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Am. Sub. H. B. No. 35

Representatives Seitz, Miranda

Cosponsors: Representatives Russo, Baker, Brown, Brennan, Denson, Forhan, Isaacsohn, Weinstein, Upchurch, Click, Gross, Hillyer, Lipps, Williams, White, Young, T., Galonski, Schmidt, Abdullahi, Abrams, Barhorst, Brent, Brewer, Carruthers, Claggett, Cross, Dell'Aquila, Dobos, Grim, Hoops, Humphrey, Jarrells, Johnson, Jones, Lightbody, Liston, Mathews, McNally, Miller, A., Miller, J., Mohamed, Patton, Pavliga, Robb Blasdel, Robinson, Roemer, Rogers, Somani, Stein, Thomas, C., Thomas, J., Willis

Senator Manning

A BILL

To amend section 2305.111 and to enact section 1
2950.021 of the Revised Code to enact the 2
Scout's Honor Law to eliminate the limitations 3
period for a civil action based on a claim of 4
childhood sexual abuse only for purposes of 5
filing claims against a bankruptcy estate of an 6
organization chartered under federal law; to 7
provide with respect to sex offenders and child- 8
victim offenders who committed their offense 9
prior to January 1, 2008, mechanisms for 10
reclassifying or classifying the offenders in 11
specified circumstances under the SORN Law in 12
effect prior to that date; to subsequently amend 13
section 2305.111 of the Revised Code five years 14
after the effective date of that section to 15
remove the described elimination of the 16
limitations period; and to declare an emergency. 17

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

Section 1. That section 2305.111 be amended and section 18
2950.021 of the Revised Code be enacted to read as follows: 19

Sec. 2305.111. (A) As used in this section: 20

(1) "Childhood sexual abuse" means any conduct that 21
constitutes any of the violations identified in division (A) (1) 22
(a) or (b) of this section and would constitute a criminal 23
offense under the specified section or division of the Revised 24
Code, if the victim of the violation is at the time of the 25
violation a child under eighteen years of age or a child with a 26
developmental disability or physical impairment under twenty-one 27
years of age. The court need not find that any person has been 28
convicted of or pleaded guilty to the offense under the 29
specified section or division of the Revised Code in order for 30
the conduct that is the violation constituting the offense to be 31
childhood sexual abuse for purposes of this division. This 32
division applies to any of the following violations committed in 33
the following specified circumstances: 34

(a) A violation of section 2907.02 or of division (A) (1), 35
(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 36
of the Revised Code; 37

(b) A violation of section 2907.05 or 2907.06 of the 38
Revised Code if, at the time of the violation, any of the 39
following apply: 40

(i) The actor is the victim's natural parent, adoptive 41
parent, or stepparent or the guardian, custodian, or person in 42
loco parentis of the victim. 43

(ii) The victim is in custody of law or a patient in a hospital or other institution, and the actor has supervisory or disciplinary authority over the victim.

(iii) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the victim is enrolled in or attends that school, and the actor is not enrolled in and does not attend that school.

(iv) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the victim is enrolled in or attends that institution.

(v) The actor is the victim's athletic or other type of coach, is the victim's instructor, is the leader of a scouting troop of which the victim is a member, or is a person with temporary or occasional disciplinary control over the victim.

(vi) The actor is a mental health professional, the victim is a mental health client or patient of the actor, and the actor induces the victim to submit by falsely representing to the victim that the sexual contact involved in the violation is necessary for mental health treatment purposes.

(vii) The victim is confined in a detention facility, and the actor is an employee of that detention facility.

(viii) The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric.

(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.

(3) "Mental health client or patient" has the same meaning 72
as in section 2305.51 of the Revised Code. 73

(4) "Mental health professional" has the same meaning as 74
in section 2305.115 of the Revised Code. 75

(5) "Sexual contact" has the same meaning as in section 76
2907.01 of the Revised Code. 77

(6) "Victim" means, except as provided in division (B) of 78
this section, a victim of childhood sexual abuse. 79

(B) Except as provided in section 2305.115 of the Revised 80
Code and subject to division (C) of this section, an action for 81
assault or battery shall be brought within one year after the 82
cause of the action accrues. For purposes of this section, a 83
cause of action for assault or battery accrues upon the later of 84
the following: 85

(1) The date on which the alleged assault or battery 86
occurred; 87

(2) If the plaintiff did not know the identity of the 88
person who allegedly committed the assault or battery on the 89
date on which it allegedly occurred, the earlier of the 90
following dates: 91

(a) The date on which the plaintiff learns the identity of 92
that person; 93

(b) The date on which, by the exercise of reasonable 94
diligence, the plaintiff should have learned the identity of 95
that person. 96

~~(C) An~~ (C) (1) Except as provided in division (C) (2) of 97
this section, an action for assault or battery brought by a 98
victim of childhood sexual abuse based on childhood sexual 99

abuse, or an action brought by a victim of childhood sexual 100
abuse asserting any claim resulting from childhood sexual abuse, 101
shall be brought within twelve years after the cause of action 102
accrues. ~~For purposes of this section, a cause of action for~~ 103
~~assault or battery based on childhood sexual abuse, or a cause~~ 104
~~of action for a claim resulting from childhood sexual abuse,~~ 105
~~accrues upon the date on which the victim reaches the age of~~ 106
~~majority.~~ If the defendant in an action brought by a victim of 107
childhood sexual abuse asserting a claim resulting from 108
childhood sexual abuse that occurs on or after August 3, 2006, 109
has fraudulently concealed from the plaintiff facts that form 110
the basis of the claim, the running of the limitations period 111
with regard to that claim is tolled until the time when the 112
plaintiff discovers or in the exercise of due diligence should 113
have discovered those facts. 114

(2) Only for purposes of making claims against a 115
bankruptcy estate of an organization chartered under part B of 116
subtitle II of Title 36 of the United States Code, an action for 117
assault or battery brought by a victim of childhood sexual abuse 118
based on childhood sexual abuse, or an action brought by a 119
victim of childhood sexual abuse asserting any claim resulting 120
from childhood sexual abuse, may be brought at any time after 121
the cause of action accrues. 122

(3) For purposes of this section, a cause of action for 123
assault or battery based on childhood sexual abuse, or a cause 124
of action for a claim resulting from childhood sexual abuse, 125
accrues upon the date on which the victim reaches the age of 126
majority. 127

Sec. 2950.021. (A) As used in this section: 128

(1) "Wrongly classified Tier offender" means a sex 129

offender or child-victim offender who has been classified by a 130
court as a Tier I sex offender/child-victim offender, a Tier II 131
sex offender/child-victim offender, or a Tier III sex 132
offender/child-victim offender based on a sexually oriented 133
offense or a child-victim oriented offense committed prior to 134
January 1, 2008, and whose Tier classification based on that 135
offense is invalid under the decision of the Ohio supreme court 136
in *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374. 137

(2) "Pre-2008 classification" means one of the categories 138
in which sex offenders and child-victim offenders were included 139
under Chapter 2950. of the Revised Code as it existed 140
immediately prior to January 1, 2008, and that determined the 141
manner in which, and duration for which, the duties under that 142
chapter applied to such offenders, including habitual sex 143
offenders, sexual predators, habitual child-victim offenders, 144
child-victim predators, sex offenders who were convicted of or 145
pleaded guilty to an aggravated sexually oriented offense, and 146
any other sex offenders or child-victim offenders not included 147
in any of the preceding categories who were subject to duties, 148
responsibilities, and restrictions under that chapter. 149

(B) (1) At any time before a wrongly classified Tier 150
offender completes any registration and verification duties 151
under this chapter that are associated with the sexually 152
oriented offense or child-victim oriented offense that is the 153
basis of the offender being a wrongly classified Tier offender, 154
the court, upon the request of either the state or the offender 155
or on the court's own initiative, shall hold a hearing to 156
determine the pre-2008 classification that should apply to the 157
offender under the provisions of Chapter 2950. of the Revised 158
Code as it existed immediately prior to January 1, 2008. This 159
division applies with respect to a wrongly classified Tier 160

offender who is completing registration and verification duties 161
for the first time or one who has completed those duties one or 162
more times previously and subsequently is completing them again 163
in accordance with the provisions of Chapter 2950. of the 164
Revised Code. 165

(2) The court shall give to both the state and the wrongly 166
classified offender who is the subject of the hearing at least 167
thirty days' notice of the date, time, and location of any 168
hearing held under division (B)(1) of this section. The offender 169
has the right to be represented by counsel and, if indigent, the 170
right to have counsel appointed to represent the offender. 171

(3) A hearing held under division (B)(1) of this section 172
shall be governed by, and held in accordance with, Chapter 2950. 173
of the Revised Code as it existed immediately prior to January 174
1, 2008, including one of the following as appropriate: 175

(a) As applicable to sexually oriented offenders, section 176
2950.09 of the Revised Code as it existed immediately prior to 177
that date; 178

(b) As applicable to child-victim offenders, section 179
2950.091 of the Revised Code as it existed immediately prior to 180
that date. 181

(4) If, at the conclusion of the hearing held under 182
division (B)(1) of this section, the court determines that the 183
wrongly classified Tier offender should be classified under the 184
provisions of Chapter 2950. of the Revised Code as it existed 185
immediately prior to January 1, 2008, the court shall determine 186
the appropriate pre-2008 classification for the offender, shall 187
make any other necessary findings under those provisions, and 188
shall file an entry that does all of the following: 189

(a) Sets forth the pre-2008 classification that the court 190
determined for the offender and other relevant information; 191

(b) Specifies that the pre-2008 classification that the 192
court determined for the offender is subject to enforcement 193
under Chapter 2950. of the Revised Code as it existed 194
immediately prior to January 1, 2008; 195

(c) Vacates the prior classification of the offender as a 196
Tier I sex offender/child-victim offender, Tier II sex 197
offender/child-victim offender, or Tier III sex offender/child- 198
victim offender. 199

(5) Any wrongly classified Tier offender who is 200
reclassified under division (B) of this section shall receive 201
credit toward the registration and verification duties under the 202
new pre-2008 classification for all time that the offender has 203
been in compliance with the registration and verification duties 204
as a Tier I sex offender/child-victim offender, Tier II sex 205
offender/child-victim offender, or Tier III sex offender/child- 206
victim offender. 207

(6) Nothing in division (B) of this section limits either 208
the state or a wrongly classified Tier offender from challenging 209
on direct appeal a classification of the offender as a Tier I 210
sex offender/child-victim offender, Tier II sex offender/child- 211
victim offender, or Tier III sex offender/child-victim offender. 212

(7) Proceedings under division (B) of this section shall 213
be initiated by the filing of a motion by a wrongly classified 214
Tier offender or the state, or by the court's own initiative, 215
within one year after the effective date of this section. If 216
proceedings are not initiated within one year after the 217
effective date of this section with respect to a wrongly 218

classified Tier offender, the offender's Tier classification 219
thereafter shall be deemed to be a valid classification subject 220
to enforcement under Chapter 2950. of the Revised Code as it 221
exists on and after January 1, 2008. 222

(8) No hearing may be held under division (B)(1) of this 223
section with respect to a wrongly classified Tier offender if 224
the offender, in writing in a motion or in another document 225
filed with the court in the case, affirmatively accepts the Tier 226
classification assigned to the offender. Upon such acceptance, 227
the court shall issue an order recognizing that the wrongly 228
classified Tier offender affirmatively accepts the Tier 229
classification and is subject to Chapter 2950. of the Revised 230
Code as it exists on and after January 1, 2008. 231

(C) If, on or after the effective date of this section, a 232
person is convicted of or pleads guilty to a sexually oriented 233
offense or child-victim oriented offense committed prior to 234
January 1, 2008, the court imposing sentence for the offense 235
shall hold a hearing to determine the pre-2008 classification 236
that should apply to the offender under the provisions of 237
Chapter 2950. of the Revised Code as it existed immediately 238
prior to January 1, 2008. Division (B)(3) of this section 239
applies with respect to a hearing held under this division. 240

If, at the conclusion of the hearing held under this 241
division, the court determines that the offender should be 242
classified under the provisions of Chapter 2950. of the Revised 243
Code as it existed immediately prior to January 1, 2008, the 244
court shall determine the appropriate pre-2008 classification 245
for the offender and shall file an entry that does both of the 246
following: 247

(1) Sets forth the pre-2008 classification that the court 248

<u>determined for the offender;</u>	249
<u>(2) Specifies that the pre-2008 classification that the</u>	250
<u>court determined for the offender is subject to enforcement</u>	251
<u>under Chapter 2950. of the Revised Code as it existed</u>	252
<u>immediately prior to January 1, 2008.</u>	253
Section 2. That existing section 2305.111 of the Revised	254
Code is hereby repealed.	255
Section 3. That the version of section 2305.111 of the	256
Revised Code amended in Section 1 of this act be amended to read	257
as follows:	258
Sec. 2305.111. (A) As used in this section:	259
(1) "Childhood sexual abuse" means any conduct that	260
constitutes any of the violations identified in division (A) (1)	261
(a) or (b) of this section and would constitute a criminal	262
offense under the specified section or division of the Revised	263
Code, if the victim of the violation is at the time of the	264
violation a child under eighteen years of age or a child with a	265
developmental disability or physical impairment under twenty-one	266
years of age. The court need not find that any person has been	267
convicted of or pleaded guilty to the offense under the	268
specified section or division of the Revised Code in order for	269
the conduct that is the violation constituting the offense to be	270
childhood sexual abuse for purposes of this division. This	271
division applies to any of the following violations committed in	272
the following specified circumstances:	273
(a) A violation of section 2907.02 or of division (A) (1),	274
(5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03	275
of the Revised Code;	276
(b) A violation of section 2907.05 or 2907.06 of the	277

Revised Code if, at the time of the violation, any of the	278
following apply:	279
(i) The actor is the victim's natural parent, adoptive	280
parent, or stepparent or the guardian, custodian, or person in	281
loco parentis of the victim.	282
(ii) The victim is in custody of law or a patient in a	283
hospital or other institution, and the actor has supervisory or	284
disciplinary authority over the victim.	285
(iii) The actor is a teacher, administrator, coach, or	286
other person in authority employed by or serving in a school for	287
which the state board of education prescribes minimum standards	288
pursuant to division (D) of section 3301.07 of the Revised Code,	289
the victim is enrolled in or attends that school, and the actor	290
is not enrolled in and does not attend that school.	291
(iv) The actor is a teacher, administrator, coach, or	292
other person in authority employed by or serving in an	293
institution of higher education, and the victim is enrolled in	294
or attends that institution.	295
(v) The actor is the victim's athletic or other type of	296
coach, is the victim's instructor, is the leader of a scouting	297
troop of which the victim is a member, or is a person with	298
temporary or occasional disciplinary control over the victim.	299
(vi) The actor is a mental health professional, the victim	300
is a mental health client or patient of the actor, and the actor	301
induces the victim to submit by falsely representing to the	302
victim that the sexual contact involved in the violation is	303
necessary for mental health treatment purposes.	304
(vii) The victim is confined in a detention facility, and	305
the actor is an employee of that detention facility.	306

(viii) The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric.	307 308
(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.	309 310
(3) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.	311 312
(4) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.	313 314
(5) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code.	315 316
(6) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse.	317 318
(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following:	319 320 321 322 323 324
(1) The date on which the alleged assault or battery occurred;	325 326
(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates:	327 328 329 330
(a) The date on which the plaintiff learns the identity of that person;	331 332
(b) The date on which, by the exercise of reasonable	333

diligence, the plaintiff should have learned the identity of 334
that person. 335

~~(C) (1) Except as provided in division (C) (2) of this 336~~
~~section, an (C) An action for assault or battery brought by a 337~~
victim of childhood sexual abuse based on childhood sexual 338
abuse, or an action brought by a victim of childhood sexual 339
abuse asserting any claim resulting from childhood sexual abuse, 340
shall be brought within twelve years after the cause of action 341
accrues. For purposes of this section, a cause of action for 342
assault or battery based on childhood sexual abuse, or a cause 343
of action for a claim resulting from childhood sexual abuse, 344
accrues upon the date on which the victim reaches the age of 345
majority. If the defendant in an action brought by a victim of 346
childhood sexual abuse asserting a claim resulting from 347
childhood sexual abuse that occurs on or after August 3, 2006, 348
has fraudulently concealed from the plaintiff facts that form 349
the basis of the claim, the running of the limitations period 350
with regard to that claim is tolled until the time when the 351
plaintiff discovers or in the exercise of due diligence should 352
have discovered those facts. 353

~~(2) Only for purposes of making claims against a 354~~
~~bankruptcy estate of an organization chartered under part B of 355~~
~~subtitle II of Title 36 of the United States Code, an action for 356~~
~~assault or battery brought by a victim of childhood sexual abuse 357~~
~~based on childhood sexual abuse, or an action brought by a 358~~
~~victim of childhood sexual abuse asserting any claim resulting 359~~
~~from childhood sexual abuse, may be brought at any time after 360~~
~~the cause of action accrues. 361~~

~~(3) For purposes of this section, a cause of action for 362~~
~~assault or battery based on childhood sexual abuse, or a cause 363~~

~~of action for a claim resulting from childhood sexual abuse,~~ 364
~~accrues upon the date on which the victim reaches the age of~~ 365
~~majority.~~ 366

Section 4. That the existing version of section 2305.111 367
of the Revised Code as amended in Section 1 this act is hereby 368
repealed. 369

Section 5. Sections 3 and 4 of this act take effect five 370
years after the effective date of section 2305.111 of the 371
Revised Code, as amended by Section 1 of this act. 372

Section 6. This act shall be known as the Scout's Honor 373
Law. 374

Section 7. Section 2305.111 of the Revised Code, as 375
amended by this act, is hereby declared to be an emergency 376
measure necessary for the immediate preservation of the public 377
peace, health, and safety. The reason for such necessity is to 378
ensure the maximum number of individuals receive the maximum 379
amount of each individual's claim in the bankruptcy settlement. 380
Therefore, section 2305.111 of the Revised Code, as amended by 381
this act, shall go into immediate effect. 382