

AN ACT

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

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

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

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

- (a) For a felony, six years;
- (b) For a misdemeanor other than a minor misdemeanor, two years;
- (c) For a minor misdemeanor, six months.

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

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

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

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

(4) Except as otherwise provided in divisions (D) to (L) of this section, a prosecution of a violation of section 2907.02 or 2907.03 of the Revised Code or a conspiracy to commit, attempt to commit, or complicity in committing a violation of either section shall be barred unless it is

commenced within twenty-five years after the offense is committed.

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

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

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

- (i) A patient who was the victim of the violation;
- (ii) The spouse or surviving spouse of a patient who was the victim of the violation;
- (iii) Any child born as a result of the violation.

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

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

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

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

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

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

(2) As used in this division:

(a) An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of section 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of section 102.03, division (A) of section 2921.02, division (A) or (B) of section 2921.43, or division (F) or (G) of section 3517.13 of the Revised Code, that is directly related to an offense involving

misconduct in office of a public servant.

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

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

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

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

(E) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

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

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

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

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

(J) The period of limitation for a violation of any provision of Title XXIX of the Revised Code that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a child with a developmental disability or physical impairment under twenty-one years of age shall not begin to

run until either of the following occurs:

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

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

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

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

(2) The amendment to division (A)(2) of this section that takes effect on ~~the effective date of this amendment~~ April 4, 2023, applies to a conspiracy to commit, attempt to commit, or complicity in committing a violation of section 2903.01 or 2903.02 of the Revised Code if the conspiracy, attempt, or complicity is committed on or after ~~the effective date of this amendment~~ April 4, 2023, and applies to a conspiracy to commit, attempt to commit, or complicity in committing a violation of either of those sections if the conspiracy, attempt, or complicity was committed prior to ~~that effective date~~ April 4, 2023, and prosecution for that conspiracy, attempt, or complicity was not barred under this section as it existed on the day prior to ~~that effective date~~ April 4, 2023.

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

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

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

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

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

the following:

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

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

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

(1) Except as otherwise provided in this division, a violation of division (B) of this section is a misdemeanor of the second degree. If the victim of the offense is less than thirteen years of age or if the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (B) of this section is a felony of the fifth degree. If the victim of the offense is less than thirteen years of age and if the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense or the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (B) of this section is a felony of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense and the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (B) of this section is a felony of the third degree.

(2) Except as otherwise provided in this division, a violation of division (C) of this section is a misdemeanor of the first degree. If the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (C) of this section is a felony of the fifth degree. If the victim of the offense is less than thirteen years of age or if the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense, a violation of division (C) of this section is a felony of the fourth degree. If the victim of the offense is less than thirteen years of age and if the offender previously has been convicted of or pleaded guilty to a violation of this section or a sexually oriented offense or a child-victim oriented offense or the offender supplied alcohol or a drug of abuse to the victim of the offense, a violation of division (C) of this section is a felony of the third degree.

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

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

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

~~(B)~~ "Employed" means employed for more than fourteen days or for an aggregate of thirty days in a calendar year.

~~(B)~~~~(C)~~ "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.

~~(C)~~~~(D)~~ "Reside" includes temporarily reside.

~~(D)~~~~(E)~~ "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.

~~(E)~~~~(F)~~ "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.

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.

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

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

The written warning shall do all of the following:

- (a) Identify the sheriff who sends it and the date on which it is sent;
- (b) State conspicuously that the registrant has failed to verify the registrant's current residence address or employment address, as applicable, by the date required for the verification;
- (c) 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, as applicable, with the sheriff who sent the warning;
- (d) Conspicuously state that a failure to timely verify the specified current address or

addresses is ~~a felony offense~~ subject to a civil penalty of up to two thousand five hundred dollars;

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

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

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

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

(b) ~~The 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 appropriate sheriff shall locate the registrant, promptly shall seek a warrant for the arrest or taking into custody, as appropriate, of the registrant for the violation of division (A) of section 3797.10 of the Revised Code, and shall arrest the registrant promptly shall refer the registrant's failure to verify the current address to either of the following:~~

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

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

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

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

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

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

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

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

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

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

~~(C) Whoever violates division (A) of this section is guilty of a felony of the fifth degree~~ shall be subject to a civil penalty of up to two thousand five hundred dollars.

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

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

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

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

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

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

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

(2) The act or omission was with malicious purpose, in bad faith, or in a wanton or reckless

manner.

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

SECTION 2. That existing sections 2901.13, 3797.01, 3797.04, 3797.10, and 3797.12 of the Revised Code are hereby repealed.

SECTION 3. That section 3797.11 of the Revised Code is hereby repealed.

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

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 322

135th G.A.

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____.

Secretary of State.

File No. _____ Effective Date _____