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H.B. 689
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Seitz

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CORRECTED VERSION*

SUMMARY

- Provides that if a registrant for the Child Sexual Abuse Registry fails to comply with registration, notice, and verification requirements, the penalty for a violation of the offense is a civil penalty of up to \$2,500, instead of a fifth degree felony.
- Provides that if a registrant for the Child Sexual Abuse Registry fails to comply with verification requirements, the sheriff promptly must refer the failure to the prosecuting attorney of the county in which the registrant is required to verify their current address or the county in which the registrant resides or is employed.
- Provides that the prosecuting attorney in the preceding dot point must file a civil action against the registrant, but if the prosecuting attorney fails to file the civil action, the aggrieved person may file the civil action.
- Repeals the prohibition on a registrant for the Child Sexual Abuse Registry establishing a residence or occupying a residential premises within 1,000 feet of any school premises.
- Provides that a prosecution for a violation of failure to report child abuse or neglect is barred unless it is brought within four years after a violation of the offense is committed.

* This version corrects an error in the **Summary** regarding the number of years that prosecution for a violation of failure to report child abuse or neglect may be brought after the offense is committed.

DETAILED ANALYSIS

Background

Under current law, when an individual is precluded from bringing a civil action for assault or battery based on childhood sexual abuse against a person solely because the limitation period for the action expired, the Attorney General or the prosecuting attorney may bring an action for a declaratory judgment finding that the person would have been liable for assault or battery based on childhood sexual abuse but for the expiration of the limitation period.¹ If a court enters a declaratory judgment and issues an order that the person be listed on the Child Sexual Abuse Registry, the registrant must do all of the following: (1) register personally with the sheriff of the county in which the registrant resides and with the sheriff of any county in which the registrant is employed, (2) send the sheriff written notice of the address of the new residence or place of employment or of an intent to reside in another county, and (3) verify the registrant's current resident address or employment address on each anniversary of the registrant's initial registration date.²

Failure to comply with registration, notice, and verification

Current law prohibits a registrant from failing to comply with the registration, notice, and verification requirements described above.³

The bill provides that "a registrant does not violate the prohibition" by failing to send written notice of a change of residence or employment address or notice of intent to reside in a county in specified circumstances. Current law provides that failing to send written notice of a change of residence or employment address or notice of intent to reside in a county is "an affirmative defense to a charge of the violation of the prohibition" in specified circumstances.⁴

The bill provides that the penalty for a violation of the prohibition is a civil penalty of up to \$2,500 (instead of a fifth degree felony under current law).⁵

Verification of registrant's current resident and employment addresses

Under current law, if a registrant fails to verify a current residence address or employment address by the date required for verification, the sheriff with whom the registrant is required to verify the current address must send on the day following the date required for the verification and at the registrant's last known residence or place of employment, a written

¹ R.C. 2721.21(B), not in the bill.

² R.C. 3797.01 and 3797.04; R.C. 3797.02 and 3797.03, not in the bill.

³ R.C. 3797.10(A).

⁴ R.C. 3797.10(B).

⁵ R.C. 3797.10(C).

warning to the registrant regarding the registrant's duty to verify the registrant's current address. The written warning must do all of the following as modified by the bill:⁶

- Identify the sheriff who sends it and the date on which it is sent;
- Conspicuously state that the registrant has failed to verify the registrant's current residence address or employment address by the date required for the verification;
- Conspicuously state that the registrant has seven days from the date on which the warning is sent to verify the current residence address or employment address with the sheriff who sent the warning, by the date required for verification;
- Conspicuously state that a failure to timely verify the specified current address or addresses is subject to a civil penalty of up to \$2,500 (instead of a fifth degree felony under current law);
- Conspicuously state that the registrant will not be liable for that civil penalty (instead of prosecuted under current law), for a failure to timely verify a current address if the registrant does not verify the current address with that sheriff within the 7-day period;
- Conspicuously state that the registrant will be liable for that civil penalty (instead of arrested or taken into custody and prosecuted under current law) for failure to timely verify a current address if the registrant does not verify the current address with that sheriff within the 7-day period.

Under the bill, if a registrant fails to verify a current address by the date required for the verification, the registrant is not liable for the civil penalty for failure to comply with registration, notice, and verification requirements, unless the 7-day period subsequent to the date that the registrant is provided to verify the current address has expired and the registrant has not verified the current address prior to the expiration of the 7-day period. Current law provides that the registrant must not be prosecuted for failure to comply with registration, notice, and verification requirements.⁷

Under current law, upon the expiration of the 7-day period, if the registrant has not verified the current address, all of the following apply as modified by the bill:⁸

- The sheriff with whom the registrant is required to verify the current address promptly must notify the Attorney General of the failure;
- The sheriff with whom the registrant is required to verify the current address promptly must refer the registrant's failure to verify the current address to either of the following (instead of sheriff with whom the registrant is required to verify the current address, the sheriff of the county in which the registrant resides or is employed, or a deputy of the

⁶ R.C. 3797.04(C)(1).

⁷ R.C. 3793.04(C)(2).

⁸ R.C. 3797.04(C)(2).

appropriate sheriff must locate the registrant, promptly must seek a warrant for the arrest or taking into custody of the registrant, and must arrest the registrant):

- The prosecuting attorney of the county in which the registrant is required to verify the current address to that county's sheriff;
- The prosecuting attorney of the county in which the registrant resides or is employed.
- The prosecuting attorney to whom the referral is made must file a civil action against the registrant (who is subject to prosecution) for a violation of the offense. If the prosecuting attorney fails to file the civil action within 30 days after the referral, the aggrieved person may file that civil action.

The bill defines "aggrieved person" as an individual to whom the registrant would have been liable for assault or battery based on childhood sexual abuse, but for the expiration of the limitation period.⁹

Residency within 1,000 feet of a school premises

The bill repeals a provision that prohibits a person against whom a court has issued a declaratory judgment and who has not been removed from the Child Sexual Abuse Registry from establishing a residence or occupying a residential premises within 1,000 feet of any school premises. If a person violates the prohibition, an owner or lessee of real property that is located within 1,000 feet of those school premises, or the prosecuting attorney, village solicitor, city or township director of law, similar chief legal officer of a municipal corporation or a township, or official designated as a prosecutor in a municipal corporation that has jurisdiction over the place at which the person establishes the residence or occupies the residential premises in question, has a cause of action for injunctive relief against the person. The plaintiff must not be required to prove irreparable harm in order to obtain relief.¹⁰

Limitation period for reporting child abuse or neglect

Current law prohibits a specified person who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under 18 years of age, or a person under 21 years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child from failing to immediately report that knowledge or reasonable cause to suspect to a specified entity or person.¹¹

⁹ R.C. 3797.01(A).

¹⁰ R.C. 3797.11 and 3797.12.

¹¹ R.C. 2151.421(A)(1) and (4), not in the bill.

Under current law, a violation of the prohibition is a first or fourth degree misdemeanor, depending on the circumstances of the offense.¹²

The bill provides that a prosecution for a violation of the offense is barred unless it is brought within four years after a violation of the offense is committed. Under current law, a prosecution for a violation of a misdemeanor offense is barred unless it is brought within two years after the violation of the misdemeanor offense is committed.¹³

HISTORY

Action	Date
Introduced	05-26-22

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¹² R.C. 2151.99(A) and (C), not in the bill.

¹³ R.C. 2901.13(A).