

As Reported by the Senate Judiciary Committee

135th General Assembly

Regular Session

2023-2024

Sub. H. B. No. 322

Representatives Seitz, Abrams

Cosponsors: Representatives King, Robb Blasdel, Schmidt, Carruthers, White, Miller, K., Dean, Cross, Hillyer, Mathews, Brennan, Brewer, Click, Cutrona, Daniels, Dell'Aquila, Dobos, Edwards, Holmes, John, Johnson, Jones, Kick, Lear, Miller, M., Oelslager, Patton, Pavliga, Thomas, C., Williams, Willis, Young, T.

Senator Manning

A BILL

To amend sections 2901.13, 3797.01, 3797.04, 1
3797.10, and 3797.12; to enact section 2907.071; 2
and to repeal section 3797.11 of the Revised 3
Code to impose a civil penalty, rather than a 4
criminal penalty, on a person who fails to 5
register with the childhood sexual abuse civil 6
registry, to eliminate the residence restriction 7
on such person, to create the offense of 8
grooming, and to extend the limitation period 9
for prosecuting a violation of the law requiring 10
certain persons to report child abuse or neglect 11
under certain circumstances. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2901.13, 3797.01, 3797.04, 13
3797.10, and 3797.12 be amended and section 2907.071 of the 14
Revised Code be enacted to read as follows: 15

Sec. 2901.13. (A) (1) Except as provided in division (A) 16
(2), (3), (4), ~~or (5)~~, or (6) of this section or as otherwise 17
provided in this section, a prosecution shall be barred unless 18
it is commenced within the following periods after an offense is 19
committed: 20

(a) For a felony, six years; 21

(b) For a misdemeanor other than a minor misdemeanor, two 22
years; 23

(c) For a minor misdemeanor, six months. 24

(2) There is no period of limitation for the prosecution 25
of a violation of section 2903.01 or 2903.02 of the Revised Code 26
or for the prosecution of a conspiracy to commit, attempt to 27
commit, or complicity in committing a violation of section 28
2903.01 or 2903.02 of the Revised Code. 29

(3) Except as otherwise provided in divisions (B) to (J) 30
of this section, a prosecution of any of the following offenses 31
shall be barred unless it is commenced within twenty years after 32
the offense is committed: 33

(a) A violation of section 2903.03, 2903.04, 2905.01, 34
2905.32, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 35
2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 36
2911.11, 2911.12, or 2917.02 of the Revised Code, a violation of 37
section 2903.11 or 2903.12 of the Revised Code if the victim is 38
a peace officer, a violation of section 2903.13 of the Revised 39
Code that is a felony, or a violation of former section 2907.12 40
of the Revised Code; 41

(b) A conspiracy to commit, attempt to commit, or 42
complicity in committing a violation set forth in division (A) 43
(3) (a) of this section. 44

(4) Except as otherwise provided in divisions (D) to (L) 45
of this section, a prosecution of a violation of section 2907.02 46
or 2907.03 of the Revised Code or a conspiracy to commit, 47
attempt to commit, or complicity in committing a violation of 48
either section shall be barred unless it is commenced within 49
twenty-five years after the offense is committed. 50

(5) (a) Except as otherwise provided in divisions (A) (5) (b) 51
and (E) to (I) of this section, a prosecution of a violation of 52
section 2907.13 of the Revised Code shall be barred unless it is 53
commenced within five years after the offense is committed. 54

(b) Prosecution that would otherwise be barred under 55
division (A) (5) (a) of this section may be commenced within five 56
years after the date of the discovery of the offense by either 57
an aggrieved person or the aggrieved person's legal 58
representative who is not a party to the offense. 59

(c) As used in division (B) (5) (b) of this section, 60
"aggrieved person" includes any of the following individuals 61
with regard to a violation of section 2907.13 of the Revised 62
Code: 63

(i) A patient who was the victim of the violation; 64

(ii) The spouse or surviving spouse of a patient who was 65
the victim of the violation; 66

(iii) Any child born as a result of the violation. 67

(6) A prosecution for a violation of division (A) (1) or 68
(4) of section 2151.421 of the Revised Code, which is a 69
misdemeanor of the fourth degree, or a misdemeanor of the first 70
degree under circumstances specified in section 2151.99 of the 71
Revised Code, is barred unless it is commenced within four years 72
after the violation is committed. 73

(B) (1) Except as otherwise provided in division (B) (2) of 74
this section, if the period of limitation provided in division 75
(A) (1) or (3) of this section has expired, prosecution shall be 76
commenced for an offense of which an element is fraud or breach 77
of a fiduciary duty, within one year after discovery of the 78
offense either by an aggrieved person, or by the aggrieved 79
person's legal representative who is not a party to the offense. 80

(2) If the period of limitation provided in division (A) 81
(1) or (3) of this section has expired, prosecution for a 82
violation of section 2913.49 of the Revised Code shall be 83
commenced within five years after discovery of the offense 84
either by an aggrieved person or the aggrieved person's legal 85
representative who is not a party to the offense. 86

(C) (1) If the period of limitation provided in division 87
(A) (1) or (3) of this section has expired, prosecution shall be 88
commenced for the following offenses during the following 89
specified periods of time: 90

(a) For an offense involving misconduct in office by a 91
public servant, at any time while the accused remains a public 92
servant, or within two years thereafter; 93

(b) For an offense by a person who is not a public servant 94
but whose offense is directly related to the misconduct in 95
office of a public servant, at any time while that public 96
servant remains a public servant, or within two years 97
thereafter. 98

(2) As used in this division: 99

(a) An "offense is directly related to the misconduct in 100
office of a public servant" includes, but is not limited to, a 101
violation of section 101.71, 101.91, 121.61 or 2921.13, division 102

(F) or (H) of section 102.03, division (A) of section 2921.02, 103
division (A) or (B) of section 2921.43, or division (F) or (G) 104
of section 3517.13 of the Revised Code, that is directly related 105
to an offense involving misconduct in office of a public 106
servant. 107

(b) "Public servant" has the same meaning as in section 108
2921.01 of the Revised Code. 109

(D) (1) If a DNA record made in connection with the 110
criminal investigation of the commission of a violation of 111
section 2907.02 or 2907.03 of the Revised Code is determined to 112
match another DNA record that is of an identifiable person and 113
if the time of the determination is later than twenty-five years 114
after the offense is committed, prosecution of that person for a 115
violation of the section may be commenced within five years 116
after the determination is complete. 117

(2) If a DNA record made in connection with the criminal 118
investigation of the commission of a violation of section 119
2907.02 or 2907.03 of the Revised Code is determined to match 120
another DNA record that is of an identifiable person and if the 121
time of the determination is within twenty-five years after the 122
offense is committed, prosecution of that person for a violation 123
of the section may be commenced within the longer of twenty-five 124
years after the offense is committed or five years after the 125
determination is complete. 126

(3) As used in this division, "DNA record" has the same 127
meaning as in section 109.573 of the Revised Code. 128

(E) An offense is committed when every element of the 129
offense occurs. In the case of an offense of which an element is 130
a continuing course of conduct, the period of limitation does 131

not begin to run until such course of conduct or the accused's 132
accountability for it terminates, whichever occurs first. 133

(F) A prosecution is commenced on the date an indictment 134
is returned or an information filed, or on the date a lawful 135
arrest without a warrant is made, or on the date a warrant, 136
summons, citation, or other process is issued, whichever occurs 137
first. A prosecution is not commenced by the return of an 138
indictment or the filing of an information unless reasonable 139
diligence is exercised to issue and execute process on the same. 140
A prosecution is not commenced upon issuance of a warrant, 141
summons, citation, or other process, unless reasonable diligence 142
is exercised to execute the same. 143

(G) The period of limitation shall not run during any time 144
when the corpus delicti remains undiscovered. 145

(H) The period of limitation shall not run during any time 146
when the accused purposely avoids prosecution. Proof that the 147
accused departed this state or concealed the accused's identity 148
or whereabouts is prima-facie evidence of the accused's purpose 149
to avoid prosecution. 150

(I) The period of limitation shall not run during any time 151
a prosecution against the accused based on the same conduct is 152
pending in this state, even though the indictment, information, 153
or process that commenced the prosecution is quashed or the 154
proceedings on the indictment, information, or process are set 155
aside or reversed on appeal. 156

(J) The period of limitation for a violation of any 157
provision of Title XXIX of the Revised Code that involves a 158
physical or mental wound, injury, disability, or condition of a 159
nature that reasonably indicates abuse or neglect of a child 160

under eighteen years of age or of a child with a developmental 161
disability or physical impairment under twenty-one years of age 162
shall not begin to run until either of the following occurs: 163

(1) The victim of the offense reaches the age of majority. 164

(2) A public children services agency, or a municipal or 165
county peace officer that is not the parent or guardian of the 166
child, in the county in which the child resides or in which the 167
abuse or neglect is occurring or has occurred has been notified 168
that abuse or neglect is known, suspected, or believed to have 169
occurred. 170

(K) As used in this section, "peace officer" has the same 171
meaning as in section 2935.01 of the Revised Code. 172

(L) (1) The amendments to divisions (A) and (D) of this 173
section that took effect on July 16, 2015, apply to a violation 174
of section 2907.02 or 2907.03 of the Revised Code committed on 175
and after July 16, 2015, and apply to a violation of either of 176
those sections committed prior to July 16, 2015, if prosecution 177
for that violation was not barred under this section as it 178
existed on the day prior to July 16, 2015. 179

(2) The amendment to division (A) (2) of this section that 180
takes effect on ~~the effective date of this amendment~~ April 4, 181
2023, applies to a conspiracy to commit, attempt to commit, or 182
complicity in committing a violation of section 2903.01 or 183
2903.02 of the Revised Code if the conspiracy, attempt, or 184
complicity is committed on or after ~~the effective date of this~~ 185
~~amendment~~ April 4, 2023, and applies to a conspiracy to commit, 186
attempt to commit, or complicity in committing a violation of 187
either of those sections if the conspiracy, attempt, or 188
complicity was committed prior to ~~that effective date~~ April 4, 189

2023, and prosecution for that conspiracy, attempt, or 190
complicity was not barred under this section as it existed on 191
the day prior to ~~that effective date~~ April 4, 2023. 192

Sec. 2907.071. (A) As used in this section, "pattern of 193
conduct" has the same meaning as in section 2903.211 of the 194
Revised Code. 195

(B) No person who is eighteen years of age or older shall 196
engage in a pattern of conduct with a minor who is less than 197
sixteen years of age and who is four or more years younger than 198
the person, when the pattern of conduct would cause a reasonable 199
adult person to believe that the person is communicating with 200
the minor with purpose to do either of the following: 201

(1) Entice, coerce, or solicit the minor to engage in 202
sexual activity, and when the person's purpose in engaging in 203
the pattern of conduct is to entice, coerce, or solicit the 204
minor to engage in sexual activity with the person or a third 205
person; 206

(2) Prepare the minor to engage in sexual activity, and 207
when the person's purpose in engaging in the pattern of conduct 208
is to prepare the minor to engage in sexual activity with the 209
person or a third person that would be a violation of section 210
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.07 of the 211
Revised Code. 212

(C) No person who is eighteen years of age or older shall 213
engage in a pattern of conduct with a minor if the person and 214
the minor are in any of the relationships described in divisions 215
(A) (5) to (13) of section 2907.03 of the Revised Code, when the 216
pattern of conduct would cause a reasonable adult person to 217
believe that the person is communicating with the minor with 218

purpose to do either of the following: 219

(1) Entice, coerce, or solicit the minor to engage in 220
sexual activity, and when the person's purpose in engaging in 221
the pattern of conduct is to entice, coerce, or solicit the 222
minor to engage in sexual activity with the person or a third 223
person; 224

(2) Prepare the minor to engage in sexual activity, and 225
when the person's purpose in engaging in the pattern of conduct 226
is to prepare the minor to engage in sexual activity with the 227
person or a third person that would be a violation of section 228
2907.02, 2907.03, 2907.04, 2907.05, 2907.06, or 2907.07 of the 229
Revised Code. 230

(D) Whoever violates this section is guilty of grooming. 231

(1) Except as otherwise provided in this division, a 232
violation of division (B) of this section is a misdemeanor of 233
the second degree. If the victim of the offense is less than 234
thirteen years of age or if the offender supplied alcohol or a 235
drug of abuse to the victim of the offense, a violation of 236
division (B) of this section is a felony of the fifth degree. If 237
the victim of the offense is less than thirteen years of age and 238
if the offender previously has been convicted of or pleaded 239
guilty to a violation of this section or a sexually oriented 240
offense or a child-victim oriented offense or the offender 241
supplied alcohol or a drug of abuse to the victim of the 242
offense, a violation of division (B) of this section is a felony 243
of the fourth degree. If the offender previously has been 244
convicted of or pleaded guilty to a violation of this section or 245
a sexually oriented offense or a child-victim oriented offense 246
and the offender supplied alcohol or a drug of abuse to the 247
victim of the offense, a violation of division (B) of this 248

section is a felony of the third degree. 249

(2) Except as otherwise provided in this division, a 250
violation of division (C) of this section is a misdemeanor of 251
the first degree. If the offender supplied alcohol or a drug of 252
abuse to the victim of the offense, a violation of division (C) 253
of this section is a felony of the fifth degree. If the victim 254
of the offense is less than thirteen years of age or if the 255
offender previously has been convicted of or pleaded guilty to a 256
violation of this section or a sexually oriented offense or a 257
child-victim oriented offense, a violation of division (C) of 258
this section is a felony of the fourth degree. If the victim of 259
the offense is less than thirteen years of age and if the 260
offender previously has been convicted of or pleaded guilty to a 261
violation of this section or a sexually oriented offense or a 262
child-victim oriented offense or the offender supplied alcohol 263
or a drug of abuse to the victim of the offense, a violation of 264
division (C) of this section is a felony of the third degree. 265

(E) A prosecution for a violation of this section does not 266
preclude a prosecution of a violation of any other section of 267
the Revised Code. One or more acts, a series of acts, or a 268
course of behavior that can be prosecuted under this section or 269
any other section of the Revised Code may be prosecuted under 270
this section, the other section of the Revised Code, or both 271
sections. 272

Sec. 3797.01. As used in sections 3797.01 to 3797.12 of 273
the Revised Code: 274

(A) "Aggrieved person" means the individual to whom the 275
registrant would have been liable for assault or battery based 276
on childhood sexual abuse, as defined in section 2305.111 of the 277
Revised Code, but for the expiration of the limitation period 278

<u>under that section.</u>	279
<u>(B)</u> "Employed" means employed for more than fourteen days or for an aggregate of thirty days in a calendar year.	280 281
(B) <u>(C)</u> "Registrant" means a person against whom a court has entered a declaratory judgment under section 2721.21 of the Revised Code and issued an order that the person be listed on the civil registry maintained by the attorney general pursuant to section 3797.08 of the Revised Code.	282 283 284 285 286
(C) <u>(D)</u> "Reside" includes temporarily reside.	287
(D) <u>(E)</u> "Sheriff" includes a person designated by a sheriff to carry out functions that the sheriff is required to perform under sections 3797.02 to 3797.12 of the Revised Code.	288 289 290
(E) <u>(F)</u> "Temporarily reside" means live in a county in this state, other than as a permanent resident, for a period of five or more consecutive days.	291 292 293
Sec. 3797.04. (A) A registrant shall verify the registrant's current residence address and employment address on each anniversary of the registrant's initial registration date by personally appearing before the sheriff of the county in which the registrant is registered not earlier than ten days before the anniversary date and not later than the anniversary date and completing and signing a copy of a verification form provided by the sheriff. The sheriff shall sign the completed form and indicate on the form the date on which it is completed. The verification is complete when the registrant personally appears before the sheriff and completes and signs the form.	294 295 296 297 298 299 300 301 302 303 304
(B) To facilitate the verification of a registrant's current residence or employment address, the sheriff with whom the registrant most recently registered the address may mail a	305 306 307

nonforwardable verification form to the registrant's last 308
reported residence address or employment address, as applicable, 309
with a notice that conspicuously states that the registrant must 310
personally appear before the sheriff to complete the form and 311
the date by which the form must be completed. Regardless of 312
whether a sheriff mails a form to a registrant, each registrant 313
shall personally appear before the sheriff to verify the 314
address. 315

(C) (1) If a registrant fails to verify a current residence 316
address or employment address by the date required for the 317
verification, the sheriff with whom the registrant is required 318
to verify the current address shall send on the day following 319
that date required for the verification and at the registrant's 320
last known residence or place of employment, as applicable, a 321
written warning to the registrant regarding the registrant's 322
duty to verify the registrant's current address. 323

The written warning shall do all of the following: 324

(a) Identify the sheriff who sends it and the date on 325
which it is sent; 326

(b) State conspicuously that the registrant has failed to 327
verify the registrant's current residence address or employment 328
address, as applicable, by the date required for the 329
verification; 330

(c) Conspicuously state that the registrant has seven days 331
from the date on which the warning is sent to verify the current 332
residence address or employment address, as applicable, with the 333
sheriff who sent the warning; 334

(d) Conspicuously state that a failure to timely verify 335
the specified current address or addresses is ~~a felony~~ 336

~~offense~~subject to a civil penalty of up to two thousand five 337
hundred dollars; 338

(e) Conspicuously state that the registrant will not be 339
~~prosecuted~~liable for that civil penalty for a failure to timely 340
verify a current address if the registrant verifies the current 341
address with that sheriff within that seven-day period; 342

(f) Conspicuously state that the registrant will be 343
~~arrested or taken into custody, as appropriate, and prosecuted~~ 344
liable for that civil penalty for a failure to timely verify a 345
current address if the registrant does not verify the current 346
address with that sheriff within that seven-day period. 347

(2) If a registrant fails to verify a current address as 348
required by this section by the date required for the 349
verification, the registrant shall not be ~~prosecuted~~liable for 350
that civil penalty for a violation of division (A) of section 351
3797.10 of the Revised Code unless the seven-day period 352
subsequent to that date that the registrant is provided under 353
division (C) (1) of this section to verify the current address 354
has expired and the registrant has not verified the current 355
address prior to the expiration of that seven-day period. Upon 356
the expiration of the seven-day period that the registrant is 357
provided under division (C) (1) of this section to verify the 358
current address, if the registrant has not verified the current 359
address, all of the following apply: 360

(a) The sheriff with whom the registrant is required to 361
verify the current address promptly shall notify the attorney 362
general of the failure. 363

(b) The sheriff with whom the registrant is required to 364
verify the current address,~~the sheriff of the county in which~~ 365

~~the registrant resides or is employed, or a deputy of the~~ 366
~~appropriate sheriff shall locate the registrant, promptly shall~~ 367
~~seek a warrant for the arrest or taking into custody, as~~ 368
~~appropriate, of the registrant for the violation of division (A)~~ 369
~~of section 3797.10 of the Revised Code, and shall arrest the~~ 370
registrant promptly shall refer the registrant's failure to 371
verify the current address to either of the following: 372

(i) The prosecuting attorney of the county in which the 373
registrant is required to verify the current address to that 374
county's sheriff; 375

(ii) The prosecuting attorney of the county in which the 376
registrant resides or is employed. 377

(c) The prosecuting attorney to whom the referral is made 378
under division (C) (2) (b) of this section may file a civil action 379
against the registrant is subject to prosecution for a violation 380
of division (A) of section 3797.10 of the Revised Code. If the 381
prosecuting attorney does not file the civil action within 382
forty-five days after the referral, the aggrieved person may 383
file that civil action. 384

(D) A registrant who is required to verify a current 385
address pursuant to division (A) of this section shall do so 386
unless and until the registrant is removed from the civil 387
registry pursuant to section 2721.21 of the Revised Code. 388

Sec. 3797.10. (A) No registrant who is required to 389
register pursuant to section 3797.02 of the Revised Code, send a 390
sheriff a written notice of a new residence or employment 391
address or of an intent to reside in a county pursuant to 392
section 3797.03 of the Revised Code, or verify a current address 393
pursuant to section 3797.05 of the Revised Code shall fail to 394

register, send the notice, or verify the address as required by 395
those sections. 396

~~(B) It is an affirmative defense to a charge of a~~ 397
~~violation of~~ A registrant does not violate division (A) of this 398
section by failing to send written notice of a change of 399
residence or employment address or notice of intent to reside in 400
a county as required by section 3797.03 of the Revised Code ~~that~~ 401
if both of the following apply: 402

(1) It was impossible for the registrant to provide the 403
notice to the sheriff because of a lack of knowledge on the date 404
specified for the provision of the notice of an address change 405
or of the new address. 406

(2) The registrant provided notice of the address change 407
or the new address to the sheriff ~~as~~ in compliance with both of 408
the following: 409

(a) As soon as possible, but not later than the end of the 410
first business day, after learning of the address change or of 411
the new address by providing notice of the address change or the 412
new address to the sheriff by telephone immediately upon 413
learning of the address change or new address or, if the 414
registrant did not have reasonable access to a telephone at that 415
time, as soon as possible, but not later than the end of the 416
first business day, after learning of the address change and 417
having reasonable access to a telephone. 418

~~(3)~~ (b) As soon as possible, but not later than the end of 419
the first business day, after providing notice of the address 420
change to the sheriff by telephone, the registrant provided 421
written notice of the address change to the sheriff. 422

(C) Whoever violates division (A) of this section ~~is~~ 423

~~guilty of a felony of the fifth degree shall be subject to a~~ 424
~~civil penalty of up to two thousand five hundred dollars.~~ 425

Sec. 3797.12. (A) Except as provided in division (B) of 426
this section, any of the following persons shall be immune from 427
liability in a civil action to recover damages for injury, 428
death, or loss to person or property allegedly caused by an act 429
or omission in connection with a power, duty, responsibility, or 430
authorization under sections 3797.01 to ~~3797.11~~ 3797.10 of the 431
Revised Code or under rules adopted under authority of those 432
sections: 433

(1) The attorney general, a deputy, officer, or employee 434
of the office of the attorney general, a sheriff, or a deputy, 435
officer, or employee of the office of the sheriff; 436

(2) A prosecutor and an officer or employee of the office 437
of a prosecutor; 438

(3) A person identified in division (A) (2), (3), (4), (5), 439
(6), or (7) of section 3797.06 of the Revised Code or the agent 440
of that person; 441

(4) A person identified in division (A) (2) of section 442
3797.05 of the Revised Code, regarding the person's provision of 443
information pursuant to that division to a sheriff. 444

(B) The immunity described in division (A) of this section 445
does not apply to a person described in divisions (A) (1) to (4) 446
of this section if, in relation to the act or omission in 447
question, any of the following applies: 448

(1) The act or omission was manifestly outside the scope 449
of the person's employment or official responsibilities. 450

(2) The act or omission was with malicious purpose, in bad 451

faith, or in a wanton or reckless manner. 452

(3) Liability for the act or omission is expressly imposed 453
by a section of the Revised Code. 454

Section 2. That existing sections 2901.13, 3797.01, 455
3797.04, 3797.10, and 3797.12 of the Revised Code are hereby 456
repealed. 457

Section 3. That section 3797.11 of the Revised Code is 458
hereby repealed. 459

Section 4. Section 2901.13 of the Revised Code is 460
presented in this act as a composite of the section as amended 461
by both S.B. 16 and S.B. 288 of the 134th General Assembly. The 462
General Assembly, applying the principle stated in division (B) 463
of section 1.52 of the Revised Code that amendments are to be 464
harmonized if reasonably capable of simultaneous operation, 465
finds that the composite is the resulting version of the section 466
in effect prior to the effective date of the section as 467
presented in this act. 468