

ORIGINAL

NO. 2011-1061

IN THE SUPREME COURT OF OHIO

**APPEAL FROM
THE COURT OF APPEALS FOR CUYAHOGA COUNTY, OHIO
NO. 95348**

STATE OF OHIO

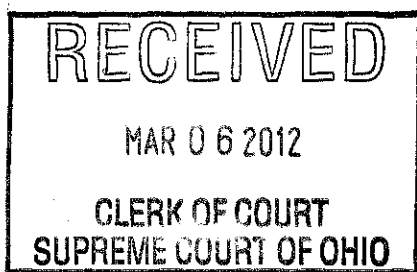
Plaintiff-Appellant

-vs-

ANTONIO CAMPBELL

Defendant-Appellee

MERIT BRIEF OF APPELLEE



Counsel for Defendant-Appellee
JOHN F. CORRIGAN (034411)
19885 Detroit Rd., # 335
Rocky River, OH 44116
(440) 821-3242
(440) 716-8563 (Fax)
jfkl.corrigan@sbcglobal.net

Counsel for Plaintiff-Appellant
DANIEL T. VAN (0084614)
Assistant Prosecuting Attorney
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113
(216)443-7800

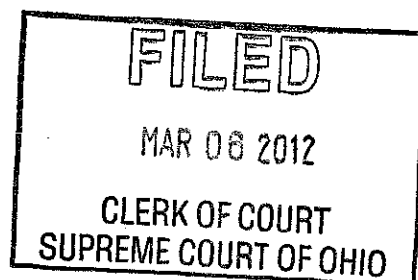


TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES.....	ii
STATEMENT OF THE CASE.....	1
STATEMENT OF FACTS.....	1
ARGUMENT.....	5
PROPOSITION OF LAW: (AS SET FORTH BY THE STATE) STATE V. BODYKE DOES NOT REQUIRE VACATION OF CONVICTIONS WHERE THE CONDUCT OF THE SEX OFFENDER , CLASSIFIED UNDER MEGAN'S LAW, WOULD HAVE BEEN A VIOLATION UNDER BOTH MEGAN'S LAW AND THE ADAM WALSH ACT.	5
CONCLUSION.....	16
CERTIFICATE OF SERVICE.....	17
APPENDIX.....	18

Cases

Pratte v. Stewart (2010), 125 Ohio St.3d 473.....12

State v. Bodyke (2010), 126 Ohio St.3d 266.....1, 7, 8, 9, 10, 11, 14, 16

State v. Dunwoody (OHCA5), 2011-Ohio-636014

State v. Ferguson (2008), 120 Ohio St.3d 7.....15

State v. Freeman (OHCA1), 2011-Ohio-4357.....14, 15

State v. Gingell (2011), 128 Ohio St.3d 444.....1, 9, 10, 11, 13, 14, 16

State v. Page (OHCA8), 2011-Ohio-83.....1

State v. Williams (2011), 129 Ohio St.3d 344.....9, 11, 12, 13, 14, 15, 16

Statutes and Rules

ORC 2913.42.....1

ORC 2950.031.....10

ORC 2950.032.....10

ORC 2950.04.....1, 13

ORC 2950.99.....11, 13, 14, 15

Other

Section 28, Article II Ohio Constitution.....12, 15

STATEMENT OF THE CASE

Antonio Campbell was charged in a two count indictment. The first count charged that on September 30, 2009, Appellee failed in his duty to register as a sexual offender. R.C. 2950.04(E), Duty to Register. Count two charged that on the same date, September 30, 2009, Appellee falsified the very sexual offender registration form that he was alleged to have never filed in count one of the indictment. R.C. 2913.42, Tampering with Records. The case was indicted on October 28, 2009.

The matter proceeded to jury trial on April 19, 2010. Appellee was acquitted of falsifying the sexual registration form. The same jury nonetheless convicted Appellee of failing in his duty to register an address that he did not falsify.

On April 22, 2010, having been found guilty of failing to register his scarlet letter, Appellee was sentenced to four years mandatory prison. Some six weeks later, on June 3, 2010, this Court decided *State v. Bodyke (2010), 126 Ohio St. 3d 266*.

The Eighth District Court of Appeals relying on this court's decisions in *State v. Bodyke and State v. Gingell (2011), 128 Ohio St.3d 444*, as well it's own decision in *State v Page (OHCA8), 2011-Ohio-83*, reversed the conviction and vacated Appellee's sentence. The Court of Appeals did not address the remaining three assigned errors.

STATEMENT OF THE FACTS

Consistent with the testimony that would have been presented to the grand jury, Deputy Melissa Harris testified at trial that Antonio Campbell, Appellee, was was an Adam Walsh Act Tier III sex offender. Deputy Harris also took the extra measure to inform the jury that, as sex

offenders go, Tier III offenders are the worst type. (tr. 123). After telling the jury that Appellee occupied society's lowest rung, Deputy Harris next attempted to recall matters concerning the AWA indictment. Deputy Harris did not do so well.

Deputy Harris "vaguely" recalled matters concerning Appellee's Tier III registration. (tr. 124). Cuyahoga County does not record what convicted sex offenders say and what they are told during the registration process. However, recording every jail call an inmate makes to, among other things, keep prosecutors aware of what a defendant is thinking, saying, and to otherwise help the State prove their pending cases, is within the budget. With no audio recording to refresh her recollection or play for the jury, Deputy Harris told the jury that the written record suggested that on September 30, 2009, Appellee must have provided an address of 9314 Dunlap Ave. Dn., Cleveland, Ohio 44105-2329. (State's Ex. 1, pg. 1). The obvious confusion and matters that actually took place during the registration process were less than clear.

On September 21, 2009, Campbell personally presented himself to the Cuyahoga County Sheriff's for purposes of registration. (tr. 124). Appellee had been in prison. Appellee was perhaps given a form, the witness could not recall. Appellee was advised to return on Friday, September 30, 2009, which he did. (tr. 134/state's ex. 1, pg. 3). The state introduced a form entitled: "Cuyahoga County Sheriff's Office Sex Offender Registration and Notification". The form was dated September 21, 2009. (Id.).

On September 30, 2009, Deputy Harris took custody of the form. Question six (6) asks for a current residence address. The response to the question reflected three (3) separate entries. Deputy Harris testified to the sequence. Initially, the form set forth "n/a", then "9314 Bellet", and finally "Dunlap". "Dunlap" was in the handwriting of the deputy. "N/A" and "9314 Bellet" was written by Appellee. The deputy was not sure if "N/A" had been written as early as

September 21, 2009, or some other time prior to September 30, 2009. (tr. 134-136). The zip code, "44106" was scratched out. No specific testimony was presented that Appellee ever provided the correct 9 digit zip code. However, the correct 9 digit zip code of "44105-2329" does appear on the form. Deputy Harris had no recollection of ever discussing the address of "N/A" with Appellee. Deputy Harris could not recall if Appellee had ever told her that he had no place to go. (Tr. 135). Deputy Harris had testified that "You have to have an address to register in Cuyahoga County." (id.). According to the business routine of the Cuyahoga County Sheriff, an offender is "always" informed that they "Have to either report to a shelter or see if they can find an address." (tr. 135). Deputy Harris did not know the protocol if someone were truly homeless because she claimed that a homeless sex offender was a situation that never arose. Apparently, it was the business custom of the Sheriff's office to strongly urge, if not dictate, that the offender designate an address. A phone call was made during the registration process. The original address provided, "9314 Bellet Dn. Cleveland, Oh 44106", was changed to "9314 Dunlap Dn. Cleveland, Ohio 44105-2329". A phone number of "(216) 618-6397" was provided and never altered. (state's Ex. 1, pgs. 1, 3). Deputy Harris did testify that the change reflected on the registration came about through the phone call. (tr. 136-137). Deputy Harris couldn't recall whether Appellee used a cell phone to make the call or whether she let Appellee use a county phone. (tr. 138). Deputy Harris doubted that she got on the phone on Appellee's behalf, but wouldn't rule it out. (tr. 136-138). Thus it was not clear if Appellee or Deputy Harris provided the specific address of "9314 Dunlap Dn."

Appellee was made aware that the Sheriff's Office would be out to verify the address. (tr. 131).

Deputy Martin Lutz testified that on October 1, 2009, he went to 9314 Dunlap to verify.

The time of day was not testified to. Deputy Lutz did not receive a response. Deputy Lutz believed that the residence was a single family home. In actuality, a two family home was involved. (tr. 140). Without objection, Deputy Lutz testified to the claimed observations of an unidentified person claiming to be a neighbor. Deputy Lutz said that the neighbor said that Appellee was at the residence, but that Appellee “did not live” at the address. (tr. 142/144). Deputy Lutz never left a business card for Appellee. (tr. 145).

Monique Graves was the absentee landlord of 9314 Dunlap. The Dunlap residence was one of four properties owned by Graves. (tr. 147). Monique Graves testified that she was “upset” and even “infuriated” at the thought that one of her addresses was inhabited by a sex offender. (tr. 150-151). Ms. Graves did not want one of her properties on a public sex offender list. (id.). Ms. Graves testified that although she knew Appellee since he was a baby, she did not personally give Appellee permission to live at her Dunlap address. Graves leased the two family premises to Martika Harge and to her nephew, Tyrone Stores. (tr. 148). Tyrone Stores was a cousin to Appellee and lived upstairs (tr. 153-154).

Ms. Graves testified to confronting her nephew, Tyrone Stores. According to Ms. Graves, she made it plain to her nephew that she did not want a sex offender at one of her properties. (tr. 156). Ms. Graves did not have personal knowledge of whether Appellee had ever stayed or intended to stay at the Dunlap property on the date in question, September 30, 2009. Presumably, Tyrone Stores did have knowledge. Tyrone Stores never appeared as a witness. Ms. Graves testified on behalf of Tyrone Stores as a surrogate witness. Ms. Graves said that Tyrone Stores said that Appellee was not living there and even denied that Appellee had been around. (tr. 151, 155-157).

In sum, and as demonstrated by the state's own leading question, Ms. Graves was not

aware of whether Appellee had ever spent a night at the Dunlap address.

State of Ohio: And according to Tyrone he was never staying there?

Ms. Graves: He said he never-told me he never stayed there.

State of Ohio: Thank you. I have nothing further.

(tr. 158).

Deputy Blanton testified that he responded to the premises on October 8, 2010. Neither of the known tenants, nor Appellee, responded. (tr. 161). A card was not left. No neighbor interviews were attempted. The time or length of the attempted contact was not set forth.

Deputy Orlando testified that she took a written statement from a “concerned and unhappy” Ms. Graves. (tr. 166). In addition, the witness dropped her business card in the mail to the Dunlap address with a note to contact her immediately. The mail was not returned and the Deputy did not receive a contact from any of the Dunlap Ave. residents. (tr. 167, 176-177). Deputy Orlando was satisfied with the hearsay allegations of Ms. Graves and did not conduct a further investigation. (tr. 178).

LAW AND ARGUMENT

A. In response to the Proposition of Law (as formulated by the government):

State v. Bodyke does not require vacation of convictions where the conduct of the sex offender, classified under Megan's Law, would have been a violation under both Megan's Law and the Adam Walsh Act.

The state’s position, apparently, is that when the legislative branch of government enacts an unconstitutional law and the executive branch of government unlawfully imprisons one of its citizens by prosecuting the unenforcible law, the judiciary should join the lawlessness

and declare that all is well, particularly when it is tempting to do so because the citizen's past indicates that s/he occupies society's lowest rung. As set forth in the State's Proposition of Law, the state argues that criminal convictions and loss of liberty obtained by charging an enactment subsequently declared unlawful should nonetheless stand when the state could have lawfully obtained a similar conviction if they had charged and prosecuted a law that the judiciary has previously held valid. The State's would have, could have, or should have approach to criminal convictions is without precedent and violates constitutional protections afforded to all.

In 2004, Appellee was convicted of sexual battery and became a sexual offender. The date of the offense set forth in the indictment was December 9, 2002. A sentence of 12 months was imposed. Appellee served his prison term, but not his debt to society.

In Ohio, the debt of a sexual offender is not paid by serving a prison sentence. The debt continues. Ohio has imposed registration mandates upon sexual offenders since 1963. In recent times, Ohio has continually revitalized and revamped its sexual offender registration mandates. Sometimes the debt can never be paid. Appellant argues that when the General Assembly aggressively passes registration laws with each enactment becoming more onerous and draconian than the previous enactment, the offender, not the state, should bear the price when the state's exuberance results in failing to enact lawful legislation.

This case involves a criminal prosecution stemming from the government's contention that after Appellee's reclassification as a Tier III offender, he failed to follow Ohio's sexual offender registration mandates set forth in the AWA. Appellee was convicted of failing to comply with a registration law that was enacted after the date of his sexual offense, after the date that his indictment was filed, after his conviction and after his release from prison. The registration conviction resulted in a sentence four times greater than the sentence that was

imposed when Appellee was convicted for actually having committed a sex offense.

Ohio's law governing the registration and classification of sex offenders and the ensuing community-notification requirements, found at R.C. Chapter 2950, was first enacted in 1963 and existed without amendment for three decades. *State v. Bodyke*, 2010-Ohio-2424, 126 Ohio St.3d 266, 933 N.E.2d 753 (Ohio 2010) at ¶ 3.

In response to a notorious crime, the Federal government mandated that the states adopt registration and community-notification provisions governing sex offenders. Faced with the federal threat of losing crime-control funds raised through the taxation of Ohio citizens and the citizens of the several states, Ohio's General Assembly enacted Megan's Law in 1996. *Id* at ¶ 6. Megan's Law, effective July 1, 1997, repealed the prior versions of R.C. Chapter 2950 and created a comprehensive registration and classification system for sex offenders. The law provided for offender registration, classification, and community notification. *Id.* At ¶ 7.

Megan's law was significantly amended by S.B. 5, effective July 31, 2003. Some of the registration requirements became permanent, the registration requirements were made more demanding, the community-notification and residency-restriction provisions were made more extensive, and sheriffs' authority was expanded to include the power to obtain landlord verification that the offender lived at a registered address. *Id.* At ¶ 14-16.

On June 28, 2004, during the Megan's Law time frame, (Appellee's date of offense was December 9, 2002), a judicial hearing took place in Cuyahoga Common Pleas No. CR-04-449346. A member of the judiciary made a finding that Appellee was a sexually oriented offender and a sexual predator. The judicial finding was filed with the Clerk of Courts on July 6, 2004 and made subject of a final order. Appellee was sentenced to a term of prison for one year. Jail credit aside, Appellee would have been released no later than December 28, 2005. (the one

year sentence was imposed consecutively to a six month sentence imposed in Cuyahoga Common Pleas Case No. CR 432045).

In 2006, the Federal Government again mandated every state to maintain a sex-offender registry conforming to yet a new set of requirements based on a tier system. The tier system labels sex offenders as Tier I, Tier II, or Tier III-based solely on the crime committed. The frequency and duration of the offender's obligations depends on the tier classification. *Id at ¶ 18-20*. The federal mandate was again accomplished by the threat of withholding money. Within a year, the General Assembly zealously complied with the federal mandate by choosing to repeal Megan's Law and enacting S.B. 10, The Adam Walsh Act (AWA). The AWA is a retroactive criminal law involving tier classifications. The AWA became effective January 1, 2008.

Appellee was indicted on October 28, 2009. The indictment charged that Appellee failed to register on September 30, 2009. Appellee maintained his not guilty plea. On April 22, 2010, a jury found Appellee guilty of failing to register. Noteworthy, is that the same jury acquitted Appellee of falsifying the same registration that he was convicted of never filing. The trial court immediately imposed a four year mandatory prison sentence. Some six weeks later, on June 3, 2010, this Court decided *State v. Bodyke (2010), 126 Ohio St. 3d 266*.

The date of the registration offense (9-30-09) and the date of the filing of the indictment (10-28-09), took place within the AWA time frame. The original offense requiring registration took place within the Megan's Law time frame (December 9, 2002). Appellee's original Megan's Law classification had been adjudicated by a court and made subject of a final order on June 28, 2004, some three and one-half years prior to the effective date of the AWA.

Undisputed, is that Appellee was indicted, tried and convicted as a Tier III Adam Walsh

offender. The testimony of Deputy Harris was that Appellee was classified as a Tier III offender. (tr. 123). In fact, Deputy Harris informed the jury that, as sex offenders go, Tier III offenders are society's worst. (tr. 123). Likewise, State's Exhibit-1, admitted and sent with the jury during deliberations, clearly set forth Appellee's re-classification as a Tier III offender. In sum, Appellee had been reclassified by the Attorney General as a Tier III offender, was convicted on an Adam Walsh indictment, confronted with Adam Walsh testimony, Adam Walsh instructions, and an Adam Walsh enhanced penalty.

Despite the reclassification, the statute charged, and despite what the jury was told, Appellee is not now, nor has ever been a member of the Tier III offender group. Appellee's classification was previously adjudicated by a court and made subject of a final order. In addition, on December 9, 2002, the date of Appellee's sex offense, the registration requirements set forth in Megan's Law were in place.

B. The result in this case is controlled by State v Bodyke, State v Gingell and State v Williams.

The State dices and slices its argument many ways in an attempt to preserve Appellee's conviction and sentence. The State reviews decisions from the Eighth District, making forecasts of doom and gloom. The State's Merit Brief leaves the perception that the Eighth District is some sort of enemy and reaches for this Court's help to slay the dragon. The State is tilting at windmills. Appellee does not share the State's predictions of doom and gloom. Appellee's case does not leave Ohio on the brink of destruction and is not dependent on a law review analysis of Eighth District decisions. Appellee asserts that this Court need look no further than its own decisions in *State v Bodyke*, *State v Gingell*, and *State v Williams (2011)*, 129 Ohio St.3d 344, to resolve his case.

Appellee's reclassification under the AWA was contrary to law pursuant to *Bodyke*. As

set forth by this court, tier classifications found at R.C. 2950.031 and 2950.032 may not be applied to offenders previously adjudicated by judges pursuant to Megan's Law *Bodyke* at ¶ 66. This Court held that R.C. 2950.031 and 2950.032 may not be enforced. Finally, *Bodyke* reinstated the Megan's Law classifications and community-notification and registration orders imposed previously by judges. *Id.*

The State of Ohio applied R.C. 2950.031 and 2950.032 to Appellee and subsequently indicted, tried and convicted him. The State asks that this Court ignore its decision in *Bodyke* and enforce application of R.C. 2950.031 and 2950.032 to Appellee, a person who was previously adjudicated by Megan's Law.

State v. Gingell (2011), 128 Ohio St.3d 444, restated *Bodyke*, and further clarified the language in *Bodyke* indicating that Megan's Law classifications and community-notification and registration orders imposed previously by judges were reinstated.

Gingell was indicted on first-degree felony counts of violating R.C. 2950.05 and 2950.06. Count one alleged that Gingell had failed to verify an address on or about May 6, 2008; count two alleged that Gingell had failed to provide notice of an address change on June 24, 2008. Both counts charged offenses that took place after January 1, 2008, the effective date of the AWA. Gingell pled guilty to the first count; the second count was dismissed. On November 19, 2008, the trial court sentenced Gingell to an eight-year prison term and five years of post release control.

Gingell appealed arguing that the trial court had erred in retroactively applying the penalty provisions of the AWA found at R.C. 2950.99, which made Gingell's conviction a first-degree felony. Gingell argued that the court should have applied the version of R.C. 2950.99 in place at the time of his original classification, which would have made the conviction a fifth-

degree felony. The First District Court of appeals held that there was no retroactive application of R.C. 2950.99 because the registration offense occurred after January 1, 2008.

Gingell's appeal to this Court primarily focused on the issue of the retroactivity of R.C. 2950.99. *Bodyke* was decided while *Gingell* was pending before this Court. Rather than address retroactivity, this Court simply applied *Bodyke*. This Court again stated that the excision of Gingell's unlawful AWA reclassification meant that Gingell still had obligations pursuant to Megan's Law, *Gingell* at ¶ 7. Because the record was clear that Gingell was charged and prosecuted after his reclassification under the AWA, this Court vacated the conviction. Gingell had not been prosecuted for failing to comply with Megan's law. Megan's Law compliance could not have been part of the case. The issue of a retroactive sentence was necessarily not reached.

Likewise, in this case, Appellee was not indicted and prosecuted as a Megan's Law offender. Megan's Law compliance is not before this court. The record is clear that Appellee was charged and prosecuted after his reclassification under the AWA. *Gingell* directs that Appellee's conviction be vacated.

Retroactivity was addressed in *State v. Williams (2011), 129 Ohio St.3d 344*. Williams was indicted in November, 2007. The indictment charged a fourth degree sex offense. Williams subsequently pled guilty and moved to be sentenced under the version of R.C. Chapter 2950 in effect at the time that he committed the offense rather than the registration provisions of the AWA. The trial court denied the motion and Williams was sentenced to the registration requirements set forth in the AWA.

Williams appealed, arguing that the AWA cannot constitutionally be applied to a defendant whose offense occurred before the Act. The court of appeals disagreed, affirmed the

decision of the trial court, holding that "the classification and registration provisions of Senate Bill 10 do not violate the Ohio Constitution's ban on retroactive laws." *Williams at* ¶ 4.

This Court surveyed the changes made by the AWA and the past decisions and previous arguments that the progressively draconian enactments of Chapter 2950 violated the prohibition against ex post facto laws contained in Section 10, Article I of the United States Constitution as well as the prohibition against retroactive laws contained in Section 28, Article II of the Ohio Constitution. After much consideration, this Court concluded that, in the "aggregate", the AWA is punitive and therefore application of the AWA to persons who committed sex offenses prior to its enactment, violated Section 28, Article II of the Ohio Constitution, which prohibits the General Assembly from passing retroactive laws. *Id. at* ¶ 20-21. Citing *Pratte v. Stewart (2010)*, 125 Ohio St.3d 473 at ¶ 37, this Court concluded that Chapter 2950 was retroactive and inconsistent with the Ohio Constitution because it created "new burdens, new duties, new obligations, or new liabilities" that did not exist at the time the individual committed an offense requiring registration. *Id. at* ¶ 22.

This Court did indicate that some elements of Chapter 2950 remain remedial. *Id.* However, the retroactive holding was applied to all of Chapter 2950. *Id. at* ¶ 20-21. Indeed, it makes little sense to parse Chapter 2950 and invite 100 appeals to decide which elements remain remedial. The Court did not decide whether S.B. 10 also violates the United States Constitution. *Id. at* ¶ 7. This Court remanded Williams for resentencing under the law in effect at the time he committed his offense. *Id. at* ¶ 23.

Application of S.B. 10 to Appellee violates Section 28, Article II of the Ohio Constitution. The State makes a "no harm no foul" argument because Appellee is required to

register upon release from prison under both Megan's Law and the AWA. The argument does change the fact that Appellee was indicted and charged pursuant to S.B. 10. Appellee's Megan's Law registration is not before this court. See *Gingell Supra*. The argument also ignores that Chapter 2950 was, in the "aggregate", found to be punitive. *Williams at ¶ 20-21*. The State asks this Court to do precisely what this Court refused to do in *Williams*. The State asks this Court to parse Chapter 2950, provision by provision, to determine and make specific findings as to which provisions are remedial and which provisions are punitive. The State's argument also ignores the reality that the registration provision in the AWA is not the same as the Megan's Law version that was in effect on December 9, 2002, when Appellee committed a sex offense requiring registration. When Megan's Law passed, an offender had seven days to report and register. R.C. 2950.04, effective July 1, 1997. S.B. 5 or Megan's Law II, effective July 31, 2003, reduced the time frame set forth in R.C. 2950.04 to 5 days. Currently, the AWA gives sex offenders only 72 hours to find a place that will welcome them and get registered at the sheriff's office. R.C. 2950.04, effective January 1, 2008.

Finally, the State asks to affirm the four year mandatory sentence made possible by the newly enacted penalty provisions found at R.C. 2950.99. Of course, before we get to the validity of Appellee's sentence, we must overrule *Bodyke*, ignore the application of *Bodyke* in *Gingell*, and overrule *Williams*, or at least reconsider *Williams*, analyzing Chapter 2950 provision by provision to separate remedial from punitive provisions. We must also ignore the fact that Appellee was indicted and tried on classifications, testimony, statutes, and jury instructions that do not pertain to him.

The State cites two appellate decisions, that apply *Williams* and conclude that the current penalty provisions of 2950.99 are valid. In the end, both cases support appellee's position that

the Eighth District was correct in vacating his conviction.

In *State v. Freeman*, 2011-Ohio-4357, C-100389 (OHCA1), Freeman argued that the trial court erred in retroactively applying the current version of R.C. 2950.99 to him, when it should have applied the version of R.C. 2950.99 that was in effect at the time of his original classification as a Megan's Law offender. The court did hold that the current version of R.C. 2950.99 is applicable to Megan's Law offenders. However, *Freeman* is distinguishable from Appellee's case and supports the conclusion that Appellee's conviction was properly vacated. In *Freeman*, there was nothing in the record to show that Freeman was reclassified as a tier offender and or subject to more restrictive registration duties under Senate Bill 10. Since the record did not demonstrate error, the court found no basis to apply *Bodyke and Gingell*. *Freeman* at ¶14-15. The State cites a second case, *State v. Dunwoody*, 2011-Ohio-6360, CT11-0029 (OHCA5), for the same proposition. Like Freeman, Dunwoody was never reclassified under the Adam Walsh Act, therefore, *Bodyke and Gingell* did not apply. *Dunwoody* at ¶ 42. *Dunwoody* and *Freeman* involve straightforward applications of whether the current penalty provisions of R.C. 2950.99 can apply to a Megan's Law offender.

In this case the record is very clear that Appellee was reclassified as a Tier III offender. In fact, the jury was even informed that Tier III offenders are the worst. (Tr. 123). State's Exhibit-1, admitted and sent with the jury during deliberations, clearly set forth Appellee's reclassification as a Tier III offender. Had the record demonstrated in *Freeman* and *Dunwoody* that they were reclassified, *Bodyke and Gingell* would dictate that their convictions be vacated.

Notwithstanding, the current version of R.C. 2950.99 should not be applied to Megan's Law offenders. Respectfully, *Freeman* and *Dunwoody* involve too narrow a reading of *Williams*

and were decided incorrectly. First, it should be made clear that the applicability of the current penalty provision at R.C. 2950.99 was not squarely before this Court in *Williams*. *Williams* did not involve a sex offender registration violation. *Williams* was being sentenced as a sex offender. The question arose as to which of the registration provisions applied because his sex offense, requiring him to register, predated the AWA. *Freeman* found a way to splice *Williams* and held that the penalty provisions of R.C. 2950.99 can be applied to a Megan's Law offender. Quoting paragraph 21 of *Williams*, the *Freeman* court held that *Williams* merely stands for the proposition that S.B. No. 10, as applied to defendants who committed sex offenses prior to its enactment, violates Section 28, Article II of the Ohio Constitution. *Freeman* at ¶20. According to *Freeman*, since R.C. 2950.99, with the same effective date as Senate Bill 10, was actually enacted as part of Senate Bill 97, the holding in *Williams* was not applicable to R.C. 2950.99.

A few points must be made. As set forth above, The sentencing provisions at R.C. 2950.99 were not not squarely before this Court in *Williams*. Although *Freeman* technically quotes *Williams* at paragraph 21 accurately, i.e. S.B. 10 is retroactive, *Freeman* fails to indicate that *Williams* refers to Chapter 2950 and S.B. 10 interchangeably. *Williams* does not solely indicate that S.B. 10 is retroactive, but also sets forth that R.C. Chapter 2950 is punitive and has changed markedly since *State v Ferguson (2008)*, 120 Ohio St.3d 7, when this Court held that R.C. Chapter 2950 was remedial. *Williams* at ¶16. R.C. 2950.99 is part and parcel of Chapter 2950. R.C. 2950.99 is no less punitive than the remainder of Chapter 2950. *Williams* also sets forth that a statute which imposes new or additional burdens, duties, obligations, or liabilities to a past transaction is retroactive and in violation of Section 28, Article II of the Ohio Constitution. The current sentencing provisions of R.C. 2950.99 impose additional liabilities upon a past transaction. It makes little sense to hold that additional registration burdens upon a past

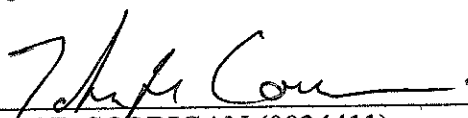
transaction are retroactive, yet the additional sentencing liabilities imposed upon the same past transaction are not retroactive.

CONCLUSION

Appellee is subject to the provisions of Megan's Law. The State's predictions of tumult and chaos stemming from Appellee's vacated conviction are unfounded. Appellee's Megan's Law compliance is not before this court. This case involves a straightforward application of *Bodyke, Gingell and Williams*. No legal basis exists to affirm a conviction on the basis that the state could have lawfully charged and prosecuted the person when, in fact, they failed to do so. The State, not Appellee, bears the burden of a problem caused by the State's egregious ways. Even if this Court would agree with the State, the conviction should not be affirmed. Appellee was convicted on hearsay and insufficient evidence. The matter should be remanded to the Eighth District to address Appellee's assigned errors that were not decided.

For the foregoing reasons, Appellee respectfully requests that the ruling of the Eighth District Court of Appeals be affirmed.

Respectfully submitted,



JOHN F. CORRIGAN (0034411)

19885 Detroit Rd., # 335

Rocky River, OH 44116

(440) 821-3242

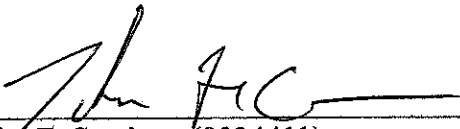
(440) 716-8563 (Fax)

jfkl.corrigan@sbcglobal.net

Attorney for Appellee Antonio Campbell

SERVICE

A copy of the foregoing Brief of Appellee Antonio Campbell was sent by ordinary U.S. Mail this 5th day of March, 2012 to Daniel T. Van, Assistant Prosecuting Attorney for Cuyahoga County, Ohio, Attorney for the Appellee, The Justice Center, 1200 Ontario, Cleveland, OH 44113.



John F. Corrigan (0034411)
Attorney for Appellee Antonio Campbell

APPENDIX

§ 2913.42. Tampering with records

(A) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, computer software, data, or record;
- (2) Utter any writing or record, knowing it to have been tampered with as provided in division (A)(1) of this section.

(B)(1) Whoever violates this section is guilty of tampering with records.

(2) Except as provided in division (B)(4) of this section, if the offense does not involve data or computer software, tampering with records is whichever of the following is applicable:

- (a) If division (B)(2)(b) of this section does not apply, a misdemeanor of the first degree;
- (b) If the writing or record is a will unrevoked at the time of the offense, a felony of the fifth degree.

(3) Except as provided in division (B)(4) of this section, if the offense involves a violation of division (A) of this section involving data or computer software, tampering with records is whichever of the following is applicable:

- (a) Except as otherwise provided in division (B)(3)(b), (c), or (d) of this section, a misdemeanor of the first degree;
 - (b) If the value of the data or computer software involved in the offense or the loss to the victim is one thousand dollars or more and is less than seven thousand five hundred dollars, a felony of the fifth degree;
 - (c) If the value of the data or computer software involved in the offense or the loss to the victim is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a felony of the fourth degree;
 - (d) If the value of the data or computer software involved in the offense or the loss to the victim is one hundred fifty thousand dollars or more or if the offense is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services and the value of the property or services or the loss to the victim is seven thousand five hundred dollars or more, a felony of the third degree.
- (4) If the writing, data, computer software, or record is kept by or belongs to a local, state, or federal governmental entity, a felony of the third degree.

History. Amended by 129th General Assembly File No. 29, HB 86, §1, eff. 9/30/2011.

Effective Date: 03-30-1999

Related Legislative Provision: See 129th General Assembly File No. 29, HB 86, §4.

APPENDIX

§ 2950.031. Tier-classification of registered sex offenders

(A)(1) At any time on or after July 1, 2007, and not later than December 1, 2007, the attorney general shall determine for each offender or delinquent child who prior to December 1, 2007, has registered a residence, school, institution of higher education, or place of employment address pursuant to section 2950.04, 2950.041, or 2950.05 of the Revised Code the offender's or delinquent child's new classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender under Chapter 2950. of the Revised Code as it will exist under the changes that will be implemented on January 1, 2008, the offender's or delinquent child's duties under Chapter 2950. of the Revised Code as so changed, and, regarding a delinquent child, whether the child is a public registry-qualified juvenile offender registrant.

(2) At any time on or after July 1, 2007, and not later than December 1, 2007, the attorney general shall send to each offender or delinquent child who prior to December 1, 2007, has registered a residence, school, institution of higher education, or place of employment address pursuant to section 2950.04, 2950.041, or 2950.05 of the Revised Code a registered letter that contains the information described in this division. The registered letter shall be sent return receipt requested to the last reported address of the person and, if the person is a delinquent child, the last reported address of the parents of the delinquent child. The letter sent to an offender or to a delinquent child and the delinquent child's parents pursuant to this division shall notify the offender or the delinquent child and the delinquent child's parents of all of the following:

- (a) The changes in Chapter 2950. of the Revised Code that will be implemented on January 1, 2008;
- (b) Subject to division (A)(2)(c) of this section, the offender's or delinquent child's new classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender under Chapter 2950. of the Revised Code as it will exist under the changes that will be implemented on January 1, 2008, the offender's or delinquent child's duties under Chapter 2950. of the Revised Code as so changed and the duration of those duties, whether the delinquent child is classified a public registry-qualified juvenile offender registrant, and the information specified in division (B) of section 2950.03 of the Revised Code to the extent it is relevant to the offender or delinquent child;
- (c) The fact that the offender or delinquent child has a right to a hearing as described in division (E) of this section, the procedures for requesting the hearing, and the period of time within which the request for the hearing must be made.
- (d) If the offender's or delinquent child's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code is scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to January 1, 2008, a summary of the provisions of section 2950.033 of the Revised Code and the application of those provisions to the offender or delinquent child, provided that this division applies to a delinquent child only if the child is in a category specified in division (C) of section 2950.033 of the Revised Code.

(3) The attorney general shall make the determinations described in division (A)(1) of this section for each offender or delinquent child who has registered an address as described in that division, even if the offender's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date or the delinquent child is in a category specified in division (C) of section 2950.033 of the Revised Code and the child's duty to comply with those sections is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date. The attorney general shall send the registered letter described in division (A)(2) of this section to each offender or delinquent child who has registered an address as described in that division even if the offender's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code

that is in effect prior to that date, or the delinquent child is in a category specified in division (C) of section 2950.033 of the Revised Code, and the child's duty to comply with those sections is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date. Section 2950.033 of the Revised Code applies to any offender who has registered an address as described in division (A)(1) or (2) of this section and whose duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date, or the delinquent child is in a category specified in division (C) of section 2950.033 of the Revised Code, and the child's duty to comply with those sections is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date.

(B) If a sheriff informs the attorney general pursuant to section 2950.043 of the Revised Code that an offender or delinquent child registered with the sheriff pursuant to section 2950.04 or 2950.041 of the Revised Code on or after December 1, 2007, that the offender or delinquent child previously had not registered under either section with that sheriff or any other sheriff, and that the offender or delinquent child was convicted of, pleaded guilty to, or was classified a juvenile offender registrant relative to the sexually oriented offense or child-victim oriented offense upon which the registration was based prior to December 1, 2007, within fourteen days after being so informed of the registration and receiving the information and material specified in division (D) of that section, the attorney general shall determine for the offender or delinquent child all of the matters specified in division (A)(1) of this section. Upon making the determinations, the attorney general immediately shall send to the offender or to the delinquent child and the delinquent child's parents a registered letter pursuant to division (A)(2) of this section that contains the information specified in that division.

(C) The attorney general shall maintain the return receipts for all offenders, delinquent children, and parents of delinquent children who are sent a registered letter under division (A) or (B) of this section. For each offender, delinquent child, and parents of a delinquent child, the attorney general shall send a copy of the return receipt for the offender, delinquent child, or parents to the sheriff with whom the offender or delinquent child most recently registered a residence address and, if applicable, a school, institution of higher education, or place of employment address and to the prosecutor who handled the case in which the offender or delinquent child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense that resulted in the offender's or child's registration duty under section 2950.04 or 2950.041 of the Revised Code. If a return receipt indicates that the offender, delinquent child, or parents of a delinquent child to whom the registered letter was sent does not reside or have temporary domicile at the listed address, the attorney general immediately shall provide notice of that fact to the sheriff with whom the offender or delinquent child registered that residence address.

(D) The attorney general shall mail to each sheriff a list of all offenders and delinquent children who have registered a residence address or a school, institution of higher education, or place of employment address with that sheriff and to whom a registered letter is sent under division (A) or (B) of this section. The list shall specify the offender's or delinquent child's new classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender under Chapter 2950. of the Revised Code as it will exist under the changes that will be implemented on January 1, 2008, the offender's or delinquent child's duties under Chapter 2950. of the Revised Code as so changed, and, regarding a delinquent child, whether the child is a public registry-qualified juvenile offender registrant.

(E) An offender or delinquent child who is in a category described in division (A)(2) or (B) of this section may request as a matter of right a court hearing to contest the application to the offender or delinquent child of the new registration requirements under Chapter 2950. of the Revised Code as it will exist under the changes that will be implemented on January 1, 2008. The offender or delinquent child may contest the manner in which the letter sent to the offender or delinquent child pursuant to division (A) or (B) of this section specifies that the new registration requirements apply to the offender or delinquent child or may contest whether those new registration requirements apply at all to the offender or delinquent child. To request the hearing, the offender or delinquent child not later than the date that is sixty days after the offender or delinquent child received the registered letter sent by the attorney general pursuant to division (A)(2) of this section shall file a petition with the court specified in this division. If the offender or

delinquent child resides in or is temporarily domiciled in this state and requests a hearing, the offender or delinquent child shall file the petition with, and the hearing shall be held in, the court of common pleas or, for a delinquent child, the juvenile court of the county in which the offender or delinquent child resides or temporarily is domiciled. If the offender does not reside in and is not temporarily domiciled in this state, the offender or delinquent child shall file the petition with, and the hearing shall be held in, the court of common pleas of the county in which the offender registered a school, institution of higher education, or place of employment address, but if the offender has registered addresses of that nature in more than one county, the offender may file such a petition in the court of only one of those counties.

If the offender or delinquent child requests a hearing by timely filing a petition with the appropriate court, the offender or delinquent child shall serve a copy of the petition on the prosecutor of the county in which the petition is filed. The prosecutor shall represent the interests of the state in the hearing. In any hearing under this division, the Rules of Civil Procedure or, if the hearing is in a juvenile court, the Rules of Juvenile Procedure apply, except to the extent that those Rules would by their nature be clearly inapplicable. The court shall schedule a hearing, and shall provide notice to the offender or delinquent child and prosecutor of the date, time, and place of the hearing.

If an offender or delinquent child requests a hearing in accordance with this division, until the court issues its decision at or subsequent to the hearing, the offender or delinquent child shall comply prior to January 1, 2008, with Chapter 2950. of the Revised Code as it exists prior to that date and shall comply on and after January 1, 2008, with Chapter 2950. of the Revised Code as it will exist under the changes that will be implemented on that date. If an offender or delinquent child requests a hearing in accordance with this division, at the hearing, all parties are entitled to be heard, and the court shall consider all relevant information and testimony presented relative to the application to the offender or delinquent child of the new registration requirements under Chapter 2950. of the Revised Code as it will exist under the changes that will be implemented on January 1, 2008. If, at the conclusion of the hearing, the court finds that the offender or delinquent child has proven by clear and convincing evidence that the new registration requirements do not apply to the offender or delinquent child in the manner specified in the letter sent to the offender or delinquent child pursuant to division (A) or (B) of this section, the court shall issue an order that specifies the manner in which the court has determined that the new registration requirements do apply to the offender or delinquent child. If at the conclusion of the hearing the court finds that the offender or delinquent child has proven by clear and convincing evidence that the new registration requirements do not apply to the offender or delinquent child, the court shall issue an order that specifies that the new registration requirements do not apply to the offender or delinquent child. The court promptly shall serve a copy of an order issued under this division upon the sheriff with whom the offender or delinquent child most recently registered under section 2950.04, 2950.041, or 2950.05 of the Revised Code and upon the bureau of criminal identification and investigation. The offender or delinquent child and the prosecutor have the right to appeal the decision of the court issued under this division.

If an offender or delinquent child fails to request a hearing in accordance with this division within the applicable sixty-day period specified in this division, the failure constitutes a waiver by the offender or delinquent child of the offender's or delinquent child's right to a hearing under this division, and the offender or delinquent child is bound by the determinations of the attorney general contained in the registered letter sent to the offender or child.

If a juvenile court issues an order under division (A)(2) or (3) of section 2152.86 of the Revised Code that classifies a delinquent child a public-registry qualified juvenile offender registrant and if the child's delinquent act was committed prior to January 1, 2008, a challenge to the classification contained in the order shall be made pursuant to division (D) of section 2152.86 of the Revised Code.

History. Effective Date: 2007 SB10 07-01-2007

APPENDIX

§ 2950.032. Tier-classification of incarcerated sex offenders

(A)(1) At any time on or after July 1, 2007, and not later than December 1, 2007, the attorney general shall do all of the following:

(a) For each offender who on December 1, 2007, will be serving a prison term in a state correctional institution for a sexually oriented offense or child-victim oriented offense, determine the offender's classification relative to that offense as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender under Chapter 2950. of the Revised Code as it will exist under the changes in that chapter that will be implemented on January 1, 2008, and the offender's duties under Chapter 2950. of the Revised Code as so changed and provide to the department of rehabilitation and correction a document that describes that classification and those duties;

(b) For each delinquent child who has been classified a juvenile offender registrant relative to a sexually oriented offense or child-victim oriented offense and who on December 1, 2007, will be confined in an institution of the department of youth services for the sexually oriented offense or child-victim oriented offense, determine the delinquent child's classification relative to that offense as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender under Chapter 2950. of the Revised Code as it will exist under the changes in that chapter that will be implemented on January 1, 2008, the delinquent child's duties under Chapter 2950. of the Revised Code as so changed, and whether the delinquent child is a public registry-qualified juvenile offender registrant and provide to the department a document that describes that classification, those duties, and whether the delinquent child is a public registry-qualified juvenile offender registrant.

(c) For each offender and delinquent child described in division (A)(1)(a) or (b) of this section, determine whether the attorney general is required to send a registered letter to that offender or that delinquent child and delinquent child's parents pursuant to section 2950.031 of the Revised Code relative to the sexually oriented offense or child-victim oriented offense for which the offender or delinquent child is serving the prison term or is confined and, if the attorney general is required to send such a letter to that offender or that delinquent child and delinquent child's parents relative to that offense, include in the document provided to the department of rehabilitation and correction or the department of youth services under division (A)(1)(a) or (b) of this section a conspicuous notice that the attorney general will be sending the offender or delinquent child and delinquent child's parent the registered letter and that the department is not required to provide to the offender or delinquent child the written notice described in division (A)(2) of this section.

(2) At any time on or after July 1, 2007, and not later than December 1, 2007, except as otherwise described in this division, the department of rehabilitation and correction shall provide to each offender described in division (A)(1)(a) of this section and the department of youth services shall provide to each delinquent child described in division (A)(1)(b) of this section and to the delinquent child's parents a written notice that contains the information described in this division. The department of rehabilitation and correction and the department of youth services are not required to provide the written notice to an offender or a delinquent child and the delinquent child's parents if the attorney general included in the document provided to the particular department under division (A)(1)(a) or (b) of this section notice that the attorney general will be sending that offender or that delinquent child and the delinquent child's parents a registered letter and that the department is not required to provide to that offender or that delinquent child and parents the written notice. The written notice provided to an offender or a delinquent child and the delinquent child's parents pursuant to this division shall notify the offender or delinquent child of all of the following:

(a) The changes in Chapter 2950. of the Revised Code that will be implemented on January 1, 2008;

(b) Subject to division (A)(2)(c) of this section, the offender's or delinquent child's classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender under Chapter 2950. of the Revised Code as it will exist under the changes

that will be implemented on January 1, 2008, the offender's or delinquent child's duties under Chapter 2950. of the Revised Code as so changed and the duration of those duties, whether the delinquent child is classified a public registry-qualified juvenile offender registrant, and the information specified in division (B) of section 2950.03 of the Revised Code to the extent it is relevant to the offender or delinquent child;

(c) The fact that the offender or delinquent child has a right to a hearing as described in division (E) of this section, the procedures for requesting the hearing, and the period of time within which the request for the hearing must be made;

(d) If the offender's or delinquent child's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code is scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to January 1, 2008, a summary of the provisions of section 2950.033 of the Revised Code and the application of those provisions to the offender or delinquent child, provided that this division applies regarding a delinquent child only if the child is in a category specified in division (A) of section 2950.033 of the Revised Code.

(3) The attorney general shall make the determinations described in divisions (A)(1)(a) and (b) of this section for each offender or delinquent child who is described in either of those divisions even if the offender's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date, or the delinquent child is in a category specified in division (C) of section 2950.033 of the Revised Code, and the child's duty to comply with those sections is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date. The department of rehabilitation and correction shall provide to each offender described in division (A)(1)(a) of this section and the department of youth services shall provide to each delinquent child described in division (A)(1)(b) of this section the notice described in division (A)(2) of this section, even if the offender's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date, or the delinquent child is in a category specified in division (C) of section 2950.033 of the Revised Code, and the child's duty to comply with those sections is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date. Section 2950.033 of the Revised Code applies regarding any offender described in division (A)(1)(a) or (b) of this section whose duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date and any delinquent child who is in a category specified in division (A) of section 2950.033 of the Revised Code and whose duty to comply with those sections is scheduled to terminate prior to January 1, 2008, under the version of section 2950.07 of the Revised Code that is in effect prior to that date.

(B) If on or after December 2, 2007, an offender commences a prison term in a state correctional institution or a delinquent child commences confinement in an institution of the department of youth services for a sexually oriented offense or a child-victim oriented offense and if the offender or delinquent child was convicted of, pleaded guilty to, or was classified a juvenile offender registrant relative to the sexually oriented offense or child-victim oriented offense on or before that date, as soon as practicable, the department of rehabilitation and correction or the department of youth services, as applicable, shall contact the attorney general, inform the attorney general of the commencement of the prison term or institutionalization, and forward to the attorney general information and material that identifies the offender or delinquent child and that describes the sexually oriented offense resulting in the prison term or institutionalization, the facts and circumstances of it, and the offender's or delinquent child's criminal or delinquency history. Within fourteen days after being so informed of the commencement of the prison term or institutionalization and receiving the information and material specified in this division, the attorney general shall determine for the offender or delinquent child all of the matters specified in division (A)(1)(a), (b), or (c) of this section and immediately provide to the appropriate department a document that describes the offender's or delinquent child's classification and duties as so determined.

Upon receipt from the attorney general of a document described in this division that pertains to an offender or delinquent child, the department of rehabilitation and correction shall provide to the offender or the department of youth services shall provide to the delinquent child, as applicable, a written notice that

contains the information specified in division (A)(2) of this section.

(C) If, on or after July 1, 2007, and prior to January 1, 2008, an offender is convicted of or pleads guilty to a sexually oriented offense or a child-victim oriented offense and the court does not sentence the offender to a prison term for that offense or if, on or after July 1, 2007, and prior to January 1, 2008, a delinquent child is classified a juvenile offender registrant relative to a sexually oriented offense or a child-victim oriented offense and the juvenile court does not commit the child to the custody of the department of youth services for that offense, the court at the time of sentencing or the juvenile court at the time specified in division (B) of section 2152.82, division (C) of section 2152.83, division (C) of section 2152.84, division (E) of section 2152.85, or division (A) of section 2152.86 of the Revised Code, whichever is applicable, shall do all of the following:

(1) Provide the offender or the delinquent child and the delinquent child's parents with the notices required under section 2950.03 of the Revised Code, as it exists prior to January 1, 2008, regarding the offender's or delinquent child's duties under this chapter as it exists prior to that date;

(2) Provide the offender or the delinquent child and the delinquent child's parents with a written notice that contains the information specified in divisions (A)(2)(a) and (b) of this section;

(3) Provide the offender or the delinquent child and the delinquent child's parents a written notice that clearly indicates that the offender or delinquent child is required to comply with the duties described in the notice provided under division (C)(1) of this section until January 1, 2008, and will be required to comply with the duties described in the notice provided under division (C)(2) of this section on and after that date.

(D)(1) Except as otherwise provided in this division, the officer or employee of the department of rehabilitation and correction or the department of youth services who provides an offender or a delinquent child and the delinquent child's parents with the notices described in division (A)(2) or (B) of this section shall require the offender or delinquent child to read and sign a form stating that the changes in Chapter 2950. of the Revised Code that will be implemented on January 1, 2008, the offender's or delinquent child's classification as a tier I sex offender, a tier II sex offender, or a tier III sex offender, the offender's or delinquent child's duties under Chapter 2950. of the Revised Code as so changed and the duration of those duties, the delinquent child's classification as a public registry-qualified juvenile offender registrant if applicable, the information specified in division (B) of section 2950.03 of the Revised Code to the extent it is relevant to the offender or delinquent child, and the right to a hearing, procedures for requesting the hearing, and period of time within which the request for the hearing must be made have been explained to the offender or delinquent child.

Except as otherwise provided in this division, the judge who provides an offender or delinquent child with the notices described in division (C) of this section shall require the offender or delinquent child to read and sign a form stating that all of the information described in divisions (C)(1) to (3) of this section has been explained to the offender or delinquent child.

If the offender or delinquent child is unable to read, the official, employee, or judge shall certify on the form that the official, employee, or judge specifically informed the offender or delinquent child of all of that information and that the offender or delinquent child indicated an understanding of it.

(2) After an offender or delinquent child has signed the form described in division (D)(1) of this section or the official, employee, or judge has certified on the form that the form has been explained to the offender or delinquent child and that the offender or delinquent child indicated an understanding of the specified information, the official, employee, or judge shall give one copy of the form to the offender or delinquent child, within three days shall send one copy of the form to the bureau of criminal identification and investigation in accordance with the procedures adopted pursuant to section 2950.13 of the Revised Code, and shall send one copy of the form to the sheriff of the county in which the offender or delinquent child expects to reside and one copy to the prosecutor who handled the case in which the offender or delinquent child was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense that resulted in the offender's or child's registration duty under section 2950.04 or 2950.041 of the Revised Code.

(E) An offender or delinquent child who is provided a notice under division (A)(2) or (B) of this section may request as a matter of right a court hearing to contest the application to the offender or delinquent child

of the new registration requirements under Chapter 2950. of the Revised Code as it will exist under the changes that will be implemented on January 1, 2008. The offender or delinquent child may contest the matters that are identified in division (E) of section 2950.031 of the Revised Code. To request the hearing, an offender or delinquent child who is provided a notice under division (A)(2) of this section shall file a petition with the appropriate court not later than the date that is sixty days after the offender or delinquent child is provided the notice under that division, and an offender or delinquent child who is provided a notice under division (B) of this section shall file a petition with the appropriate court not later than the date that is sixty days after the offender or delinquent child is provided the notice under that division. The request for the hearing shall be made in the manner and with the court specified in division (E) of section 2950.031 of the Revised Code, and, except as otherwise provided in this division, the provisions of that division regarding the service of process and notice regarding the hearing, the conduct of the hearing, the determinations to be made at the hearing, and appeals of those determinations also apply to a hearing requested under this division. If a hearing is requested as described in this division, the offender or delinquent child shall appear at the hearing by video conferencing equipment if available and compatible, except that, upon the court's own motion or the motion of the offender or delinquent child or the prosecutor representing the interests of the state and a determination by the court that the interests of justice require that the offender or delinquent child be present, the court may permit the offender or delinquent child to be physically present at the hearing. An appearance by video conferencing equipment pursuant to this division has the same force and effect as if the offender or delinquent child were physically present at the hearing. The provisions of division (E) of section 2950.031 of the Revised Code regarding the effect of a failure to timely request a hearing also apply to a failure to timely request a hearing under this division.

If a juvenile court issues an order under division (A)(2) or (3) of section 2152.86 of the Revised Code that classifies a delinquent child a public-registry qualified juvenile offender registrant and if the child's delinquent act was committed prior to January 1, 2008, a challenge to the classification contained in the order shall be made pursuant to division (D) of section 2152.86 of the Revised Code.

History. Effective Date: 2007 SB10 07-01-2007

[Archive](#)

2950.04 Release of habitual sex offender; duties of court

Note: See also following version of this section, eff. 7-1-97.

Any habitual sex offender as defined by section 2950.01 of the Revised Code who is released on probation, or discharged upon payment of a fine, or given a suspended sentence, shall prior to such release, discharge, or suspension be informed of his duty to register under sections 2950.01 to 2950.08, inclusive, of the Revised Code, by the court in which he has been convicted, and the court shall require the person to read and sign such form as may be required by the bureau of criminal identification and investigation, stating that the duty of the person to register under sections 2950.01 to 2950.08, inclusive, of the Revised Code, has been explained to him. The court shall obtain the address where the person expects to reside upon his release or discharge, and shall report within three days such address to the bureau. The court shall give one copy of the form to the person, and shall send two copies to the bureau, which bureau shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

HISTORY: 130 v S 160, eff. 10-4-63

Note: See also following version of this section, eff. 7-1-97.

2950.04 Manner of registering

Note: See also preceding version of this section, in effect until 7-1-97.

(A) Each offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense and who is described in division (A)(1), (2), or (3) of this section shall register at the following time and with the following official:

(1) Regardless of when the sexually oriented offense was committed, if the offender is sentenced for the sexually oriented offense to a prison term, a term of imprisonment, or any other type of confinement and if, on or after the effective date of this section, the offender is released in any manner from the prison term, term of imprisonment, or confinement, within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, the offender shall register with the sheriff of that county.

(2) Regardless of when the sexually oriented offense was committed, if the offender is sentenced for a sexually oriented offense on or after the effective date of this section and if division (A)(1) of this section does not apply, within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, the offender shall register with the sheriff of that county.

(3) If the sexually oriented offense was committed prior to the effective date of this section, if neither division (A)(1) nor division (A)(2) of this section applies, and if, immediately prior to the effective date of this section, the offender was a habitual sex offender who was required to register under Chapter 2950. of the Revised Code, within seven days of the offender's coming into any county in which the offender resides or temporarily is domiciled for more than seven days, the offender shall register with the sheriff of that county.

(B) An offender who is required by division (A) of this section to register personally shall obtain from the sheriff or from a designee of the sheriff a registration form that conforms to division (C) of this section, shall complete and sign the form, and shall return the completed form together with the offender's photograph to the sheriff or the designee. The sheriff or designee shall sign the form and indicate on the form the date on which it is so returned. The registration required under this division is complete when the offender returns the form, containing the requisite information, photograph, signatures, and date, to the sheriff or designee.

(C) The registration form to be used under divisions (A) and (B) of this section shall contain the current residence address of the offender who is registering, the name and address of the offender's employer, if the offender is employed at the time of registration or if the offender knows at the time of registration that the offender will be commencing employment with that employer subsequent to registration, and any other information required by the bureau of criminal identification and investigation and shall include the offender's photograph. Additionally, if the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense in question and the court has not subsequently determined pursuant to division (D) of section 2950.09 of the Revised Code that the offender no longer is a sexual predator or if the sentencing judge determined pursuant to division (C) of section 2950.09 of the Revised Code that the offender is a habitual sex offender, the offender shall include on the signed, written registration form all of the following information:

(1) A specific declaration that the person has been adjudicated as being a sexual predator or has been determined to be a habitual sex offender, whichever is applicable;

(2) If the offender has been adjudicated as being a sexual predator, the identification license plate number of each motor vehicle the offender owns and of each motor vehicle registered in the offender's name.

(D) After an offender registers with a sheriff pursuant to this section, the sheriff shall forward the signed, written registration form and photograph to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code. The bureau shall include the information and material forwarded to it under this division in the state registry of sex offenders established and maintained under section 2950.13 of the Revised Code.

(E) No person who is required to register pursuant to divisions (A) and (B) of this section shall fail to register as required in accordance with those divisions or that division.

(F) An offender who is required to register pursuant to divisions (A) and (B) of this section shall register pursuant to this section for the period of time specified in section 2950.07 of the Revised Code.

HISTORY: 1996 H 180, eff. 7-1-97

Note: See also preceding version of this section, in effect until 7-1-97.

UNCODIFIED LAW

1996 H 180, § 5: See Uncodified Law under 2950.02.

HISTORICAL AND STATUTORY NOTES

Note: Former 2950.04 repealed by 1996 H 180, eff. 7-1-97; 130 v S 160, eff. 10-4-63.

2950.05 Change of address; duty to inform

Note: See also following version of this section, eff. 7-1-97.

If any person required to register under sections 2950.01 to 2950.08, inclusive, of the Revised Code, changes his residence address, he shall inform the law enforcement agency with whom he last registered of his new address, in writing, within ten days. The law enforcement agency shall, within three days after receipt of such information, forward it to the bureau of criminal identification and investigation. The bureau shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

HISTORY: 130 v S 160, eff. 10-4-63

Note: See also following version of this section, eff. 7-1-97.

bureau of criminal identification and investigation, including, but not limited to, a statement that the subject delinquent child if applicable has been classified by the adjudicating juvenile court judge or the judge's successor in office a juvenile sex offender registrant and has a duty to register, a statement as to whether the offender or delinquent child has been adjudicated as being a sexual predator relative to the sexually oriented offense in question, a statement as to whether the offender or delinquent child has been determined to be a habitual sex offender, a statement as to whether the offense for which the offender has the duty to register is an aggravated sexually oriented offense committed on or after the effective date of this amendment, an explanation of the periodic residence address verification process and of the frequency with which the offender or delinquent child will be required to verify the residence address under that process, and a statement that the offender or delinquent child must verify the residence address at the times specified under that process or face criminal prosecution or a delinquent child proceeding.

(e) If the notice is provided under division (A)(4) of this section, in addition to all other information contained on it, the form also shall include a statement that the notice replaces any notice previously provided to the offender under division (A)(1) of this section, a statement that the offender's duties described in this notice supersede the duties described in the prior notice, and a statement notifying the offender that, if the offender already has registered under section 2950.04 of the Revised Code, the offender must register again pursuant to division (A)(6) of that section.

(f) If the notice is provided under division (A)(5) of this section, the form, in addition to all other information contained on it, shall inform the delinquent child and the delinquent child's parent, guardian, or custodian that, if the delinquent child fails to comply with the requirements of sections 2950.04, 2950.05, and 2950.06 of the Revised Code, both of the following apply:

(i) If the delinquent child's failure occurs while the child is under eighteen years of age, the child is subject to proceedings under Chapter 2152 of the Revised Code based on the failure, but if the failure occurs while the child is eighteen years of age or older, the child is subject to criminal prosecution based on the failure.

(ii) If the delinquent child's failure occurs while the child is under eighteen years of age, unless the child is emancipated, as defined in section 2919.121 of the Revised Code, the failure of the parent, guardian, or custodian to ensure that the child complies with those requirements is a violation of section 2919.24 of the Revised Code and may result in the prosecution of the parent, guardian, or custodian for that violation.

(2)(a) After an offender described in division (A)(1), (2), or (4) of this section has signed the form described in division (B)(1) of this section or the official, official's designee, or judge has certified on the form that the form has been explained to the offender and that the offender indicated an understanding of the duties indicated on it, the official, official's designee, or judge shall give one copy of the form to the offender, within three days shall send one copy of the form to the bureau of criminal identification and investigation in accordance with the procedures adopted pursuant to section 2950.13 of the Revised Code, and shall send one copy of the form to the sheriff of the county in which the offender expects to reside.

(b) After a chief of police or sheriff has sent a form to an offender under division (A)(3) of this section, the chief or sheriff shall send a copy of the form to the bureau of criminal identification and investigation in accordance with the procedures adopted pursuant to section 2950.13 of the Revised Code.

(c) After a delinquent child described in division (A)(5) of this section and the delinquent child's parent, guardian, or custodian have signed the form described in division (B)(1) of this section or the judge has certified on the form that the form has been explained to the delinquent child or the delinquent child's parent, guardian, or custodian and that the delinquent child or the delin-

quent child's parent, guardian, or custodian indicated an understanding of the duties and information indicated on the form, the judge shall give a copy of the form to both the delinquent child and to the delinquent child's parent, guardian, or custodian, within three days shall send one copy of the form to the bureau of criminal identification and investigation in accordance with the procedures adopted pursuant to section 2950.13 of the Revised Code, and shall send one copy of the form to the sheriff of the county in which the delinquent child expects to reside.

(C) The official, official's designee, judge, chief of police, or sheriff who is required to provide notice to an offender or delinquent child under division (A) of this section shall do all of the following:

(1) If the notice is provided under division (A)(1), (2), (4), or (5) of this section, the official, designee, or judge shall determine the offender's or delinquent child's name, identifying factors, and expected future residence address, shall obtain the offender's or delinquent child's criminal and delinquency history, and shall obtain a photograph and the fingerprints of the offender or delinquent child. If the notice is provided by a judge under division (A)(2), (4), or (5) of this section, the sheriff shall provide the offender's or delinquent child's criminal and delinquency history to the judge. The official, official's designee, or judge shall obtain this information and these items prior to giving the notice, except that a judge may give the notice prior to obtaining the offender's or delinquent child's criminal and delinquency history. Within three days after receiving this information and these items, the official, official's designee, or judge shall forward the information and items to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code and to the sheriff of the county in which the offender or delinquent child expects to reside. If the notice is provided under division (A)(5) of this section and if the delinquent child has been committed to the department of youth services or to a secure facility, the judge, in addition to the other information and items described in this division, also shall forward to the bureau and to the sheriff notification that the child has been so committed. If it has not already done so, the bureau of criminal identification and investigation shall forward a copy of the fingerprints and conviction data received under this division to the federal bureau of investigation.

(2) If the notice is provided under division (A)(3) of this section, the chief of police or sheriff shall determine the offender's name, identifying factors, and residence address, shall obtain the offender's criminal history from the bureau of criminal identification and investigation, and, to the extent possible, shall obtain a photograph and the fingerprints of the offender. Within three days after receiving this information and these items, the chief or sheriff shall forward the information and items to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code and, in relation to a chief of police, to the sheriff of the county in which the offender resides. If it has not already done so, the bureau of criminal identification and investigation shall forward a copy of the fingerprints and conviction data so received to the federal bureau of investigation.

HISTORY: 2002 H 485, eff. 6-13-02

2001 S 3, eff. 1-1-02; 2000 H 502, eff. 3-15-01; 1997 H 93, eff. 12-31-97; 1996 H 180, eff. 1-1-97

2950.04 Manner of registering

(A)(1) Each of the following types of offender who is convicted of or pleads guilty to, or has been convicted of or pleaded guilty to, a sexually oriented offense shall register personally with the sheriff of the county within seven days of the offender's coming into a county in which the offender resides or temporarily is domiciled for more than seven days:

(a) Regardless of when the sexually oriented offense was committed, an offender who is sentenced for the sexually oriented offense to a prison term, a term of imprisonment, or any other type of confinement and, on or after July 1, 1997, is released in any manner from the prison term, term of imprisonment, or confinement;

(b) Regardless of when the sexually oriented offense was committed, an offender who is sentenced for a sexually oriented offense on or after July 1, 1997, and to whom division (A)(1)(a) of this section does not apply;

(c) If the sexually oriented offense was committed prior to July 1, 1997, and neither division (A)(1)(a) nor division (A)(1)(b) of this section applies, an offender who, immediately prior to July 1, 1997, was a habitual sex offender who was required to register under Chapter 2950. of the Revised Code.

(2) Each child who is adjudicated a delinquent child for committing a sexually oriented offense and who is classified a juvenile sex offender registrant based on that adjudication shall register personally with the sheriff of the county within seven days of the delinquent child's coming into a county in which the delinquent child resides or temporarily is domiciled for more than seven days. If the delinquent child is committed for the sexually oriented offense to the department of youth services or to a secure facility that is not operated by the department, this duty begins when the delinquent child is discharged or released in any manner from custody in a department of youth services secure facility or from the secure facility that is not operated by the department, if pursuant to the discharge or release the delinquent child is not committed to any other secure facility of the department or any other secure facility. The delinquent child does not have a duty to register under this division while the child is in a department of youth services secure facility or in a secure facility that is not operated by the department.

(3) If divisions (A)(1) and (2) of this section do not apply, each following type of offender and each following type of delinquent child shall register personally with the sheriff of the county within seven days of the offender's or delinquent child's coming into a county in which the offender or delinquent child resides or temporarily is domiciled for more than seven days:

(a) Regardless of when the sexually oriented offense was committed, a person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, if, on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or delinquent child moves to and resides in this state or temporarily is domiciled in this state for more than seven days, and if, at the time the offender or delinquent child moves to and resides in this state or temporarily is domiciled in this state for more than seven days, the offender or delinquent child has a duty to register as a sex offender under the law of that other jurisdiction as a result of the conviction, guilty plea, or adjudication.

(b) Regardless of when the sexually oriented offense was committed, a person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a sexually oriented offense in another state or in a federal court, military court, or an Indian tribal court, if, on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or delinquent child is released from imprisonment, confinement, or detention imposed for that offense, and if, on or after July 1, 1997, for offenders, or January 1, 2002, for delinquent children, the offender or delinquent child moves to and resides in this state or temporarily is domiciled in this state for more than seven days. The duty to register as described in this division applies to an offender regardless of whether the offender, at the time of moving to and residing in this state or temporarily being domiciled in this state for more than seven days, has a duty to register as a sex offender under the law of the jurisdiction in which the conviction or guilty plea occurred. The duty to register as described in this division applies to a delinquent child only if the delinquent child, at the time of moving to and residing in this state or temporarily being domiciled

in this state for more than seven days, has a duty to register as a sex offender under the law of the jurisdiction in which the delinquent child adjudication occurred or if, had the delinquent child adjudication occurred in this state, the adjudicating juvenile court judge would have been required to issue an order classifying the delinquent child as a juvenile sex offender registrant pursuant to section 2152.82 or division (A) of section 2152.83 of the Revised Code.

(4) If division (A)(1)(a) of this section applies and if, subsequent to the offender's release, the offender is adjudicated to be a sexual predator under division (C) of section 2950.09 of the Revised Code, the offender shall register within seven days of the adjudication with the sheriff of the county in which the offender resides or temporarily is domiciled for more than seven days and shall register with the sheriff of any county in which the offender subsequently resides or temporarily is domiciled for more than seven days within seven days of coming into that county.

(5) A person who is adjudicated a delinquent child for committing a sexually oriented offense is not required to register under division (A)(2) of this section unless the delinquent child committed the offense on or after January 1, 2002, is classified a juvenile sex offender registrant by a juvenile court judge pursuant to an order issued under section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code based on that adjudication, and has a duty to register pursuant to division (A)(2) of this section.

(B) An offender or delinquent child who is required by division (A) of this section to register personally shall obtain from the sheriff or from a designee of the sheriff a registration form that conforms to division (C) of this section, shall complete and sign the form, and shall return the completed form together with the offender's or delinquent child's photograph to the sheriff or the designee. The sheriff or designee shall sign the form and indicate on the form the date on which it is so returned. The registration required under this division is complete when the offender or delinquent child returns the form, containing the requisite information, photograph, signatures, and date, to the sheriff or designee.

(C) The registration form to be used under divisions (A) and (B) of this section shall contain the current residence address of the offender or delinquent child who is registering, the name and address of the offender's or delinquent child's employer, if the offender or delinquent child is employed at the time of registration or if the offender or delinquent child knows at the time of registration that the offender or delinquent child will be commencing employment with that employer subsequent to registration, and any other information required by the bureau of criminal identification and investigation and shall include the offender's or delinquent child's photograph. Additionally, if the offender or delinquent child has been adjudicated as being a sexual predator relative to the sexually oriented offense in question and the court has not subsequently determined pursuant to division (D) of section 2950.09, section 2152.84, or section 2152.85 of the Revised Code that the offender or delinquent child no longer is a sexual predator, or if the judge determined pursuant to division (C) of section 2950.09 or pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code that the offender or delinquent child is a habitual sex offender and the determination has not been removed pursuant to section 2152.84 or 2152.85 of the Revised Code, the offender or delinquent child shall include on the signed, written registration form all of the following information:

(1) A specific declaration that the person has been adjudicated as being a sexual predator or has been determined to be a habitual sex offender, whichever is applicable;

(2) If the offender or delinquent child has been adjudicated as being a sexual predator, the identification license plate number of each motor vehicle the offender or delinquent child owns and of each motor vehicle registered in the offender's or delinquent child's name.

(D) After an offender or delinquent child registers with a sheriff pursuant to this section, the sheriff shall forward the signed, written registration form and photograph to the bureau of criminal

identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code. The bureau shall include the information and materials forwarded to it under this division in the state registry of sex offenders established and maintained under section 2950.13 of the Revised Code.

(E) No person who is required to register pursuant to divisions (A) and (B) of this section shall fail to register as required in accordance with those divisions or that division.

(F) An offender or delinquent child who is required to register pursuant to divisions (A) and (B) of this section shall register pursuant to this section for the period of time specified in section 2950.07 of the Revised Code.

(G) If an offender or delinquent child who is required by division (A) of this section to register is adjudicated a sexual predator or a habitual sexual offender subject to community notification under division (C)(2) or (E) of section 2950.09 of the Revised Code, or if an offender who is required by division (A) of this section to register has that duty as a result of a conviction of or plea of guilty to an aggravated sexually oriented offense committed on or after the effective date of this amendment, the offender or delinquent child also shall send the sheriff of the county in which the offender or delinquent child intends to reside written notice of the offender's or delinquent child's intent to reside in the county. The offender or delinquent child shall send the notice of intent to reside at least twenty days prior to the date the offender or delinquent child begins to reside in the county. The notice of intent to reside shall contain the following information:

- (1) The offender's or delinquent child's name;
- (2) The address or addresses at which the offender or delinquent child intends to reside;
- (3) The sexually oriented offense of which the offender was convicted, to which the offender pleaded guilty, or for which the child was adjudicated a delinquent child;
- (4) A statement that the offender or delinquent child has been adjudicated as being a sexual predator and that, as of the date of the notice, the court has not entered a determination that the offender or delinquent child no longer is a sexual predator, a statement that the sentencing or reviewing judge has determined that the offender or delinquent child is a habitual sex offender and that, as of the date of the notice, the determination has not been removed pursuant to section 2152.84 or 2152.85 of the Revised Code, or a statement that the offender was convicted of or pleaded guilty to an aggravated sexually oriented offense committed on or after the effective date of this amendment.

HISTORY: 2002 H 485, eff. 6-13-02

2002 S 175, eff. 5-7-02; 2002 H 393, eff. 7-5-02; 2001 S 3, eff. 1-1-02; 2000 H 502, eff. 3-15-01; 1998 H 565, eff. 3-30-99; 1996 H 180, eff. 7-1-97

2950.05 Notice of change of address

(A) If an offender or delinquent child is required to register pursuant to section 2950.04 of the Revised Code, the offender or delinquent child, at least twenty days prior to changing the offender's or delinquent child's residence address during the period during which the offender or delinquent child is required to register, shall provide written notice of the residence address change to the sheriff with whom the offender or delinquent child most recently registered under section 2950.04 of the Revised Code or under division (B) of this section.

(B) If an offender or delinquent child is required to provide notice of a residence address change under division (A) of this section, the offender or delinquent child, at least twenty days prior to changing the residence address, also shall register the new residence address in the manner described in divisions (B) and (C) of section 2950.04 of the Revised Code with the sheriff of the

county in which the offender's or delinquent child's new residence address is located, subject to division (C) of this section.

(C) Divisions (A) and (B) of this section apply to a person who is required to register pursuant to section 2950.04 of the Revised Code regardless of whether the new residence address is in this state or in another state. If the new residence address is in another state, the person shall register with the appropriate law enforcement officials in that state in the manner required under the law of that state and within the earlier of the period of time required under the law of that state or at least seven days prior to changing the residence address.

(D)(1) Upon receiving from an offender or delinquent child pursuant to division (A) of this section notice of a change of the offender's or delinquent child's residence address, a sheriff promptly shall forward the new residence address to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code if the new residence address is in another state or, if the offender's or delinquent child's new residence address is located in another county in this state, to the sheriff of that county. The bureau shall include all information forwarded to it under this division in the state registry of sex offenders established and maintained under section 2950.13 of the Revised Code and shall forward notice of the offender's or delinquent child's new residence address to the appropriate officials in the other state.

(2) When an offender or delinquent child registers a new residence address pursuant to division (B) of this section, the sheriff with whom the offender or delinquent child registers and the bureau of criminal identification and investigation shall comply with division (D) of section 2950.04 of the Revised Code.

(E)(1) No person who is required to notify a sheriff of a change of address pursuant to division (A) of this section shall fail to notify the appropriate sheriff in accordance with that division.

(2) No person who is required to register a new residence address with a sheriff or with an official of another state pursuant to divisions (B) and (C) of this section shall fail to register with the appropriate sheriff or official of the other state in accordance with those divisions.

(F) An offender or delinquent child who is required to comply with divisions (A), (B), and (C) of this section shall do so for the period of time specified in section 2950.07 of the Revised Code.

HISTORY: 2002 S 175, eff. 5-7-02

2001 S 3, eff. 1-1-02; 1996 H 180, eff. 7-1-97

2950.06 Verification of current residence address

(A) An offender or delinquent child who is required to register pursuant to section 2950.04 of the Revised Code shall periodically verify the offender's or delinquent child's current residence address in accordance with this section. The frequency of verification shall be determined in accordance with division (B) of this section, and the manner of verification shall be determined in accordance with division (C) of this section.

(B) The frequency with which an offender or delinquent child must verify the offender's or delinquent child's current residence address pursuant to division (A) of this section shall be determined as follows:

- (1) Regardless of when the sexually oriented offense for which the offender or delinquent child is required to register was committed, if the offender or delinquent child has been adjudicated as being a sexual predator relative to the sexually oriented offense and the court has not subsequently entered a determination pursuant to division (D) of section 2950.09, section 2152.84, or section 2152.85 of the Revised Code that the offender or delinquent child no longer is a sexual predator, or if the offender is required to register as a result of an aggravated sexually oriented offense committed on or after the effective date of this amendment, the offender or delinquent child shall verify the offender's or delin-

APPENDIX

Ohio Constitution

Article II. Legislative

§ 28. Retroactive laws

The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this state.