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Bill Analysis

Dennis M. Papp

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BILL SUMMARY

- Expands the offenses of pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, and illegal use of a minor in a nudity-oriented material or performance to prohibit some or all of the proscribed acts when they involve an impaired person.
- Provides that the higher range of potential prison terms for a third degree felony applies to third degree felony violations of the offenses listed in the preceding dot point, as expanded by the bill and described in that dot point.
- Creates a mechanism under which:
 - Certain offenders convicted of "unlawful sexual conduct with a minor" may petition a court for an evaluation as to whether the offender's Sex Offender Registration and Notification Law (SORN Law) duties should be terminated, modified, or continued.
 - The court that receives such a petition, after a hearing, must enter either an order to terminate the offender's SORN Law duties, an order to reclassify the offender from a Tier II Offender to a Tier I Offender under that Law, or an

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

order to continue the offender's classification as a Tier II Offender under that Law.

- Extends the Conviction Record Sealing Law to apply to an offender convicted of unlawful sexual conduct with a minor when a court has issued an order under the mechanism described above that terminates the offender's SORN Law duties.
- Adds as a specified type of nonresidential sanction, for an offender convicted of unlawful sexual conduct with a minor committed while under age 21, a requirement that the offender participate in a Department of Rehabilitation and Correction – certified sex offender treatment program.

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CONTENT AND OPERATION

Overview

The bill expands certain offenses that currently apply only when the specified prohibited acts involve a minor so that the offenses also apply when the specified



prohibited acts involve an "impaired person."¹ It also provides that the higher range of potential prison terms for a third degree felony applies to third degree felony violations of those offenses involving either a minor or an impaired person. For purposes of the bill's provisions, an "impaired person" is a person whose ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.²

The bill also creates a procedure for certain offenders convicted of "unlawful sexual conduct with a minor" to petition a court for reclassification or removal from duties under the Sex Offender Registration and Notification Law and makes related changes.

Offenses involving an impaired victim

Pandering obscenity involving a minor

Existing law prohibits a person, with knowledge of the character of the material or performance involved, from doing any of the following:

(1) Creating, reproducing, or publishing any obscene material that has a minor as one of its participants or portrayed observers;

(2) Promoting or advertising for sale or dissemination; selling, delivering, disseminating, displaying, exhibiting, presenting, renting, or providing; or offering or agreeing to sell, deliver, disseminate, display, exhibit, present, rent, or provide, any obscene material that has a minor as one of its participants or portrayed observers;

(3) Creating, directing, or producing an obscene performance that has a minor as one of its participants;

(4) Advertising or promoting for presentation, presenting, or participating in presenting an obscene performance that has a minor as one of its participants;

(5) Buying, procuring, possessing, or controlling any obscene material, that has a minor as one of its participants;

(6) Bringing or causing to be brought into Ohio any obscene material that has a minor as one of its participants or portrayed observers.

¹ R.C. 2907.321, 2907.322, and 2907.323.

² R.C. 2907.321(D).



The bill expands the prohibitions to also prohibit such acts when they involve an impaired person and renames the offense as "pandering obscenity involving a minor or impaired person." Under the bill, a violation of any of the prohibitions above, except (5), is a third degree felony if the offense involves an impaired person (currently, unchanged by the bill, such a violation involving a minor is a second degree felony). A violation of the prohibition described in (5) that involves an impaired person or a minor generally is a fourth degree felony, but is a third degree felony if the person previously has been convicted of or pleaded guilty to pandering obscenity involving a minor or impaired person, pandering sexually oriented matter involving a minor or impaired person, or illegal use of a minor or impaired person in a nudity-oriented material or performance.³ The existing exemption from the prohibitions regarding specified "legitimate purposes" applies with respect to conduct involving an impaired person under the bill's expansion of the prohibitions. The bill expands the existing "inference of age" provision under the prohibitions to specify that, in a prosecution for a violation of any of the prohibitions, the trier of fact may infer that a person in the material or performance involved is an impaired person if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as an impaired person.⁴

Pandering sexually oriented matter involving a minor

Under current law, a person, with knowledge of the character of the material or performance involved, is prohibited from doing the following:

- (1) Creating, recording, photographing, filming, developing, reproducing, or publishing any material that shows a minor participating or engaging in sexual activities, masturbation, or bestiality;
- (2) Advertising for sale or dissemination, selling, distributing, transporting, disseminating, exhibiting, or displaying any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;
- (3) Creating, directing, or producing a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;
- (4) Advertising for presentation, presenting, or participating in presenting a performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

³ R.C. 2907.321(A) and (C).

⁴ R.C. 2907.321(B)(1) and (3).



(5) Knowingly soliciting, receiving, purchasing, exchanging, possessing, or controlling any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(6) Bringing or causing to be brought into Ohio any material that shows a minor participating or engaging in sexual activity, masturbation, or bestiality;

(7) Bringing, causing to be brought, or financing the bringing of any minor into or across Ohio with the intent that the minor engage in sexual activity, masturbation, or bestiality in a performance or for the purpose of producing material containing a visual representation depicting the minor engaging in sexual activity, masturbation, or bestiality.

The bill expands the prohibitions to also prohibit such acts when they involve an impaired person and renames the offense as "pandering sexually oriented matter involving a minor or impaired person." Under the bill, a violation of any of the prohibitions above in (1) to (7), except (5), is a third degree felony if the offense involves an impaired person. A violation of the prohibition described in (5) that involves an impaired person or a minor generally is a fourth degree felony, but is a third degree felony if the person previously has been convicted of or pleaded guilty to pandering sexually oriented matter involving a minor or impaired person, pandering obscenity involving a minor or impaired person, or illegal use of a minor or impaired person in a nudity-oriented material or performance.⁵ The existing exemption from the prohibitions regarding specified "legitimate purposes" applies with respect to conduct involving an impaired person under the bill's expansion of the prohibitions. The bill expands the existing "inference of age" provision under the prohibitions to specify that, in a prosecution for a violation of any of the prohibitions, the trier of fact may infer that a person in the material or performance involved is an impaired person if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as an impaired person.⁶

Illegal use of a minor in nudity-oriented material or performance

Current law also prohibits a person from doing any of the following:

(1) Photographing any minor who is not the person's child or ward in a state of nudity, or creating, directing, producing, or transferring any material or performance that shows the minor in a state of nudity, unless the material or performance is used for one of several specified "legitimate purposes" and the minor's parents, guardian, or

⁵ R.C. 2907.322(A) and (C).

⁶ R.C. 2907.322(B)(1) and (3).



custodian consents in writing to the photographing of the minor, to the use of the minor in the material or performance, or to the transfer of the material and to the specific manner in which the material or performance is to be used;

(2) Consenting to the photographing of the person's minor child or ward, or photographing the person's minor child or ward, in a state of nudity or consenting to the use of the person's minor child or ward in a state of nudity in any material or performance, or using or transferring a material or performance of that nature, unless the material or performance is used for any of several specified "legitimate purposes;"

(3) Possessing or viewing any material or performance that shows a minor who is not the person's child or ward in a state of nudity, unless the material or performance is used for one of several specified "legitimate purposes" or the person knows that the parents, guardian, or custodian has consented in writing to the photographing or use of the minor in a state of nudity and to the manner in which the material or performance is used or transferred.

The bill expands the prohibitions to also prohibit such acts when they involve an impaired person and renames the offense as "illegal use of a minor or impaired person in a nudity-oriented material or performance." Under the bill, a violation of either of the prohibitions above in (1) or (2) that involves an impaired person is a third degree felony (currently, unchanged by the bill, such a violation involving a minor is a second degree felony). A violation of the prohibition described in (3) that involves an impaired person or a minor generally is a fifth degree felony, but is a fourth degree felony if the person previously has been convicted of or pleaded guilty to illegal use of a minor or impaired person in a nudity-oriented material or performance, pandering sexually oriented matter involving a minor or impaired person, or pandering obscenity involving a minor or impaired person.⁷ The bill specifies that the existing human trafficking specification, which would require a mandatory prison term and restitution, applies only to a violation of either of the prohibitions in (1) or (2) that involves a minor.⁸

Financial sanction of restitution

The bill specifies that the existing provision that requires the imposition of a financial sanction on an offender convicted of any of the offenses affected by the bill, as described above, who also is convicted of human trafficking specification applies only when the offense involves a minor.⁹

⁷ R.C. 2907.323.

⁸ R.C. 2907.323(B), 2929.13(F)(16), and 2929.14(B)(7), by reference to R.C. 2941.1422, not in the bill.

⁹ R.C. 2929.18(B)(8).



Penalty for third degree felony offenses of pandering obscenity involving a minor or impaired person, pandering sexually oriented matter involving a minor or impaired person, or illegal use of a minor or impaired person in a nudity-oriented material or performance

For a third degree felony violation of any of the offenses described above, the bill provides that the potential prison term is 12, 18, 24, 30, 36, 42, 48, 54, or 60 months. Currently, the potential prison term for a third degree felony violation of the offense of pandering obscenity involving a minor or pandering sexually oriented matter involving a minor is 9, 12, 18, 24, 30, or 36 months (currently, there is no third degree felony violation of the offense of illegal use of a minor in a nudity-oriented material or performance).¹⁰

Unlawful sexual conduct with a minor – related provisions

In general

The bill enacts a mechanism pursuant to which certain offenders convicted of the offense of "unlawful sexual conduct with a minor" may petition a specified court for an evaluation as to whether the offender's duties under the existing Sex Offender Registration and Notification Law (SORN Law) should be terminated, modified, or continued. The mechanism may be utilized only by "eligible offenders," as defined in the bill. The bill also extends the application of the Conviction Record Sealing Law to an offender convicted of unlawful sexual conduct with a minor when a court has issued an order under the mechanism described above that terminates the offender's SORN Law duties and adds participation in a sex offender treatment program as a required type of nonresidential sanction for certain offenders convicted of the offense.¹¹ The SORN Law has three classifications of persons who are subject to its provisions – Tier I Sex Offender/Child-Victim Offenders, Tier II Sex Offender/Child-Victim Offenders, and Tier III Sex Offender/Child-Victim Offenders (hereafter, respectively, Tier I Offenders, Tier II Offenders, and Tier III Offenders).

Definition of "eligible offender"

For purposes of the bill's mechanism described above, an "eligible offender" is either of the following:¹²

¹⁰ R.C. 2929.14(A)(3)(a) and (b).

¹¹ R.C. 2929.17, 2950.151, 2953.32, and 2953.36.

¹² R.C. 2950.151(A).



(1) An offender convicted of unlawful sexual conduct with a minor to whom all of the following apply: (a) the sentencing court found the offender at low risk of reoffending based on a presentence investigation report that included a risk assessment under the single validated risk assessment tool selected by the Department of Rehabilitation and Correction (DRC) (see "**Background – DRC single validated risk assessment tool**," below), (b) the sentencing court imposed one or more community control sanctions instead of a prison term and the offender fulfilled every condition of every community control sanction imposed, (c) the offender was under age 21 at the time of committing the offense, (d) the offender has not otherwise been convicted of the offense of "rape" or "sexual battery," the former offense of "felonious sexual penetration," or another offense of unlawful sexual conduct with a minor, (e) the minor with whom the offender engaged in sexual conduct was age 14 or older at the time of the offense and consented to the sexual conduct, with no evidence of coercion, force, or threat of force, and (f) the offender was not in a "position of authority" over the minor with whom the offender engaged in sexual conduct.

(2) An offender who was convicted of a violation of any former Ohio law, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian trial court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to unlawful sexual conduct with a minor and to whom all of the factors described in paragraphs (1)(a) to (f), above, apply. For purposes of this provision, the references in paragraphs (1)(a) to (f), above, to Ohio criminal sanctions and violations are to be construed as referring to substantively comparable sanctions and violations under the law of the jurisdiction in which the offender was convicted of or pleaded guilty to the violation that is or was substantially equivalent to unlawful sexual conduct with a minor.

As used in the eligible offender definition, a "position of authority" includes: (1) being the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person *in loco parentis* of the other person, (2) having supervisory or disciplinary authority over the other person who is in custody of law or a patient in a hospital or other institution, (3) being a teacher, administrator, coach, or other person in authority employed by or serving in a school, but not a student, at that school, if the other person is enrolled in or attends that school, (4) being a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, if the other person is a minor and enrolled in or attends that institution, (5) being the other person's athletic or other type of coach, the other person's instructor, the leader of a scouting troop of which the other person is a member, or a person with temporary or occasional disciplinary control over the other person, if the other person is a minor, (6) being a mental health professional, if the other person is a mental health

client or patient, and inducing the other person to submit by falsely representing that the sexual conduct is necessary for mental health treatment purposes, (7) being an employee of a detention facility in which the other person is confined, (8) being a cleric, if the other person is a minor who is a member of, or attends, the church or congregation served by the cleric, and (9) being a peace officer, if the other person is a minor who is more than two years younger than the peace officer.¹³

Mechanism for termination, modification, or continuation of SORN Law duties based on an unlawful sexual conduct with a minor conviction

Unlawful sexual conduct with a minor and SORN Law Tier classification

Under existing law, unchanged by the bill, the prohibition under the offense of "unlawful sexual conduct with a minor" prohibits a person who is age 18 or older from engaging in sexual conduct with another, who is not the offender's spouse, when the offender knows the other person is age 13 or older but less than age 16, or the offender is reckless in that regard.¹⁴ Under the SORN Law, unchanged by the bill, an offender convicted of unlawful sexual conduct with a minor is:¹⁵ (1) a Tier I Offender if the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of rape or sexual battery, the former offense of felonious sexual penetration, or another offense of unlawful sexual conduct with a minor, or (2) a Tier II Offender if the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or if the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of rape or sexual battery, the former offense of felonious sexual penetration, or another offense of unlawful sexual conduct with a minor.

Petitioning the court

The bill provides that, upon completion of all community control sanctions imposed by the sentencing court for the "unlawful sexual conduct with a minor" offense or the substantially equivalent law or ordinance, an eligible offender may petition the appropriate court specified below to review the effectiveness of the offender's participation in community control sanctions and to determine whether to terminate the offender's duty to comply with the requirements of the SORN Law, reclassify the offender as a Tier I Offender under that Law, or continue the offender's current

¹³ R.C. 2950.151(A)(1)(f), by reference to R.C. 2907.03(A)(5) to (13), which are not in the bill.

¹⁴ R.C. 2907.04, not in the bill.

¹⁵ R.C. 2950.01, not in the bill.



classification (see "**Background – SORN Law**," below). An eligible offender who wishes to file such a petition must file it in the court in which the offender was convicted of the offense, unless the offender was convicted in a jurisdiction other than Ohio. An eligible offender convicted of the offense in a jurisdiction other than Ohio generally must file the petition in the common pleas court of the county in which the offender resides, except that if the eligible offender is not an Ohio resident, the offender must file the petition in the common pleas court of the county in which the offender has registered under the SORN Law (if the offender has registered in more than one county under that Law, the offender may file a petition in only one of those counties).¹⁶

An eligible offender who files a petition under the mechanism must include all of the following with the petition:¹⁷ (1) a certified copy of the judgment entry and any other documentation of the sentence given for the offense for which the offender was convicted, (2) documentation of the date of discharge from probation supervision or other supervision, if applicable, (3) evidence that the offender has completed a sex offender treatment program certified by DRC (see "**Background – DRC sex offender treatment program**," below), (4) any other evidence necessary to show that the offender meets the qualifications to be an eligible offender, and (5) evidence that the offender has been rehabilitated to a satisfactory degree by successful completion of community control sanctions.

The bill specifies that an eligible offender may obtain, at the offender's expense, a risk assessment or professional opinion recommending relief under the mechanism from a licensed clinical psychologist, social worker, or other professional certified in sex offender treatment. The opinion or assessment may be submitted with the petition as additional evidence of rehabilitation.¹⁸

Court issuance of order

Under the bill, upon an eligible offender's filing of a petition, the court must schedule a hearing to review the petition and all evidence of rehabilitation accompanying it. The court must notify the offender and, if the offender was convicted in Ohio, the prosecutor who prosecuted the offense of the date, time, and place of the hearing. After the hearing, the court must enter one of three types of orders. It must enter either: (1) an order to terminate the offender's duty to comply with the SORN Law, (2) if the offender is classified a Tier II Offender, an order to reclassify the offender from a Tier II Offender classification under that Law to a Tier I Offender classification

¹⁶ R.C. 2950.151(B) and (C).

¹⁷ R.C. 2950.151(D).

¹⁸ R.C. 2950.151(E).

under that Law, or (3) if the offender is classified a Tier I Offender or a Tier II Offender, an order to continue the offender's classification as a Tier I Offender or Tier II Offender, whichever is applicable, required to comply with that Law. After issuing one of the three types of orders, the court must provide a copy of the order to the eligible offender and the Bureau of Criminal Identification and Investigation (BCII). BCII, upon receipt of the copy, promptly must notify the sheriff with whom the offender most recently registered under the SORN Law of the court's order.¹⁹

An order issued as described above that reclassifies an offender from a Tier II Offender classification to a Tier I Offender classification or that continues an offender's classification as a Tier I Offender or Tier II Offender remains in effect for the duration of the offender's duty to comply with the SORN Law (see "**Background – SORN Law**," below), except that an eligible offender may refile a petition under the mechanism at the time described below in "**Second or third petition**." An order of that type issued as described above may not increase the duration of the offender's duty to comply with the SORN Law.²⁰

Second or third petition

Under the bill, if an eligible offender initially files a petition under the mechanism and the court enters an order continuing the offender's classification or reclassifying the offender, the offender may file a second petition not earlier than three years after the court entered the first order. After the second petition, the offender may file one subsequent petition not earlier than five years after the most recent order continuing the offender's classification or reclassifying the offender. A second or third petition filed under the mechanism must comply with the requirements described above regarding the filing, and content, of a petition and the obtaining of a risk assessment or professional opinion.

Upon the filing of a second or third petition, the court must schedule a hearing and review any previous order entered under the mechanism, consider all documents previously submitted, and evaluate any new evidence of rehabilitation presented with the petition. The court must notify the offender and, if the offender was convicted in Ohio, the prosecutor who prosecuted the offense of the date, time, and place of the hearing. After the hearing on the petition, the court may deny the petition or do either of the following: (1) if the previous order continued the offender's classification as a Tier II Offender, reclassify the offender as a Tier I Offender or terminate the offender's duty to comply with the SORN Law, or (2) if the previous order reclassified the offender as a

¹⁹ R.C. 2950.151(F) and (G).

²⁰ R.C. 2950.151(H)(1)



Tier I Offender or continued the offender's classification as a Tier I Offender, terminate the offender's duty to comply with the SORN Law.²¹

Sealing of the record of an unlawful sexual conduct with a minor conviction

Under the existing Conviction Record Sealing Law,²² an "eligible offender" (generally, a person convicted of one felony, of not more than two misdemeanors, or of not more than one felony and one misdemeanor) may apply to a specified court for an order requiring the sealing of the official records of the conviction or convictions. An offender may apply at the expiration of three years after final discharge for a felony conviction or at the expiration of one year after final discharge for a misdemeanor conviction. If the court, after following specified procedures, makes specified findings and issues an order to seal the official records, all public offices or agencies that possess any copy of the records generally must seal them and, subject to several specified exceptions, must deny access to the sealed records. The specified exceptions for which inspection of sealed records may be allowed include inspection by a law enforcement officer or prosecutor to determine criminal charges against a person, by an offender's parole or probation officer, by the offender, by a law enforcement agency as a background check of a prospective employee, and by BCII under a statutorily mandated criminal records check. The Conviction Record Sealing Law currently does not apply with respect to certain specified convictions, including a conviction of the offense of "unlawful sexual conduct with a minor."²³

The bill modifies the Conviction Record Sealing Law to authorize a person convicted of "unlawful sexual conduct with a minor" in specified circumstances to apply for and, in specified conditions, obtain an order for the sealing of the record of the unlawful sexual conduct with a minor conviction. Under the bill, if an offender is convicted of unlawful sexual conduct with a minor, a court has issued an order under the bill's mechanism described above in "**Mechanism for termination, modification, or continuation of SORN Law duties based on unlawful sexual conduct with a minor conviction**" that terminates the offender's SORN Law duties, and the offender otherwise satisfies the existing criteria to be an "eligible offender," the offender may apply under the Conviction Record Sealing Law for an order for the sealing of the record of the unlawful sexual conduct with a minor conviction.²⁴ With one exception, upon an offender's making of such an application, the existing provisions of the

²¹ R.C. 2950.151(H)(2) and (3).

²² R.C. 2953.31 to 2953.36, not in the bill except for R.C. 2953.32 and 2953.36.

²³ R.C. 2953.36.

²⁴ R.C. 2953.36; also R.C. 2953.31, not in the bill.

Conviction Record Sealing Law apply regarding the application, the findings and considerations a court must make in order to issue a sealing order, and the effect of a sealing order. The exception is that, in addition to the findings and considerations a court must make under existing law in order to issue a sealing order (see the next paragraph), the court also must determine whether the offender has been rehabilitated to a satisfactory degree. The court may consider all of the following: (1) the offender's age, (2) the facts and circumstances of the offense, (3) the cessation or continuation of criminal behavior, (4) the offender's education and employment history, and (5) any other circumstances that may relate to the offender's rehabilitation.²⁵

Currently, the findings and considerations a court must make in order to issue a sealing order, unchanged by the bill except for the additional criterion described in the preceding paragraph, require that the court:²⁶ (1) determine whether the applicant is an eligible offender under the definition of that term, whether criminal proceedings are pending against the applicant, and whether the applicant has been rehabilitated to the court's satisfaction, (2) consider the reasons against granting the application specified by the prosecutor in any objection to the application, and (3) weigh the applicant's interests in having the records pertaining to the conviction sealed against the government's legitimate needs, if any, to maintain those records.

Participation in a sex offender treatment program, as a nonresidential sanction for an unlawful sexual conduct with a minor conviction

Under existing law, the court imposing sentence for a felony generally has discretion to determine the sanctions to impose for the felony. For certain felonies, and in certain circumstances, the court is required to impose a prison term, but otherwise, the court has guided discretion in imposing the sentence and can choose between a prison term or one or more community control sanctions.²⁷ The community control sanctions include, with examples of each type provided, community residential sanctions (e.g., a term in jail, a community-based correctional facility, or a halfway house), nonresidential sanctions (e.g., a term of house arrest, electronic monitoring, community service, drug treatment, probation, or curfew), and financial sanctions (e.g., a fine, restitution, or reimbursement). The duration of all community control sanctions imposed may not exceed five years, and procedures are specified for violations of a sanction.

²⁵ R.C. 2953.32(C)(1)(f).

²⁶ R.C. 2953.32(C)(1).

²⁷ R.C. 2929.11 to 2929.18, not in the bill except for R.C. 2929.01 and 2929.17.



The bill adds, as a specified type of nonresidential sanction for an offender who is convicted of unlawful sexual conduct with a minor committed while the offender was under age 21, a requirement that the offender participate in a sex offender treatment program certified by DRC (see "**Background – DRC sex offender treatment program**," below).²⁸

Background – DRC single validated risk assessment tool

Ohio's Corrections Law currently requires DRC to select a single validated risk assessment tool for adult offenders. The tool is to be used by: a criminal court that orders an assessment for sentencing or another purpose; court and county probation departments; state, local, and private correctional institutions and facilities; community-based correctional facilities; the Adult Parole Authority and Parole Board; the Department of Mental Health and Addiction Services; and halfway houses. Every employee of any of those entities who actually uses the tool must be trained and certified by a DRC-certified trainer, and each of those entities utilizing the tool must develop policies and protocols regarding specified types of activities.²⁹

Background – DRC sex offender treatment program

The SORN Law currently requires DRC and the Department of Youth Services to adopt rules pertaining to the certification of sex offender and child-victim offender treatment programs, and specifies that the rules must include requirements that the Departments periodically inspect and certify the treatment programs and that they maintain a list of the certified treatment programs that is open to public inspection.³⁰

Background – SORN Law

In general

The SORN Law currently imposes certain duties on offenders convicted of a "sexually oriented offense" or "child-victim oriented offense" (both are defined terms) and on certain children adjudicated delinquent for committing a comparable act. Each offender is classified a Tier I Offender, Tier II Offender, or Tier III Offender, depending on the offense that resulted in the offender's conviction and the offender's criminal history. The Tier III classification applies to persons convicted of what are considered to be the "most serious" sex offenses or child-victim offenses, the Tier I classification applies to offenders convicted of what are considered to be the "least serious" such

²⁸ R.C. 2929.17.

²⁹ R.C. 5120.114, not in the bill.

³⁰ R.C. 2950.16, not in the bill.

offenses, and the Tier II classification applies to offenders convicted of such offenses considered to be in between the most serious and least serious such offenses. Similar classifications are made by juvenile courts for subject delinquent children.³¹

The duties for offenders and subject delinquent children under the Law, which must be satisfied within specified periods of time, include:³² (1) registering the person's residence address with the sheriff of the county of residence, (2) for offenders, registering the person's school, institution of higher education, and place of employment address with the sheriff of the county of the location, (3) for certain categories of offenders, notifying the sheriff of the person's intent to reside in the sheriff's county, (4) notifying the sheriff with whom the person registered of a change in the registered address and registering the new address, or of a change in registered vehicle information, email addresses, Internet identifiers, or telephone numbers, and (5) periodically verifying registered addresses with the sheriff with whom the person registered. Criminal penalties generally are provided for violations of these duties. The Law imposes a school, preschool, and day-care residency restriction on offenders convicted of a sexually oriented offense, provides for victim notification and community notification with respect to the address registration of offenders and delinquent children who are Tier III Offenders, and provides for a State Registry of Sex Offenders and Child-Victim Offenders housed at BCII for use of specified law enforcement personnel and government officials and a BCII-operated Internet sex offender and child-victim offender database regarding offenders convicted of a sexually oriented offense or child-victim oriented offense that is a searchable public record.³³

Duration of SORN Law duties

An offender or subject delinquent child must comply with the SORN Law duties described above for whichever of the following periods is applicable:³⁴

(1) Except as otherwise described in this paragraph, a Tier III Offender's duty to comply continues until death. If the Tier III classification is based on a delinquent child adjudication, a juvenile court judge may enter a determination that the child no longer is a Tier III offender, and the child's duty to comply continues for the period of time based on the reclassification of the child into a different Tier. In no case may the lifetime

³¹ R.C. 2950.01, not in the bill; also, R.C. 2152.82 to 2152.85, not in the bill.

³² R.C. 2950.04, 2950.041, 2950.05, and 2950.06, not in the bill.

³³ R.C. 2950.10, 2950.11, and 2950.13, not in the bill.

³⁴ R.C. 2950.07, not in the bill.

duty to comply imposed on an offender who is a Tier III Offender be removed or terminated.

(2) A Tier II Offender's duty to comply continues for 25 years if the duty is based on a criminal conviction and, except as otherwise described in this paragraph, for 20 years if based on a delinquent child adjudication. If the Tier II classification is based on a delinquent child adjudication, a juvenile court judge may enter a determination that the child no longer is a Tier II Offender but remains a registrant and reclassify the child into Tier I, and the child's duty to comply continues for the period of time based on the reclassification.

(3) Except as otherwise described in this paragraph, a Tier I Offender's duty to comply continues for 15 years if the duty is based on a criminal conviction and for ten years if based on a delinquent child adjudication. If the Tier I classification is based on a delinquent child adjudication, a juvenile court judge may enter a determination that the child no longer is a juvenile offender registrant and the child's duty to comply is terminated. If the Tier I classification is based on a criminal conviction, the person may have the 15-year duty to comply terminated by a court only pursuant to a separate specified procedure.

HISTORY

ACTION	DATE
Introduced	02-15-17
Reported, H. Criminal Justice	05-24-17
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Reported, S. Judiciary	---