

As Pending in the Senate Judiciary Committee

132nd General Assembly

Regular Session

2017-2018

Sub. S. B. No. 67

Senators Gardner, Hite

A BILL

To enact sections 2903.41, 2903.42, 2903.43, and
2903.44 of the Revised Code to provide for a
violent offender database, require violent
offenders to enroll in the database, and name
the act "Sierah's Law."

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

Section 1. That sections 2903.41, 2903.42, 2903.43, and
2903.44 of the Revised Code be enacted to read as follows:

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Sec. 2903.41. As used in sections 2903.41 to 2903.44 of
the Revised Code:

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(A) "Violent offender" means any of the following:

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(1) A person who on or after the effective date of this
section is convicted of or pleads guilty to any of the
following:

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(a) A violation of section 2903.01, 2903.02, 2903.03,
2905.01, or 2905.02 of the Revised Code;

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(b) Any attempt to commit, conspiracy to commit, or
complicity in committing any offense listed in division (A) (1)

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(a) of this section.

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(2) A person who on the effective date of this section has 19
been convicted of or pleaded guilty to an offense listed in 20
division (A)(1) of this section and is confined in a jail, 21
workhouse, state correctional institution, or other institution, 22
serving a prison term, term of imprisonment, or other term of 23
confinement for the offense. 24

(B) "Community control sanction," "jail," and "prison" 25
have the same meanings as in section 2929.01 of the Revised 26
Code. 27

(C) "Out-of-state violent offender" means a person who is 28
convicted of, pleads guilty to, has been convicted of, or has 29
pleaded guilty to a violation of any existing or former 30
municipal ordinance or law of another state or the United 31
States, or any existing or former law applicable in a military 32
court or in an Indian tribal court, that is or was substantially 33
equivalent to any offense listed in division (A)(1) of this 34
section. 35

(D) "Post-release control sanction" and "supervised 36
release" have the same meanings as in section 2950.01 of the 37
Revised Code. 38

(E) "Change of address" means a change to a violent 39
offender's or out-of-state violent offender's residence address, 40
employment address, or school or institution of higher education 41
address. 42

(F) "Violent offender database" means the database of 43
violent offenders and out-of-state violent offenders that is 44
established and maintained by the bureau of criminal 45
identification and investigation under division (F)(2) of 46
section 2903.43 of the Revised Code, that is operated by 47

sheriffs under sections 2903.42 and 2903.43 of the Revised Code, 48
and for which sheriffs obtain information from violent offenders 49
and out-of-state violent offenders pursuant to sections 2903.42 50
and 2903.43 of the Revised Code. 51

Sec. 2903.42. (A) Each violent offender shall be provided 52
notice of the violent offender's duty to enroll in the violent 53
offender database personally with the sheriff of the county in 54
which the violent offender resides or that sheriff's designee. 55
The following persons shall provide the notice at the following 56
times: 57

(1) On or after the effective date of this section, the 58
official in charge of a jail, workhouse, state correctional 59
institution, or other institution in which a violent offender is 60
serving a prison term, term of imprisonment, or other term of 61
confinement, or the official's designee, shall provide the 62
notice to the violent offender before the violent offender is 63
released pursuant to any type of supervised release or before 64
the violent offender is otherwise released from the prison term, 65
term of imprisonment, or other term of confinement. 66

(2) If a violent offender is sentenced on or after the 67
effective date of this section for an offense listed in division 68
(A)(1) of section 2903.41 of the Revised Code and the judge does 69
not sentence the violent offender to a prison term, term of 70
imprisonment, or other term of confinement in a jail, workhouse, 71
state correctional institution, or other institution for that 72
offense, the judge shall provide the notice to the violent 73
offender at the time of the violent offender's sentencing. 74

(B) The judge, official, or official's designee providing 75
the notice under divisions (A)(1) and (2) of this section shall 76
require the violent offender to read and sign a form stating 77

that the violent offender has received and understands the 78
notice. If the violent offender is unable to read, the judge, 79
official, or official's designee shall inform the violent 80
offender of the violent offender's duties as set forth in the 81
notice and shall certify on the form that the judge, official, 82
or official's designee informed the violent offender of the 83
violent offender's duties and that the violent offender 84
indicated an understanding of those duties. 85

(C) The attorney general shall prescribe the notice and 86
the form provided under division (B) of this section. The notice 87
shall include notice of the violent offender's duties to re- 88
enroll annually and when the violent offender has a change of 89
address. 90

(D) The person providing the notice under division (B) of 91
this section shall provide a copy of the notice and signed form 92
to the violent offender. The person providing the notice also 93
shall determine the county in which the violent offender intends 94
to reside and shall provide a copy of the signed form to the 95
sheriff of that county in accordance with rules adopted by the 96
attorney general pursuant to Chapter 119. of the Revised Code. 97

Sec. 2903.43. (A) Each violent offender who has received 98
notice pursuant to section 2903.42 of the Revised Code shall 99
enroll in the violent offender database personally with the 100
sheriff of the county in which the violent offender resides or 101
that sheriff's designee within the following time periods: 102

(1) A violent offender who receives notice under division 103
(A) (1) of section 2903.42 of the Revised Code shall enroll in 104
the violent offender database within ten days after the violent 105
offender is released from a jail, workhouse, state correctional 106
institution, or other institution, unless the violent offender 107

is being transferred to the custody of another jail, workhouse, 108
state correctional institution, or other institution. The 109
violent offender is not required to enroll in the violent 110
offender database with any sheriff or designee prior to release. 111

(2) A violent offender who receives notice under division 112
(A) (2) of section 2903.42 of the Revised Code shall enroll in 113
the violent offender database within ten days after the 114
sentencing hearing. 115

(B) Each out-of-state violent offender shall enroll in the 116
violent offender database personally with the sheriff of the 117
county in which the out-of-state violent offender resides or 118
that sheriff's designee within ten days after residing in or 119
occupying a dwelling in this state for more than three 120
consecutive days or for an aggregate period in a calendar year 121
of fourteen or more days in that calendar year. 122

(C) (1) A violent offender or out-of-state violent offender 123
shall enroll in the violent offender database personally with 124
the sheriff of the county in which the offender resides or that 125
sheriff's designee. The enrollee shall obtain from the sheriff 126
or designee a copy of an enrollment form prescribed by the 127
attorney general that conforms to division (C) (2) of this 128
section, shall complete and sign the form, and shall return to 129
the sheriff or designee the completed and signed form together 130
with the identification records required under division (C) (3) 131
of this section. 132

(2) The enrollment form to be used under division (C) (1) 133
of this section shall include or contain all of the following 134
for the violent offender or out-of-state violent offender who is 135
enrolling: 136

<u>(a) The violent offender's or out-of-state violent</u>	137
<u>offender's full name and any alias used;</u>	138
<u>(b) The violent offender's or out-of-state violent</u>	139
<u>offender's residence address;</u>	140
<u>(c) The violent offender's or out-of-state violent</u>	141
<u>offender's social security number;</u>	142
<u>(d) Any driver's license number, commercial driver's</u>	143
<u>license number, or state identification card number issued to</u>	144
<u>the violent offender or out-of-state violent offender by this or</u>	145
<u>another state;</u>	146
<u>(e) The offense that the violent offender or out-of-state</u>	147
<u>violent offender was convicted of or pleaded guilty to;</u>	148
<u>(f) The name and address of any place where the violent</u>	149
<u>offender or out-of-state violent offender is employed;</u>	150
<u>(g) The name and address of any school or institution of</u>	151
<u>higher education that the violent offender or out-of-state</u>	152
<u>violent offender is attending;</u>	153
<u>(h) The identification license plate number of each</u>	154
<u>vehicle owned or operated by the violent offender or out-of-</u>	155
<u>state violent offender or registered in the violent offender's</u>	156
<u>or out-of-state violent offender's name, the vehicle</u>	157
<u>identification number of each vehicle, and a description of each</u>	158
<u>vehicle;</u>	159
<u>(i) A description of any scars, tattoos, or other</u>	160
<u>distinguishing marks on the violent offender or out-of-state</u>	161
<u>violent offender;</u>	162
<u>(j) Any other information required by the attorney</u>	163
<u>general.</u>	164

(3) The violent offender or out-of-state violent offender shall provide fingerprints and palm prints at the time of enrollment. The sheriff or sheriff's designee shall obtain a photograph of the violent offender or out-of-state violent offender at the time of enrollment. 165
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(D) (1) Each violent offender or out-of-state violent offender shall re-enroll in the violent offender database annually, in person, with the sheriff of the county in which the offender resides or that sheriff's designee within ten days prior to the anniversary of the calendar date on which the offender initially enrolled. The enrollee shall re-enroll by completing, signing, and returning to the sheriff or designee a copy of the enrollment form prescribed by the attorney general and described in divisions (C) (1) and (2) of this section, amending any information required under division (C) of this section that has changed since the enrollee's last enrollment, and providing any additional enrollment information required by the attorney general. The sheriff or designee with whom the violent offender or out-of-state violent offender re-enrolls shall obtain a new photograph of the offender annually when the offender re-enrolls. Additionally, if the violent offender's or out-of-state violent offender's most recent enrollment or re-enrollment was with a sheriff or designee of a sheriff of a different county, the offender shall provide written notice of the offender's change of residence address to that sheriff or a designee of that sheriff. 170
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(2) (a) Except as provided in division (D) (2) (b) of this section and section 2903.44 of the Revised Code, the duty of a violent offender or out-of-state violent offender to re-enroll in the violent offender database annually shall continue until the offender's death. 191
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(b) The judge may limit a violent offender's duty to re- 196
enroll in the violent offender database at the offender's 197
sentencing hearing to not less than ten years if the judge 198
receives a request from the prosecutor and the investigating law 199
enforcement agency to consider limiting the violent offender's 200
enrollment period. 201

(3) The official in charge of a jail, workhouse, state 202
correctional institution, or other institution shall notify the 203
attorney general in accordance with rules adopted by the 204
attorney general pursuant to Chapter 119. of the Revised Code if 205
a violent offender or out-of-state violent offender is confined 206
in the jail, workhouse, state correctional institution, or other 207
institution. 208

(E) Each violent offender or out-of-state violent offender 209
shall notify the sheriff with whom the offender most recently 210
enrolled or re-enrolled or that sheriff's designee in person 211
within three business days of a change of address. 212

(F) (1) After a violent offender or out-of-state violent 213
offender enrolls or re-enrolls in the violent offender database 214
with a sheriff or a sheriff's designee pursuant to this section, 215
the sheriff or designee shall forward the offender's signed, 216
written enrollment form, photograph, fingerprints, palm prints, 217
and other materials to the bureau of criminal identification and 218
investigation in accordance with forwarding procedures adopted 219
by the attorney general under division (G) of this section. The 220
bureau shall include the information and materials forwarded to 221
it under this division in the violent offender database 222
established and maintained under division (E) (2) of this 223
section. 224

(2) The bureau of criminal identification and 225

investigation shall establish and maintain a database of violent 226
offenders and out-of-state violent offenders that includes the 227
information and materials the bureau receives pursuant to 228
division (D) (1) of this section. The bureau shall make the 229
database available to federal, state, and local law enforcement 230
officers. The database of violent offenders and out-of-state 231
violent offenders maintained by the bureau is not a public 232
record under section 149.43 of the Revised Code. 233

(3) (a) Except as otherwise provided in division (F) (3) (b) 234
of this section, any statements, information, photographs, 235
fingerprints, or materials that are provided by a violent 236
offender or out-of-state violent offender pursuant to this 237
section and that are in the possession of a county sheriff are 238
public records open to public inspection under section 149.43 of 239
the Revised Code. 240

(b) A violent offender or out-of-state violent offender 241
may file a motion with the court of common pleas in the county 242
in which the offender resides stating that the offender fears 243
for the offender's safety if the statements, information, 244
photographs, fingerprints, or materials provided by the offender 245
pursuant to this section and that are in the possession of a 246
county sheriff are open for public inspection, and requesting 247
the court to issue an order to ban or restrict access to those 248
statements, information, photographs, fingerprints, and 249
materials. A motion filed with a court under this division shall 250
expressly state the reasons for which the violent offender or 251
out-of-state violent offender fears for the offender's safety, 252
shall identify each county in which the offender has enrolled or 253
re-enrolled, and shall provide information and materials in 254
support of the motion. The court, upon the filing of the motion 255
under this division, may determine whether to grant or deny the 256

motion without a hearing or may conduct a hearing to determine 257
whether to grant or deny the motion. The court may grant the 258
motion if it determines, upon review of the motion, the 259
supporting information and materials provided with the motion, 260
and, if the court conducts a hearing, any additional information 261
provided at the hearing, that the offender's or violent 262
offender's fears for the offender's safety are valid and that 263
the interests of justice and the offender's safety require that 264
the motion be granted. 265

If the court grants the motion, the statements, 266
information, photographs, fingerprints, or materials provided by 267
the offender pursuant to this section and that are in the 268
possession of a county sheriff are not public records open to 269
public inspection under section 149.43 of the Revised Code and 270
the court shall issue an order to that effect. A court that 271
grants a motion and issues an order under this division shall 272
notify the sheriff in each county in which the offender has 273
enrolled or re-enrolled of the issuance of the order, and each 274
of those sheriffs shall comply with the order. 275

(G) Each sheriff or sheriff's designee with whom a violent 276
offender or out-of-state violent offender enrolls or re-enrolls 277
under this section shall collect an enrollment fee of fifty 278
dollars and an annual re-enrollment fee of twenty-five dollars 279
from each violent offender or out-of-state violent offender who 280
enrolls or re-enrolls with the sheriff or designee. By the last 281
day of March, the last day of June, the last day of September, 282
and the last day of December in each year, each sheriff who 283
collects or whose designee collects any fees under this division 284
in the preceding three-month period shall send to the attorney 285
general the fees collected during that period. The fees shall be 286
used for the maintenance of the database of violent offenders 287

and out-of-state violent offenders. A sheriff or designee may 288
waive a fee for an indigent violent offender or out-of-state 289
violent offender. 290

(H) The attorney general shall prescribe the forms to be 291
used by violent offenders and out-of-state violent offenders to 292
enroll, re-enroll, and provide notice of a change of address 293
under divisions (A) to (D) of this section. The attorney general 294
shall adopt procedures for sheriffs to use to forward 295
information, photographs, fingerprints, palm prints, and other 296
materials to the bureau of criminal identification and 297
investigation pursuant to division (F) (1) of this section. 298

(I) The attorney general, in accordance with Chapter 119. 299
of the Revised Code, may adopt rules regarding enrollment dates 300
different than those prescribed in divisions (A), (B), and (D) 301
of this section for any violent offender or out-of-state violent 302
offender who also is an arson offender, as defined in section 303
2909.13 of the Revised Code, or a sex offender or child-victim 304
offender, both as defined in section 2950.01 of the Revised 305
Code. 306

(J) Whoever fails to enroll, re-enroll, or notify the 307
sheriff or sheriff's designee of a change of address as required 308
by this section is guilty of a felony of the fifth degree. If a 309
violent offender or out-of-state violent offender is subject to 310
a community control sanction, is on parole, is subject to one or 311
more post-release control sanctions, or is subject to any other 312
type of supervised release at the time of the violation, the 313
violation shall constitute a violation of the terms and 314
conditions of the community control sanction, parole, post- 315
release control sanction, or other type of supervised release. 316

Sec. 2903.44. (A) Pursuant to this section, a violent 317

offender or out-of-state violent offender may file a motion to 318
the court of common pleas of the county in which the offender 319
resides requesting that the court terminate the offender's duty 320
to enroll in the violent offender database after ten years of 321
enrollment in the violent offender database. 322

(B) A violent offender or out-of-state violent offender 323
who makes a motion under division (A) of this section shall 324
include with the motion all of the following: 325

(1) A certified copy of the judgment entry and any other 326
documentation of the sentence or disposition given for the 327
offense or offenses for which the offender was enrolled in the 328
violent offender database; 329

(2) Documentation of the date of the offender's discharge 330
from supervision or release, whichever is applicable; 331

(3) Evidence that the offender has not been convicted of 332
or pleaded guilty to any criminal offense within ten years of 333
the offender's original enrollment in the violent offender 334
database, except that this division does not apply with respect 335
to any conviction of or plea of guilty to a minor misdemeanor 336
traffic offense; 337

(4) Evidence that the eligible offender has paid all 338
financial sanctions imposed upon the offender pursuant to 339
section 2929.18 or 2929.28 of the Revised Code. 340

(C) Upon the filing of a motion pursuant to division (A) 341
of this section, the offender shall serve a copy of the motion 342
on the prosecutor who handled the offender's underlying case. 343

Upon the filing of the motion, the court shall set a 344
tentative date for a hearing on the motion that, except as 345
otherwise provided in this division, is not later than one 346

hundred eighty days after the date on which the motion is filed. 347
The court may set a tentative date for a hearing that is later 348
than that specified time if good cause exists to hold the 349
hearing at a later date. The court shall notify the offender and 350
the prosecutor of the date, time, and place of the hearing. The 351
court shall forward a copy of the motion and its supporting 352
documentation to the court's probation department or another 353
appropriate agency to investigate the merits of the motion. The 354
probation department or agency shall submit a written report 355
detailing its investigation to the court within sixty days after 356
receiving the motion and supporting documentation. 357

Upon receipt of the written report from the probation 358
department or other appropriate agency, the court shall forward 359
a copy of the motion, the supporting documentation, and the 360
written report to the prosecutor. 361

(D) (1) After the prosecutor is served with a copy of the 362
motion as described in division (C) of this section, the 363
prosecutor shall notify the victim of any offense for which the 364
offender is enrolled in the violent offender database. The 365
victim may submit a written statement to the prosecutor 366
regarding any knowledge the victim has of the offender's conduct 367
while subject to enrollment. 368

(2) At least seven days before the hearing date, the 369
prosecutor may file an objection to the motion with the court 370
and serve a copy of the objection to the motion to the offender 371
or the offender's attorney. 372

(E) In determining whether to grant a motion made under 373
division (A) of this section, the court shall consider the 374
evidence that accompanies the motion described in division (B) 375
of this section, shall consider the written report submitted 376

pursuant to division (C) of this section, and may consider any 377
other evidence the court considers relevant, including, but not 378
limited to, evidence of the following during the period while 379
the offender has been enrolled in the violent offender database: 380

(1) Whether the offender's driver's license, commercial 381
driver's license, temporary instruction permit, probationary 382
license, or nonresident operating privilege has ever been 383
suspended during that period; 384

(2) Whether the offender during that period has maintained 385
financial responsibility for a motor vehicle as required by 386
section 4509.101 of the Revised Code; 387

(3) Whether the offender during that period has satisfied 388
any child or spousal support obligations, if applicable; 389

(4) Whether the offender during that period has paid all 390
local, state, and federal income taxes, and has timely filed all 391
associated income tax returns, as required by local, state, or 392
federal law; 393

(5) Whether the offender during that period has maintained 394
a residence for a substantial period of time; 395

(6) Whether the offender during that period has maintained 396
employment or, if the offender has not been employed, whether 397
the offender during that period has satisfied the offender's 398
financial obligations through other manners of support such as 399
disability payments, a pension, spousal or child support, or 400
scholarships or grants; 401

(7) Whether the offender during that period has adequately 402
addressed any drug or alcohol abuse or addiction; 403

(8) Letters of reference regarding the offender during 404

that period; 405

(9) Documentation of the offender's service during that 406
period to the community or to specific individuals in need. 407

(F) (1) The court, without a hearing, may issue an order 408
denying the offender's motion to terminate the offender's duty 409
to enroll in the violent offender database if the court, after 410
considering the evidence submitted with the motion, the written 411
report submitted pursuant to division (C) of this section, and 412
the other evidence it considers relevant, finds that the duty 413
should not be terminated. 414

(2) If the prosecutor does not file an objection to the 415
offender's application as provided in division (D) (2) of this 416
section, the court, without a hearing, may issue an order that 417
terminates the eligible offender's duty to enroll in the violent 418
offender database if the court, after considering the evidence 419
submitted with the motion, the written report submitted pursuant 420
to division (C) of this section, and the other evidence it 421
considers relevant, finds that the duty should be terminated. 422
This division does not apply if the prosecutor files an 423
objection to the offender's application as provided in division 424
(D) (2) of this section. 425

(3) If the court does not issue an order under division 426
(F) (1) or (2) of this section, the court shall hold a hearing to 427
determine whether to grant or deny the motion. At the hearing, 428
the Rules of Civil Procedure apply, except to the extent that 429
those Rules would by their nature be clearly inapplicable. At 430
the hearing, the offender has the burden of going forward with 431
the evidence and the burden of proof by a preponderance of the 432
evidence that the duty should be terminated. If, after 433
considering the evidence submitted with the motion, the written 434

report submitted pursuant to division (C) of this section, and 435
any other evidence it considers relevant the court finds that 436
the offender has satisfied the burden of proof described in this 437
division, the court shall issue an order that terminates the 438
offender's duty to enroll in the violent offender database. If 439
the court finds that the offender has not satisfied the burden 440
of proof, the court shall issue an order denying the motion. 441

(4) (a) Upon its issuance of an order under division (F) 442
(1), (2), or (3) of this section, the court shall provide prompt 443
notice of the order to the offender or the offender's attorney. 444

(b) If the court issues an order under division (F) (2) or 445
(3) of this section terminating the offender's duty to enroll in 446
the violent offender database, the court shall promptly forward 447
a copy of the order to the bureau of criminal identification and 448
investigation. Upon receipt of the order, the bureau shall 449
update all records pertaining to the offender to reflect the 450
termination order. The bureau also shall provide notice of the 451
issuance of the termination order to every sheriff with whom the 452
offender has most recently enrolled or re-enrolled. 453

Section 2. This act shall be known as "Sierah's Law." 454