**" and "**Re-enrollment duty and manner of re-enrollment,**" and "**Duty to notify sheriff of change of address.**" A violation of the prohibition is a fifth degree felony. If a violent offender or qualifying out-of-state violent offender who violates the prohibition 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.<sup>31</sup>

The bill specifies that a violent offender or qualifying out-of-state violent 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. Under current law, a person convicted of a fifth degree felony is ineligible for T-CAP if previously convicted of a felony offense of violence.<sup>32</sup>

## Court termination of re-enrollment duty after extension of ten-year period

### Filing of motion requesting termination

The bill specifies that if a violent offender or qualifying out-of-state violent offender has VOD duties imposed under the bill and if a court has extended the offender's ten-year enrollment period as described above in "**Termination of VOD duties at end of ten-year enrollment period, subject to extension,**" the offender may file a motion in the common pleas court of the county in which the offender resides requesting that the court terminate the offender's extended enrollment period and VOD duties during that period (a "termination motion"). A violent offender or qualifying out-of-state violent offender may file a motion under this provision at any time during the offender's extended enrollment period, but may not file more than one such motion in any five-year period.<sup>33</sup>

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<sup>31</sup> R.C. 2903.43(I).

<sup>32</sup> R.C. 2929.34(B)(3)(d).

<sup>33</sup> R.C. 2903.44(A).



A violent offender or qualifying out-of-state violent offender who files a termination motion must include with the motion all of the following: (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 the offender was enrolled in the VOD, (2) documentation of the date of the offender's discharge from supervision or release, whichever is applicable, (3) a statement asserting that the offender has not been convicted of any other felony or any misdemeanor offense of violence during the offender's original ten-year VOD enrollment period or extended enrollment period, and (4) evidence that the offender has paid all financial sanctions imposed upon the offender as a sanction for conviction of an offense under the Criminal Sentencing Law.<sup>34</sup>

### **Procedures upon filing of a motion**

Upon the filing of a termination motion, the offender is required to serve a copy of the motion on the prosecutor. Upon the filing of the motion, the court must set a tentative date for a hearing on the motion that is not later than 90 days after the date on which the motion is filed, except that the court may set a tentative date for a hearing that is later than that 90-day time if good cause exists to hold the hearing at a later date. The court must notify the offender and the prosecutor of the date, time, and place of the hearing. The court 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 department or agency must submit a written report detailing its investigation to the court within 60 days after receiving the motion and documentation, and the court upon receipt of the report must forward a copy of the motion, the documentation, and the report to the prosecutor.<sup>35</sup>

After the prosecutor is served with a copy of the motion and notice of the hearing, 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 motion to the offender or the offender's attorney.<sup>36</sup>

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<sup>34</sup> R.C. 2903.44(B).

<sup>35</sup> R.C. 2903.44(C).

<sup>36</sup> R.C. 2903.44(D).

### **Court's decision on a motion**

In determining whether to grant a termination motion, the court must consider the evidence that accompanies the motion and the written report submitted as described above.<sup>37</sup> The procedures for deciding a termination motion are as follows:<sup>38</sup>

(1) The court, without a hearing, may issue an order denying the motion if, after considering the evidence, materials, and information specified above, it finds that the offender's extended enrollment period and VOD duties should not be terminated. If the court issues such an order denying the motion, the offender may not subsequently file another termination motion.

(2) If the prosecutor does not file an objection to the offender's application as described above, the court, without a hearing, may issue an order that grants the motion and terminates the offender's extended enrollment period and VOD duties if, after considering the evidence, materials, and information specified above, it finds that the offender's extended enrollment period and VOD duties should be terminated. This provision does not apply if the prosecutor files an objection to the offender's application.

(3) If the court does not issue an order under the provision described above in either paragraph (1) or (2), it must hold a hearing to determine whether to grant or deny the motion. At the hearing, the Rules of Civil Procedure apply, except to the extent that by their nature they clearly would be inapplicable. At the hearing, the offender has the burden of going forward with the evidence and, except as otherwise described in this paragraph, the burden of proof by a preponderance of the evidence that the extended enrollment period and VOD duties should be terminated. If the prosecutor files an objection to the motion that includes an allegation that the offender has been convicted of any other felony or any misdemeanor offense of violence during the offender's ten-year enrollment period or extended enrollment period, the prosecutor has the burden of proving that allegation.

The court must issue an order denying the offender's motion to terminate the offender's extended enrollment period and VOD duties if the prosecutor files such an objection to the motion that includes an allegation that the offender has been convicted of or pleaded guilty to any other felony or any misdemeanor offense of violence during the offender's ten-year enrollment period or extended enrollment period and proves that allegation. If, after considering the evidence, materials, and information specified

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<sup>37</sup> R.C. 2903.44(E).

<sup>38</sup> R.C. 2903.44(F)(1) to (4).

above, the court finds that the prosecutor has not alleged in an objection and proved that the offender has been convicted of any other felony or any misdemeanor offense of violence during the offender's ten-year enrollment period or extended enrollment period, the court shall do one of the following:

(a) If the court finds that the offender has satisfied the burden of proof imposed on the offender as described above, the court must issue an order that grants the motion and terminates the offender's extended enrollment period and VOD duties.

(b) If the court finds that the offender has not satisfied the burden of proof imposed on the offender, the court must issue an order denying the motion. If the court issues such an order denying the motion, the offender may subsequently file another termination motion, but may not file more than one such motion in any five-year period.

#### **Court's duties upon deciding a motion**

Upon its issuance of an order denying or granting a termination motion, the court must provide prompt notice of the order to the offender or the offender's attorney. A court that issues an order that grants the offender's motion and terminates the offender's extended enrollment period and VOD duties must promptly forward a copy of the order to BCII and to the prosecutor. Upon receipt of the termination order from the court, BCII must update all records pertaining to the offender to reflect the order and provide notice of the issuance of the order to every sheriff with whom the offender has most recently enrolled or re-enrolled. Upon receipt of the termination order from the court, the prosecutor must notify the victim of any offense for which the offender is enrolled in the VOD that the offender's extended enrollment period and VOD duties have been terminated.<sup>39</sup>

#### **Sierah's Law**

The bill specifies that all of its provisions described above are to be known as "Sierah's Law."<sup>40</sup>

#### **Notice to sheriff of release from prison of specified categories of offenders**

The bill provides that the notice of release from prison of specified serious offense offenders that is given to sheriffs is to be the same as that provided to

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<sup>39</sup> R. C. 2903.44(F)(5).

<sup>40</sup> Section 3 of the bill.



prosecuting attorneys and eliminates the notice to sheriffs regarding pardons, commutations, paroles, and transitional control transfers of offenders.

Under the bill, except as described in the next paragraph, at least two weeks before any convict who is serving a sentence for aggravated murder, murder, or a first, second, or third degree felony or who is serving a sentence of life imprisonment is released from confinement in any state correctional institution pursuant to a pardon, commutation of sentence, parole, or completed prison term, the Adult Parole Authority (APA) must provide notice of the release to the sheriff of the county in which the indictment of the convict was found. Currently, unchanged by the bill, a notice of this nature must be provided at the same time to the prosecuting attorney of the county in which the indictment was found. The notice to sheriffs required by the bill may be contained in a weekly list of all convicts who are serving a sentence for any of the specified offenses or a sentence of life imprisonment and who are scheduled for release.<sup>41</sup> The bill does not extend to sheriffs an existing provision that requires notice to the prosecuting attorney of the actual release of a convict serving a sentence for any of the specified offenses or a sentence of life imprisonment.<sup>42</sup>

The notice provisions under the bill and under existing law do not apply to the release from confinement of an offender if, upon admission to prison, the offender has less than 14 days to serve on the sentence. They also do not apply to the release from confinement of a convict serving a prison term under the Sexually Violent Predator Sentencing Law, when the release is granted by a court. In that situation, the court promptly must provide written notice of the release to the offender, DRC, the prosecuting attorney, and any state agency or political subdivision affected by the order.<sup>43</sup>

The notices to a sheriff under the bill, and to a prosecuting attorney under existing law, must contain: (1) the name of the convict being released, the date of the release, and the address at which the convict will reside, (2) the offense for the violation of which the convict was convicted and incarcerated, the date of that conviction, and the sentence imposed for that conviction, (3) the length of any supervision the convict will be under, and (4) the name, business address, and business phone number of the convict's supervising officer.<sup>44</sup>

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<sup>41</sup> R.C. 2967.121(A).

<sup>42</sup> R.C. 2967.121(B).

<sup>43</sup> R.C. 2967.121(D).

<sup>44</sup> R.C. 2967.121(C).



Related to the expansion of the existing notice to prosecuting attorneys to also apply to sheriffs, the bill eliminates the notice to sheriffs regarding pardons, commutations, paroles, and transitional control transfers of offenders.<sup>45</sup> Currently, except as otherwise described in this paragraph, at least two weeks before any offender who is serving a prison term for a felony is released from confinement, the APA must notify the sheriff of the county in which the offender was convicted, and the sheriff of the county in which the offender will reside, of the release. The notices may be contained in a weekly list of all offenders scheduled for release. Also, at least 60 days before the APA recommends a pardon or commutation of sentence for an offender or conducts a hearing regarding a grant of parole to an offender, and at least 60 days before an offender is transferred to transitional control, the APA must notify the sheriff of the county in which the offender was convicted and the county in which the offender will reside. The notice must contain specified information, and the requirements do not apply if, upon admission to prison, the offender has less than 14 days to serve on the sentence.<sup>46</sup>

## **Ex-Offender Reentry Coalition**

### **In general**

The bill modifies the membership and duties of the Ex-Offender Reentry Coalition and eliminates the repeal of the Coalition.

### **Coalition membership**

Currently, the Ex-Offender Reentry Coalition consists of 17 specified members or their designees. The bill adds four members to the Coalition. Two of the members added will be members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom will be the chairperson of the House standing committee that primarily addresses criminal justice matters and the other of whom will be a member of the minority party in the House. The other two members added will be members of the Senate appointed by the Senate President, one of whom will be the chairperson of the Senate standing committee that primarily addresses criminal justice matters and the other of whom will be a member of the minority party in the Senate. All members of the coalition serve without compensation.

The members of the commission currently are: (1) the Directors of Rehabilitation and Correction, Aging, Mental Health and Addiction Services, Development Services, Health, Job and Family Services, Developmental Disabilities, Public Safety, Youth

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<sup>45</sup> R.C. 2967.122, repealed by the bill.

<sup>46</sup> R.C. 2967.122, repealed by the bill.



Services, Commerce, and Veterans Services, (2) the Superintendent of Public Instruction, (3) the Chancellor of the Ohio Board of Regents, (4) a representative or member of the Governor's staff, (5) the Executive Director of the Opportunities for Ohioans with Disabilities Agency, (6) the Executive Director of a health care licensing board created under R.C. Title XLVII, as appointed by the chairperson of the coalition, and (7) an ex-offender appointed by the Director of Rehabilitation and Correction.<sup>47</sup>

### **Coalition duties**

The bill modifies the duties of the Coalition to specify that, in consultation with persons interested and involved in the reentry of ex-offenders into the community, the members of the Coalition must meet periodically for the purpose of formulating, discussing, and developing policies and practices that facilitate the expansion and improvement of reentry services provided by state and local agencies in the collaborative efforts of those agencies to reintegrate offenders into society while simultaneously maintaining public safety and reducing recidivism in this state. Currently, the Coalition, in consultation with persons interested and involved in the reentry of ex-offenders into the community, including but not limited to, services providers, community-based organizations, and local governments, is required to identify and examine social service barriers and other obstacles to the reentry of ex-offenders into the community.

Under existing law, unchanged by the bill, not later than one year after April 7, 2009, and on or before the same date of each year thereafter, the Coalition must submit to the Speaker of the House of Representatives and the Senate President a report, including recommendations for legislative action, the activities of the coalition, and the barriers affecting the successful reentry of ex-offenders into the community. The report must analyze the effects of those barriers on ex-offenders and on their children and other family members in various areas, including but not limited to, nine specified types of issues and collateral sanctions (e.g., housing, child support, employment, education, substance abuse, etc.) and must include identification of state appropriations for reentry programs and of other funding sources for reentry programs that are not funded by the state. The coalition is required to gather information about reentry programs in a repository maintained and made available by the coalition, including, where available, the amount of funding, the number of participants, the program's composition, the type of post-program tracking utilized, and information about ex-offender employment and recidivism rates.<sup>48</sup>

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<sup>47</sup> R.C. 5120.07(A) and (B).

<sup>48</sup> R.C. 5120.07(C) and (D).



## Elimination of repeal of Coalition

The bill eliminates the currently specified repeal, on December 31, 2019, of the Coalition.<sup>49</sup>

## Risk assessment tool for adult offenders

The bill requires halfway houses to use the single validated risk assessment tool for adult offenders that DRC has selected. Current law, which will apply to halfway houses, specifies that every employee of an entity required to use the tool who actually uses the tool must be trained and certified by a trainer certified by DRC and each entity utilizing the tool must develop policies and protocols regarding all of the following activities: (1) application and integration of the tool into operations, supervision, and case planning, (2) administrative oversight of the use of the assessment tool, (3) staff training, (4) quality assurance, and (5) data collection and sharing.

The entities that currently are required to use the single validated risk assessment tool for adult offenders that DRC has selected are: (1) municipal courts, common pleas courts, and county courts, when the particular court orders an assessment of an offender for sentencing or another purpose, (2) municipal court departments of probation, county departments of probation, and multicounty probation departments, (3) state and local correctional institutions and private correctional facilities, (4) community-based correctional facilities, (5) the APA, and (6) the Parole Board.<sup>50</sup>

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## HISTORY

| ACTION                        | DATE     |
|-------------------------------|----------|
| Introduced                    | 11-14-17 |
| Reported, S. Judiciary        | 04-10-18 |
| Passed Senate (31-2)          | 04-11-18 |
| Reported, H. Criminal Justice | ---      |

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<sup>49</sup> Repeal of R.C. 5120.07(E).

<sup>50</sup> R.C. 5120.114.

