

H. B. No. 35
As Introduced

_____ moved to amend as follows:

In line 1 of the title, after "2305.111" insert "and to enact section 2950.021" 1
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In line 6 of the title, delete "," and insert "; to provide with respect to sex offenders and child-victim offenders who committed their offense prior to January 1, 2008, mechanisms for reclassifying or classifying the offenders in specified circumstances under the SORN Law in effect prior to that date;" 3
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In line 9 of the title, delete "that" and insert "the described" 8

In line 11, after "2305.111" insert "be amended and section 2950.021" 9
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In line 12, delete "amended" and insert "enacted" 11

After line 120, insert: 12

"Sec. 2950.021. (A) As used in this section: 13

(1) "Wrongly classified Tier offender" means a sex offender or child-victim offender who has been classified by a court as a Tier I sex offender/child-victim offender, a Tier II 14
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sex offender/child-victim offender, or a Tier III sex 17
offender/child-victim offender based on a sexually oriented 18
offense or a child-victim oriented offense committed prior to 19
January 1, 2008, and whose Tier classification based on that 20
offense is invalid under the decision of the Ohio supreme court 21
in *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374. 22

(2) "Pre-2008 classification" means one of the categories 23
in which sex offenders and child-victim offenders were included 24
under Chapter 2950. of the Revised Code as it existed 25
immediately prior to January 1, 2008, and that determined the 26
manner in which, and duration for which, the duties under that 27
chapter applied to such offenders, including habitual sex 28
offenders, sexual predators, habitual child-victim offenders, 29
child-victim predators, sex offenders who were convicted of or 30
pleaded guilty to an aggravated sexually oriented offense, and 31
any other sex offenders or child-victim offenders not included 32
in any of the preceding categories who were subject to duties, 33
responsibilities, and restrictions under that chapter. 34

(B) (1) At any time before a wrongly classified Tier 35
offender completes any registration and verification duties 36
under this chapter that are associated with the sexually 37
oriented offense or child-victim oriented offense that is the 38
basis of the offender being a wrongly classified Tier offender, 39
the court, upon the request of either the state or the offender 40
or on the court's own initiative, shall hold a hearing to 41
determine the pre-2008 classification that should apply to the 42
offender under the provisions of Chapter 2950. of the Revised 43
Code as it existed immediately prior to January 1, 2008. This 44
division applies with respect to a wrongly classified Tier 45
offender who is completing registration and verification duties 46
for the first time or one who has completed those duties one or 47

more times previously and subsequently is completing them again 48
in accordance with the provisions of Chapter 2950. of the 49
Revised Code. 50

(2) The court shall give to both the state and the wrongly 51
classified offender who is the subject of the hearing at least 52
thirty days' notice of the date, time, and location of any 53
hearing held under division (B)(1) of this section. The offender 54
has the right to be represented by counsel and, if indigent, the 55
right to have counsel appointed to represent the offender. 56

(3) A hearing held under division (B)(1) of this section 57
shall be governed by, and held in accordance with, Chapter 2950. 58
of the Revised Code as it existed immediately prior to January 59
1, 2008, including one of the following as appropriate: 60

(a) As applicable to sexually oriented offenders, section 61
2950.09 of the Revised Code as it existed immediately prior to 62
that date; 63

(b) As applicable to child-victim offenders, section 64
2950.091 of the Revised Code as it existed immediately prior to 65
that date. 66

(4) If, at the conclusion of the hearing held under 67
division (B)(1) of this section, the court determines that the 68
wrongly classified Tier offender should be classified under the 69
provisions of Chapter 2950. of the Revised Code as it existed 70
immediately prior to January 1, 2008, the court shall determine 71
the appropriate pre-2008 classification for the offender, shall 72
make any other necessary findings under those provisions, and 73
shall file an entry that does all of the following: 74

(a) Sets forth the pre-2008 classification that the court 75
determined for the offender and other relevant information; 76

(b) Specifies that the pre-2008 classification that the 77
court determined for the offender is subject to enforcement 78
under Chapter 2950. of the Revised Code as it existed 79
immediately prior to January 1, 2008; 80

(c) Vacates the prior classification of the offender as a 81
Tier I sex offender/child-victim offender, Tier II sex offender/ 82
child-victim offender, or Tier III sex offender/child-victim 83
offender. 84

(5) Any wrongly classified Tier offender who is 85
reclassified under division (B) of this section shall receive 86
credit toward the registration and verification duties under the 87
new pre-2008 classification for all time that the offender has 88
been in compliance with the registration and verification duties 89
as a Tier I sex offender/child-victim offender, Tier II sex 90
offender/child-victim offender, or Tier III sex offender/child- 91
victim offender. 92

(6) Nothing in division (B) of this section limits either 93
the state or a wrongly classified Tier offender from challenging 94
on direct appeal a classification of the offender as a Tier I 95
sex offender/child-victim offender, Tier II sex offender/child- 96
victim offender, or Tier III sex offender/child-victim offender. 97

(7) Proceedings under division (B) of this section shall 98
be initiated by the filing of a motion by a wrongly classified 99
Tier offender or the state, or by the court's own initiative, 100
within one year after the effective date of this section. If 101
proceedings are not initiated within one year after the 102
effective date of this section with respect to a wrongly 103
classified Tier offender, the offender's Tier classification 104
thereafter shall be deemed to be a valid classification subject 105
to enforcement under Chapter 2950. of the Revised Code as it 106

exists on and after January 1, 2008. 107

(8) No hearing may be held under division (B)(1) of this 108
section with respect to a wrongly classified Tier offender if 109
the offender, in writing in a motion or in another document 110
filed with the court in the case, affirmatively accepts the Tier 111
classification assigned to the offender. Upon such acceptance, 112
the court shall issue an order recognizing that the wrongly 113
classified Tier offender affirmatively accepts the Tier 114
classification and is subject to Chapter 2950. of the Revised 115
Code as it exists on and after January 1, 2008. 116

(C) If, on or after the effective date of this section, a 117
person is convicted of or pleads guilty to a sexually oriented 118
offense or child-victim oriented offense committed prior to 119
January 1, 2008, the court imposing sentence for the offense 120
shall hold a hearing to determine the pre-2008 classification 121
that should apply to the offender under the provisions of 122
Chapter 2950. of the Revised Code as it existed immediately 123
prior to January 1, 2008. Division (B)(3) of this section 124
applies with respect to a hearing held under this division. 125

If, at the conclusion of the hearing held under this 126
division, the court determines that the offender should be 127
classified under the provisions of Chapter 2950. of the Revised 128
Code as it existed immediately prior to January 1, 2008, the 129
court shall determine the appropriate pre-2008 classification 130
for the offender and shall file an entry that does both of the 131
following: 132

(1) Sets forth the pre-2008 classification that the court 133
determined for the offender; 134

(2) Specifies that the pre-2008 classification that the 135

court determined for the offender is subject to enforcement 136
under Chapter 2950. of the Revised Code as it existed 137
immediately prior to January 1, 2008." 138

The motion was _____ agreed to.

SYNOPSIS 139

SORN Law reclassification mechanism -- pre-January 1, 140
2008, offenses 141

R.C. 2950.021 142

Provides mechanisms under the SORN Law pursuant to which: 143

1. A "sex offender" or "child-victim offender" (defined 144
terms) who has been classified as a "Tier I," "Tier II," or 145
"Tier III sex offender/child-victim offender" under that Law 146
based on a "sexually oriented offense" or a "child-victim 147
oriented offense" (all defined terms) committed prior to January 148
1, 2008, whose Tier classification based on that offense is 149
invalid under a specified Ohio Supreme Court decision, and who 150
is completing SORN Law registration and verification duties, may 151
be reclassified in accordance with the provisions of the SORN 152
Law as it existed immediately prior to January 1, 2008 (this 153
applies with respect to such an offender who is completing those 154
duties for the first time, or one who has completed those duties 155
one or more times previously and subsequently is completing them 156
again in accordance with the SORN Law). 157

2. If, on or after the bill's effective date, a person is 158
convicted of a sexually oriented offense or child-victim 159

oriented offense committed prior to January 1, 2008, the court 160
imposing sentence for the offense must classify the person in 161
accordance with the provisions of the SORN Law as it existed 162
immediately prior to January 1, 2008. 163

3. A pre-2008 classification imposed under either 164
mechanism described above in (1) or (2) is subject to 165
enforcement under the SORN Law as it existed prior to January 1, 166
2008. 167