(123rd General Assembly)
(Substitute House Bill Number 502)

AN ACT

To amend sections 2950.01, 2950.03, 2950.04, and 2950.09 of the Revised Code to modify the Sex Offender Registration and Notification Law relative to procedures for adjudicating specified imprisoned persons to be sexual predators.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2950.01, 2950.03, 2950.04, and 2950.09 of the Revised Code be amended to read as follows:

Sec. 2950.01. As used in this chapter, unless the context clearly requires otherwise:

(A) "Confinement" includes, but is not limited to, a community residential sanction imposed pursuant to section 2929.16 of the Revised Code.

(B) "Habitual sex offender" means a person who is convicted of or pleads guilty to a sexually oriented offense and who previously has been convicted of or pleaded guilty to one or more sexually oriented offenses.

(C) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(D) "Sexually oriented offense" means any of the following offenses:

(1) Regardless of the age of the victim of the offense, a violation of section 2907.02, 2907.03, or 2907.05 of the Revised Code;

(2) Any of the following offenses involving a minor, in the circumstances specified:

(a) A violation of section 2905.01, 2905.02, 2905.03, 2905.04, 2905.05, or 2907.04 of the Revised Code when the victim of the offense is under eighteen years of age;

(b) A violation of section 2907.21 of the Revised Code when the person who is compelled, induced, procured, encouraged, solicited, requested, or facilitated to engage in, paid or agreed to be paid for, or allowed to engage in the sexual activity in question is under eighteen years of age;

(c) A violation of division (A)(1) or (3) of section 2907.321 or 2907.322 of the Revised Code;

(d) A violation of division (A)(1) or (2) of section 2907.323 of the Revised Code;

(e) A violation of division (B)(5) of section 2919.22 of the Revised Code when the child who is involved in the offense is under eighteen years of age.

(3) Regardless of the age of the victim of the offense, a violation of section 2903.01, 2903.02, 2903.11, or 2905.01 of the Revised Code, or of division (A) of section 2903.04 of the Revised Code, that is committed with a purpose to gratify the sexual needs or desires of the offender;

(4) A sexually violent offense;

(5) A violation of any former law of this state that was substantially equivalent to any offense listed in division (D)(1), (2), (3), or (4) of this section;

(6) A violation of an existing or former municipal ordinance or law of another state or the United States, a violation under the law applicable in a military court, or a violation under the law applicable in an Indian tribal court that is or was substantially equivalent to any offense listed in division (D)(1), (2), (3), or (4) of this section;

(7) An attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (D)(1), (2), (3), (4), (5), or (6) of this section.

(E) "Sexual predator" means a person who has been convicted of or pleaded guilty to committing a sexually oriented offense and is likely to engage in the future in one or more sexually oriented offenses.

(F) "Supervised release" means a release from a prison term, a term of imprisonment, or another type of confinement that satisfies either of the following conditions:

(1) The release is on parole, a conditional pardon, or probation, under transitional control, or under a post-release control sanction, and it requires the person to report to or be supervised by a parole officer, probation officer, field officer, or another type of supervising officer.

(2) The release is any type of release that is not described in division (F)(1) of this section and that requires the person to report to or be supervised by a probation officer, a parole officer, a field officer, or another type of supervising officer.

(G) An offender is "adjudicated as being a sexual predator" if any of the following applies:

(1) The offender is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense that is a sexually violent offense and also is convicted of or pleads guilty to a sexually violent

predator specification that was included in the indictment, count in the indictment, or information that charged the sexually violent offense.

(2) Regardless of when the sexually oriented offense was committed, on or after ~~the effective date of this section~~ January 1, 1997, the offender is sentenced for a sexually oriented offense, and the sentencing judge determines pursuant to division (B) of section 2950.09 of the Revised Code that the offender is a sexual predator.

(3) Prior to January 1, 1997, the offender was convicted of or pleaded guilty to, and was sentenced for, a sexually oriented offense, the offender is imprisoned in a state correctional institution on or after January 1, 1997, and~~, prior to the offender's release from imprisonment,~~ the court determines pursuant to division (C) of section 2950.09 of the Revised Code that the offender is a sexual predator.

(4) Regardless of when the sexually oriented offense was committed, the offender is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, as a result of that conviction or plea of guilty, the offender is required, under the law of the jurisdiction in which the offender was convicted or pleaded guilty, to register as a sex offender until the offender's death and to verify the offender's address on at least a quarterly basis each year, and, on or after July 1, 1997, the offender moves to and resides in this state or temporarily is domiciled in this state for more than seven days, unless a court of common pleas determines that the offender is not a sexual predator pursuant to division (F) of section 2950.09 of the Revised Code.

(H) "Sexually violent predator specification" and "sexually violent offense" have the same meanings as in section 2971.01 of the Revised Code.

(I) "Post-release control sanction" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code.

Sec. 2950.03. (A) Each person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense and who has a duty to register pursuant to section 2950.04 of the Revised Code shall be provided notice in accordance with this section of the offender's duty to register under that section, the offender's duty to provide notice of any change in the offender's residence address and to register the new residence address pursuant to section 2950.05 of the Revised Code, and the offender's duty to periodically verify the offender's residence address pursuant to section 2950.06 of the Revised Code. The following official shall provide the notice to the offender at the following time:

(1) Regardless of when the offender committed the sexually oriented

offense, if the offender is sentenced for the sexually oriented offense to a prison term, a term of imprisonment, or any other type of confinement, and if, on or after January 1, 1997, the offender is serving that term or is under that confinement, the official in charge of the jail, workhouse, state correctional institution, or other institution in which the offender serves the prison term, term of imprisonment, or confinement, or a designee of that official, shall provide the notice to the offender ~~at least ten days~~ before the offender is released pursuant to any type of supervised release or ~~at least ten days~~ before the offender otherwise is released from the prison term, term of imprisonment, or confinement.

(2) Regardless of when the offender committed the sexually oriented offense, if the offender is sentenced for that offense on or after January 1, 1997, and if division (A)(1) of this section does not apply, the judge shall provide the notice to the offender at the time of sentencing.

(3) If the offender committed the sexually oriented offense prior to January 1, 1997, if neither division (A)(1) nor division (A)(2) of this section applies, and if, immediately prior to January 1, 1997, the offender was a habitual sex offender who was required to register under Chapter 2950. of the Revised Code, the chief of police or sheriff with whom the offender most recently registered under that chapter, in the circumstances described in this division, shall provide the notice to the offender. If the offender has registered with a chief of police or sheriff under Chapter 2950. of the Revised Code as it existed prior to January 1, 1997, the chief of police or sheriff with whom the offender ~~must~~ most recently registered shall provide the notice to the offender as soon as possible after January 1, 1997, as described in division (B)(1) of this section. If the offender has not registered with a chief of police or sheriff under that chapter, the failure to register shall constitute a waiver by the offender of any right to notice under this section. If an offender described in this division does not receive notice under this section, the offender is not relieved of the duty to register, the duty to provide notice of any change in residence address and to register the new residence address, and the duty to periodically verify the residence address, as described in division (A) of this section.

(4) If the offender is an offender of the type described in division (A)(1) of this section and if, subsequent to release, the offender is adjudicated as being a sexual predator pursuant to division (C) of section 2950.09 of the Revised Code, the judge shall provide the notice to the offender at the time of adjudication.

(B)(1) The notice provided under division (A) of this section shall inform the offender of the offender's duty to register under section 2950.04

of the Revised Code, to notify the appropriate officials of a change in the offender's residence address and to register the new residence address in accordance with section 2950.05 of the Revised Code, and to periodically verify a residence address under section 2950.06 of the Revised Code. The notice shall comport with the following:

(a) If the notice is provided under division (A)(3) of this section, the notice shall be on a form that is prescribed by the bureau of criminal identification and investigation and that states the offender's duties to register, to register a new residence address, and to periodically verify a residence address and that, if the offender has any questions concerning these duties, the offender may contact the chief of police or sheriff who sent the form for an explanation of the duties. If the offender appears in person before the chief of police or sheriff, the chief or sheriff shall provide the notice as described in division (B)(1)(a) of this section, and all provisions of this section that apply regarding a notice provided by an official, official's designee, or judge in that manner shall be applicable.

(b) If the notice is provided under division (A)(1) ~~or,~~ (2)<u>, or (4)</u> of this section, the official, official's designee, or judge shall require the offender to read and sign a form prescribed by the bureau of criminal identification and investigation, stating that the offender's duties to register, to register a new residence address, and to periodically verify a residence address have been explained to the offender. If the offender is unable to read, the official, official's designee, or judge shall certify on the form that the official, designee, or judge specifically informed the offender of those duties and that the offender indicated an understanding of those duties.

(c) For ~~a~~ <u>any</u> notice provided under division (A)~~(1), (2), or (3)~~ of this section, the form used shall contain all of the information required by the bureau of criminal identification and investigation, including, but not limited to, a statement as to whether the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense in question, a statement as to whether the offender has been determined to be a habitual sex offender, an explanation of the periodic residence address verification process and of the frequency with which the offender will be required to verify the residence address under that process, and a statement that the offender must verify the residence address at the times specified under that process or face criminal prosecution.

<u>(d) If the notice is provided under division (A)(4) of this section, the form also shall include a statement that the notice replaces any notice previously provided to the offender under division (A)(1) of this section, a statement that the offender's duties described in this notice supersede the</u>

duties described in the prior notice, and a statement notifying the offender that, if the offender already has registered under section 2950.04 of the Revised Code, the offender must register again pursuant to division (A)(6) of that section.

(2) After an offender described in division (A)(1) ~~or,~~ (2), or (4) of this section has signed the form described in division (B)(1) of this section or the official, official's designee, or judge has certified on it that it has been explained to the offender and that the offender indicated an understanding of the duties indicated on it, the official, official's designee, or judge shall give one copy of the form to the offender, within three days shall send one copy of the form to the bureau of criminal identification and investigation in accordance with the procedures adopted pursuant to section 2950.13 of the Revised Code, and shall send one copy of the form to the sheriff of the county in which the offender expects to reside. After a chief of police or sheriff has sent a form to an offender under division (A)(3) of this section, the chief or sheriff shall send a copy of the form to the bureau of criminal identification and investigation in accordance with the procedures adopted pursuant to section 2950.13 of the Revised Code.

(C) The official, official's designee, judge, chief of police, or sheriff who is required to provide notice to an offender under division (A) of this section shall do all of the following:

(1) If the notice is provided under division (A)(1) ~~or,~~ (2), or (4) of this section, the official, designee, or judge shall determine the offender's name, identifying factors, and expected future residence address, shall obtain the offender's criminal history, and shall obtain a photograph and the fingerprints of the offender. If the notice is provided by a judge under division (A)(2) or (4) of this section, the sheriff shall provide the offender's criminal history to the judge. The official, official's designee, or judge shall obtain this information and these items prior to giving the notice, except that a judge may give the notice prior to obtaining the offender's criminal history. Within three days after receiving this information and these items, the official, official's designee, or judge shall forward the information and items to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code and to the sheriff of the county in which the offender expects to reside. If it has not already done so, the bureau of criminal identification and investigation shall forward a copy of the fingerprints and conviction data received under this division to the federal bureau of investigation.

(2) If the notice is provided under division (A)(3) of this section, the

chief of police or sheriff shall determine the offender's name, identifying factors, and residence address, shall obtain the offender's criminal history from the bureau of criminal identification and investigation, and, to the extent possible, shall obtain a photograph and the fingerprints of the offender. Within three days after receiving this information and these items, the chief or sheriff shall forward the information and items to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code and, in relation to a chief of police, to the sheriff of the county in which the offender resides. If it has not already done so, the bureau of criminal identification and investigation shall forward a copy of the fingerprints and conviction data so received to the federal bureau of investigation.

Sec. 2950.04. (A) Each offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense and who is described in division (A)(1), (2), or (3) of this section shall register with the sheriff of the following applicable described county and at the following time:

(1) Regardless of when the sexually oriented offense was committed, if the offender is sentenced for the sexually oriented offense to a prison term, a term of imprisonment, or any other type of confinement and if, on or after July 1, 1997, the offender is released in any manner from the prison term, term of imprisonment, or confinement, within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, the offender shall register with the sheriff of that county.

(2) Regardless of when the sexually oriented offense was committed, if the offender is sentenced for a sexually oriented offense on or after July 1, 1997, and if division (A)(1) of this section does not apply, within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, the offender shall register with the sheriff of that county.

(3) If the sexually oriented offense was committed prior to July 1, 1997, if neither division (A)(1) nor division (A)(2) of this section applies, and if, immediately prior to July 1, 1997, the offender was a habitual sex offender who was required to register under Chapter 2950. of the Revised Code, within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, the offender shall register with the sheriff of that county.

(4) Regardless of when the sexually oriented offense was committed, if divisions (A)(1), (2), and (3) of this section do not apply, if the offender is

convicted of or pleads guilty to a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, if, on or after July 1, 1997, the offender moves to and resides in this state or temporarily is domiciled in this state for more than seven days, and if, at the time the offender moves to and resides in this state or temporarily is domiciled in this state for more than seven days, the offender has a duty to register as a sex offender under the law of that other jurisdiction as a result of the conviction or guilty plea, within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, the offender shall register with the sheriff of that county.

(5) Regardless of when the sexually oriented offense was committed, if divisions (A)(1), (2), and (3) of this section do not apply, if the offender is convicted of or pleads guilty to a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, if, on or after July 1, 1997, the offender is released from imprisonment or confinement imposed for that offense, and if, on or after July 1, 1997, the offender moves to and resides in this state or temporarily is domiciled in this state for more than seven days, within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days the offender shall register with the sheriff of that county. The duty to register as described in this division applies regardless of whether the offender, at the time of moving to and residing in this state or temporarily being domiciled in this state for more than seven days, has a duty to register as a sex offender under the law of the jurisdiction in which the conviction or guilty plea occurred.

(6) If division (A)(1) of this section applies and if, subsequent to the offender's release, the offender is adjudicated to be a sexual predator under division (C) of section 2950.09 of the Revised Code, the offender shall register within seven days of the adjudication with the sheriff of the county in which the offender resides or temporarily is domiciled for more than seven days and shall register with the sheriff of any county in which the offender subsequently resides or temporarily is domiciled for more than seven days within seven days of coming into that county.

(B) An offender who is required by division (A) of this section to register personally shall obtain from the sheriff or from a designee of the sheriff a registration form that conforms to division (C) of this section, shall complete and sign the form, and shall return the completed form together with the offender's photograph to the sheriff or the designee. The sheriff or designee shall sign the form and indicate on the form the date on which it is so returned. The registration required under this division is complete when

the offender returns the form, containing the requisite information, photograph, signatures, and date, to the sheriff or designee.

(C) The registration form to be used under divisions (A) and (B) of this section shall contain the current residence address of the offender who is registering, the name and address of the offender's employer, if the offender is employed at the time of registration or if the offender knows at the time of registration that the offender will be commencing employment with that employer subsequent to registration, and any other information required by the bureau of criminal identification and investigation and shall include the offender's photograph. Additionally, if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense in question and the court has not subsequently determined pursuant to division (D) of section 2950.09 of the Revised Code that the offender no longer is a sexual predator or if the sentencing judge determined pursuant to division (C) of section 2950.09 of the Revised Code that the offender is a habitual sex offender, the offender shall include on the signed, written registration form all of the following information:

(1) A specific declaration that the person has been adjudicated as being a sexual predator or has been determined to be a habitual sex offender, whichever is applicable;

(2) If the offender has been adjudicated as being a sexual predator, the identification license plate number of each motor vehicle the offender owns and of each motor vehicle registered in the offender's name.

(D) After an offender registers with a sheriff pursuant to this section, the sheriff shall forward the signed, written registration form and photograph to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code. The bureau shall include the information and materials forwarded to it under this division in the state registry of sex offenders established and maintained under section 2950.13 of the Revised Code.

(E) No person who is required to register pursuant to divisions (A) and (B) of this section shall fail to register as required in accordance with those divisions or that division.

(F) An offender who is required to register pursuant to divisions (A) and (B) of this section shall register pursuant to this section for the period of time specified in section 2950.07 of the Revised Code.

Sec. 2950.09. (A) If a person is convicted of or pleads guilty to committing, on or after January 1, 1997, a sexually oriented offense that is a sexually violent offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment,

count in the indictment, or information charging the sexually violent offense, the conviction of or plea of guilty to the specification automatically classifies the offender as a sexual predator for purposes of this chapter. If a person is convicted of or pleads guilty to a sexually oriented offense in another state, or in a federal court, military court, or an Indian tribal court and if, as a result of that conviction or plea of guilty, the person is required, under the law of the jurisdiction in which the person was convicted or pleaded guilty, to register as a sex offender until the person's death and is required to verify the person's address on at least a quarterly basis each year, that conviction or plea of guilty automatically classifies the offender as a sexual predator for the purposes of this chapter, but the offender may challenge that classification pursuant to division (F) of this section. In all other cases, a person who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense may be classified as a sexual predator for purposes of this chapter only in accordance with division (B) or (C) of this section.

(B)(1) Regardless of when the sexually oriented offense was committed, if a person is to be sentenced on or after ~~the effective date of this section~~ January 1, 1997, for a sexually oriented offense that is not a sexually violent offense, or if a person is to be sentenced on or after January 1, 1997, for a sexually oriented offense that is a sexually violent offense and a sexually violent predator specification was not included in the indictment, count in the indictment, or information charging the sexually violent offense, the judge who is to impose sentence upon the offender shall conduct a hearing to determine whether the offender is a sexual predator. The judge shall conduct the hearing prior to sentencing and, if the sexually oriented offense is a felony, may conduct it as part of the sentencing hearing required by section 2929.19 of the Revised Code. The court shall give the offender and the prosecutor who prosecuted the offender for the sexually oriented offense notice of the date, time, and location of the hearing. At the hearing, the offender and the prosecutor shall have an opportunity to testify, present evidence, call and examine witnesses and expert witnesses, and cross-examine witnesses and expert witnesses regarding the determination as to whether the offender is a sexual predator. The offender shall have the right to be represented by counsel and, if indigent, the right to have counsel appointed to represent the offender.

(2) In making a determination under divisions (B)(1) and (3) of this section as to whether an offender is a sexual predator, the judge shall consider all relevant factors, including, but not limited to, all of the following:

(a) The offender's age;

(b) The offender's prior criminal record regarding all offenses, including, but not limited to, all sexual offenses;

(c) The age of the victim of the sexually oriented offense for which sentence is to be imposed;

(d) Whether the sexually oriented offense for which sentence is to be imposed involved multiple victims;

(e) Whether the offender used drugs or alcohol to impair the victim of the sexually oriented offense or to prevent the victim from resisting;

(f) If the offender previously has been convicted of or pleaded guilty to any criminal offense, whether the offender completed any sentence imposed for the prior offense and, if the prior offense was a sex offense or a sexually oriented offense, whether the offender participated in available programs for sexual offenders;

(g) Any mental illness or mental disability of the offender;

(h) The nature of the offender's sexual conduct, sexual contact, or interaction in a sexual context with the victim of the sexually oriented offense and whether the sexual conduct, sexual contact, or interaction in a sexual context was part of a demonstrated pattern of abuse;

(i) Whether the offender, during the commission of the sexually oriented offense for which sentence is to be imposed, displayed cruelty or made one or more threats of cruelty;

(j) Any additional behavioral characteristics that contribute to the offender's conduct.

(3) After reviewing all testimony and evidence presented at the hearing conducted under division (B)(1) of this section and the factors specified in division (B)(2) of this section, the judge shall determine by clear and convincing evidence whether the offender is a sexual predator. If the judge determines that the offender is not a sexual predator, the judge shall specify in the offender's sentence and the judgment of conviction that contains the sentence that the judge has determined that the offender is not a sexual predator. If the judge determines by clear and convincing evidence that the offender is a sexual predator, the judge shall specify in the offender's sentence and the judgment of conviction that contains the sentence that the judge has determined that the offender is a sexual predator and shall specify that the determination was pursuant to division (B) of this section. The offender and the prosecutor who prosecuted the offender for the sexually oriented offense in question may appeal as a matter of right the judge's determination under this division as to whether the offender is, or is not, a sexual predator.

(4) A hearing shall not be conducted under division (B) of this section regarding an offender if the sexually oriented offense in question is a sexually violent offense and the indictment, count in the indictment, or information charging the offense also included a sexually violent predator specification.

(C)(1) If a person was convicted of or pleaded guilty to a sexually oriented offense prior to January 1, 1997, if the person was not sentenced for the offense on or after January 1, 1997, and if, on or after January 1, 1997, the offender is serving a term of imprisonment in a state correctional institution~~, prior to the offender's release from the term of imprisonment~~, the department of rehabilitation and correction shall determine whether to recommend that the offender be adjudicated as being a sexual predator. In making a determination under this division as to whether to recommend that the offender be adjudicated as being a sexual predator, the department shall consider all relevant factors, including, but not limited to, all of the factors specified in division (B)(2) of this section. If the department determines that it will recommend that the offender be adjudicated as being a sexual predator, it immediately shall send the recommendation to the court that sentenced the offender and shall enter its determination and recommendation in the offender's institutional record, and the court shall proceed in accordance with division (C)(2) of this section.

(2)(a) If, pursuant to division (C)(1) of this section, the department of rehabilitation and correction sends to a court a recommendation that an offender who has been convicted of or pleaded guilty to a sexually oriented offense be adjudicated as being a sexual predator, the court is not bound by the department's recommendation, and the court may conduct a hearing to determine whether the offender is a sexual predator. The court may deny the recommendation and determine that the offender is not a sexual predator without a hearing but shall not make a determination that the offender is a sexual predator in any case without a hearing. The court may hold the hearing and make the determination prior to the offender's release from imprisonment or at any time within one year following the offender's release from that imprisonment. If the court determines without a hearing that the offender is not a sexual predator, it shall include its determination in the offender's institutional record and shall determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the court determined that the offender is not a sexual predator.

The court may make the determination as to whether the offender previously has been convicted of or pleaded guilty to a sexually oriented

offense without a hearing, but, if the court determines that the offender previously has been convicted of or pleaded guilty to such an offense, it shall not impose a requirement that the offender be subject to the community notification provisions regarding the offender's place of residence that are contained in sections 2950.10 and 2950.11 of the Revised Code without a hearing. The court may conduct a hearing to determine both whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense and whether to impose a requirement that the offender be subject to the community notification provisions as described in this division, or may conduct a hearing solely to make the latter determination. The court shall include in the offender's institutional record any determination made under this division as to whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense, and, as such, whether the offender is a habitual sex offender.

(b) If the court schedules a hearing under division (C)(2)(a) of this section, the court shall give the offender and the prosecutor who prosecuted the offender for the sexually oriented offense, or that prosecutor's successor in office, notice of the date, time, and place of the hearing. If the hearing is to determine whether the offender is a sexual predator, it shall be conducted in the manner described in division (B)(1) of this section regarding hearings conducted under that division and, in making a determination under this division as to whether the offender is a sexual predator, the court shall consider all relevant factors, including, but not limited to, all of the factors specified in division (B)(2) of this section. After reviewing all testimony and evidence presented at the sexual predator hearing and the factors specified in division (B)(2) of this section, the court shall determine by clear and convincing evidence whether the offender is a sexual predator. If the court determines that the offender is not a sexual predator, it also shall determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the hearing is being conducted.

Upon making its determinations at the hearing, the court shall proceed as follows:

(i) If the hearing is to determine whether the offender is a sexual predator, and if the court determines that the offender is not a sexual predator and that the offender previously has not been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the hearing is being conducted, it shall include its determinations in the offender's institutional record.

(ii) If the hearing is to determine whether the offender is a sexual

ator, and if the court determines that the offender is not a sexual predator but that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the hearing is being conducted, it shall include its determination that the offender is not a sexual predator but is a habitual sex offender in the offender's institutional record, shall attach the determinations to the offender's sentence, shall specify that the determinations were pursuant to division (C) of this section, shall provide a copy of the determinations to the offender, to the prosecuting attorney, and to the department of rehabilitation and correction, and may impose a requirement that the offender be subject to the community notification provisions regarding the offender's place of residence that are contained in sections 2950.10 and 2950.11 of the Revised Code. The offender shall not be subject to those community notification provisions relative to the sexually oriented offense in question if the court does not so impose the requirement described in this division. If the court imposes those community notification provisions, the offender may appeal the judge's determination that the offender is a habitual sex offender.

(iii) If the hearing is to determine whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the hearing is being conducted and whether to impose a requirement that the offender be subject to the specified community notification provisions, and if the court determines that the offender previously has been convicted of or pleaded guilty to such an offense, the court shall proceed as described in division (C)(2)(b)(ii) of this section and may impose a community notification requirement as described in that division. The offender shall not be subject to the specified community notification provisions relative to the sexually oriented offense in question if the court does not so impose the requirement described in that division. If the court imposes those community notification provisions, the offender may appeal the judge's determination that the offender is a habitual sex offender.

(iv) If the court determined without a hearing that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense other than the offense in relation to which the court determined that the offender is not a sexual predator, and, as such, is a habitual sex offender, and the hearing is solely to determine whether to impose a requirement that the offender be subject to the specified community notification provisions, after the hearing, the court may impose a community notification requirement as described in division (C)(2)(b)(ii) of this section. The offender shall not be subject to the specified community notification

provisions relative to the sexually oriented offense in question if the court does not so impose the requirement described in that division. If the court imposes those community notification provisions, the offender may appeal the judge's determination that the offender is a habitual sex offender.

(v) If the hearing is to determine whether the offender is a sexual predator, and if the court determines by clear and convincing evidence that the offender is a sexual predator, it shall enter its determination in the offender's institutional record, shall attach the determination to the offender's sentence, shall specify that the determination was pursuant to division (C) of this section, and shall provide a copy of the determination to the offender, to the prosecuting attorney, and to the department of rehabilitation and correction. The offender and the prosecutor may appeal as a matter of right the judge's determination under this division as to whether the offender is, or is not, a sexual predator.

(D)(1) Upon the expiration of the applicable period of time specified in division (D)(1)(a) or (b) of this section, an offender who has been convicted of or pleaded guilty to a sexually oriented offense and who has been adjudicated as being a sexual predator relative to the sexually oriented offense in the manner described in division (B) or (C) of this section may petition the judge who made the determination that the offender was a sexual predator, or that judge's successor in office, to enter a determination that the offender no longer is a sexual predator. Upon the filing of the petition, the judge may review the prior sexual predator ~~or~~ determination that comprises the ~~sexual~~ sexually violent predator adjudication, and, upon consideration of all relevant evidence and information, including, but not limited to, the factors set forth in division (B)(2) of this section, either shall enter a determination that the offender no longer is a sexual predator or shall enter an order denying the petition. The court shall not enter a determination under this division that the offender no longer is a sexual predator unless the court determines by clear and convincing evidence that the offender is unlikely to commit a sexually oriented offense in the future. If the judge enters a determination under this division that the offender no longer is a sexual predator, the judge shall notify the bureau of criminal identification and investigation and the parole board of the determination. Upon receipt of the notification, the bureau promptly shall notify the sheriff with whom the offender most recently registered under section 2950.04 or 2950.05 of the Revised Code of the determination that the offender no longer is a sexual predator. If the judge enters an order denying the petition, the prior adjudication of the offender as a sexual predator shall remain in effect. An offender determined to be a sexual predator in the manner described in

division (B) or (C) of this section may file a petition under this division after the expiration of the following periods of time:

(a) Regardless of when the sexually oriented offense was committed, if, on or after January 1, 1997, the offender is imprisoned or sentenced to a prison term or other confinement for the sexually oriented offense in relation to which the determination was made, the offender initially may file the petition not earlier than one year prior to the offender's release from the imprisonment, prison term, or other confinement by discharge, parole, judicial release, or any other final release. If the offender is sentenced on or after January 1, 1997, for the sexually oriented offense in relation to which the determination is made and is not imprisoned or sentenced to a prison term or other confinement for the sexually oriented offense, the offender initially may file the petition upon the expiration of one year after the entry of the offender's judgment of conviction.

(b) After the offender's initial filing of a petition under division (D)(1)(a) of this section, thereafter, an offender may file a petition under this division upon the expiration of five years after the court has entered an order denying the most recent petition the offender has filed under this division.

(2) Except as otherwise provided in this division, division (D)(1) of this section does not apply to a person who is classified as a sexual predator pursuant to division (A) of this section. If a person who is so classified was sentenced to a prison term pursuant to division (A)(3) of section 2971.03 of the Revised Code and if the sentencing court terminates the offender's prison term as provided in division (D) of section 2971.05 of the Revised Code, the court's termination of the prison term automatically shall constitute a determination by the court that the offender no longer is a sexual predator. If the court so terminates the offender's prison term, the court shall notify the bureau of criminal identification and investigation and the parole board of the determination that the offender no longer is a sexual predator. Upon receipt of the notification, the bureau promptly shall notify the sheriff with whom the offender most recently registered under section 2950.04 or 2950.05 of the Revised Code that the offender no longer is a sexual predator. If an offender who is classified as a sexual predator pursuant to division (A) of this section is released from prison pursuant to a pardon or commutation, the classification of the offender as a sexual predator shall remain in effect after the offender's release, and the offender may file one or more petitions in accordance with the procedures and time limitations contained in division (D)(1) of this section for a determination that the offender no longer is a sexual predator.

(E) If a person is convicted of or pleads guilty to committing, on or after

January 1, 1997, a sexually oriented offense, the judge who is to impose sentence on the offender shall determine, prior to sentencing, whether the offender previously has been convicted of or pleaded guilty to a sexually oriented offense. If the judge determines that the offender previously has not been convicted of or pleaded guilty to a sexually oriented offense, the judge shall specify in the offender's sentence that the judge has determined that the offender is not a habitual sex offender. If the judge determines that the offender previously has been convicted of or pleaded guilty to a sexually oriented offense, the judge shall specify in the offender's sentence and the judgment of conviction that contains the sentence that the judge has determined that the offender is a habitual sex offender and may impose a requirement in that sentence and judgment of conviction that the offender be subject to the community notification provisions regarding the offender's place of residence that are contained in sections 2950.10 and 2950.11 of the Revised Code. Unless the habitual sex offender also has been adjudicated as being a sexual predator relative to the sexually oriented offense in question, the offender shall not be subject to those community notification provisions if the court does not impose the requirement described in this division in the offender's sentence and the judgment of conviction.

(F)(1) An offender classified as a sexual predator may petition the court of common pleas of the county in which the offender resides or temporarily is domiciled to enter a determination that the offender is not an adjudicated sexual predator in this state for purposes of the sex offender registration requirements of this chapter or the community notification provisions contained in sections 2950.10 and 2950.11 of the Revised Code if all of the following apply:

(a) The offender was convicted of or pleaded guilty to a sexually oriented offense in another state or in a federal court, a military court, or an Indian tribal court.

(b) As a result of the conviction or plea of guilty described in division (F)(1)(a) of this section, the offender is required under the law of the jurisdiction under which the offender was convicted or pleaded guilty to register as a sex offender until the offender's death and is required to verify the offender's address on at least a quarterly basis each year.

(c) The offender was automatically classified as a sexual predator under division (A) of this section in relation to the conviction or guilty plea described in division (F)(1)(a) of this section.

(2) The court may enter a determination that the offender filing the petition described in division (F)(1) of this section is not an adjudicated sexual predator in this state for purposes of the sex offender registration

requirements of this chapter or the community notification provisions contained in sections 2950.10 and 2950.11 of the Revised Code only if the offender proves by clear and convincing evidence that the requirement of the other jurisdiction that the offender register as a sex offender until the offender's death and the requirement that the offender verify the offender's address on at least a quarterly basis each year is not substantially similar to a classification as a sexual predator for purposes of this chapter.

SECTION 2. That existing sections 2950.01, 2950.03, 2950.04, and 2950.09 of the Revised Code are hereby repealed.

_____

Speaker _____ *of the House of Representatives.*

_____

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____